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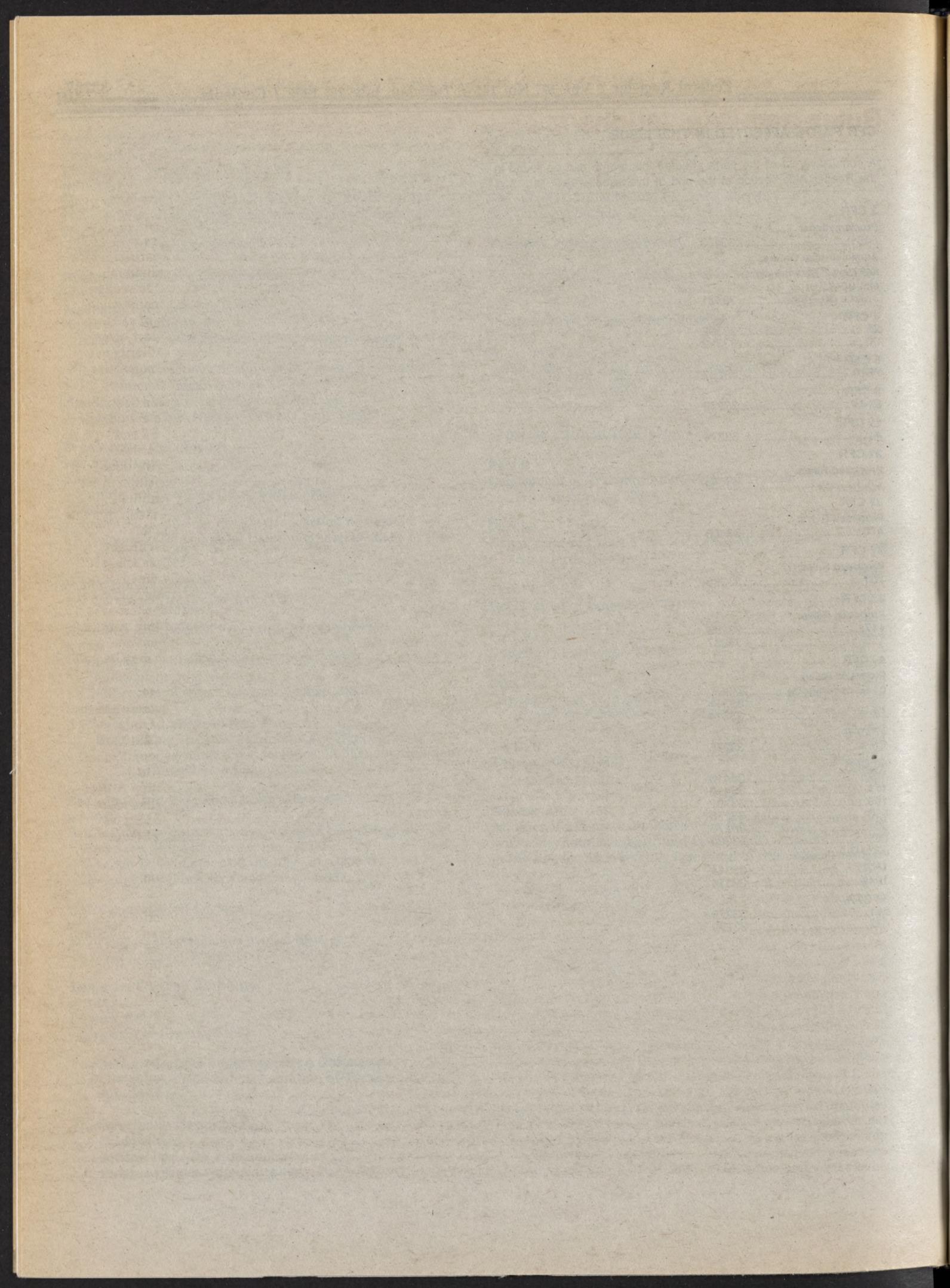
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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.

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2610

Implementation of the Equal Access to Justice Act

AGENCY: Office of Government Ethics.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Government Ethics is issuing an interim final regulation to establish procedures, in accordance with the Equal Access to Justice Act and guidance from the Administrative Conference of the United States, for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Office of Government Ethics. This rule describes the parties eligible for awards and the proceedings which are covered. The rule also explains how to apply for awards, and the procedures and standards which the Office of Government Ethics will use to make awards.

DATES: This interim regulation will become effective August 27, 1992. Public comments are invited and must be received by September 28, 1992.

ADDRESSES: Office of Government Ethics, suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917, Attention: Ms. Glynn.

FOR FURTHER INFORMATION CONTACT: Marilyn Glynn, Office of Government Ethics, telephone (202/FTS) 523-5757, FAX (202/FTS) 523-6325.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act, at 5 U.S.C. 504(c)(1), requires every agency to establish, by regulation, procedures for the submission and consideration of applications for an award of fees and expenses incurred in connection with an adversary adjudication before the

agency. On October 1, 1989, the Office of Government Ethics, formerly part of the Office of Personnel Management, was established as a separate executive branch agency and is therefore adopting this rule for the implementation of the Equal Access to Justice Act.

The Equal Access to Justice Act (EAJA) lessens the financial burden on private parties who prevail against the United States Government in adversary adjudications before a Federal agency by authorizing the award of attorney fees and expert witness fees. An eligible party may receive an award when it prevails over an agency, unless the agency's position was substantially justified or special circumstances make an award unjust.

This interim rule, for codification at 5 CFR part 2610, follows the final revised model rule issued on May 6, 1986 (51 FR 16659) by the Administrative Conference of the United States pursuant to its consultative role under EAJA. However, certain modifications have been made to adapt the model rule to the responsibilities and organization of the Office of Government Ethics (the Office), including the list of definitions at § 2610.101 and the enumeration of covered Office proceedings at § 2610.104.

I. General Provisions

Subpart A of the interim final rule contains general provisions describing the purpose of the Equal Access to Justice Act and its coverage. Section 2610.101 defines the terms frequently used in the rule. Section 2610.102 contains a summary of the rule's provisions. Section 2610.103 explains that the rule applies to any adversary adjudication pending or commenced before the Office of Government Ethics on or after October 1, 1989, the date the Office became a separate executive branch agency. Adversary adjudications commenced or pending before the Office, but not finally disposed of before that date, are governed by the rules and policies implementing the Equal Access to Justice Act as adopted by the Office of Personnel Management.

The types of proceedings covered by the rule are listed in § 2610.104. These proceedings include adversary adjudications conducted under certain provisions of the Debt Collection Act of 1982 (5 U.S.C. 5514), the Contracts Disputes Act of 1978 (41 U.S.C. 605, 607), and the Ethics in Government Act of

1978 (5 U.S.C. app.). Covered proceedings under the Ethics in Government Act include hearings which may be requested by an individual Federal employee pursuant to section 402 (f)(2)(B)(iii) of the Act, concerning the Director's investigation of alleged conflicts of interest on the part of the employee and his or her authority to order the employee to take corrective action.

Section 2610.105 of the rule describes the types of applicants who are eligible for an award of attorney fees and expenses under the rule. A prevailing applicant may receive an award for fees and expenses unless the position of the Office was substantially justified. Section 2610.106 states the standards the Office will apply in making this determination. The rule specifically provides that awards for fees and expenses incurred prior to the initiation of a proceeding will be made only if the expenses were reasonably incurred in preparation for the proceeding. Section 2610.107 describes the amount and type of fees and expenses which may be paid under the rule.

The Office may promulgate regulations permitting an increase in the amount of attorney fees that may be paid under the rule. Section 2610.108 describes the procedure a person must follow to petition the Office to promulgate such a rule. Section 2610.109 explains how the EAJA applies when another agency of the United States participates in a proceeding before the Office.

II. Information Required from Applicants

Subpart B of the rule describes the information which must be submitted by an applicant for attorney fees. Section 2610.201 lists the specific information which must be contained in an application for an award. Most applicants must submit a net worth exhibit establishing the applicant's worth as of the date the underlying proceeding was initiated. The information that must be contained in the exhibit is described at § 2610.202. Section 2610.203 explains how fees and expenses must be documented by a full and itemized accounting for each expense. Finally, § 2610.204 describes when an application may be submitted.

III. Procedures for Considering Applications

Subpart C of the rule contains the procedures which must be followed when seeking an award of attorney fees and expenses. Section 2610.301 establishes the jurisdiction of an adjudicative officer and makes clear that the termination of an adjudicative officer's authority in the underlying proceeding does not terminate his or her authority to render a decision concerning the award of fees and expenses. Section 2610.302 sets forth the manner for filing pleadings and other documents. Section 2610.303 describes how, and when, counsel representing the Office may respond to an application for attorney's fees. Section 2610.304 states that an applicant may respond to the Office's answer within 15 days. Section 2610.305 permits parties other than the applicant to file comments on the application for attorney fees and expenses.

Before the Office makes a decision on an application for attorney fees and expenses, the applicant and agency counsel may agree on a proposed settlement of the award. The procedures for a settlement are set forth in § 2610.306. Similarly, further proceedings such as a conference on an application for attorney fees and expenses may be conducted in particular cases. Section 2610.307 describes how, and when, those proceedings may be held.

Section 2610.308 states when the Office must issue a decision on an application and what information the decision must contain. Section 2610.309 describes the procedures for agency review of an initial decision on an application; § 2610.310 provides for judicial review. Finally, § 2610.311 explains how an applicant may obtain payment of an award that has been granted.

Administrative Procedure Act

Pursuant to section 553 of title 5 of the United States Code, as Director of the Office of Government Ethics, I find that good cause exists for waiving the general notice of proposed rulemaking and 30-day delayed effective date. Since this rule is interpretive in nature and concerns matters of agency procedure and practice, it is exempt from the notice and delayed effectiveness requirements of 5 U.S.C. 553. However, interested persons are invited to submit written comments to OGE on this interim regulation, to be received on or before September 28, 1992. The Office of Government Ethics will review all comments received and consider any

modifications to this rule which appear warranted.

E.O. 12291, Federal Regulation

As Director of the Office of Government Ethics, I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small entities because the number of proceedings covered by the rule will be extremely small and they will primarily affect current and former executive branch Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this regulation does not contain information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, since the collections of information called for under this rule are expected to involve nine or fewer persons each year. Section 2610.201(f) of this rule contains a statement informing the public of this matter.

List of Subjects in 5 CFR Part 2610

Administrative practice and procedure, Claims, Conflict of interests, Equal access to justice, Government employees.

Approved: June 24, 1992.
Stephen D. Potts,
Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, text is added to 5 CFR part 2610 to read as follows:

PART 2610—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

Sec.	
2610.101	Definitions.
2610.102	Purpose.
2610.103	When the Act applies.
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Subpart B—Information Required From Applicants

2610.201	Contents of application.
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2610.203 Documentation of fees and expenses.

2610.204 When an application may be filed.

Subpart C—Procedures for Considering Applications

2610.301	Jurisdiction of adjudicative officer.
2610.302	Filing and service of documents.
2610.303	Answer to application.
2610.304	Reply.
2610.305	Comments by other parties.
2610.306	Settlement.
2610.307	Further proceedings.
2610.308	Decision.
2610.309	Agency review.
2610.310	Judicial review.
2610.311	Payment of award.

Authority: 5 U.S.C. 504(c)(1); 5 U.S.C. App. (Ethics in Government Act of 1978).

Subpart A—General Provisions

§ 2610.101 Definitions.

(a) *Act* means the Equal Access to Justice Act, 5 U.S.C. 504, as amended.

(b) *Adjudicative officer* means the official, without regard to whether the official is designated as a hearing examiner, administrative law judge, administrative judge, or otherwise, who presided at the adversary adjudication.

(c) *Adversary adjudication* means:
(1) An adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but not including an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license; and

(2) An appeal of a decision of a contracting officer made pursuant to section 6 of the Contracts Disputes Act of 1978 (41 U.S.C. 605) as provided in section 8 of that statute (41 U.S.C. 607).

(d) *Agency counsel* means:

(1) When the position of the Office is being represented, the attorney or attorneys designated by the Office's General Counsel to represent the Office in a proceeding covered by this part; and

(2) When the position of another agency of the United States is being represented, the representative or representatives as designated by that agency.

(e) *Office* means the United States Office of Government Ethics, or the organizational unit within the Office responsible for conducting an adversary adjudication subject to this part.

(f) *Proceeding* means an adversary adjudication as defined above.

(g) *Director* means the Director of the United States Office of Government Ethics.

§ 2610.102 Purpose.

The Act provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings ("adversary adjudications") before the Office of Government Ethics. An eligible party may receive an award when it prevails over the Office unless the Office's position was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Office will use to make them.

§ 2610.103 When the Act applies.

The Act applies to any adversary adjudication pending or commenced before the Office of Government Ethics on or after October 1, 1989, which is the date the Office became a separate executive agency. Prior to October 1, 1989, the Office was part of the Office of Personnel Management. Any adversary adjudication pending or commenced before October 1, 1989, and not finally disposed of by that date, is governed by the rules and policies implementing the Equal Access to Justice Act as adopted by the Office of Personnel Management.

§ 2610.104 Proceedings covered.

(a) This part applies to adversary administrative adjudications conducted by the Office of Government Ethics. When all other conditions in the Act and in these rules are met, the types of proceedings to which this part applies are adversary administrative adjudications conducted by the Office under:

- (1) The Debt Collection Act of 1982, 5 U.S.C. 5514;
- (2) The Contract Disputes Act of 1978, 41 U.S.C. 605, 607;
- (3) The Ethics in Government Act of 1978, section 402(f)(2), 5 U.S.C. app., and subpart E of part 2638 of this chapter.

(b) The Office's failure to identify a type of proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in the proceedings on the application.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered matters.

§ 2610.105 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B of this part.

(b) The types of eligible applicants are as follows:

- (1) An individual with a net worth of not more than \$2,000,000;
- (2) The sole owner of an unincorporated business who has a net worth of not more than \$7,000,000, including both personal and business interests, and not more than 500 employees;
- (3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3), with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act, 12 U.S.C. 1141j(a), with not more than 500 employees; and

(5) any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than \$7,000,000 and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the underlying proceeding was initiated. For appeals of decisions of contracting officers made pursuant to section 6 of the Contracts Disputes Act of 1978, the net worth and number of employees of an applicant shall be determined as of the date the applicant filed its appeal under 41 U.S.C. 606.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. An individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interests of

the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 2610.106 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding or in a significant and discrete substantive portion of the proceeding, unless the position of the Office was substantially justified. The position of the Office includes, in addition to the position taken by the Office in the adversary adjudication, the action or failure to act by the Office upon which the adversary adjudication is based. The burden of proof that an award should not be made to an ineligible prevailing applicant because the Office's position was substantially justified is on the Office. No presumption arises that the Office's position was not substantially justified simply because the Office did not prevail.

(b) Awards for fees and expenses incurred before the date on which a proceeding was initiated will be made only if the applicant can demonstrate that they were reasonably incurred in preparation for the proceeding.

(c) An award under this part will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding, if the applicant has falsified the application (including documentation) or net worth exhibit, or if special circumstances make the award sought unjust.

§ 2610.107 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at reduced rate to the applicant.

(b) Except as provided in § 2610.108, no award for the fee of an attorney or agent under these rules may exceed \$75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which the Office pays expert witnesses. However, an award may also include the reasonable expenses of the attorney, agency, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the adjudicative officer shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fees for similar services, or, if an employee of the applicant, the fully allocated costs of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the services does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of applicant's case.

§ 2610.108 Rulemaking on maximum rate for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Office may adopt regulations providing that attorney fees may be awarded at a rate higher than \$75.00 per hour in some or all of the types of proceedings covered by this part. The Office will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 553.

(b) Any person may file with the Office a petition for rulemaking to increase the maximum rate for attorney fees as provided in 5 U.S.C. 504(b)(1)(A)(ii). The petition should identify the rate the petitioner believes the Office should establish and the types of proceedings in which the rate should be used. It should also explain

fully the reasons why the higher rate is warranted. The Office will respond to the petition within 60 days after it is filed, by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

§ 2610.109 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Office of Government Ethics and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency.

Subpart B—Information Required From Applicants

§ 2610.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of the Office that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed \$2,000,000 (if an individual) or \$7,000,000 (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes the Office to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or

attorney of the applicant. It shall also contain or be accompanied by a written verification made by the applicant or authorized officer or attorney of the applicant under oath or under penalty of perjury that the information provided in the application is true and correct.

(f) These collections of information are not subject to Office of Management and Budget review under the Paperwork Reduction Act (5 U.S.C. chapter 35) because they are expected to involve nine or fewer persons each year. (See 5 CFR 1320.4(a)).

§ 2610.202 Net worth exhibit.

(a) Each applicant, except a qualified tax-exempt organization or cooperative association, must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 2610.105(f)) when the underlying adversary adjudication was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the Office, but need not be served on any other party to the proceeding, if any. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request by another party or the public to inspect or copy the exhibit shall be resolved in accordance with the Office of Government Ethics'

established procedures under the Freedom of Information Act.

§ 2610.203 Documentation of fees and expenses.

The application shall be accompanied by full and itemized documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rates at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The adjudicative officer may require the applicant to provide vouchers, receipts, logs, or other documentation for any fees or expenses claimed, pursuant to § 2610.306.

§ 2610.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Office of Government Ethics' final disposition of the proceeding.

(b) For purposes of this rule, final disposition means the date on which a decision or order disposing of the merits of the proceeding or any other complete resolution of the proceeding, such as a settlement or voluntary dismissal, becomes final and unappealable, both within the Office and to the courts.

(c) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy. When the United States appeals the underlying merits of an adversary adjudication to a court, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

Subpart C—Procedures for Considering Applications

§ 2610.301 Jurisdiction of adjudicative officer.

Any provision in the Office's rules and regulations other than this part which limits or terminates the jurisdiction of an adjudicative officer upon the effective date of his or her decision in the underlying proceeding shall not in any way affect his or her jurisdiction to render a decision under this part.

§ 2610.302 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 2610.202(b) for confidential financial information.

§ 2610.303 Answer to application.

(a) Within 30 days after service of an application, counsel representing the Office may file an answer to the application. Agency counsel may request an extension of time for filing. If agency counsel fails to answer or otherwise fails to contest or settle the application within the 30-day period, the adjudicative officer, upon a satisfactory showing of entitlement by the applicant, may make an award for the applicant's fees and other expenses under the Act.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted for good cause by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 2610.307.

§ 2610.304 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting

affidavits or a request for further proceedings under § 2610.307.

§ 2610.305 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served, or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 2610.306 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the settlement procedure applicable to the underlying procedure. If an eligible prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 2610.307 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses), pertinent discovery or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible. Whether or not the position of the Office was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 2610.308 Decision.

The adjudicative officer shall issue an initial decision on the application within 30 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the Office's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 2610.309 Agency review.

Within 30 days after issuance of an initial decision under this part, either the applicant or agency counsel may seek review of the initial decision on the fee application, or the Director (or his or her designee) may decide to review the initial decision on his or her own initiative, in accordance with the Office's review or appeal procedures applicable to the underlying proceeding. If neither the applicant nor agency counsel seeks review and the Director (or designee) does not take review on his or her own initiative, the initial decision on the application shall become a final decision of the Office of Government Ethics 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Director (or his or her designee, if any). If review is taken, the Office will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

§ 2610.310 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 2610.311 Payment of award.

An applicant seeking payment of an award shall submit a copy of the Office's final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts, to the Associate Director for Administration, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917. The Office will pay the amount awarded to the applicant within 60 days, unless

judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant, the Office, or any other party to the proceedings.

[FR Doc. 92-17676 Filed 7-27-92; 8:45 am]

BILLING CODE 6345-01-M

DEPARTMENT OF JUSTICE**Immigration and Naturalization Service****8 CFR Part 214**

[INS No. 1310-92]

RIN 1115-AB72

Changes to Chapter 15 of the United States-Canada Free-Trade Agreement (FTA)

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule amends 8 CFR part 214 relating to Canadian citizens seeking temporary entry to engage in activities at a professional level under section 214(e) of the Immigration and Nationality Act (Act). It results from the consultative process called for by Article 1503 of the United States-Canada Free-Trade Agreement (FTA). This rule will facilitate the temporary entry of Canadian citizens coming to the United States to engage in professional activities.

EFFECTIVE DATE: August 12, 1992.

FOR FURTHER INFORMATION CONTACT: Edward H. Skerrett, Senior Immigration Examiner, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone: (202) 514-3946.

SUPPLEMENTARY INFORMATION: On March 19, 1991, at 56 FR 11528, the Immigration and Naturalization Service (Service) published a proposed rule with request for comments by May 20, 1991, to change Schedule 2 to Annex 1502.1 to chapter 15 of the FTA. The Government of Canada also published the proposed changes in the Canada Gazette. On July 10 and 11, 1991, the United States/Canada working group for Chapter 15 met in Ottawa and exchanged comments received. This final rule reflects the public comments and incorporates the agreed-upon changes to Annex 1502.1 into regulation.

The Service received six comments from interested parties; the Government of Canada also received six comments as a result of the Canada Gazette

announcement. All of the comments were reviewed and considered in writing this final rule. The discussion which follows intersperses comments received by the Service with comments received by the Government of Canada; provides the agreed-upon position on the issue, and indicates any revisions made based on the comments.

The Service received two comments urging that Certified Management Accountant (C.M.A.) be added as an alternative means of qualifying as an accountant under Schedule 2. The Government of Canada received three comments on the same issue as well as two comments urging that Certified General Accountant (C.G.A.) be added.

The Governments of the United States and Canada are in agreement that the qualifications required for the designations of C.M.A. and C.G.A. reflect the standards desired for Schedule 2 occupations. As a consequence, this final rule contains both the C.M.A. and the C.G.A. designations as acceptable alternatives for qualification as an accountant.

Three commenters supported the addition of industrial designers to Schedule 2 as set forth in the proposed rule.

Two commenters supported the proposed inclusion of interior designers in Schedule 2. One of these commenters suggested that membership in their professional organization be considered as evidence of qualification as an interior designer. The Government of Canada received two comments from organizations of interior designers which also suggested that membership be considered as evidence of qualification. The Governments of the United States and Canada do not believe that membership in the organizations that commented constitutes reliable evidence that the existing requirements have been met. Accordingly, the Service will not change the qualifications as they exist (i.e., baccalaureate degree, or post-secondary diploma and three years experience).

Since there were no public comments received on the consolidation of the terms "medical technologist" and "clinical lab technologist" into the joint term "medical laboratory technologist (Canada)/medical technologist (U.S.)," with a footnote specifying the duties performed, the Service feels that it is necessary to advise the public that the joint term does not include other allied medical occupations, such as radiologic technologists, respiratory therapists, and nuclear medicine technologists. These occupations are being considered separately for inclusion in Schedule 2.

In reviewing this rule, the Service's General Counsel found that the footnote on the duties of a medical laboratory technologist (Canada)/medical technologist (U.S.), as published in the proposed rule, could be read in an overly restrictive manner. The Governments of the United States and Canada have now agreed to changed language which is less restrictive and which indicates that, although the individual should be qualified to perform all duties of a technologist, he or she may not be doing all those duties in a given job situation.

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

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Authority delegation (Government agencies), Employment, Organization and functions (Government agencies), Passports and visas.

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1186a, 1187; 8 CFR part 2.

2. In § 214.6, paragraph (d)(2)(ii) is revised to read as follows:

§ 214.6 Canadian citizens seeking temporary entry to engage in business activities at a professional level.

* * * * *

(d) * * *

(2) * * *

(ii) *Schedule 2 to Annex 1502.1 of the FTA.* Pursuant to the FTA, an applicant seeking admission under this section shall demonstrate business activity at a professional level in one of the professions or occupations set forth in Schedule 2 to Annex 1502.1. The professions or occupations in Schedule 2 and the minimum requirements for each are as follows:

Schedule 2 (Annotated)

—Accountant—baccalaureate degree, C.P.A., C.A., C.G.A., or C.M.A.

- Architect—baccalaureate degree or state/provincial license ¹
- Computer Systems Analyst—baccalaureate degree, or post-secondary diploma and three years' experience
- Disaster relief insurance claims adjuster—baccalaureate degree or three years' experience in the field of claims adjustment
- Economist—baccalaureate degree
- Engineer—baccalaureate degree or state/provincial license ¹
- Forester—baccalaureate degree or state/provincial license ¹
- Graphic designer—baccalaureate degree, or post-secondary diploma and three years' experience
- Hotel manager—baccalaureate degree in hotel/restaurant management, or post-secondary diploma in hotel/restaurant management and three years' experience in hotel/restaurant management
- Industrial designer—baccalaureate degree, or post-secondary diploma and three years' experience
- Interior designer—baccalaureate degree, or post-secondary diploma and three years' experience
- Land surveyor—baccalaureate degree or state/provincial/federal license ¹
- Landscape architect—baccalaureate degree
- Lawyer—member of bar in province or state, or L.L.B., J.D., L.L.L., or B.C.L.
- Librarian—M.L.S., or B.L.S. (for which another baccalaureate degree was a prerequisite)
- Management consultant—baccalaureate degree or five years' experience in consulting or related field
- Mathematician—baccalaureate degree
- Medical Allied Professionals
- Dentist—D.D.S., D.M.D., or state/provincial license ¹
- Dietitian—baccalaureate degree or state/provincial license ¹
- Medical laboratory technologist (Canada)/medical technologist (U.S.)—baccalaureate degree, or post-secondary diploma and three years' experience ²
- Nutritionist—baccalaureate degree
- Occupational therapist—baccalaureate degree or state/provincial license ¹
- Pharmacist—baccalaureate degree or state/provincial license ¹
- Physician (teaching and/or research only)—M.D. or state/provincial license ¹
- Physio/physical therapist—baccalaureate degree or state/provincial license ¹
- Psychologist—state/provincial license ¹
- Recreational therapist—baccalaureate degree
- Registered nurse—state/provincial license ¹
- Veterinarian—D.V.M., D.M.V., or state/provincial license ¹
- Range manager (range conservationist)—baccalaureate degree
- Research assistant (working in a post-secondary educational institution)—baccalaureate degree
- Scientific technician/technologist—Must work in direct support of professionals in the following disciplines: Agricultural sciences, astronomy, biology, chemistry, engineering, forestry, geology, geophysics, meteorology, or physics;—Must possess theoretical knowledge of the discipline; and—Must solve practical problems in the discipline, or apply principles of the discipline to basic or applied research.
- Scientist
- Agriculturist (agronomist)—baccalaureate degree
- Animal breeder—baccalaureate degree
- Animal scientist—baccalaureate degree
- Apiculturist—baccalaureate degree
- Astronomer—baccalaureate degree
- Biochemist—baccalaureate degree
- Biologist—baccalaureate degree
- Chemist—baccalaureate degree
- Dairy scientist—baccalaureate degree
- Entomologist—baccalaureate degree
- Epidemiologist—baccalaureate degree
- Geneticist—baccalaureate degree
- Geochemist—baccalaureate degree
- Geologist—baccalaureate degree
- Geophysicist—baccalaureate degree
- Horticulturist—baccalaureate degree
- Meteorologist—baccalaureate degree
- Pharmacologist—baccalaureate degree
- Physicist—baccalaureate degree
- Plant breeder—baccalaureate degree
- Poultry scientist—baccalaureate degree
- Soil scientist—baccalaureate degree
- Zoologist—baccalaureate degree
- Social worker—baccalaureate degree

¹ The terms "state/provincial license" and "state/provincial/federal license" mean any document issued by a state, provincial, or federal government as the case may be, or under its authority, which permits a person to engage in a regulated activity or profession.

² Must be seeking entry to perform, in a laboratory, chemical, biological, hematological, immunologic, microscopic or bacteriological tests and analyses for diagnosis, treatment, or prevention of disease.

- Silviculturist (forestry specialist)—baccalaureate degree
- Teacher
- College—baccalaureate degree
- Seminary—baccalaureate degree
- University—baccalaureate degree
- Technical publications writer—baccalaureate degree, or post-secondary diploma and three years' experience
- Urban planner—baccalaureate degree
- Vocational counselor—baccalaureate degree

* * * * *

Dated: June 22, 1992.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 92-17614 Filed 7-27-92; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[T.D. 92-72]

Addition of the Republic of Vanuatu to the Coastwise-Trade List of Nations Entitled to Certain Reciprocal Vessel Privileges

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by adding the Republic of Vanuatu to the list of nations whose vessels are entitled to certain reciprocal coastwise-trade privileges relating to the transport of certain articles between points in the U.S. Customs has been duly informed that the Government of the Republic of Vanuatu places no restrictions on the carriage of any article covered by the reciprocity provisions of the Jones Act by U.S. vessels between its ports. Therefore, Customs is extending reciprocal coastwise-trade privileges to Vanuatu-flagged vessels.

EFFECTIVE DATE: This amendment is effective July 28, 1992. These reciprocal privileges for vessels registered in the Republic of Vanuatu became effective on January 1, 1992.

FOR FURTHER INFORMATION CONTACT: B. James Fritz, Carrier Rulings Branch (202) 927-0840.

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.

In a letter dated April 16, 1992, from the Government of the Republic of Vanuatu to the Department of State, the Government of the Republic of Vanuatu declared that, effective January 1, 1992, U.S.-flag vessels have been permitted to carry empty containers and related equipment and all other items enumerated at 19 CFR 4.93(a) coastwise in Vanuatu. The Department of State advised the Chief, Carrier Rulings Branch, U.S. Customs Service, that this declaration of the Government of Vanuatu offered satisfactory evidence to establish reciprocity as required by the Act and requested that the Republic of Vanuatu be added to the list of nations at 19 CFR 4.93 whose vessels are permitted to transport between points of the U.S. the items enumerated at (a)-(e) in the sixth proviso. 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 1, 1992, and requested that the Republic of Vanuatu 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 the Republic of Vanuatu, 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 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, "Vanuatu, Republic of" in the list of nations entitled to reciprocal privileges.

Dated: July 21, 1992.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 92-17764 Filed 7-27-92; 8:45 am]

BILLING CODE 4820-22-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter 1

[CC Docket No. 87-45 FCC 92-286]

Reevaluation of the Depreciated-Original-Cost Standard in Setting Prices for Conveyances of Capital Interests in Overseas Communications Facilities Between or Among U.S. Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document changes the method for pricing the conveyances of capital interests in overseas communications facilities between or among U.S. carriers. The new pricing policy will result in prices set by negotiations between the buyer and seller that will reflect market conditions. This action is in response to growing competition in the international facilities market. The purpose and effect of the action are to lift artificial restraints on the price of these facilities, thereby encouraging the building of facilities by allowing facility owners to recover their costs in building and maintaining the facilities.

EFFECTIVE DATE: August 27, 1992.

FOR FURTHER INFORMATION CONTACT: Suzan Balk Friedman, attorney/advisor, International Policy Division, Common Carrier Bureau, (202) 632-7265.

SUPPLEMENTARY INFORMATION: The rulemaking corrects the problems associated with the conveyance of capital interests, known as indefeasible rights of use (IRUs) in overseas facilities between or among U.S. carriers. Under the current system, carriers who chose to build overseas facilities for future sale must bear the risk and burden of carrying those facilities yet are limited to receiving only the net book value of the facilities upon sale. The pricing scheme acts as a disincentive for facility owners to build and sell facilities. The Commission found that recent developments in the international telecommunications marketplace have signalled greater competition in the provision of these facilities. Three other pricing plans were proposed but the

Commission found that there are no workable alternatives to net-book-cost pricing other than a market-based approach. Accordingly, the Commission adopted a policy whereby conveyances of IRUs between or among U.S. carriers will be priced at a negotiated, market-based price. The Report and Order provides that the Commission will retain jurisdiction to review any violations of our new IRU pricing policy, such as pricing above fair market value, either on our own motion or upon complaint from interested parties. Fourteen interested parties filed comments in this proceeding in response to the Commission's request for comments in the Notice of Proposed Rulemaking. The notice of proposed rulemaking appeared in the *Federal Register* on March 17, 1987 at 52 FR 8313.

Summary of Report and Order

The following is a summary of the Commission's Report and Order in CC Docket No. 87-45, adopted June 30, 1992 and released July 22, 1992. The full texts of all Commission decisions are 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 be purchased from the Commission's copy contractor, Downtown Copy Center, 202-452-1422, 1114 21st Street NW., Washington, DC 20036.

1. In this Report and Order, the Commission adopted a new pricing policy to govern the transfer of ownership interests or other capital interests, such as indefeasible rights of use (IRUs) in overseas communications facilities between or among U.S. carriers. The Commission is replacing the net-book-cost standard with a flexible, market-oriented pricing policy. The Commission considered several other pricing policies but determined that none offered a workable alternative to market-based pricing. Net-book-cost is the original cost of the capital interest in the facility minus the accumulated depreciation at the time of the conveyance. An IRU interest in a communications facility is a form of acquired capital in which the holder possesses an exclusive and irrevocable right to use the facility or, depending on the particular IRU contract, any right to salvage. The new market pricing standard will apply to all conveyances of ownership interests or other capital interests in overseas communications facilities between or among U.S. carriers which take place after the effective date of this order. In addition, the Commission will apply the new pricing policy to those facilities whose

authorizations contained the condition that conveyances of ownership or IRU interests in the facilities must be priced at net-book-cost or "in conformance with whatever pricing policy the Commission may adopt in the future."

2. The Commission concluded that the net-book-cost standard is no longer in the public interest because it places an undue burden on the ratepayers of a facility's original owners/investors. These ratepayers must incur the cost of holding idle circuits for future demand, while other carriers may choose to make a minimal initial investment in a facility and then acquire additional circuits, when the need arises, at net-book-cost. The Commission stated that, as a result, the ratepayers of the original investors absorb excessive costs while providing a windfall to the ratepayers of the acquiring carriers. The Commission further stated that restricting the price of a conveyance of a circuit creates a disincentive for a carrier to convey circuits to other carriers. Finally, the Commission was concerned that the net-book-cost standard distorted the facilities planning process because of the artificial restraint on the price of conveyances of such facilities.

3. Due to these concerns, as well as the growth of competition in the international facilities market, it is no longer necessary for the Commission to regulate the price of conveyances of ownership interests. The Commission has fostered competition by the lifting of a number of regulatory restraints on entry by providers of international telecommunications facilities and services. Moreover, another indication that competition is increasing is that U.S. carriers have a wider choice of overseas transmission facilities than ever before. Specifically, a carrier has the ability to be a joint owner of a cable and to carry space capacity to meet its current and/or future needs. Moreover, the adoption of the price cap rules, which replaced the traditional rate of return method of setting rates with incentive based price cap rules, removed a carrier's incentive to overbuild facilities in order to increase its rate base.

4. The Commission anticipates that carriers will be more willing to convey overseas circuits if the price is set by negotiation rather than by regulation. Conversely, carriers might be more willing to purchase capital interests if they could recover a fair market price upon sale of the interest. In addition, the Commission noted that a more flexible pricing policy would encourage more efficient facilities planning.

5. Finally, the Commission stated that it will retain jurisdiction to review any violations of our new IRU pricing policy, such as pricing above fair market value, either on our own motion or upon complaint from interested parties.

6. Accordingly, *It is ordered*, pursuant to 47 U.S.C. 151, 154(i)-(j), 201-205, 211, 213, 214, 218, 220, and 222, that prices for conveyances of capital interests between or among U.S. carriers shall be determined by negotiation between circuit owners and prospective purchasers.

7. *It is further ordered* That the market-oriented pricing policy adopted in this proceeding shall apply to all conveyances which take place after the effective date of this order, including those facilities conditioned on a future policy change.

8. *It is further ordered* That this Commission shall monitor the market shares of the U.S. international service carriers and that this Commission retains jurisdiction over the terms of carrier-to-carrier sales of capital interests in overseas communications facilities to review any abuses of the market-oriented pricing policy on our own motion or pursuant to a section 208 complaint.

9. *It is further ordered* That the market-oriented pricing policy adopted in this proceeding shall become effective August 27, 1992.

10. *It is further ordered* That this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 92-17694 Filed 7-27-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390 and 391

[FHWA Docket No. MC-90-6]

RIN 2125-AC44

Qualification of Drivers; Medical Examination

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This document amends the Federal Motor Carrier Safety Regulations (FMCSRs) to permit health care professionals to perform physical examinations of commercial motor vehicles drivers provided certain conditions are met. These health care professionals must be authorized by the

State in which they are licensed, certified, or registered to perform such examinations and must be proficient in the use of, and use, the medical protocols necessary to perform the examination in accordance with the FMCSRs. This action will increase the number of professionals authorized to perform the physical/medical examinations and provide greater flexibility to drivers and motor carriers in choosing more convenient times and locations for the required examinations at a lower cost.

EFFECTIVE DATE: This rule is effective August 27, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Eliane Viner, (202) 366-0641, Office of Motor Carrier Standards, or Mr. Raymond Cuprill, Office of Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh 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

On April 12, 1990, the FHWA published a notice of proposed rulemaking (NPRM) (55 FR 13812) that would amend 49 CFR 391.43(a) to permit physician assistants (PA's) and advanced practice nurses (APN's) (a group that includes advanced registered nurses, nurse practitioners and advanced nurse practitioners) to perform the physical examination required by part 391 of the FMCSRs, provided that the final determination and certification of the driver's medical qualification is completed by a doctor of medicine or osteopathy. The NPRM was initiated in response to a written request from the American Academy of Physician Assistants (AAPA) and a petition from the Pioneer Medical Clinic of Pierce, Idaho, requesting that the FHWA amend the Federal regulations to permit PA's and APN's to perform the required physical examination. In support thereof, the AAPA and the American Academy of Nurse Practitioners (AANP) submitted documentation detailing the qualifications and capabilities of these health care professionals.

The NPRM generated 527 comments from interested parties, including: 136 from PA's, 107 from doctors of medicine (MD's), 100 from doctors of chiropractic (DC's), 67 from registered nurses (RN's), 52 from advanced practice nurses (APN's), 17 from clinic or group administrators, 17 from motor carriers, 13 from various unidentified individuals, 8 from doctors of osteopathy (DO's), 3

from drivers, 3 from State DOT's, 2 from elected congressional representatives, and one each from the International Brotherhood of Teamsters (IBT) and the American Trucking Associations (ATA). Generally, most of the commenters favored the proposal. A very large number of the commenters limited their comments to specific issues that were of interest to them, and as a result, failed to comment on other issues raised in the NPRM. Consequently, the FHWA's discussion of the comments will be presented in terms of issues as identified below.

Discussion of Comments

Should PA's and APN's be Permitted To Perform the Required Physical Examination?

There were 500 commenters in favor of permitting PA's and APN's to perform the physical examination. The commenters expressed their belief that PA's and APN's should be allowed to make the medical qualification determination and sign the medical card, because these health care professionals currently have the authority to conduct such examinations under State law. They further contended that they have ample training, education and experience to adequately discharge the functions required by § 391.43.

Twenty-seven commenters opposed the NPRM. Those who opposed the NPRM as written include 15 MD's, 2 DO's, 6 motor carriers, 2 clinic administrators, and 2 individuals. Those commenters contended that anyone less qualified than an MD or DO should not be allowed to perform the required physical examination or make the medical qualification determination. They argue MD's and DO's are most qualified to perform the required physical examination, and that the current medical certification procedure should be maintained.

FHWA's Response

Currently, 48 States (except Mississippi and New Jersey) and the District of Columbia license PA's (more than 48,000) and APN's (more than 25,000) to perform physical and medical examinations, among other professional health care services. Both PA's and APN's are trained to take medical histories, perform physical and medical examinations, order laboratory tests, and make preliminary diagnoses, prescribe appropriate treatments. The APN's are also authorized under the various States' licensing standards to initiate, monitor, and alter drug and other medical treatments, manage

selected medical problems, and make consultation referrals to medical specialists as needed. The FHWA recognizes that PA's and APN's services are in great demand by small communities experiencing a shortage of doctors. The FHWA, therefore, concludes that allowing PA's and APN's to perform the required physical examination and sign the medical examiner's certificate is warranted due to the current practices of the various States, the high utilization of PA and APN services by doctors, and the nationwide acceptance of these health care professionals by the general public.

To limit the completion of the required physical examination to MD's and DO's, would fail to recognize existing State law and may compound the recognized shortage of medical services available in certain geographic areas of the country. The FHWA is additionally requiring those health care professionals to be proficient in the use of, and use, the medical protocols necessary to adequately perform the physical examination required by 49 CFR 391.43(d). The term "medical examiner" will now embrace more than two groups of health care professionals. The FHWA is, therefore, requiring the examining health care professional to place his/her title and license or certification number and the State in which the license or certification was issued immediately below the printed name of the examining health care professional on both the examination form and the medical certificate. This will ensure the proper identification of the medical examiners and allow verification of such licenses at any time.

Should Other Health Care Professionals Be Permitted To Perform the Physical Examination?

There were 492 commenters who supported or did not object to allowing other health care professionals such as doctors of chiropractic (there are currently more than 39,000 practicing chiropractors nationwide) to perform the required physical examination. Supporters contend that all States require licensure of DC's based upon an applicant passing of the national chiropractic examination administered by the National Board of Chiropractic Examiners, and that all States have established boards to monitor and regulate DC's. Commenters in favor of the DC's maintain that doctors of chiropractic have extensive education backgrounds, and are considered physicians by all regulating States. Additionally, those commenters contended that many individuals, especially drivers (an occupation

particularly prone to back and spinal degeneration), choose to be examined and treated by DC's, a fact recognized by many of the States' Freedom of Choice Statute-Workers' Compensation programs.

There were 35 commenters opposed to allowing other health care professionals to perform the required physical examination. Those who opposed this proposal included the ATA, the IBT, and several MD's. Those commenters contended that DC's do not possess the skill and knowledge to perform the required physical examination. The ATA asserted that "available information indicates that chiropractors are not qualified to detect and evaluate many medical deficiencies which could result in the inability of the driver to safely operate a commercial motor vehicle." The IBT stated that they agree with ATA's position.

FHWA's Response

Based on the information received in response to the NPRM, the FHWA has decided that other health care professionals, including doctors of chiropractic, should be permitted to perform the driver physical examination, if they are authorized under State law to conduct such examinations and are proficient in the use of, and use, the medical protocols necessary to adequately perform the physical examination required by 49 CFR 391.43. The FHWA does not agree with the ATA's assertion stated above since all but three States, through their licensing procedures, have exercised proper authority over DC's seeking to practice in their jurisdictions. These health care professionals are licensed, registered, and/or certified under their State statutes to perform physical examinations. Chiropractors are also required to refer any patient, with any condition(s) outside the scope of their practice, to MDs, DOs and/or other medical specialists. This is consistent with what other medical practitioners do in this age of specialization.

The FHWA does not intend to limit the scope of other health care professionals wishing to perform the driver physical examination, provided they meet the conditions stated above (i.e., State authority and protocols). The driver physical examination required by the FMCSRs is accomplished by comparing measured physical or medical results against the established minimum standards in 49 CFR part 391. The physical examination does not require sophisticated diagnosis or treatment. In the event that such diagnostic analysis is required, the FHWA would expect the health care

professional, consistent with sound medical practices, to promptly refer the patient to the appropriate health care specialist.

The FHWA is defining "health care professional" broadly, not by health care title. This will allow all health care professionals an opportunity to participate to the extent allowable under State licensing standards. It will also afford drivers and motor carriers the increased flexibility to meet the requirements of § 391.43.

Should State Authorized Health Care Professionals Be Permitted To Make The Medical Qualification Determination?

There were 474 commenters in favor of removing the current restriction in the regulation that the medical qualification determination be completed only by a MD or DO. The commenters contend that States allow health care professionals to make this medical determination without supervision or guidance from a MD or DO.

Fifty three commenters contend that the restriction should be retained. They argued that only MD's and DO's are qualified to make this determination regardless of whether or not they actually performed the examination.

FHWA's Response

There is sufficient justification to permit PA's, APN's, DC's and other health care professionals to make the driver medical qualification determination and sign the physical examination form and the medical examiner's certificate. Allowing a variety of health care professionals to perform the required physical examinations is proper because it is currently authorized by existing State laws and such action will have no adverse effect on highway safety. There is wide acceptance and utilization of these health care professionals by the public, health care facilities, MD's and DO's. The use of these health care professionals by drivers and motor carriers will, in many cases, result in a cost savings because the fees charged will generally be less than those charged by MDs or DOs. Because many of these health care professionals provide health care in many geographic areas where MDs and DOs are in limited supply or totally absent, obtaining a physical examination will be somewhat easier and more convenient. It must be clearly understood that this document does not change the definition of the term Medical Review Officer contained in § 391.85. The term Medical Review Officer continues to be defined as a

licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders that is employed or used by a motor carrier to conduct drug testing in accordance with this part.

Rulemaking Analyses and Notices

Regulatory Impact

The action taken by the FHWA in this document amends parts 390 and 391 of the FMCSRs to allow health care professionals, other than MD's or DO's, who are licensed, certified, and/or registered in accordance with applicable State law to perform portions of or the entire physical examination required of commercial motor vehicle drivers engaged in interstate commerce. This action will increase the number of professionals authorized to perform the physical/medical examinations and provide greater flexibility to drivers and motor carriers in choosing more convenient times and locations for the required examinations at a lower cost.

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the policies and procedures of the DOT. This action will increase the number of professionals authorized to perform the physical/medical examinations and provide greater flexibility to drivers and motor carriers in choosing more convenient times and locations for the required examinations at a lower cost. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354; U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. Based on this evaluation, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This amendment does not contain a collection of information requirement. The information collection requirements contained in 49 CFR 391.43 have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2125-0080.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 390

Motor carriers, Motor vehicle safety.

49 CFR Part 391

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

Issued on: July 20, 1992.

T.D. Larson,
Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, subchapter B, chapter III, parts 390 and 391 as set forth below:

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

1. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. app. 2503 and 2505; 49 U.S.C. 3102 and 3104; 49 CFR 1.48.

§ 390.5 [Amended]

2. Section 390.5 is amended by adding a new definition of *health care professional* to read as follows:

Section 390.5 Definitions

* * * * *

Health care professional means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

* * * * *

PART 391—QUALIFICATION OF DRIVERS

3. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. app. 2505, 49 U.S.C. 504 and 3102; 49 CFR 1.48.

§ 391.43 [Amended]

4. Section 391.43 is amended by revising paragraph (a)(1); by redesignating paragraphs (c), (d), (e), and (f) as paragraphs (d), (e), (f), and (g), respectively; by adding a new paragraph (c); by revising the reference to "paragraph (e)" in newly designated paragraph (f) to read "paragraph (g)"; revising the terms "examining physician" and "examining doctor" to read "examining health care professional" in newly designated paragraphs (d), (e) (six places) and (g) (two places); by adding to the forms "Examination to Determine Physical Condition of Drivers" and "Medical Examiner's Certificate" in newly designated paragraphs (e) and (g), immediately below "(Name of examining health care professional (print))", the following:

(Title) (License or Certification No.)
(State)

Section 391.43 Medical Examination; Certificate of Physical Examination

(a)(1) Except as provided by paragraph (b) of this section, the medical examination shall be performed by a licensed health care professional as defined in § 390.5 of this subchapter.

* * * * *

(b) * * *

(c) Health care professionals shall:

(1) Be knowledgeable of the specific physical and mental demands associated with operating a commercial motor vehicle and the requirements of

this subpart, including the medical regulatory criteria prepared by the FHWA as guidelines to aid the health care professional in making the qualification determination; and

(2) Be proficient in the use of and use the medical protocols necessary to adequately perform the medical examination required by this section.

* * * * *

[FR Doc. 92-17640 Filed 7-27-92; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 920412-2112]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Closure.

SUMMARY: NMFS announces the closure of the recreational salmon fishery in the exclusive economic zone (EEZ) from the U.S.-Canada border to Cape Alava, Washington, at midnight, July 22, 1992, to ensure that the coho salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined that the recreational fishery quota of 13,100 coho salmon for the subarea will be reached by midnight, July 22, 1992. The closure is necessary to conform to the preseason announcement of 1992 management measures. This action is intended to ensure conservation of coho salmon.

DATE: Effective at 2400 hours local time, July 22, 1992. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.23. Comments will be accepted through August 7, 1992.

ADDRESSES: Comments may be mailed to Rolland A. Schmitt, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE, BIN C15700-Bldg. 1, Seattle, WA 98115-0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526-6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon

fisheries at 50 CFR 661.21(a)(1) state that "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by notice issued under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

In its emergency interim rule and notice of 1992 management measures (57 FR 19388, May 6, 1992), NMFS announced that the 1992 recreational fishery for all salmon species in the subarea from the U.S.-Canada border to Cape Alava, Washington, would open July 6, and continue through the earliest of October 1 or the attainment of either a subarea quota of 13,000 coho salmon or an overall quota of 33,000 chinook north of Cape Falcon, Oregon.

Based on the best available information on July 20, the recreational fishery catch in the subarea from the U.S.-Canada border to Cape Alava is projected to reach the 13,000 coho salmon quota by midnight, July 22, 1992. Therefore, the fishery in this subarea is closed to recreational fishing for all salmon species effective 2400 hours local time, July 22, 1992.

In accordance with the revised inseason notice procedures of 50 CFR 661.23, actual notice to fishermen of this closure was given prior to 24 hours local time, July 22, 1992, by telephone hotline number (206) 526-6667 or (800) 662-9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz.

The Regional Director consulted with representatives of the Pacific Fishery Management Council and the Washington Department of Fisheries regarding the closure of the recreational fishery between the U.S.-Canada border and Cape Alava, Washington. The State of Washington will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action. This notice does not apply to treaty Indian fisheries or to other fisheries that may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted through August 7, 1992.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

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

Dated: July 23, 1992.

Joe P. Clem,

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

[FR Doc. 92-17807 Filed 7-23-92; 2:55 am]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 920367-2181]

RIN 0648-AD67

Groundfish of the Gulf of Alaska

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

ACTION: Final rule; notice of final specifications to establish a Pacific halibut bycatch allowance; technical amendment.

SUMMARY: NMFS announces approval of (1) authority for the annual apportionment of a Pacific halibut bycatch allowance to the demersal shelf rockfish (DSR) hook-and-line fishery conducted in the Southeast Outside (SEO) District in the Eastern Regulatory Area of the Gulf of Alaska (GOA), and (2) directed fishing standards for DSR. These actions are necessary to make this fishery separately accountable for incidental catches of Pacific halibut, to prevent an unnecessary fishery closure, and to limit the amounts of DSR that might be taken as bycatch in other fisheries. Also, NMFS announces a 10 metric ton bycatch allowance of Pacific halibut to the DSR fishery in 1992. Finally, technical amendments are approved to implement fully the intent of Amendments 22 and 25 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) that have already been approved by the Secretary of Commerce (Secretary). These actions are intended to promote the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to groundfish management off Alaska.

DATES: Effective July 23, 1992.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may

be obtained from Steven Pennoyer, Director, Alaska Region, Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg, Chief, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the GOA are managed by the Secretary under the FMP, which was prepared by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act), and is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 672. General regulations that also pertain to the U.S. fisheries are implemented at 50 CFR part 620.

At times, amendments to the FMP and/or its implementing regulations are necessary to resolve problems pertaining to management of the groundfish fisheries. In some instances, the FMP allows certain measures to be changed by regulatory amendments without amending the FMP itself. This action contains two regulatory amendments that are authorized by the FMP.

Establishment of Authority to Apportion Pacific Halibut Bycatch Allowance to the SEO District DSR Hook-and-Line Fishery and Establishment of Directed Fishing Standards for the DSR Fishery

First, authority is established for NMFS, in consultation with the Council, to apportion the Pacific halibut prohibited species catch (PSC) limit specified for hook-and-line gear as bycatch allowances between (1) the DSR hook-and-line fishery in the SEO District and (2) all other GOA hook-and-line fisheries. This regulation amends procedures in which the Council, during its September meeting, recommends an annual halibut PSC limit for hook-and-

line gear. Under this procedure, the Council may recommend apportionments of the halibut PSC limit specified for hook-and-line gear as bycatch allowances for (1) the directed fishery for DSR in the SEO District, and (2) all other hook-and-line gear. Each year, NMFS will propose these allowances in the Federal Register and comments will be invited. The Council, during its December meeting, will recommend final bycatch allowances of the halibut PSC mortality limit between the DSR hook-and-line fishery and all other hook-and-line fisheries. NMFS will implement these allowances to govern halibut bycatch mortality in the hook-and-line fisheries for the subsequent fishing year. This is the same procedure contained at § 672.20(f)(2)(ii) that presently govern the specification of halibut PSC limits for the hook-and-line and trawl fisheries.

Second, directed fishing standards are established for DSR that limit the amount of DSR that could be retained by vessels during directed fishing closures for DSR. Directed fishing standards for sablefish were editorially revised and included for the convenience of the reader. Both regulatory amendments were recommended by the Council at its meeting of December 2-9, 1991. A notice of proposed rulemaking was published on April 8, 1992 (57 FR 11930), and comments were requested until May 8, 1992. A description of, and reasons for, the regulatory amendments are contained in the notice of proposed rulemaking.

Response to Comments

Two comments were received during the comment period supporting the measures described in the notice of proposed rulemaking. Comments are summarized and responded to as follows:

Comment 1: The measure to provide a separate PSC limit for the DSR fishery is necessary to provide greater opportunity to harvest the DSR quota in the SEO

District, and, therefore, it should be implemented.

Response: NMFS concurs. This measure was approved.

Comment 2: The measure to establish directed fishing standards applicable to DSR is necessary to reduce the danger of DSR being overfished, reduce the potential for preemption of the directed DSR fishery resulting from DSR bycatches in other fisheries, and still allow incidentally caught DSR to be landed rather than wasted.

Response: NMFS concurs. This measure was approved.

NMFS has considered the reasons for the regulatory amendments, and the comments received, and has determined that these regulatory amendments are necessary for fishery conservation and management. These actions will promote economic growth because they will reduce the likelihood that the DSR hook-and-line fishery will be closed prematurely, thereby promoting greater utilization of available DSR stocks.

Establishment of 10-mt Pacific Halibut Bycatch Allowance for the SEO DSR Hook-and-Line Fishery

Under § 672.20(f)(2)(ii), NMFS already has specified a final 1992 halibut bycatch limit of 750 metric tons (mt) for hook-and-line gear (57 FR 2844, January 24, 1992). Contingent upon approval of the regulatory measures described above, NMFS proposed to apportion 10 mt of the PSC limit as a bycatch allowance to the 1992 DSR fishery using hook-and-line gear in the SEO District and the balance of 740 mt as a bycatch allowance to all other GOA hook-and-line fisheries (57 FR 27725, June 22, 1992). Comments were invited until July 2, 1992. No comments were received.

NMFS approves amended Table 3 of the 1992 specifications for groundfish in the GOA to apportion the 750 mt Pacific halibut as follows: (1) 10 mt to the DSR hook-and-line fishery and (2) 740 mt to the other hook-and-line gear fisheries.

TABLE 3.—ALLOCATION OF PACIFIC HALIBUT PSC LIMITS BETWEEN GEAR TYPES, IN MT

Trawl gear		Hook-and-line gear			
Dates	Amount	Other than DSR		DSR	
		Dates	Amount	Dates	Amount
Jan. 1-Mar. 31.....	600	Jan. 1-May 14.....	200	June 29-Dec. 31.....	10
Apr. 1-June 30.....	600	May 15-Aug. 31.....	490	.....	.....
Jul. 1-Sep. 29.....	400	Sep. 1-Dec. 31.....	50	.....	.....
Sep. 30-Dec. 31.....	400	.....	.....	.....	.....
Total.....	2,000	.....	740	.....	10

Under § 672.20(f)(2)(ii), the Regional Director will close the DSR directed fishery with hook-and-line gear in the SEO District for the remainder of the fishing year if he determines that the 10 mt allowance will be reached.

Technical Amendments

Two technical amendments are included in this final rule. Both apply to the definition of "reporting area" in § 672.2 and correct drafting errors in the regulatory text.

First, a technical amendment to regulations at § 672.2 is implemented to delete the definition of the East Yakutat District and delete reference to statistical area 68 in the definition of a reporting area. This change is necessary to establish consistency with the intent of Amendment 22 to the FMP, which was approved on January 31, 1992, and specifically reads as follows:

* * * for purposes of managing sablefish and rockfish stocks, the Eastern Regulatory Area is divided into two districts: West Yakutat (140°–147° W. longitudes) and Southeast Outside (132°40' W. longitudes and north of 54°30' N. latitude).

Regulations implementing this amendment (57 FR 10430, March 26, 1992) revise the definition of statistical area to delete reference to the East Yakutat District (statistical area 68).

The second technical amendment deletes reference to statistical area 621 in the definition of reporting area. That action was authorized under Amendment 25 to the FMP (57 FR 2683, January 23, 1992).

The substance of these technical amendments were analyzed in the EA/RIR/FRFAs that were prepared for Amendments 22 and 25, respectively. The technical amendments are consistent with the goals and objectives of the amendments and facilitate implementation of Amendments 22 and 25 that already have been approved.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary for the conservation and management of the groundfish fishery off Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator has determined that the reasons justifying promulgation of this rule make it impracticable and contrary to the public interest to delay its effective date under the rulemaking provision of the Administrative Procedure Act, 5 U.S.C. 553. If apportionment of a bycatch allowance of 10 mt of halibut PSC to the 1992 demersal shelf rockfish fishery from the overall 1992 hook-and-line

halibut PSC is to have its intended effect, it must be implemented before the hook-and-line PSC is reached. NMFS anticipates that the hook-and-line PSC will be reached soon, leaving an insufficient amount to apportion to the 1992 DSR fishery.

The Alaska Region, NMFS, prepared an EA for this rule and the Assistant Administrator concluded that no significant impact on the environment will result from its implementation. The public may obtain a copy of the EA from the Regional Director (see ADDRESSES).

The final regulatory flexibility analysis prepared as part of the EA/RIR/FRFA concludes that this rule would have significant effects on small entities. A summary of this analysis is contained in the Classification section in the proposed rulemaking (57 FR 11930, April 8, 1992). The summary concludes that this action will reduce the likelihood of a premature closure of the directed fishery for this target species category. It will foster economic growth, because it will allow further utilization of the available demersal shelf rockfish harvest quota.

The Assistant Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the socioeconomic impacts discussed in the EA/RIR/FRFA prepared by the Alaska Region, NMFS.

This rule does not include a collection of information requirement subject to the Paperwork Reduction Act.

NMFS has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies declined to comment on the consistency determination within the statutory time period, and consistency is inferred.

This rule does not include policies with federalism implication sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

NMFS concluded formal consultations under section 7 of the Endangered Species Act on the FMP and fisheries in 1991. The biological opinions issued for the consultations concluded that the FMP and fisheries are not likely to jeopardize the continued existence and recovery of any endangered or threatened species under the jurisdiction of NMFS. Adoption of the management measures described in this proposed

rule will not affect listed species in a way that was not already considered in the aforementioned biological opinions. NMFS has determined that no further consultation is required for adoption of this action.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping.

Dated: July 23, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, part 672 is amended as follows:

PART 672—GROUND FISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.1, paragraph (d) is revised to read as follows:

§ 672.1 Purpose and scope.

* * * * *

(d) The following State of Alaska regulations are not preempted by this part for vessels regulated under this part fishing for demersal shelf rockfish in the Southeast Outside District, and which are registered under the laws of the State of Alaska:

5 AAC 28.110—Fishing seasons.

5 AAC 28.130—Gear.

5 AAC 28.160—Harvest guidelines.

5 AAC 28.190—Harvest of bait by commercial permit holders.

3. In § 672.2, definitions of "regulatory district" and "reporting area" are revised to read as follows:

§ 672.2 Definitions.

* * * * *

Regulatory district means any of the two districts of the Eastern Regulatory area described as follows:

(1) *Southeast Outside district*—means statistical area 65; and

(2) *West Yakutat district*—means statistical area 64. *Reporting area* means the relevant Gulf of Alaska statistical area and, in addition to the State waters described in the relevant statistical area, all State waters between the shore and any inshore boundary of that statistical area. With respect to any groundfish species, any groundfish species group, or any prohibited species, the relevant Gulf of Alaska statistical areas include each of the following statistical areas described below: 61, 62, 63, 64, and 65. A reporting area is identified by the same number used to identify the associated statistical area.

* * * * *

4. In § 672.20, paragraph (g)(3) is removed, paragraph (g)(4), which currently is suspended by emergency rule (57 FR 11433, April 3, 1992; as corrected at 57 FR 14667, April 22, 1992; and extended at 57 FR 29223, July 1, 1992), is redesignated as (g)(3) and remains suspended through September 30, 1992, and paragraph (f)(1)(ii), (f)(2)(i), (g)(1), and (g)(2) are revised to read as follows:

§ 672.20 General limitations.

* * * * *

(f) * * *

(1) * * *

(ii) *Hook-and-line gear*—(A) *Groundfish other than demersal shelf rockfish in the Southeast Outside District.* If, during the year, the Regional Director determines that the catch of halibut by operators of vessels using hook-and-line gear in groundfish fisheries other than the directed fishery for demersal shelf rockfish in the Southeast Outside District will reach the halibut bycatch allowance, or seasonal apportionment thereof, specified for hook-and-line gear under paragraph (f)(2) of this section, NMFS will publish a notice in the *Federal Register* prohibiting directed fishing for groundfish, other than demersal shelf rockfish in the Southeast Outside District, by vessels using hook-and-line gear for the remainder of the season to which the halibut bycatch allowance or seasonal apportionment thereof applies.

(B) *Demersal shelf rockfish in the Southeast Outside District.* If, during the year, the Regional Director determines that the catch of halibut by operators of vessels using hook-and-line gear in the directed fishery for demersal shelf rockfish in the Southeast Outside District will reach the halibut bycatch allowance or seasonal apportionment thereof, specified for this fishery under

paragraph (f)(2) of this section, NMFS will publish a notice in the *Federal Register* prohibiting directed fishing for demersal shelf rockfish in the Southeast Outside District, by vessels using hook-and-line gear for the remainder of the season to which the halibut bycatch allowance or seasonal apportionment thereof applies.

* * * * *

(2) * * * (i) *Notices of proposed halibut PSC limits.* After consultation with the Council, NMFS will publish a notice in the *Federal Register* specifying the proposed halibut PSC limit for vessels using trawl gear. The notice also will specify the proposed halibut PSC limit for vessels using hook-and-line gear, which may be further apportioned as bycatch allowances to vessels participating in the directed fishery for demersal shelf rockfish in the Southeast Outside District of the Eastern Regulatory Area and to all other hook-and-line gear fisheries. The notice also may specify a halibut PSC limit for vessels using pot gear. Each PSC limit or bycatch allowance proposed under this paragraph may be apportioned by season under paragraph (f)(2)(iii) of this section. Each halibut PSC limit also may be apportioned among the regulatory areas and districts of the Gulf of Alaska. Public comments on these proposals will be accepted for 30 days after the notice is published in the *Federal Register*.

* * * * *

(g) * * *

(1) *Trawl gear*—(i) *Sablefish.* The operator of a vessel is engaged in directed fishing for sablefish if he retains at any particular time during a trip sablefish caught using trawl gear in an amount equal to or greater than:

(A) 15 percent of the aggregate amount of deep water flatfish, flathead sole, and rockfish species of the genera

Sebastes and *Sebastolobus* retained at the same time by the vessel during the same trip; plus

(B) 5 percent of the total amount of all fish species not identified under paragraph (g)(1)(i)(A) of this section retained at the same time by the vessel during the same trip.

(ii) *Demersal shelf rockfish.* The operator of a vessel is engaged in directed fishing for demersal shelf rockfish if he retains at any particular time during a trip demersal shelf rockfish caught using trawl gear in an amount equal to or greater than 1 percent of the aggregate amount of deep water flatfish, flathead sole, sablefish, "other rockfish," and thornyhead rockfish, plus 10 percent of the amount of all other fish species retained at the same time by the vessel during the same trip.

(2) *Hook-and-line gear*—(i) *Sablefish.* The operator of a vessel is engaged in directed fishing for sablefish if he retains at any particular time during a trip sablefish caught using hook-and-line gear in an amount equal to or greater than 4 percent of the total amount of all other fish species retained at the same time by the vessel during the same trip.

(ii) *Demersal shelf rockfish.* The operator of a vessel is engaged in directed fishing for demersal shelf rockfish if he retains at any particular time during a trip demersal shelf rockfish caught using hook-and-line gear in an amount equal to or greater than 1 percent of the aggregate amount of deep water flathead, flathead sole, sablefish, "other rockfish," and thornyhead rockfish, plus 10 percent of the amount of all fish species retained at the same time by the vessel during the same trip.

* * * * *

[FR Doc. 92-17806 Filed 7-23-92; 2:55 am]
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Proposed Rules

Federal Register

Vol. 57, No. 145

Tuesday, July 28, 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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Ch. I

[Docket No. 91N-0134]

Certain Misbranding Sections of the Federal Food, Drug, and Cosmetic Act that are, and that are not, Adequately Being Implemented by Regulation; Notice of Proposed Lists

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is publishing, as required by the Nutrition Labeling and Education Act of 1990 (Pub. L. 101-535) (the 1990 amendments), proposed lists delineating which of six sections of the Federal Food, Drug, and Cosmetic Act (the act) that define circumstances in which a food is misbranded are adequately being implemented by FDA regulations and which are not. These six sections are: Sections 403(b) (offered for sale under the name of another food), 403(d) (misleading container), 403(f) (information of appropriate prominence), 403(h) (compliance with standard of quality and fill), 403(i)(1) (common or usual name), and 403(k) (declaration that the product contains artificial flavoring, coloring, or preservatives).

Based upon the recommendations of the National Academy of Sciences (NAS), Institute of Medicine (IOM), Food and Nutrition Board (hereinafter referred to as "the IOM"), the agency is proposing to find that all but section 403(d) of the act are being adequately implemented. These recommendations are contained in a report to FDA from the IOM, entitled "Food Labeling: Toward National Uniformity." FDA contracted for this report in accordance with the 1990 amendments.

DATES: Written comments by September 28, 1992. The agency intends to issue

final lists delineating which of the six sections of the act that define circumstances in which a food is misbranded are adequately being implemented by regulation by November 8, 1992, in accordance with requirements of the 1990 amendments. FDA also intends to issue by the November 8, 1992, deadline any proposed revisions to its regulations that are necessary because of a conclusion that FDA is not adequately implementing one of the sections in question, as required by section 6(b)(3)(C) of the 1990 amendments.

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

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-205-5229.

SUPPLEMENTARY INFORMATION:

I. Background

The 1990 amendments amend the act (21 U.S.C. 321 *et seq.*) to provide, among other things, for Federal preemption of certain food standards and labeling requirements issued by a State or political subdivision of a State.

The preemption provisions are complex. Section 6(a) of the 1990 amendments adds section 403A to the act (21 U.S.C. 343-1), which groups the sections of the act that will have preemptive effect. Read in conjunction with section (10)(b)(1) of the 1990 amendments, section 403A provides that the preemptive effect of these sections of the act will be phased-in on a group-by-group basis.

Section 403A(a)(3) of the act states that "no State or political subdivision of a State may directly or indirectly establish under any authority, or continue in effect as to any food in interstate commerce * * * any requirement for the labeling of food of the type required by section 403(b), 403(d), 403(f), 403(h), 403(i)(1), or 403(k) that is not identical to the requirements of such section * * *." The six provisions listed in section 403A(a)(3) of the act do not become preemptive, however, until FDA determines (as prescribed in section 6(b) of the 1990 amendments) that each is being adequately

implemented by Federal regulations (see section 403A(a) of the act and section 10(b)(1)(C) of the 1990 amendments).

In accordance with section 6(b) of the 1990 amendments, FDA entered into a contract with NAS under which the IOM was to study the adequacy of the implementation of the Federal, State, or local requirements addressed in section 403A(a)(3) of the act. The IOM formed a committee to do much of its work under the contract. To facilitate this study, FDA announced in the Federal Register of May 8, 1991 (56 FR 21388), that the IOM would hold a public meeting at NAS on May 30, 1991, to solicit information and comments pertaining to current State and local laws and regulations that require the labeling of food that is the type required by sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k) of the act.

The IOM was unable to schedule this public meeting before the May 8, 1991, deadline imposed by the 1990 amendments because of unforeseen circumstances. The IOM's initial meeting on this issue was held on May 29 and 30, 1991, with the second day devoted to the public meeting.

Eight oral presentations were made at the May 30, 1991, public meeting. Presentations were made by representatives of food industries, trade associations, a consumer group, and the Association of Food and Drug Officials (AFDO). The IOM also received seven written submissions from AFDO; the Texas Department of Health, Division of Food and Drugs; the Florida Department of Agriculture and Consumer Services; the National Food Processors Association; the Department of Consumer Protection for the State of Connecticut; the Center for Science in the Public Interest; and the State of New York Department of Law, on behalf of the Attorneys General of the States of California, Iowa, Minnesota, Missouri, New York, Texas, and Wisconsin.

To obtain further information on the six pertinent sections beyond that which was submitted in response to the May 30, 1991, public meeting, the IOM held several panel discussions with individuals knowledgeable about the congressional intent underlying section 6(b) of the 1990 amendments and the concerns of State and local regulators, industry, and consumers about the impact of Federal preemption. The IOM

also gathered information directly from FDA, the States, and local jurisdictions.

The information collected from the public meeting, the formal comments to the public meeting notice, panel discussions, and the informal comments received by the IOM form the basis upon which the IOM developed its report and recommendations. A written transcript of the May 30, 1991, public meeting, formal comments to the public meeting notice, and the information collected by the IOM upon its own initiative, from the States, local jurisdictions, FDA, and other sources are on file at the Dockets Management Branch (address above).

At the time of its May 8, 1991, announcement of the IOM's public meeting, FDA did not expect that the delay in the completion of the report would affect the publication by August 8, 1991, of proposed lists of the sections of the act in question that are, and that are not, adequately being implemented by regulation, as required under section 6(b)(3)(A) of the 1990 amendments. Subsequently, however, the IOM informed FDA that the magnitude and importance of the undertaking, as well as the complexity of the issues involved in the study, would further delay the completion of the study until the first part of 1992.

Citing the intent of Congress in enacting section 6(b) of the 1990 amendments and the belief that publishing the proposed lists without benefit of the IOM's report and recommendations would be inappropriate, FDA announced in the *Federal Register* of October 24, 1991 (56 FR 55130), its intention to publish in the *Federal Register* in early 1992 a proposed list determining whether or not the misbranding sections that are the subject of this rulemaking (sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k) of the act) are adequately being implemented by regulation.

On April 23, 1992, the IOM submitted to FDA the final draft manuscript of the report of its findings. This report is entitled "Food Labeling: Toward National Uniformity" (hereinafter referred to as the IOM report). The IOM report published in June 1992. Copies of the final draft manuscript and the published IOM report are on file with the Dockets Management Branch (address above). Copies of the IOM report may be purchased from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418.

II. The IOM Report

A. Introduction

Consistent with section 6(b) of the 1990 amendments, the charge to the IOM was to conduct a study: (1) Of State and local laws that require the labeling of food that is of the type required by sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k) of the act; and (2) of those sections of the act and the regulations issued by FDA to enforce them, to determine whether the sections and the regulations adequately implement the purposes of those sections. The IOM interpreted its charge broadly, and while FDA is evaluating the IOM report, the agency is in no way bound to ultimately follow any of the IOM's recommendations.

B. The Criteria for Determining Adequate Implementation

The IOM report states that it used the following criteria in determining whether the six misbranding sections under review are being adequately implemented by FDA:

(1) A definition of "adequate" as "equal to, proportionate to, or fully sufficient for a specified or implied requirement" was used as a foundation for decisions.

(2) The intent of any section and of any regulation was a consideration. The IOM also considered the effect of the use of sections 403(a)(1), 403(e), and 403(i)(2) in conjunction with the six provisions that were the subject of the study.

(3) The absence of an FDA implementing regulation did not lead to an automatic conclusion that implementation is inadequate.

(4) The level of enforcement was not a consideration in determining adequacy of implementation.

(5) The strictest requirement, whether Federal, State, or local, was not automatically recommended for adoption as the national standard.

(6) The IOM limited its study of the six sections of the act to the implementing regulations for which rulemaking had been completed and to any published advisory opinions, as defined in 21 CFR 10.85 on these sections.

(7) In reviewing State and local requirements and their relationship to the six provisions of the act under study, the IOM viewed its own jurisdiction broadly to ensure a fair, balanced review of the materials provided by State and local officials and by other interested persons.

The IOM report also states that all State requirements assembled were reviewed, evaluated, and categorized according to the following criteria:

(1) Whether an adequate Federal regulation exists on the issue.

(2) Whether the agency has not adequately implemented the act in the area of concern represented by the State requirement. On this issue, the IOM considered a State requirement's national importance and its

national prominence as indicated by the frequency of attention to the issue by the States.

(3) Whether the State requirement meets a demonstrated local need.

(4) Whether the State requirement provides only economic protection to the industry, is without consumer benefit, and has no other redeeming virtue.

The IOM, in determining the adequacy of FDA's implementation of the six misbranding sections, focused its work on that which was outlined within the specific language of the 1990 amendments. In approaching the task of defining "adequate implementation," the IOM examined the Congressional Record, sought guidance from persons intimately involved in the development of section 6(b) of the 1990 amendments, considered the views of the State and local governments and industry and consumer groups, examined sources other than Federal regulations (e.g., FDA advisory opinions and compliance policy guides), and reviewed State laws and regulations as indicators of the adequacy of FDA implementation of the six misbranding sections of the act subject to the IOM's review.

The IOM then assessed the strength of the overall combined evidence gathered through its public meeting, written submissions in response to the public meeting notice, panel discussions at the meetings it held, review of the Congressional Record, requests to the States, and communications with several organizations representing food and drug officials. The IOM's conclusions as to the adequacy of FDA's implementation of the six misbranding sections subject to its review reflect the strength and preponderance of the evidence as well as the IOM's evaluation of Congress' intent in implementing section 6(b) of the 1990 amendments.

C. The IOM's Recommendations

The IOM's recommendations as to the adequacy of the six misbranding sections (sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k)) under study are as follows:

Section 403(b)—The IOM perceived no major differences among the views of States, industry, and consumer groups on FDA implementation of section 403(b), which was perceived as adequate. Accordingly, the IOM concluded that section 403(b) is adequately implemented.

Section 403(d)—The IOM considered deceptive or slack filled containers a matter of national importance and concluded that the perception on the part of State officials and consumer groups that there is a problem supports

that conclusion. Accordingly, the IOM concluded that section 403(d) is not adequately implemented.

Section 403(f)—The IOM concluded that FDA regulations in 21 CFR Part 101 utilize a balance of location, continuity, size, and ink color to establish standard and predictable formats for food labeling. Accordingly, the IOM concluded that section 403(f) is adequately implemented.

Section 403(h)—The IOM concluded that FDA regulations in 21 CFR 130.14 establish adequate procedures for labeling products that fail to meet standard of quality and fill of container. Rarely, the IOM noted, are products found that contain the required statements set forth under section 403(h). This is, the IOM further noted, because of both the imparted inferior connotation of a product with crepe labeling and the link with standards of identity and fill for many products. Accordingly, the IOM concluded that section 403(h) is adequately implemented.

Section 403(i)(1)—The IOM concluded that FDA regulations in 21 CFR Part 102 establish adequate procedures for the development and application of common or usual names under section 403(i)(1). Accordingly, the IOM concluded that section 403(i)(1) is adequately implemented.

Section 403(k)—The IOM concluded that FDA regulations in 21 CFR 101.22, along with the proposed regulatory changes in response to the 1990 amendments (56 FR 28592, June 21, 1991), establish or will establish adequate rules on declaration of flavors, colorings, and preservatives. Accordingly, the IOM concluded that section 403(k) is adequately implemented.

III. Proposed Lists

The agency has reviewed the IOM recommendations related to the adequacy of Federal implementation of sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k) of the act. The IOM recommended finding that all but section 403(d) (misleading container) are adequately being implemented. Based on these recommendations, FDA is proposing, in accordance with section 6(b)(3)(A) of the 1990 amendments, to find that the following sections are adequately implemented by FDA's regulations: sections 403(b), 403(f), 403(h), 403(i)(1), and 403(k) of the act. Based upon the same considerations, FDA is also proposing to find that section 403(d) of the act on misleading containers is not being adequately implemented by FDA's regulations.

The agency is publishing these proposed lists based on the recommendations of the IOM. However, because the IOM report was published late, FDA has not yet fully evaluated the IOM recommendations. Thus, the agency is publishing these proposed lists for public comment while it fully evaluates the IOM recommendations. Later, FDA will publish final lists that will be based on its complete analysis of the IOM report as well as the comments it receives on these proposed lists and other relevant information.

IV. Comments

Interested persons may, on or before September 28, 1992, submit to the Dockets Management Branch (address above) written comments regarding these proposed lists. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with section 6(b)(3) of the 1990 amendments, FDA must issue by November 8, 1992, its final lists of the sections of the act that are, and that are not, being adequately implemented. If the agency does not issue the final lists by November 8, 1992, the 1990 amendments provide that the proposed lists shall be considered the final lists, and preemption will become effective on November 8, 1992, for those sections found to be adequately implemented in the proposed lists. The agency is advising that it will not grant any requests for extension of the comment period beyond September 28, 1992.

Under the 1990 amendments, FDA must propose revisions by November 8, 1992, and issue final revisions by May 8, 1993, to any regulations found to be inadequately implemented (section 6(b)(3) of the 1990 amendments). The preemptive effect of those sections that have not been adequately implemented will become effective on the effective date of the revisions to the regulations that were initially found to be inadequate. If the agency does not issue final revisions by May 8, 1993, the proposed revisions will be considered the final revisions under the 1990 amendments, and preemption will become effective on the effective date of the rules that, on May 8, 1993, are considered final rules.

Dated: June 18, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92-17693 Filed 7-27-92; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[Secretary of the Navy Instruction 5211.5]

Availability of Department of the Navy Records and Publication of Navy Documents Affecting the Public

AGENCY: Department of the Navy, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of the Navy is publishing a proposed rule to delete one exemption rule and add one exemption rule to 32 CFR 701.119. The new specific exemption rule is proposed to be added to existing Navy exemption rules for exempt systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed record system to be exempt is identified as N05520-5, entitled "Navy Joint Adjudication and Clearance Systems (NJACS)".

DATES: Comments must be received on or before August 27, 1992, to be considered by this agency.

ADDRESSES: Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwen Aitken (703) 614-2004.

SUPPLEMENTARY INFORMATION: Executive Order 12291. The Director, Administration and Management, has determined that this proposed rule is not a major rule. Analysis of the rule indicates that it does not have an annual effect on the economy of \$100 million or more; does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and does not have a significant adverse effect on competition, employment, investment, productivity, or innovation.

Regulatory Flexibility Act of 1980. The Director, Administration and Management, certifies that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) and does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act. The Director, Administration and Management, certifies that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520).

List of Subjects in 32 CFR Part 701

Privacy.

For reasons set forth in the preamble, 32 CFR 701.119 is amended as follows:

1. The authority citation for 32 CFR part 701, subpart G, continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 701.119 is proposed to be amended by removing paragraphs (b)(4) and (b)(5), redesignating paragraphs (b)(6) and (b)(7) as (b)(4) and (b)(5); and adding a new paragraph (e)(2) as follows:

§ 701.119 Exempt Navy record systems.

* * * * *

(b) *Bureau of Naval Personnel* * * *

(e) *Naval Investigative Service*—

* * *

(2) *ID-N05520-5*

System Name. Navy Joint Adjudication and Clearance Systems (NJACS).

Exemption. Portions of this system of records may be exempt from the following subsections of 5 U.S.C. 552a(d)(1-5).

Authority. 5 U.S.C. 552a(k)(1) and (k)(5).

Reasons. Granting individuals access to information collected and maintained in this system of records could result in the disclosure of classified material; and jeopardize the safety of informants, and their families. Further, the integrity of the system must be ensured so that complete and accurate records of all adjudications are maintained. Amendment could cause alteration of the record of adjudication.

* * * * *

Dated: July 15, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-17111 Filed 7-27-92; 8:45 am]

BILLING CODE 3810-01

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-92-015]

Drawbridge Operation Regulations; Bear Creek, Dundalk and Sparrows Point, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a change to the regulations that govern the operation of the Peninsula Parkway Bridge across Bear Creek, mile 2.1, between Dundalk and Sparrows Point, Maryland, by eliminating bridge openings between the hours of 10 p.m. and 6 a.m. year round. If this change is approved, existing advance notice provision for bridge openings from April 16 through November 15, from 12 midnight to 8 a.m., except Saturdays, Sundays, and Federal and State holidays will be discontinued. This change is being considered because of the infrequent number of requests for draw openings during the nighttime. This action would relieve the bridge owner of the burden of having a bridge tender available 24 hours a day, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before September 11, 1992.

ADDRESSES: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments and other materials referenced in this notice will be available for inspection and copying at room 507 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, (804) 398-6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested persons are invited to participate in this rulemaking by submitting written comments or data. Persons submitting comments or data should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended changes to the proposal. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulation may be

changed based on comments and data received.

Drafting Information

The drafters of this notice are Bill H. Brazier, Project Officer, and LT Monica L. Lombardi, Project Attorney, Fifth Coast Guard District.

Discussion of Proposed Rule

The Baltimore County, Department of Public Works has requested that nighttime openings of the Peninsula Parkway Bridge across Bear Creek, mile 2.1, between Dundalk and Sparrows Point, Maryland, be eliminated due to the low number of nighttime openings requested. The Coast Guard is proposing to restrict the passage of vessels between the hours of 10 p.m. and 6 a.m. year round, and also to discontinue the existing provision requiring at least one half hour notice for the bridge to open from 12 midnight to 8 a.m., from April 16 through November 15. The bridge will continue to open on signal between the hours of 6 a.m. and 10 p.m. year round.

33 CFR 117.543(a) currently pertains to the opening of this bridge as well as the Baltimore County Revenue Authority (Dundalk Avenue) highway toll bridge at mile 1.5. The Baltimore County Revenue Authority (Dundalk Avenue) highway toll bridge has been dismantled and removed. The proposed rule will eliminate that part of the existing rule pertaining to the Baltimore County Revenue Authority Bridge, and only pertain to the operation of the Peninsula Parkway Bridge.

According to the drawlogs for the Peninsula Parkway Bridge, the waterway is used entirely by recreational vessels. The drawlogs recorded between the hours of 10 p.m. and 6 a.m., from June 12, 1988 through October 20, 1991, showed that the number of vessels requiring bridge openings during this period decreased from one vessel per night to one vessel every other night.

As indicated in the drawlogs, eliminating openings during the nighttime hours would have a minimal impact on the recreational users of this waterway since requests for openings during these hours are so infrequent.

Regulatory Evaluation

This propose rule is not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of the proposed regulation on commercial navigation or on any industries that depend on waterborne transportation

will be non-existent, since the waterway is used entirely by recreational vessels. Since the economic impact of this proposal is expected to be so minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether this proposed rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard will accept comments on the economic impact on small entities, in connection with this proposal for permanent regulations.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this proposed rule will not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

This proposed rule has been thoroughly reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations as follows:

1. The authority citation for part 117 continues to read as follows.

Authority: 33 U.S.C. 499 CFR 1.46; 33 CFR 1.05.1(g).

2. Paragraph (a) of section 117.543 is revised to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.543 Bear Creek.

(a) The draw of the Peninsula Parkway bridge, mile 2.1, between Dundalk and Sparrows Point, shall open on signal; except that, from 10 p.m. to 6 a.m. the bridge need not open.

Dated: July 8, 1992.

W. T. Leland,

Rear Admiral, U.S. Coast Guard Commander,
Fifth Coast Guard District.

[FR Doc. 92-17788 Filed 7-27-92; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 155

[CGD 91-034]

RIN 2155-AD81

Vessel Response Plans

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings of the Oil Spill Response Plan Negotiated Rulemaking Committee.

SUMMARY: As required by the Federal Advisory Committee Act (FACA), the Coast Guard is giving notice of the schedule of open meetings of the Oil Spill Response Plan Negotiated Rulemaking Committee to complete review of issues related to vessel oil spill response plans.

DATES: The meetings will begin on August 18, 1992 from 9 a.m. to 5 p.m. The meetings will continue as necessary on August 19-21 beginning at 8:30 a.m.

ADDRESSES: The meetings will be held in room 4436 at DOT Headquarters, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Commander Glenn Wiltshire, Project Manager, Oil Pollution Act of 1990 Staff (G-MS-1), at (202) 267-6739 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On January 10, 1992, the Coast Guard published a notice of establishment of an advisory committee for regulatory negotiation and notice of meetings (57 FR 1139). The notice announced the establishment of the negotiated rulemaking committee to develop a report, including a recommended proposal and final rule, concerning vessel oil spill response plans and carriage of discharge-removal equipment. The Committee completed its initial series of meetings on March 27, 1992 and provided a report with recommendations. The

recommendations related to vessel response plans were incorporated in a notice of proposed rulemaking (NPRM) published in the June 19, 1992 Federal Register (57 FR 27514).

The Committee will reconvene August 18, 1992 to review comments received on the NPRM that apply to its original recommendations, and to make its recommendations for the final rule. If necessary, the Committee will meet daily through August 21, 1992 to complete its business.

All committee meetings will be open to the public, subject to space availability. In accordance with the requirements of FACA, the Coast Guard will keep minutes of the committee meetings. These minutes will be placed in the public docket (CGD 91-034) for this rulemaking and will be available for public inspection and copying at room 3406, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001.

Dated: July 17, 1992.

R.C. North,

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

[FR Doc. 92-17787 Filed 7-27-92; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL-4157-2]

Vehicle Inspection and Maintenance Requirements for State Implementation Plans

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of regulatory text, location of public hearing site and correction of proposed rulemaking.

SUMMARY: This notice supplements the Notice of Proposed Rulemaking, Vehicle Inspection and Maintenance Requirements for State Implementation Plans, published in the Federal Register on July 13, 1992 (57 FR 31058) and contains the full regulatory text associated with the proposed rule.

DATES: Written comments on this proposed rule will be accepted until August 27, 1992. EPA will conduct a public hearing on this Notice of Proposed Rulemaking on August, 12 and 13, 1992. The hearing will convene at 9 a.m. on August 12 and continue until 5 p.m.; and will resume on August 13 and

continue until such time as all testimony has been presented. The official records of the public hearing will close on August 27, 1992, rather than 30 days after the hearing as stated in the original proposal.

ADDRESSES: Written comments on this proposed rule should be submitted (in duplicate if possible) to: Environmental Protection Agency, The Air Docket, Room M-1500 (LE-131), Waterside Mall, Attention: Docket No. A-91-75, 401 M Street SW., Washington, DC 20460.

The public hearing will be held at the Hyatt Regency on Capitol Hill, 400 New Jersey Avenue NW., Washington, DC 20001. Materials relevant to this proposed rulemaking are contained in Docket No. A-91-75. The docket is located on the first floor of the above address and may be inspected from 8:30 a.m. until noon and from 1:30 p.m. until 3:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket material.

FOR FURTHER INFORMATION CONTACT: Eugene J. Tierney, Office of Mobile Sources, Motor Vehicle Emission Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. (313) 668-4456 or refer to EPA's July 13, 1992 Federal Register 40 FR 31058.

TO ARRANGE TO TESTIFY CONTACT: Gretchen Anderson at 313/668-4446.

Dated: July 16, 1992.

Jerry Kurtzweg,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble it is proposed to revise part 51 of chapter I, title 40 of the Code of Federal Regulations as follows:

PART 51—[AMENDED]

1. Authority: 42 U.S.C. 7401(b)(1), 7410, 7470-7479, 7501-7508, and 7601(a).

Appendix N [Reserved]

2. Appendix N of Part 51 is removed and reserved.

3. A new subpart S is added to part 51 to read as follows:

Subpart S—Inspection/Maintenance Program Requirements

Sec.

- 51.350 Applicability.
- 51.351 Enhanced I/M performance standard.
- 51.352 Basic I/M performance standard.
- 51.353 Network type and program evaluation.
- 51.354 Adequate tools and resources.
- 51.355 Test frequency.
- 51.356 Vehicle coverage.
- 51.357 Test procedures and standards.
- 51.358 Test equipment.
- 51.359 Quality control.
- 51.360 Waivers.

Sec.

- 51.361 Motorist compliance enforcement.
 - 51.362 Motorist compliance enforcement program oversight.
 - 51.363 Quality assurance.
 - 51.364 Enforcement against contractors, stations and inspectors.
 - 51.365 Data collection.
 - 51.366 Data analysis and reporting.
 - 51.367 Inspector training and licensing or certification.
 - 51.368 Public information and consumer protection.
 - 51.369 Improving repair effectiveness.
 - 51.370 Compliance with recall notices.
 - 51.371 On-road testing.
 - 51.372 State implementation plan submissions.
 - 51.373 Implementation deadlines.
- Appendix A to Subpart S—Steady-State Test Equipment
- Appendix B to Subpart S—Test Procedures
1. Idle Test.
 2. Two Speed Idle Test.
 3. Loaded Test.
 4. Preconditioned Idle Test.
 5. Idle Test with Loaded Preconditioning.
 6. Preconditioned Two Speed Idle Test.
- Appendix C to Subpart S—Steady-State Short Test Standards
1. Short Test Standards for 1981 and Later Model Year Light-duty Vehicles.
 2. Short Test Standards for 1981 and Later Model Year Light-duty Trucks.
- Appendix D to Subpart S—Steady-State Short Test Equipment
1. Steady-State Test Exhaust Analysis System.
 2. Steady-State Test Dynamometer.
- Appendix E to Subpart S—Transient Test Driving Cycle

Subpart S—Inspection/Maintenance Program Requirements

§ 51.350 Applicability.

Inspection/maintenance (I/M) programs are required in both ozone and carbon monoxide (CO) nonattainment areas, depending upon population and nonattainment classification or design value.

(a) *Nonattainment Area Classification and Population Criteria.* (1) States or areas within an ozone transport region shall implement enhanced I/M programs in any metropolitan statistical area (MSA), or portion of an MSA, within the state or area with a 1990 population of 100,000 or more as defined by the Office of Management and Budget (OMB) regardless of the area's attainment classification. In the case of a multi-state MSA, enhanced I/M shall be implemented in all ozone transport region portions if the sum of these portions has a population of 100,000 or more, irrespective of the population of the portion in the individual ozone transport region state or area.

(2) Apart from those areas described in paragraph (a)(1) of this section, any area designated as serious or worse

ozone nonattainment, or as moderate or serious CO nonattainment with a design value greater than 12.7 ppm, and having a 1980 Census-defined urbanized area population of 200,000 or more, shall implement enhanced I/M in the 1990 Census-defined urbanized area.

(3) Any area designated as marginal ozone nonattainment or moderate CO nonattainment with a design value of 12.7 ppm or less shall continue operating I/M programs that were part of an approved State Implementation Plan (SIP) as of November 15, 1990 and shall update those programs as necessary to meet the basic I/M program requirements of this regulation. Any such area required by the Clean Air Act, as in effect prior to November 15, 1990, to have an I/M program shall also implement a basic I/M program. More serious ozone or CO areas shall also continue operating existing I/M programs and shall upgrade such programs, as appropriate, pursuant to these regulations.

(4) Any area designated as moderate ozone nonattainment shall implement basic I/M in any 1990 Census-defined urbanized area in the nonattainment area.

(5) Any area outside an ozone transport region designated as serious or worse ozone nonattainment, or moderate or serious CO nonattainment with a design value greater than 12.7 ppm, and having a 1990 Census-defined urbanized area population of less than 200,000 shall implement basic I/M in the 1990 Census-defined urbanized area.

(6) If the boundaries of a moderate ozone nonattainment area are changed pursuant to § 107(d)(4)(A) of the Clean Air Act, such that the area includes additional urbanized areas, then a basic I/M program shall be implemented in the newly included 1990 Census-defined urbanized areas.

(7) If the boundaries of a serious or worse ozone nonattainment area or of a moderate or serious CO nonattainment area with a design value greater than 12.7 ppm are changed any time after enactment pursuant to § 107(d)(4)(A) such that the area includes additional urbanized areas, then an enhanced I/M program shall be implemented in the newly included 1990 Census-defined urbanized areas, if the 1980 Census-defined urban area population is 200,000 or more.

(8) If a marginal ozone nonattainment area is reclassified to moderate, a basic I/M program shall be implemented in the 1990 Census-defined urbanized area(s) in the nonattainment area. If the area is reclassified to serious or worse, an enhanced I/M program shall be

implemented in the 1990 Census-defined urbanized area, if the 1980 Census-defined urban area population is 200,000 or more. If less than 200,000, a basic I/M program shall be implemented in the 1990 Census-defined urbanized area(s) in the nonattainment area.

(9) If a moderate ozone or CO nonattainment area is reclassified to serious or worse, an enhanced I/M program shall be implemented in the 1990 Census-defined urbanized area, if the 1980 Census-defined urban area population is 200,000 or more. If less than 200,000, a basic I/M program shall be implemented in the 1990 Census-defined urbanized area(s) in the nonattainment area.

(b) *Extent of Area Coverage.* (1) In an ozone transport region, the program shall entirely cover all counties within subject MSAs or subject portions of MSAs, as defined by OMB in 1990, except largely rural counties having a population density of less than 200 persons per square mile based on the 1990 Census can be excluded.

(2) Outside of ozone transport regions, programs shall nominally cover at least the entire urbanized area, based on the 1990 census. Exclusion of some urban population is allowed as long as an equal number of non-urban residents of the MSA containing the subject urbanized area are included to compensate for the exclusion.

(3) Emission reduction benefits from expanding coverage beyond the minimum required urban area boundaries can be applied toward the reasonable further progress requirements and can be used for offsets, provided the covered vehicles are operated in the nonattainment area, but not toward the enhanced I/M performance standard requirement.

(4) In multi-state urbanized areas outside of ozone transport regions, I/M is required in those states in the subject multi-state area that have an urban area population of 50,000 or more, as defined by the Bureau of Census in 1980. In a multi-state urbanized area with a population of 200,000 or more that is required under paragraph (a) of this section to implement enhanced I/M, any state with a portion of the urbanized area having a population of 50,000 or more shall implement an enhanced program. The other coverage requirements in paragraph (b) of this section shall apply in multi-state areas as well.

(c) *Requirements After Attainment.* All I/M programs shall provide that the program will remain effective, even if the area is redesignated to attainment status, until the state submits and EPA approves a maintenance plan, under

§ 175A, which convincingly demonstrates that the area can maintain the relevant standard for the maintenance period without benefit of the emission reductions attributable to the I/M program. The state shall commit to fully implement and enforce the program throughout such period, and, at a minimum, for the purposes of SIP approval, legislation authorizing the program shall not sunset prior to the attainment deadline.

(d) *SIP Requirements.* The SIP shall describe the applicable areas in detail and shall include the legal authority necessary to establish program boundaries.

§ 51.351 Enhanced I/M performance standard.

(a) Enhanced I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm), achieved from highway mobile sources as a result of the program. The performance standard shall be established using the following model I/M program inputs and local characteristics, such as vehicle mix and local fuel controls, except as provided in paragraph (e) of this section. The emission levels achieved by the state's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model or an alternative model approved by the Administrator, and shall meet the minimum performance standard both in operation and for SIP approval. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas subject to enhanced I/M, the performance standard must be met for both oxides of nitrogen (NO_x) and volatile organic compounds (VOCs), except as provided in paragraph (d) of this section.

(1) *Network Type.* Centralized testing.

(2) *Start Date.* For areas with existing I/M programs, 1983. For areas newly subject, 1994.

(3) *Test Frequency.* Annual testing.

(4) *Model Year Coverage.* Testing of 1968 and later vehicles.

(5) *Vehicle Type Coverage.* Light duty vehicles, and light duty trucks, rated up to 8,500 pounds Gross Vehicle Weight Rating (GVWR).

(6) *Exhaust Emission Test Type.* Transient mass-emission testing on 1986 and later model year vehicles using the IM240 driving cycle, two-speed testing (as described in appendix B of this subpart) of 1981-1985 vehicles, and idle

testing (as described in appendix B of this subpart) of pre-1981 vehicles is assumed.

(7) *Emission Standards.* (i) Emission standards for 1986 through 1993 model year light duty vehicles, and 1994 and 1995 light-duty vehicles not meeting Tier 1 emission standards, of 0.80 gpm hydrocarbons (HC), 15 gpm CO, and 2.0 gpm NO_x;

(ii) Emission standards for 1986 through 1993 light duty trucks less than 6,000 pounds gross vehicle weight rating (GVWR), and 1994 and 1995 trucks not meeting Tier 1 emission standards, of 0.80 gpm HC, 15 gpm CO, and 2.5 gpm NO_x;

(iii) Emission standards for 1986 through 1993 light duty trucks greater than 6,000 pounds GVWR, and 1994 and 1995 trucks not meeting Tier 1 emission standards, of 0.80 gpm HC, 15 gpm CO, and 3.0 gpm NO_x;

(iv) Emission standards for 1994 and later light duty vehicles meeting Tier 1 emission standards of 0.70 gpm non-methane hydrocarbons (NMHC), 15 gpm CO, and 1.4 gpm NO_x;

(v) Emission standards for 1994 and later light duty trucks under 6,000 pounds GVWR and meeting Tier 1 emission standards of 0.70 gpm NMHC, 15 gpm CO, and 2.0 gpm NO_x;

(vi) Emission standards for 1994 and later light duty trucks greater than 6,000 pounds GVWR and meeting Tier 1 emission standards of 0.80 gpm NMHC, 15 gpm CO, and 2.5 gpm NO_x;

(vii) Emission standards for 1981-1985 model year vehicles of 1.2% CO, and 220 ppm HC for the idle, two-speed tests and loaded steady-state tests (as described in appendix B of this subpart); and

(viii) Maximum exhaust dilution measured as no less than 6% CO plus carbon dioxide (CO₂) on vehicles subject to a steady-state test (as described in appendix B of this subpart).

(8) *Emission Control Device Inspections.* Visual inspection of the catalyst and fuel inlet restrictor on all 1984 and later model year vehicles.

(9) *Evaporative System Function Checks.* Evaporative system integrity (pressure) test on 1983 and later model year vehicles and an evaporative system transient purge test on 1986 and later model year vehicles.

(10) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(11) *Waiver Rate.* A 1% waiver rate, as a percentage of failed vehicles.

(12) *Compliance Rate.* A 98% compliance rate.

(13) *Evaluation Date.* Enhanced I/M programs shall be shown to obtain the

same or lower emission levels as the model program by 2000 for ozone nonattainment areas and 2001 for CO nonattainment areas, and for severe and extreme ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter. Milestones for NO_x shall be the same as for ozone.

(b) *On-road Testing.* The performance standard shall include on-road testing of at least 0.5% of the subject vehicle population as a supplement to the periodic inspection required in paragraph (a) of this section. Specific requirements are listed in § 51.371 of this subpart.

(c) *On-board Diagnostics (OBD).* The performance standard includes testing of the vehicle's on-board diagnostics system for vehicles certified to comply with requirements for such capability; however, regulations governing the design of OBD systems are not yet final. EPA will revise this section to establish credits and requirements for OBD testing when OBD regulations are final.

(d) *Modeling Requirements.* Equivalency of the emission levels which will be achieved by the I/M program design in the SIP to those of the model program described in this section shall be demonstrated using the most current version of EPA's mobile source emission model or an alternative approved by the Administrator using EPA guidance to aid in the estimation of input parameters. If the Administrator finds, under section 182(b)(1)(A)(i) of the Act pertaining to reasonable further progress demonstrations or section 182(f)(1) of the Act pertaining to provisions for major stationary sources, that NO_x emission reductions are not beneficial in a given ozone nonattainment area, then NO_x emission reductions are not required of the enhanced I/M program.

(e) In the case of El Paso, Texas, providing that its SIP has been approved as meeting the reasonable further progress requirements of the Act and that the Administrator has not determined that a milestone has been missed, the model program inputs shall be as in paragraph (a) of this section, except that the transient and purge tests shall be assumed for 1990 and later model year vehicles two-speed testing on 1981-1989 model year vehicles, idle testing on 1968-1980 model year vehicles and pressure testing on 1971 and later vehicles.

§ 51.352 Basic I/M performance standard.

(a) Basic I/M programs shall be designed and implemented to meet or exceed a minimum performance standard, which is expressed as

emission levels achieved from highway mobile sources as a result of the program. The performance standard shall be established using the following model I/M program inputs and local characteristics, such as vehicle mix and local fuel controls. Similarly, the emission reduction benefits of the state's program design shall be estimated using the most current version of the EPA mobile source emission model, and shall meet the minimum performance standard both in operation and for SIP approval.

(1) *Network Type.* Centralized testing.

(2) *Start Date.* 1983.

(3) *Test Frequency.* Annual testing.

(4) *Model Year Coverage.* Testing of 1968 and later model year vehicles.

(5) *Vehicle Type Coverage.* Light duty vehicles.

(6) *Exhaust Emission Test Type.* Idle test.

(7) *Emission Standards.* No weaker than specified in 40 CFR part 85, subpart W.

(8) *Emission Control Device Inspections.* None.

(9) *Stringency.* A 20% emission test failure rate among pre-1981 model year vehicles.

(10) *Waiver Rate.* A 0% waiver rate.

(11) *Compliance Rate.* A 100% compliance rate.

(12) *Evaluation Date.* Basic I/M programs shall be shown to obtain the same or lower emission levels as the model inputs by 1997 for ozone nonattainment areas and 1996 for CO nonattainment areas; and for serious or worse ozone nonattainment areas, on each applicable milestone and attainment deadline, thereafter.

(b) *On-board Diagnostics.* The performance standard includes testing of the vehicle's on-board diagnostics system for vehicles certified to comply with requirements for such capability; however, regulations governing the design of OBD systems are not yet final. EPA will revise this section to establish credits and requirements for OBD testing when OBD regulations are final.

(c) *Modeling Requirements.* Equivalency of emission levels which will be achieved by the I/M program design in the SIP to those of the model program described in this section shall be demonstrated using the most current version of EPA's mobile source emission model and EPA guidance on the estimation of input parameters. Areas required to implement basic I/M programs shall meet the performance standard for the pollutants which cause them to be subject to basic requirements. Areas subject as a result of ozone nonattainment shall meet the standard for VOCs.

§ 51.353 Network type and program evaluation.

Enhanced I/M programs shall be operated in a centralized test-only format, unless the state can demonstrate that a decentralized test-and-repair program would be equally effective in achieving the enhanced I/M performance standard. Basic I/M programs can be either centralized or decentralized at the state's discretion, but a decentralized program shall be demonstrated to achieve the same emission reduction as the program described in § 51.352 of this subpart.

(a) *Presumptive Equivalency.* A network consisting of stations that perform official I/M testing and in which owners and employees of those stations, or companies owning those stations, are contractually or legally barred from engaging in motor vehicle repair or service, motor vehicle parts sales, and motor vehicle sale and leasing, either directly or indirectly, and are barred from referring vehicle owners to particular providers of motor vehicle repair services (except as provided in § 51.369(b)(1) of this subpart) shall be considered equivalent to a centralized, test-only system.

(b) *Provisional Equivalency.* (1) Enhanced I/M areas may choose to implement a decentralized, test-and-repair network on a trial basis and shall be granted provisional equivalency if the state submits a plan meeting the requirements of this paragraph.

(2) *Test and repair evaluation.* The SIP include a commitment to submit to EPA an assessment of the program based on the evaluation testing required in paragraph (d) of this section, that determines whether the program is meeting the performance standard. The commitment schedule shall provide sufficient time for EPA to make an equivalency determination and, if necessary, for the state to implement the back-up program required in paragraph (b)(3) of this section.

(3) *Back-up Program.* The SIP shall include a plan to implement a back-up program consisting of a centralized, test-only network with transient emission testing, or equivalent. The plan shall include legal authority signed by the Governor and certified by the Attorney General, fully adopted regulations, and any other components needed to implement the back-up program. Implementation of the back-up program shall be automatic unless the Administrator makes a finding in the *Federal Register* that the test-and-repair system will meet the performance standard by November 15, 1999, or can do so with program design changes that

are normal I/M input parameters to the EPA emission factor model, or that accelerate the retirement of older, high emitting vehicles. The back-up program shall be implemented no later than January 1999 in an annual program, or January 1998 in a biennial program.

(4) *Reasonable Further Progress.*

For the purposes of satisfying the requirements of § 182(b)(1)(A)(i) and § 182(c)(2) of the Clean Air Act, relating to Reasonable Further Progress requirements, the credit claimed for a test-and-repair program shall be in accordance with paragraph (c) of this section. Credit for the effectiveness of the back-up program may be claimed beginning with scheduled implementation. Credit adjustments may occur at any time based on the results of the program evaluation required in paragraph (d) of this section.

(c) *Case-by-Case Equivalency.* (1) Credits for test-and-repair networks, i.e., those not meeting the requirements of paragraph (a) of this section, are assumed to be 50% less than those for a test-only network for the tailpipe emission test, purge test, evaporative system integrity test, catalyst check, and gas cap check; and 75% less for the evaporative canister checks, PCV check, and air system checks. Smaller reductions in credits for the various test protocols may be claimed if a state can demonstrate to the satisfaction of the Administrator that based on past performance with the specific test-type and inspection standards employed, its test-and-repair system will exceed these levels. At a minimum, such a demonstration shall include:

(i) Surveys that assess the effectiveness of repairs performed on vehicles that failed the tailpipe emission test and evaporative system tests;

(ii) In programs including tampering checks, measurement of actual tampering rates, their change over time, and the change attributable to finding and fixing such tampering as opposed to deterrence effects; and

(iii) The results of undercover surveys of inspector effectiveness as it relates to identifying vehicles that need repair.

(2) In the case of hybrid systems including both test-only and test-and-repair facilities, full credit shall apply to the portion of the fleet initially tested and subsequently retested at a test-only facility meeting the requirements of paragraph (a) of this section, and to the portion of the fleet initially tested and failed at a test-and-repair facility but subsequently passing a retest at a test-only facility meeting those same requirements. The credit loss assumptions described in paragraph (c) of this section shall apply to the portion

of the fleet initially tested at a test-only facility and subsequently retested at a test-and-repair facility, to the portion of the fleet initially passed at a test-and-repair facility, and to the portion initially failed at a test-only facility and retested at a test-and-repair facility.

(3) Areas operating test-and-repair networks or hybrid networks may, in the future, claim greater effectiveness than described in paragraph (c)(1) of this section if a demonstration of greater effectiveness is made to the satisfaction of the Administrator using the program evaluation protocol described in paragraph (d) of this section.

(d) *Program Evaluation.* I/M programs shall include an ongoing evaluation to qualify the emission reduction benefits of the program, and to determine if the program is meeting the requirements of the Clean Air Act and this regulation.

(1) The state shall report the results of the program evaluation on a biennial basis, starting two years after the initial start date of mandatory testing as required in § 51.373 of this subpart, in addition to that required in paragraph (b) of this section (for enhanced test-and-repair programs).

(2) The evaluation shall be used to establish actual emission reductions achieved for the purposes of satisfying the requirements of § 182(g)(1) and § 182(g)(2) of the Clean Air Act, relating to Reductions in Emissions and Compliance Demonstration.

(3) The evaluation program shall consist, at a minimum, of those items described in paragraph (c)(1) of this section and mass emission test data using the procedure specified in § 51.357(a)(11) of this subpart, or any other procedure approved as equivalent, and evaporative system checks for model years subject to those procedures. The test data shall be obtained from a representative, random sample, taken annually at the time of initial inspection (before repair), of at least 0.1 percent of the vehicles subject to inspection in a given year which shall receive a state administered or monitored IM240 mass emission test or equivalent, as specified in this paragraph, at the time the initial test is due.

(4) The program evaluation test data shall be used to calculate a local fleet emission factor that shall be compared to the emission factor projection in the SIP, as updated using the most recent version of the EPA emission factor model. If the comparison shows that the emission factor target specified in § 51.351 or § 51.352, as applicable, has not been achieved, then the state is required to take corrective action. Corrective action shall include whatever measures necessary to achieve the

target, in accordance with paragraph (b)(3) of this section.

(e) *SIP Requirements.* (1) The SIP shall include a detailed description of the network to be employed, the required legal authority, and, in the case of areas making claims under paragraph (c) of this section, the required demonstration.

(2) The SIP shall include a description of the evaluation schedule and protocol, the sampling methodology, the data collection and analysis system, the resources and personnel for evaluation, and related details of the evaluation program, and the legal authority enabling the evaluation program.

(3) The SIP for enhanced I/M areas that are implementing a test-and-repair network shall also address all of the requirements of paragraph (b) of this section. The SIP shall demonstrate that there is adequate time to complete the evaluation, to submit the data to EPA for review, to allow EPA to take formal action, and to implement the back-up program to meet the performance standard by the November 15, 1999 deadline.

§ 51.354 Adequate tools and resources.

(a) *Administrative Resources.* The program shall maintain the administrative resources necessary to perform all of the program functions including quality assurance, data analysis and reporting, and the holding of hearings and adjudication of cases. A portion of the test fee or a separately assessed per vehicle fee shall be collected, placed in a dedicated fund and retained, to be used to finance program oversight, management, and capital expenditures. Alternatives to this approach shall be acceptable if the state can demonstrate that adequate funding of the program can be maintained in some other fashion. Reliance on future uncommitted annual or biennial appropriations from the state or local General Fund is not acceptable.

(b) *Personnel.* The program shall employ sufficient personnel to effectively carry out the duties related to the program, including administrative audits, inspector audits, data analysis, program oversight, program evaluation, public education and assistance, and enforcement against stations and inspectors as well as against motorists who are out of compliance with program regulations and requirements.

(c) *Equipment.* The program shall possess equipment necessary to achieve the objectives of the program and meet program requirements, including a steady supply of vehicles for covert auditing, test equipment and facilities

for program evaluation, and computers capable of data processing, analysis, and reporting. Equipment or equivalent services may be contractor supplied or owned by the state or local authority.

(d) *SIP Requirements.* The SIP shall include a description of the resources that will be used for program operation, and discuss how the performance standard will be met.

(1) The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment (such as vehicles for undercover audits), and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in § 51.366 of this subpart.

(2) The SIP shall include a detailed description of personnel resources. The plan shall include the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

§ 51.355 Test frequency.

The performance standards for I/M programs assume an annual test frequency; other schedules may be approved if the required emission reductions are achieved. The SIP shall describe the test schedule in detail, including test year selection scheme if testing is other than annual. The SIP shall include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process.

§ 51.356 Vehicle coverage.

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds GVWR. The standard for basic I/M programs does not include light duty trucks. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered, garaged, or primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles.

(a) *Subject vehicles.* (1) All vehicles of a covered model year and vehicle type shall be tested according to the applicable test schedule, including leased vehicles whose registration or titling is in the name of an equity owner other than the lessee or user.

(2) All subject fleet vehicles shall be inspected. Fleets may be officially inspected outside of the normal I/M

program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles. If all vehicles in a particular fleet are tested during one part of the cycle, then the quality control requirements shall be met during the time of testing only. Any vehicle available for rent in the I/M area or for use in the I/M area shall be subject.

(3) Subject vehicles which are registered in the program area but are primarily operated in another I/M area shall be tested, either in the area of primary operation, if the program in that area is willing to test the vehicle and provide compliance documentation, or in the area of registration. Alternate schedules may be established to permit convenient testing of these vehicles.

(4) Vehicles which are operated on Federal installations located within an I/M program area shall be tested, regardless of whether the vehicles are registered in the state or local I/M area. The installation shall use one of the following methods to establish proof of compliance:

(i) Presentation of a valid certificate of compliance from the I/M program.

(ii) Presentation of proof of vehicle registration within the geographic area covered by the I/M program, except for any program whose enforcement is not through registration denial.

(iii) Another method approved by the state I/M program administrator.

(5) Special exemptions may be permitted for certain subject vehicles provided a demonstration is made that the performance standard will be met.

(b) *SIP Requirements.* (1) The SIP shall include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area.

(2) The SIP shall include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be impacted. Such exemptions shall be accounted for in the emission reduction analysis.

(3) The SIP shall include the legal authority necessary to implement and enforce the vehicle coverage requirement.

§ 51.357 Test procedures and standards.

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program.

(a) *Test Procedure Requirements.* Emission tests and functional tests shall be conducted according to good engineering practices to assure test accuracy.

(1) Initial tests (i.e., those occurring for the first time in a test cycle) shall be performed without repair or adjustment at the inspection facility, prior to the test.

(2) The vehicle owner or driver shall have access to the test area such that observation of the entire official inspection process on the vehicle is permitted. Such access may be limited but shall in no way prevent full observation;

(3) An official test, once initiated, shall be performed in its entirety regardless of intermediate outcomes except in the case of invalid test condition or of fast pass/fail algorithms.

(4) Tests involving measurement shall be performed with program-approved equipment that has been calibrated according to the quality control procedures contained in Appendix A to this subpart.

(5) Vehicles shall be rejected from testing if the exhaust system is missing or leaking, or if the vehicle is in an unsafe condition for testing.

(6) Vehicles shall be retested after repair for any portion of the inspection that is failed on the previous test to determine if repairs were effective. To the extent that repair to correct a previous failure could lead to failure of another portion of the test, that portion shall also be retested. Evaporative system repairs shall trigger an exhaust emissions retest.

(7) *Steady-State Testing.* Steady-state tests shall be performed in accordance with the procedures contained in appendix B to this subpart.

(8) *Emission Control Device Inspection.* Visual emission control device checks shall be performed through direct observation or through indirect observation using a mirror, video camera or other visual aid. These inspections shall include a determination as to whether each subject device is present and properly connected and whether it is the correct type for the certified vehicle configuration.

(9) *Evaporative System Purge Test Procedure.* The purge test procedure shall consist of measuring the total purge flow (in standard liters) occurring in the vehicle's evaporative system during the transient dynamometer emission test specified in paragraph (a)(11) of this section. The purge flow measurement system shall be connected to the purge portion of the evaporative

system in series between the canister and the engine, preferably near the canister. The inspector shall be responsible for ensuring that all items that are disconnected in the conduct of the test procedure are properly re-connected at the conclusion of the test procedure. Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the Administrator. Any damage done to the evaporative emission control system during this test shall be repaired at the expense of the inspection facility.

(10) *Evaporative System Integrity Test Procedure.* The test sequence shall consist of the following steps:

(i) Test equipment shall be connected to the fuel tank canister hose at the canister end. The gas cap shall be checked to ensure that it is properly, but not excessively tightened, and shall be tightened if necessary.

(ii) The system shall be pressurized to 14 ± 0.5 inches of water without exceeding 26 inches of water system pressure.

(iii) Close off the pressure source, seal the evaporative system and monitor pressure decay for two minutes.

(iv) Remove the gas cap after two minutes and monitor for a sudden pressure drop, indicating that the fuel tank was pressurized.

(v) The inspector shall be responsible for ensuring that all items that are disconnected in the conduct of the test procedure are properly re-connected at the conclusions of the test procedure.

(vi) Alternative procedures may be used if they are shown to be equivalent or better to the satisfaction of the Administrator. Any damage done to the evaporative emission control system during this test shall be repaired at the expense of the inspection facility.

(11) *Transient Emission Test.* The transient emission test shall consist of 240 seconds of mass emission measurement using a constant volume sampler while the vehicle is driven through a computer-monitored driving cycle on a dynamometer with inertial weight settings appropriate for the weight of the vehicle. The driving cycle shall include acceleration, deceleration, and idle operating modes as specified in Appendix E to this subpart. The 240 second sequence may be ended earlier using fast pass or fast fail algorithms and multiple pass/fail algorithms may be used during the test cycle to eliminate false failures. The transient test procedure, including algorithms and other procedural details, shall be approved by EPA prior to use in an I/M program.

(12) *On-Board Diagnostic Checks.* (Reserved).

(13) *Approval of Alternative Tests.* Alternative test procedures may be approved if the Administrator finds that—

(i) Such procedures are in accordance with good engineering practice, including errors of commission (at the same cutpoint level) no higher than the tests they would replace;

(ii) Such procedures show a correlation with the Federal Test Procedure (with respect to their ability to detach high emitting vehicles and ensure their effective repair) equal to or better than the tests they would replace; and

(iii) Such procedures would produce equivalent emission reductions in combination with other program elements.

(b) *Test Standards.* (1) *Emissions Standards.* HC, CO, and CO + CO₂ emission standards shall be applicable to all vehicles subject to the program and repairs shall be required for failure of any standard regardless of the attainment status of the area. NO_x emission standards shall be applied to vehicles subject to a transient test in ozone nonattainment areas and in an ozone transport region, unless a waiver of NO_x controls is provided to the state under § 51.351(d) of this subpart.

(i) *Steady-State Short Tests.* The steady-state short test emission standards for 1981 and later model year light duty vehicles and light duty trucks shall be at least as stringent as those in Appendix C to this subpart.

(ii) *Transient Test.* Transient test emission standards shall be established for HC, CO, CO₂, and NO_x for subject vehicles based on model year and vehicle type.

(2) *Visual Equipment Inspection Standards.* (i) Vehicles shall fail visual inspections of subject emission control devices if such devices are part of the original certified configuration and are found to be missing, disconnected, or improperly connected.

(ii) Vehicles shall fail visual inspections of subject emission control devices if such devices are found to be incorrect for the certified vehicle configuration under inspection. Aftermarket parts, as well as original equipment manufacture parts, may be considered correct if they are of proper design and fit for the certified vehicle configuration. Where an EPA aftermarket approval or self-certification program exists for a particular class of subject parts, vehicles shall fail visual equipment inspections if the part is neither original equipment manufacture nor from an approved or self-certified aftermarket manufacturer.

(3) *Functional Test Standards.* (i) *Evaporative System Integrity Test.* Vehicles shall fail the evaporative system pressure test if the system cannot maintain a system pressure above eight inches of water for two minutes after being pressurized to 14 ± 0.5 inches of water or if no pressure drop is detected when the gas cap is removed as described in paragraph (a)(10)(iv) of this section. Additionally, vehicles shall fail the evaporative test if the canister is missing or obviously damaged, if hoses are missing or obviously disconnected, or if the gas cap is missing.

(ii) *Evaporative Canister Purge Test.* Vehicles with a total purge system flow measuring less than one liter, over the course of the transient test required in paragraph (a)(9) of this section, shall fail the evaporative purge test.

(4) *On-Board Diagnostics Test Standards.* (Reserved.)

(c) *Fast Test Algorithms and Standards.* Special test algorithms and pass/fail algorithms may be employed to reduce test time when the test outcome is predictable with near certainty, if the Administrator approves by letter their equivalency to full procedure testing.

(d) *Applicability.* Vehicles that have been altered from their original certified configuration are to be tested in the same manner as other subject vehicles.

(1) Vehicles with replacement engines shall be subject to the test procedures and standards for the chassis model year, or engine model year, whichever is newer, including visual equipment inspection for all parts that are part of the original certified configuration and part of the normal inspection.

(2) Vehicles that have been switched from an engine of one fuel type to another fuel type that is subject to the program (e.g., from a diesel engine to a gasoline engine) shall be subject to the test procedures and standards for the current fuel type, and to the requirements of paragraph (b)(1) of this section.

(3) Vehicles that are switched to a fuel type for which there is no certified configuration shall be tested according to the most stringent emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the program determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for that model year without such devices.

(e) *SIP Requirements.* The SIP shall include a description of each test procedure used. The SIP shall include

the rule, ordinance or law describing and establishing the test procedures.

§ 51.358 Test equipment.

Computerized test systems are required for performing any measurement on subject vehicles.

(a) *Performance Features of Computerized Test Systems.* The test equipment shall be certified by the program to meet the requirements contained in appendix D to this subpart, and newly acquired systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

(1) Emission test equipment shall be capable of testing all subject vehicles and shall be updated from time to time to accommodate new technology vehicles as well as changes to the program.

(2) At a minimum, emission test equipment:

(i) Shall be automated to the highest degree commercially available to minimize the potential for intentional fraud and/or human error;

(ii) Shall be secure from tampering and/or abuse;

(iii) Shall be based upon written specifications; and

(iv) Shall be capable of simultaneously sampling dual exhaust vehicles.

(3) The vehicle owner shall be provided with a computer-generated record of test results, including all of the items listed in 40 CFR part 85, subpart W as being required on the test record. The test report shall include:

(i) A vehicle description, including license plate number, vehicle identification number, and odometer reading;

(ii) The date and time of test;

(iii) The name or identification number of the individual(s) performing the tests and the location of the test station and lane;

(iv) The type of tests performed, including emission tests, visual checks for the presence of emission control components, and functional, evaporative system checks;

(v) The applicable test standards;

(vi) The test results, including exhaust concentrations and pass/fail results for each mode measured, pass/fail results for evaporative system checks, and which emission control devices inspected were passed, failed, or not applicable;

(vii) A statement indicating the availability of warranty coverage as required in Section 207 of the Clean Air Act; and

(viii) Certification that tests were performed in accordance with the

regulations and, in the case of decentralized programs, the signature of the individual who performed the test.

(ix) For vehicles that fail the tailpipe emission test, information on the possible causes of the specific pattern of high emission levels found during the test.

(b) *Functional Characteristics of Computerized Test Systems.* The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

(1) The test system shall automatically:

(i) Make a pass/fail decision for all measurements;

(ii) Record test data to an electronic medium;

(iii) Conduct regular self-testing of recording accuracy;

(iv) Perform electrical calibration and system integrity checks before each test, as applicable; and

(v) Initiate system lockouts for:

(A) Tampering with security aspects of the test system;

(B) Failing to conduct or pass periodic calibration or leak checks;

(C) Failing to conduct or pass the constant volume sampler flow rate check (if applicable);

(D) Failing to conduct or pass any of the dynamometer checks, including coast-down, roll speed and roll distance, power absorption capability, and inertia weight selection checks (if applicable);

(E) Failing to conduct or pass the pressure monitoring device check (if applicable);

(F) Failing to conduct or pass the purge flow metering system check (if applicable); and

(G) A full data recording medium or one that does not pass a cyclical redundancy check.

(2) Test systems in enhanced I/M programs shall include a real-time data link to a host computer that prevents unauthorized multiple initial tests on the same vehicle in a test cycle and to insure test record accuracy.

(3) The test system shall insure accurate data collection by limiting, cross-checking, and/or confirming manual data entry.

(4) (Reserved for OBD test equipment requirements)

(c) *SIP Requirements.* The SIP shall include written technical specifications for all test equipment used in the program and shall address each of the above requirements. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

§ 51.359 Quality control.

Quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

(a) *General Requirements.* (1) The practices described in this section and in Appendix A to this subpart shall be followed, at a minimum.

(2) Preventive maintenance on all inspection equipment shall be performed on a periodic basis, not to exceed 1 month.

(3) Computerized analyzers shall automatically record quality control check information, lockouts, attempted tampering, and any circumstances which require a service representative to work on the equipment.

(b) *Requirements for Steady-State Emissions Testing Equipment.* (1) In high-volume stations (those performing 5000 or more tests per year) leak checks shall be conducted at least every four hours and whenever a change in the sample system is made. In stations performing fewer than 5,000 tests per year, vacuum or gas decay leak checks shall be performed on a daily basis and whenever a change in the sample system is made. Leaks shall be repaired if they are greater than 2%.

(2) Automatic zero and span checks and a hydrocarbon hang up check shall be performed before each test.

(3) In high-volume stations, analyzers shall undergo two point calibrations daily and shall continually compensate for changes in barometric pressure. Calibration shall be checked at least every four hours and the analyzer adjusted if the reading is more than 2% different from the span gas value. In low-volume stations, analyzers shall undergo a two point calibration every 72 hours, unless changes in barometric pressure are compensated for automatically. Calibration points shall include points at less than 20% of scale, and greater than 60% of full scale. If barometric pressure compensation occurs, analyzers shall be calibrated a minimum of once a week.

(4) In high-volume stations, monthly multi-point calibrations shall be performed. Low-volume stations shall perform multi-point calibrations every six months. Calibration points shall be at 20%, 40%, 60%, and 80% of full scale.

(5) For analyzers that use ambient air as zero air, provision shall be made to draw the air from outside the inspection bay or lane in which the analyzer is situated.

(6) The analyzer housing shall be constructed to protect the analyzer

bench and electrical components from ambient temperature and humidity fluctuations that exceed the range of the analyzer's design specifications.

(7) Analyzers shall automatically purge the analytical system after each test.

(c) *Requirements for Transient Exhaust Emission Testing and Evaporative Canister Purge Testing Equipment.* Equipment shall be maintained according to demonstrated good engineering practices to assure test accuracy. Computer control of quality assurance checks and quality control charts shall be used whenever possible. Exceptions to the procedures and the frequency of the following checks may be approved by the Administrator based on a demonstration of equivalent performance.

1. *Dynamometer.* Once per week, the calibration of each dynamometer and each fly wheel shall be checked by a dynamometer coast-down procedure comparable to that in § 86.118-78 of this title. If the difference between the measured coast-down time and the theoretical coast-down time is greater than ± 1 second, the testing system shall lock out.

Constant Volume Sampler. (i) The constant volume sampler (CVS) flow calibration shall be checked daily by a procedure that identifies deviations in flow from the true value. Deviations greater than $\pm 4\%$ shall be corrected.

(ii) The sample probe shall be cleaned and checked at least once per month. The main CVS venturi shall be cleaned and checked at least once per year.

(iii) Verification that flow through the sample probe is at the design proportion to the flow in the mixing stream shall be done daily. Deviations greater than the design tolerances shall be corrected.

(3) *Analyzer System.* (1) *Calibration Checks.* (A) Upon initial operation, calibration curves shall be generated for each analyzer. The calibration curve shall consider the entire range of the analyzer as one curve. At least 6 calibration points plus zero shall be used in the lower portion of the range corresponding to an approximate emission level of 0 to 2 gpm HC, 0 to 30 gpm CO, 0 to 3 gpm NO_x, and 0 to 400 gpm CO₂. For the case where a low and a high range analyzer is used, the high range analyzer shall use at least 6 calibration points plus zero in the lower portion of the high range scale corresponding to approximately 100% of the full-scale value of the low range analyzer. For all analyzers, at least 6 calibration points shall also be used in the area of the maximum nonlinearity of non-linear instruments, or the upper one third of the linear instruments. Between

the range defined by the emission level and the range defined by linearity, an additional 6 calibration points shall be used. Gas dividers may be used to obtain the intermediate points for the general range classifications specified. The calibration curves generated shall be a polynomial of no greater order than 4th order, and shall fit the data within 0.5% at each calibration point.

(B) For all calibration curves, curve checks, span adjustments, and span checks, the zero gas shall be considered a down-scale reference gas, and the analyzer zero shall be set at the trace concentration value of the specific zero gas used.

(ii) The basic curve shall be checked monthly by the same procedure used to generate the curve, and to the same tolerances.

(iii) On a daily basis prior to vehicle testing-

(A) The curve for each analyzer shall be checked by adjusting the analyzer to correctly read a zero gas and an up-scale span gas, and then by correctly reading a mid-scale span gas within 2% of point. If the analyzer does not read the mid-scale span point within 2%, the system shall lock out. The up-scale span gas shall correspond to the average emission concentration over the test equivalent to approximately 2 gpm HC, 30 gpm CO, 3 gpm NO_x, or 400 gpm CO₂. The mid-scale point shall be approximately one half of the up-scale point; and

(B) After the up-scale span check, each analyzer in a given facility shall analyze a sample bag filed with a random concentration corresponding to approximately 0.5 to 3 times the cut point (in gpm) for the constituent. The value of the random sample may be determined by a gas blender. The deviation in analysis from the sample bag concentration for each analyzer shall be recorded and compared to the historical mean and standard deviation for the analyzers at the facility and at all facilities. Any reading exceeding 3 sigma shall cause the analyzer to lock out.

Ratio of Methane Response = Flame Ionization Detector response in ppmC (ppm methane in cylinder)

(iv) *Spanning Frequency.* The zero and up-scale span point shall be checked, and adjusted if necessary, at 2 hour intervals following the daily mid-scale curve check. If the zero or the up-scale span point drifts by more than 2% for the previous check (except for the first check of the day), the system shall lock out, and corrective action shall be taken to bring the system into compliance.

Spanning Limit Checks. The tolerance on the adjustment of the up-scale span point is 0.4% of point. A software algorithm to perform the span adjustment and subsequent calibration curve adjustment shall be used. However, software up-scale span adjustments greater than $\pm 10\%$ shall cause the system to lock out, requiring system maintenance.

(iv) *Integrator Checks.* Once per week in each test lane, emissions from a randomly selected vehicle with official test value greater than 60% of the standard (determined retrospectively) shall be simultaneously sampled by the normal integration method and by the bag method. The data from each method shall be put into a historical data base for determining normal and deviant performance for each test lane, facility, and all facilities combined. Specific deviations exceeding $\pm 5\%$ shall require corrective action.

(vii) *Interference.* CO and CO₂ analyzers shall be checked prior to initial service, and on a yearly basis thereafter, for water interference. The specifications and procedures used shall generally comply with either § 86.122-78 or § 86.321-79 of this title.

(viii) *NO_x Converter Check.* The converter efficiency of the NO₂ to NO converter shall be checked on a weekly basis. The check shall generally conform to § 86.123-78 of this title, or EPA MVEL Form 305-01. Equivalent methods may be approved by the Administrator.

(ix) *NO/NO_x Flow Balance.* The flow balance between the NO and NO_x test modes shall be checked weekly. The check may be combined with the NO_x converter check as illustrated in EPA MVEL Form 305-01.

(x) *Additional Checks.* Additional check shall be performed on the HC, CO, CO₂, and NO_x analyzers according to best engineering practices for the measurement technology used to ensure that measurements meet specified accuracy requirements.

(xi) *System Artifacts (Hang-up).* Prior to each test a comparison shall be made between the background HC reading, the HC reading measured through the sample probe (if different), and the zero gas. Deviations from the zero gas greater than 10 parts per million carbon (ppmC) shall cause the analyzer to lock out.

(xii) *Ambient Background.* The average of the pre-test and post-test ambient background levels shall be compared to the permissible levels of 10 ppmC HC, 20 ppm CO, and 1 ppm NO_x. If the permissible levels are exceeded, the test shall be voided and corrective action taken to lower the ambient background concentrations.

(xiii) *Analytical Gases.* Zero gases shall meet the requirements of § 86.114-79(a)(5). CO, CO₂, and NO_x calibration gases shall be single blends using nitrogen as the diluent. Calibration gas for the flame ionization detector shall be a single blend of propane with a diluent of air.

(4) *Purge Analysis System.* On a daily basis each purge flow meter shall be checked with a simulated purge flow against a reference flow measuring device with performance specifications equal to or better than those specified for the purge meter. The check shall include a mid-scale rate check, and a total flow check between 10 and 20 liters. Deviations greater than ±5% shall be corrected. On a monthly basis, the calibration of purge meters shall be checked for proper rate and total flow with three equally spaced points across the flow rate and the totalized flow range. Deviations exceeding the specified accuracy shall be corrected.

(d) *Requirement for Evaporative System Integrity Test Equipment.* (1) On a weekly basis pressure measurement devices shall be checked against a reference device with performance specifications equal to or better than those specified for the measurement device. Deviations exceeding the performance specifications shall be corrected. Flow measurement devices, if any, shall be checked according to paragraph (c)(4) of this section.

(2) Systems that monitor evaporative system leaks shall be checked for integrity on a daily basis by sealing and pressurizing.

(e) *Document Security.* Measures shall be taken to maintain the security of all documents by which compliance with the inspection requirement is established including, but not limited to inspection certificates, waiver certificates, license plates, license tabs, and stickers.

(1) Compliance documents shall be counterfeit resistant. Such measures as the use of special fonts, water marks, ultra-violet inks, encoded magnetic trips, unique bar-coded identifiers, and difficult to acquire materials may be used to accomplish this requirement.

(2) All inspection certificates, waiver certificates, and stickers shall be printed with a unique serial number and an official program seal.

(3) Measures shall be taken to ensure that compliance documents cannot be stolen or removed without being damaged.

(f) *SIP Requirements.* The SIP shall include a description of specific quality control and record keeping procedures. The SIP shall include the rule, ordinance or law describing and establishing the

quality control procedures and requirements.

§ 51.360 Waivers.

The program may allow the issuance of a waiver that allows a motorist to complete the I/M program requirements without meeting the applicable test standards, as long as prescribed criteria are met.

(a) *Waiver Issuance Criteria.* The waiver criteria shall include the following at a minimum.

(1) Any available warranty coverage shall be used to obtain needed repairs before expenditures can be counted towards the cost limits in paragraphs (a)(5) and (a)(6) of this section. The operator of a vehicle within the statutory age and mileage coverage under § 207(b) of the Clean Air Act shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived for approved tests applicable to the vehicle.

(2) Waivers shall not be issued to vehicles for tampering-related repairs. The cost of tampering-related repairs shall not be applicable to the minimum expenditure in paragraphs (a)(5) and (a)(6) of this section.

(3) Repairs shall be appropriate to the cause of the test failure, and a visual check shall be made to determine if repairs were actually made if, given the nature of the repair, it can be visually confirmed.

(4) Repairs shall be performed by a recognized repair technician in order to qualify for a waiver.

(5) In basic I/M programs, a minimum of \$75 for pre-81 vehicles and \$200 for 1981 and later vehicles shall be sent in order to qualify for a waiver.

(6) In enhanced I/M programs, the motorist shall make an expenditure of at least \$450 in repairs to qualify for a waiver. The I/M program shall provide that the \$450 minimum expenditure shall be adjusted in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index for 1989.

(i) The Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(ii) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(7) A time extension, not to exceed the period of the inspection frequency, may be granted to obtain needed repairs on a

vehicle in the case of hardship when waiver requirements have been met, but the extension may be granted only once and shall be tracked and reported by the program.

(b) *Quality Control of Waiver Issuance.* (1) Enhanced programs shall control waiver issuance and processing by establishing a system of agency-issued waivers. The state may delegate this authority to a single contractor but inspectors in stations and lanes shall not issue waivers. Basic programs may permit inspector-issued waivers as long as quality assurance efforts include a comprehensive review of waiver issuance.

(2) The program shall include methods of informing vehicle owners or lessors of potential warranty coverage, and ways to obtain warranty repairs.

(3) The program shall insure that repair receipts are authentic and cannot be revised or reused.

(4) The program shall insure that waivers are only valid for one test cycle.

(5) The program shall track, manage, and account for time extensions or exemptions so that owners or lessors cannot receive or retain a waiver improperly.

(c) *SIP Requirements.* (1) The SIP shall include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate shall be used for estimating emission reduction benefits in the modeling analysis.

(2) The state shall take corrective action if the waiver rate exceeds that committed to in the SIP or revise the SIP and the emission reductions claimed.

(3) The SIP shall describe in detail the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration.

(4) The SIP shall include the necessary legal authority to issue waivers, set and adjust cost limits as required in paragraph (a)(5) of this section, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

§ 51.361 Motorist compliance enforcement.

Compliance shall be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. An enhanced I/M area may use an existing alternative if it demonstrates that the alternative has been more effective than registration denial. A basic I/M area may use an alternative enforcement mechanism if it demonstrates that the

alternative will be as effective as registration denial. Two other types of enforcement programs may qualify for enhanced I/M programs if demonstrated to be more effective: Sticker-based enforcement programs and computer-matching programs. For newly implementing enhanced areas, including newly subject areas in a state with an I/M program in another part of the state, there is no provision for enforcement alternatives in the Act.

(a) *Registration Denial.* Registration denial enforcement is defined as rejecting an application for initial registration or reregistration of a used vehicle unless the vehicle has complied with the I/M requirement prior to application. In designing its enforcement program, the state shall:

(1) Provide an external, readily visible means of determining vehicle compliance with the registration requirement to facilitate enforcement of the program;

(2) Adopt a schedule of testing (either annual or biennial) that clearly determines when a vehicle shall comply prior to registration;

(3) Design a testing certification mechanism (either paper-based or electronic) that shall be used for registration purposes and clearly indicates whether the certification is valid for purposes of registration, including:

- (i) Expiration date of the certificate;
- (ii) Unambiguous vehicle identification information; and
- (iii) Whether the vehicle passed or received in waiver;

(4) Routinely issue citations to motorists with expired or missing license plates and provide for enforcement officials other than police to issue citations including parking meter attendants to cite parked vehicles in noncompliance;

(5) Structure the penalty system to deter non-compliance through the use of mandatory minimum fines constituting a meaningful deterrent and through a requirement that compliance be demonstrated before a case can be closed;

(6) Ensure that evidence of testing is available and checked for validity at the time of a new registration of a used vehicle or registration renewal;

(7) Prevent owners or lessors from avoiding testing through manipulation of the title or registration system; title transfers may re-start the clock on the inspection cycle only if proof of current compliance is required at title transfer;

(8) Prevent the fraudulent initial classification or reclassification of a vehicle from subject to non-subject or exempt by requiring proof of address

changes prior to registration record modification, and documentation from the testing program (or delegate) certifying based on a physical inspection that the vehicle is exempt;

(9) Limit and track the use of time extensions to prevent repeated extensions;

(10) Provide for meaningful penalties for cases of registration fraud;

(11) Limit and track exemptions for vehicles claimed to be out-of-state; and

(12) Insure vehicle registration transfer when vehicle owners move into the I/M area.

(b) *Alternative Enforcement Mechanisms.* (1) *General Requirements.* The program shall demonstrate that a non-registration-based enforcement program is currently more effective than registration-denial enforcement in enhanced I/M programs or, prospectively, as effective as registration denial in basic programs. The following general requirements shall apply.

(i) For enhanced I/M programs, the area in question shall have had an approved SIP with an operating I/M program using the alternative mechanism prior to enactment of the Clean Air Act Amendments of 1990. While modifications to improve compliance may be made to the program that was in effect at the time of enactment, the expected change in effectiveness cannot be considered in determining acceptability;

(ii) The state shall assess the alternative program's effectiveness, as well as the current effectiveness of the registration system, including the following:

(A) Determine the number and percentage of vehicles subject to the I/M program that were in compliance with the program over the course of at least one test cycle; and

(B) Determine the number and fraction of the same group of vehicles as in paragraph (b)(i)(ii)(A) of this section that were in compliance with the registration requirement over the same period. Late registration shall not be considered non-compliance.

(iii) An alternative mechanism shall be considered more effective if the fraction of vehicles complying with the existing program, as determined according to the requirements of this section, is greater than the fraction of vehicles complying with the registration requirement. An alternative mechanism is as effective if the fraction complying with the program is at least equal to the fraction complying with the registration requirement.

(2) *Sticker-based Enforcement.* In addition to the general requirements, a

sticker-based enforcement program shall demonstrate that the enforcement mechanism will swiftly and effectively prevent operation of subject vehicles that fail to comply. Such demonstration shall include the following.

(i) An assessment of the current extent of the following forms of non-compliance and demonstration that mechanisms exist to keep such non-compliance within acceptable limits.

(A) Use of stolen, counterfeit, or fraudulently obtained stickers;

(B) In states with safety inspections, the use of "Safety Inspection Only" stickers on vehicles that should be subject to the I/M requirement as well; and

(C) Operation of vehicles with expired stickers, including a stratification of non-compliance by length of noncompliance and model year.

(ii) The program as currently implemented or as proposed to be improved shall also:

(A) Require an easily observed external identifier such as the county name on the license plate, an obviously unique license plate tab, or other means that shows whether or not a vehicle is subject to the I/M requirement;

(B) Require an easily observed external identifier, such as a windshield sticker or license plate tab that shows whether a subject vehicle is in compliance with the inspection requirement;

(C) Impose monetary fines at least as great as the estimated cost of compliance with I/M requirements (e.g., test fee plus minimum waiver expenditure) for the absence of such identifiers;

(D) Require that such identifiers be of a quality that makes them difficult to counterfeit, difficult to remove without destroying once installed, and durable enough to last until the next inspection without fading, peeling, or other deterioration;

(E) Perform surveys in a variety of locations and at different times for the presence of the required identifiers such that at least 10% of the vehicles or 10,000 vehicles (whichever is less) in the subject vehicle population are sampled each year;

(F) Track missing identifiers for all inspections performed at each station, with stations being held accountable for all such identifiers they are issued; and

(G) Assess and collect significant fines for each identifier that is unaccounted for by a station.

(3) *Computer Matching.* In addition to the general requirements, computer-matching programs shall demonstrate that the enforcement mechanism will

swiftly and effectively prevent operation of subject vehicles that fail to comply. Such demonstration shall:

(i) Require an expeditious system that results in at least 90% of the subject vehicles in compliance within 4 months of the compliance deadline;

(ii) Require that subject vehicles be given compliance deadlines based on the regularly scheduled test date, not the date of previous compliance;

(iii) Require that motorists pay monetary fines at least as great as the estimated cost of compliance with I/M requirements (e.g., test fee plus minimum waiver expenditure) for the continued operation of a noncomplying vehicle beyond 4 months of the deadline;

(iv) Require that continued non-compliance will eventually result in preventing operation of the non-complying vehicle (no later than the date of the next test cycle) through, at a minimum, suspension of vehicle registration and subsequent denial of reregistration;

(v) Demonstrate that the computer system currently in use is adequate to store and manipulate the I/M vehicle database, generate computerized notices, and provide regular to said system while maintaining auxiliary storage devices to insure ongoing operation of the system and prevent data losses;

(vi) Track each vehicle through the steps taken to ensure compliance, including:

(A) The compliance deadline;

(B) The date of initial notification;

(C) The dates warning letters are sent to non-complying vehicle owners;

(D) The dates notices of violation or other penalty notices are sent; and

(E) the dates and outcomes of other steps in the process, including the final compliance date;

(vii) Compile and report monthly summaries including statistics on the percentage of vehicles at each stage in the enforcement process; and

(viii) Track the number and percentage of vehicles initially identified as requiring testing but which are never tested as a result of being junked, sold to a motorist in a non-I/M program area, or for some other reason.

(c) *SIP Requirements.* (1) The SIP shall provide detailed information concerning the enforcement process, including:

(i) A detailed description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement;

(ii) An identification of the agencies responsible for performing each of the applicable activities in this section;

(iii) A description of and accounting for all classes of exempt vehicles; and

(iv) A description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other subject vehicles, e.g. those operated in (but not necessarily registered in) the program area.

(2) The SIP shall include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism shall be supported with detailed analyses.

(3) The SIP shall include the legal authority to implement and enforce the program.

(4) The SIP shall include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

§ 51.362 Motorist compliance enforcement program oversight.

The enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary.

(a) *Quality Assurance/Quality Control.* A quality assurance program shall be implemented to insure effective overall performance of the enforcement system. Quality control procedures are required to instruct individuals in the enforcement process regarding how to properly conduct their activities. At a minimum, the quality control/quality assurance program(s) shall include:

(1) Verification of exempt vehicle status by inspecting and confirming such vehicles by the program or its delegate;

(2) Facilitation of accurate critical test data and vehicle identifier collection through the use of automatic data capture systems such as bar-code scanners or optical character readers, or through redundant data entry;

(3) Maintenance of an audit trail to allow for the assessment of enforcement effectiveness;

(4) Establishment of written procedures for personnel directly engaged in I/M enforcement activities;

(5) Establishment of written procedures for personnel engaged in I/M document handling and processing, such as registration clerks or personnel involved in sticker dispensing and waiver processing, as well as written procedures for the auditing of their performance;

(6) Tracking and follow up on out-of-area or exemption-triggering registration changes;

(7) Analysis of registration-change applications to target potential violators;

(8) A determination of enforcement program effectiveness through periodic audits of test records and program compliance documentation;

(9) Enforcement procedures for disciplining, retraining, or removing enforcement personnel who deviate from established requirements, or in the case of non-government entities that process registrations, for defranchising, revoking or otherwise discontinuing the activity of the entity issuing registrations; and

(10) The prevention of fraudulent procurement or use of inspection documents by controlling and tracking document distribution and handling, and making stations financially liable for missing or unaccounted for documents by assessing monetary fines reflecting the "street value" of these documents (i.e., the test fee plus the minimum waiver expenditure).

(b) *Information Management.* In establishing an information base to be used in characterizing, evaluating, and enforcing the program, the state shall:

(1) Determine the subject vehicle population;

(2) Permit EPA audits of the enforcement process;

(3) Assure the accuracy of registration and other program document files;

(4) Maintain and ensure the accuracy of the testing database through periodic internal and/or third-party review; through automated or redundant data entry; and, through automated analysis for valid alpha-numeric sequences of the vehicle identification number (VIN), certificate number, or license plate number;

(5) Compare the testing database to the registration database to determine program effectiveness, establish compliance rates, and to trigger potential enforcement action against non-complying motorists; and

(6) Sample the fleet as a determination of compliance through parking lot surveys, road-side pull-overs, or other in-use vehicle measurements.

(c) *SIP Requirements.* The SIP shall include a detailed description of enforcement program oversight and information management activities.

§ 51.363 Quality assurance.

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse and to determine whether procedures are being followed, are

adequate, whether equipment is measuring accurately, and whether other problems might exist which would impede program performance. The quality assurance and quality control procedures shall be periodically evaluated to assess their effectiveness and relevance in achieving program goals.

(a) *Performance Audits.* Performance audits shall be conducted on a regular basis to determine whether inspectors are correctly performing all tests and other required functions. Performance audits shall be of two types: overt and covert, and shall include:

(1) Performance audits based upon written procedures and results shall be reported using either electronic or written forms to be retained in the inspector and station history files, with sufficient detail to support either an administrative or civil hearing;

(2) Performance audits in addition to regularly programmed audits for stations employing inspectors suspected of violating regulations as a result of audits, data analysis, or consumer complaints.

(3) Overt performance audits shall be performed at least twice per year for each lane or test bay and shall include:

(i) A check for the observance of appropriate document security;

(ii) A check to see that required record keeping practices are being followed;

(iii) A check for licenses or certificates and other required display information; and

(iv) Observation and written evaluation of the inspector(s) ability to properly perform an inspection.

(4) Covert performance audits shall include:

(i) Remote visual observation of inspector performance, which may include the use of aids such as binoculars or video cameras, at least once per year per inspector in high-volume stations;

(ii) Site visits at least once per year per number of inspectors using covert vehicles set to fail;

(iii) For stations that conduct both testing and repairs, at least one covert vehicle visit per station per year including the purchase of repairs and subsequent retesting if the vehicle is initially failed;

(iv) Documentation of the audit, including vehicle condition and preparation, sufficient for building a legal case and establishing a performance record;

(v) Covert vehicles ranging in model years across the spectrum of vehicles included in the program, including a full range of introduced malfunctions covering the emission test, the

evaporative system tests, and emission control component checks (as applicable);

(vi) Sufficient numbers of covert vehicles and auditors to allow for frequent rotation of both to prevent detection by station personnel; and

(vii) Access to on-line inspection databases by state personnel to permit the creation and maintenance of covert vehicle records.

(b) *Record Audits.* Station and inspector records shall be reviewed or screened at least monthly to assess station performance and identify problems that may indicate potential fraud or incompetence. Such review shall include:

(1) Software-based, computerized analysis to identify statistical inconsistencies, unusual patterns, and other discrepancies;

(2) Visits to inspection stations to review records not already covered in the electronic analysis (if any); and

(3) Comprehensive accounting for all official forms that can be used to demonstrate compliance with the program.

(c) *Equipment Audits.* During overt site visits, auditors shall conduct quality control evaluations of the required test equipment, including (where applicable):

(1) A gas audit using gases of known concentrations and comparing these concentrations to actual readings;

(2) A check for tampering, worn instrumentation, blocked filters, and other conditions that would impede accurate sampling;

(3) A check for critical flow;

(4) A check of the Constant Volume Sampler flow calibration;

(5) A check for the optimization of the Flame Ionization Detector fuel-air ratio using methane;

(6) A leak check;

(7) A check to determine that station gas bottles used for calibration purposes are properly labelled and within the relevant tolerances;

(8) Functional dynamometer checks addressing coast-down, roll speed and roll distance, inertia weight selection, and power absorption;

(9) A check of the system's ability to accurately detect background pollutant concentrations;

(10) A check of the pressure monitoring devices used to perform the evaporative canister pressure test; and

(11) A check of the purge flow metering system.

(d) *Auditor Training and Proficiency.*

(1) Auditors shall be formally trained and knowledgeable in:

(i) The use of analyzers;

(ii) Program rules and regulations;

(iii) The basics of air pollution control;

(iv) Basic principles of motor vehicle engine repair, related to emission performance;

(v) Emission control systems;

(vi) Evidence gathering;

(vii) State administrative procedures laws;

(viii) Quality assurance practices; and

(ix) Covert audit procedures.

(2) Auditors shall themselves be audited at least once annually.

(3) The training and knowledge requirements in paragraph (1) of this section may be waived for temporary auditors engaged solely for the purpose of conducting covert vehicle runs.

(e) *SIP Requirements.* The SIP shall include a detailed description of the quality assurance program, and copies of written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits.

§ 51.364 Enforcement against contractors, stations and inspectors.

Enforcement against licensed stations or contractors, and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements.

(a) *Imposition of Penalties.* A penalty schedule shall be developed that establishes minimum penalties for violations of program rules and procedures.

(1) The schedule shall categorize and list violations and the minimum penalties to be imposed for first, second, and subsequent violations and for multiple violation of different requirements.

(2) Substantial penalties shall be imposed on the first offense for violations that directly affect emission reduction benefit. At a minimum, inspector and station license suspension shall be imposed for at least 6 months whenever a vehicle is intentionally improperly passed for any required portion of the test. Contractor employed inspectors shall be removed from inspector duty for 6 months.

(3) All findings of violations of rules or procedural requirements shall result in mandatory fines. In the case of neglect, a first offense shall result in a fine of no less than \$100 or 5 times the inspection fee, whichever is greater, for the contractor or the licensed station, and the inspector if involved.

(4) Any finding of inspector incompetence shall result in mandatory training before inspection privileges are restored.

(5) License suspension or revocation shall mean the individual is barred from direct or indirect involvement in any

inspection operation during the term of the suspension or revocation.

(b) *Legal Authority.* (1) The quality assurance officer shall have the authority to temporarily suspend station and inspector licenses (after approval of a superior) immediately upon finding a violation or equipment failure that directly affects emission reduction benefits, pending a hearing when requested. In the case of immediate suspension, a hearing shall be held within seven calendar days of a written request by the station licensee or the inspector. Failure to hold a hearing within 7 days when requested shall cause the suspension to lapse. In the event that a state's constitution precludes such a temporary license suspension, the enforcement system shall be designed with adequate resources and mechanisms to process such a case within three station business days of the finding.

(2) The oversight agency shall have the authority to impose penalties against the licensed station or contractor, as well as the inspector, even if the licensee or contractor had no direct knowledge of the violation but was found to be careless in oversight of inspectors or has a history of violations. Contractors and licensees shall be held fully responsible for inspector performance in the course of duty.

(c) *Recordkeeping.* The oversight agency shall maintain records of all warnings, civil fines, suspensions, revocations, and violations and shall compile statistics on violations and penalties on an annual basis.

(d) *SIP Requirements.* (1) The SIP shall include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations.

(2) In the case of state constitutional impediments to immediate suspension authority, the state Attorney General shall furnish an official opinion for the SIP explaining the constitutional impediment as well as relevant case law.

(3) The SIP shall describe in detail the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other details related to the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds. In states without immediate suspension authority, the SIP shall demonstrate that sufficient resources, personnel, and systems are in place to meet the three day case

management requirement for violations that directly affect emission reductions.

§ 51.365 Data collection.

Accurate data collection is essential to the management, evaluation, and enforcement of an I/M program. The program shall gather test data on individual vehicles, as well as quality control data on test equipment.

(a) *Test Data.* The goal of gathering test data is to unambiguously link specific test results to a specific vehicle, I/M program registrant, test site, and inspector, and to determine whether or not the correct testing parameters were observed for the specific vehicle in question. In turn, these data can be used to distinguish complying and noncomplying vehicles as a result of analyzing the data collected and comparing it to the registration database, to screen inspection stations and inspectors for investigation as to possible irregularities, and to help establish the overall effectiveness of the program. At a minimum, the program shall collect the following with respect to each test conducted:

- (1) Test record number;
- (2) Inspection station and inspector numbers;
- (3) Test system number;
- (4) Date of the test;
- (5) Emission test start time and the time final emission scores are determined;
- (6) Vehicle Identification Number;
- (7) License plate number;
- (8) Test certificate number;
- (9) Gross Vehicle Weight Rating (GVWR);
- (10) Vehicle model year, make, and type;
- (11) Number of cylinders;
- (12) Transmission type;
- (13) Odometer reading;
- (14) Category of test performed (i.e., initial test, first retest, or subsequent retest);
- (15) Fuel type of the vehicle (i.e., gas, diesel, or other fuel);
- (16) Type of vehicle preconditioning performed;
- (17) Emission test sequence(s) used;
- (18) Hydrocarbon emission scores and standards for each applicable test mode;
- (19) Carbon monoxide emission scores and standards for each applicable test mode;
- (20) Carbon dioxide emission scores and standards for each applicable test mode;
- (21) Nitrogen oxides emission scores and standards for each applicable test mode;
- (22) Results (Pass/Fail/Not Applicable) of the applicable visual inspections for the catalytic converter,

air system, gas cap, evaporative system, positive crankcase ventilation (PCV) valve, fuel inlet restrictor, and any other visual inspection for which emission reduction credit is claimed; and

(23) Results of the evaporative system functional tests.

(b) *Quality Control Data.* At a minimum, the program shall gather and report the results of the quality control checks required under § 51.359 of this part, identifying each check by station number, system number, date and start time. The data report shall also contain the concentration values of the calibration gases used to perform the gas characterization portion of the quality control checks.

§ 51.366 Data analysis and reporting.

Data analysis and reporting are required to allow for monitoring and evaluation of the program by program management and EPA, and shall provide information regarding the types of program activities performed and their final outcomes, including summary statistics and effectiveness evaluations of the enforcement mechanism, the quality assurance system, the quality control program, and the testing element.

(a) *Test Data Report.* The program shall submit to EPA by July of each year a report providing basic statistics on the testing program for January through December of the previous year, including:

- (1) The number of vehicles tested by model year and vehicle type;
- (2) By model year and vehicle type, the number and percentage of vehicles:
 - (i) Failing the emissions test initially;
 - (ii) Failing the emission control component check initially;
 - (iii) Failing the evaporative system functional and integrity checks initially;
 - (iv) Failing the first retest for tailpipe emissions;
 - (v) Passing the first retest for tailpipe emissions;
 - (vi) Initially failed vehicles passing the second or subsequent retest for tailpipe emissions;
 - (vii) Initially failed vehicles passing the emission control component check on the first or subsequent retest by component;
 - (viii) Initially failed vehicles passing the evaporative system functional and integrity checks on the first or subsequent retest by component;
 - (ix) Initially failed vehicles receiving a waiver; and;
 - (x) Vehicles with no known final outcome (regardless of reason);
- (3) The initial test volume by model year and test station;

(4) The initial test failure rate by model year and test station; and

(5) The average increase or decrease in vehicle emission levels after repairs by model year, vehicle type, and test type.

(b) *Quality Assurance Report.* The program shall submit to EPA by July of each year a report providing basic statistics on the quality assurance program for January through December of the previous year, including:

(1) Number of vehicles for which incorrect data entries were made by station, including the number of vehicles:

(i) Assigned as an initial test when the test was actually a retest;

(ii) Assigned as "not applicable" for an emission control component that was applicable;

(iii) Assigned as "pass" for an emission control component that was not applicable for the vehicle entered;

(iv) Retested with an older model year than that reported on a previous test(s);

(v) Retested with a different vehicle type than that reported on a previous test(s);

(vi) Assigned a vehicle type that conflicts with the VIN entered;

(vii) Assigned an incorrect VIN; and

(viii) Assigned other incorrect data by type;

(2) The number of inspection stations and lanes;

(i) Operating throughout the year;

(ii) Receiving two or more administrative audits in the year;

(iii) That have been audited only once within the given year;

(iv) That have not been audited;

(v) That have been shut down as a result of administrative audits;

(vi) That have received one covert audit;

(vii) That have received two covert audits; and

(viii) That have received more than two cover audits;

(3) The number of covert audits:

(i) Conducted with the vehicle set to fail the emission test;

(ii) Conducted with the vehicle set to fail the component check;

(iii) Conducted with the vehicle set to fail the evaporative system checks;

(iv) Conducted with the vehicle set to fail any combination of two or more of the above checks;

(v) Resulting in a false pass for emissions;

(vi) Resulting in a false pass for component checks;

(vii) Resulting in a false pass for the evaporative system check; and

(viii) Resulting in a false pass for any combination of two or more of the above checks;

(4) The number of inspectors and stations:

(i) That were suspended, fired, or otherwise prohibited from testing as a result of covert audits;

(ii) That were suspended, fired, or otherwise prohibited from testing for other causes;

(iii) That received written warnings based on overt audits;

(iv) That received written warnings based on covert audits; and

(v) That received fines;

(6) The number of inspectors licensed or certified to conduct testing;

(7) The number of hearings held to consider adverse actions against inspectors and stations;

(8) The total amount collected in fines from inspectors and stations by type of violation;

(9) The number of inspectors required to obtain additional training as a result of rule violations;

(10) The total number of covert vehicles available for undercover audits over the year; and

(11) The number of covert auditors available for undercover audits;

(c) *Quality Control Report.* The program shall submit to EPA by July of each year a report providing basic statistics on the quality control program for January through December of the previous year, including:

(1) The number of emission testing sites and lanes in use in the program;

(2) A description of the emissions analysis system(s) in use at such sites;

(3) The type and actual frequency of quality control checks and calibrations performed on the emissions analysis systems, dynamometers, evaporative system monitoring devices, ambient air sampling devices, and flow rate regulating systems;

(4) The concentration, accuracy specifications, and blend tolerances of calibration gases and audit gases;

(5) The number of quality control audits performed by program management by station and lane;

(6) The number and percentage of stations that have failed quality control audits; and

(7) Number and percentage of stations and lanes shut down as a result of quality control audits.

(d) *Enforcement Report.* (1) All varieties of enforcement programs shall, at a minimum, submit to EPA by July of each year a report providing basic statistics on the enforcement program for January through December of the previous year, including:

(i) An estimate of the number of vehicles subject to the inspection program, including the results of an analysis of the registration data base;

(ii) The percentage of motorist compliance based upon a comparison of the number of valid final tests with the number of subject vehicles;

(iii) The total number of compliance documents issued to inspection stations;

(iv) The number of missing compliance documents;

(v) The number, length, and nature of time extensions and other exemptions granted to motorists; and

(vi) The number of compliance surveys conducted, number of vehicles surveyed in each, and the compliance rates found.

(2) Registration denial based enforcement programs shall provide the following additional information:

(i) A detailed report of the program's efforts and actions to prevent motorists from falsely registering vehicles out of the program area or falsely changing fuel type or weight class on the vehicle registration, and the results of special studies to investigate the frequency of such activity;

(ii) The fine for driving with an expired registration or invalid sticker;

(iii) The fine for failure to register in the place of residence; and

(iv) The number of registration file audits, number of registrations reviewed, and compliance rates found in such audits.

(3) Computer-matching based enforcement programs shall provide the following additional information:

(i) The schedule of fines and penalties for failing to comply with program requirements;

(ii) The number and percentage of subject vehicles that were tested by the initial deadline, and by other milestones in the cycle;

(iii) The program's efforts to detect and enforce against motorists falsely changing vehicle classifications to circumvent program requirements, and the frequency of this type of activity; and

(iv) The number of enforcement system audits, and the error rate found during those audits.

(4) Sticker-based enforcement systems shall provide the following additional information:

(i) The schedule of fines and penalties for failing to comply with program requirements;

(ii) The program's efforts to prevent, detect, and enforce against sticker theft and counterfeiting, and the frequency of this type of activity;

(iii) The program's efforts to detect and enforce against motorists falsely changing vehicle classifications to circumvent program requirements, and the frequency of this type of activity; and

(iv) The number of parking lot sticker audits conducted, the number of vehicles surveyed in each, and the noncompliance rate found during those audits.

(e) *Additional Reporting Requirements.* In addition to the above annual reports, programs shall submit to EPA by July of every other year, biennial reports addressing:

(1) Any changes made in program design, funding, personnel levels, procedures, regulations, and legal authority, with detailed discussion and evaluation of the impact on the program of all such changes; and

(2) Any weaknesses or problems identified in the program within the two-year reporting period, what steps have already been taken to correct those problems, the results of those problems, the results of those steps, and any future efforts planned.

(f) *SIP Requirements.* The SIP shall provide detailed information concerning the types of data to be collected, the source and annual allocation of resources in support of this program function, and a description of the equipment to be used in the performance of required analyses.

§ 51.367 Inspector training licensing or certification.

All inspectors shall receive formal training and be licensed or certified to perform inspections.

(a) *Training.* (1) Inspector training shall impart knowledge of the following:

(i) The air pollution problem, its causes and effects;

(ii) The purpose, function, and goal of the inspection program;

(iii) Inspection regulations and procedures;

(iv) Technical details of the test procedures and the rationale for their design;

(v) Emission control device function, configuration, and inspection;

(vi) Test equipment operation, calibration, and maintenance;

(vii) Quality control procedures and their purpose;

(viii) Public relations; and

(ix) Safety and health issues related to the inspection process.

(2) If inspector training is not administered by the program, the responsible state agency shall monitor and evaluate the training program delivery.

(3) In order to complete the training requirement, a trainee shall pass (i.e., a minimum of 80% of correct responses) a written test covering all aspects of the training. In addition, a hands-on test shall be administered in which the trainee demonstrates without assistance the ability to conduct a proper inspection, to properly utilize equipment and to follow other procedures. Inability to properly conduct all test procedures shall constitute failure of the test. The program shall take appropriate steps to insure the security and integrity of the testing process.

(b) *Licensing and Certification.* (1) All inspectors shall be either licensed by the program or otherwise certified by an organization other than the employer in order to perform official inspections.

(2) Completion of inspector training and passing required tests shall be a condition of licensing or certification.

(3) Inspector licenses and certificates shall be valid for no more than 2 years, at which point refresher training and testing shall be required prior to renewal.

(4) Licenses or certificates shall not be considered a legal right but rather a privilege bestowed by the program conditional upon adherence to program requirements.

(c) *SIP Requirements.* The SIP shall include a set of instructional materials for the inspector training program, an example of the written test, and a description of the training program, the hands-on test, and the licensing or certification process.

§ 51.368 Public information and consumer protection.

(a) *Public Awareness.* The SIP shall include a plan for informing the public on an ongoing basis throughout the life of the I/M program of the air quality problem, the requirements of federal and state law, the role of motor vehicles in the air quality problem, the need for and benefits of an inspection program, how to maintain a vehicle in a low-emission condition, how to find a qualified repair technician, and the requirements of the I/M program. Motorists that fail the I/M test shall be given a list of certified repair technicians in the area and information on the results of repairs performed by repair technicians in the area, as described in § 51.369(b)(1) of this subpart. Motorists that fail the I/M test shall also be provided with interpretive diagnostic information based on the particular portions of the test that were failed.

(b) *Consumer Protection.* The oversight agency shall institute procedures and mechanisms to protect the public from fraud and abuse by

inspectors, mechanics, and others involved in the I/M program. This shall include a challenge mechanism by which a vehicle owner can contest the results of an inspection. It shall include mechanisms for protecting whistle blowers and following up on complaints by the public or others involved in the process. It shall include a program to assist owners in obtaining warranty covered repairs for eligible vehicles that fail a test. The SIP shall include a detailed consumer protection plan.

§ 51.369 Improving repair effectiveness.

Effective repairs are the key to achieving program goals and the state shall take steps to ensure the capability exists in the repair industry to repair vehicles that fail I/M tests.

(a) *Technical Assistance.* The oversight agency shall provide the repair industry with information and assistance related to vehicle inspection diagnosis and repair.

(1) The agency shall regularly inform repair facilities of changes in the inspection program, training course schedules, common problems being found with particular engine families, diagnostic tips and the like.

(2) The agency shall provide a hot line service to assist repair technicians with specific repair problems and answer technical and legal questions that arise in the repair process.

(b) *Performance Monitoring.* (1) An oversight agency shall monitor the performance of individual motor vehicle repair service providers, and provide to the public at the time of initial failure, a summary of the performance of local service providers that have repaired vehicles for retest. Performance monitoring shall include statistics on the number of vehicles submitted for a retest after repair by the service provider, the percentage passing on first retest, the percentage requiring more than one repair/retest trip before passing, and the percentage receiving a waiver.

(2) Programs shall provide feedback, including statistical and qualitative information to individual service providers on a regular basis (at least quarterly) regarding their success in repairing failed vehicles.

(3) A prerequisite for a retest shall be a completed repair form that indicates which repairs were performed and the service provider that performed the repairs.

(c) *SIP Requirements.* The SIP shall include a description of the technical assistance program to be implemented and a description of the procedures to

be used in meeting the performance monitoring requirements of this section.

§ 51.370 Compliance with recall notices.

States shall establish methods to ensure that vehicles subject to enhanced I/M and that are included in either a "Voluntary Emissions Recall" as defined at 40 CFR 85.1902(d), or in a remedial plan determination made pursuant to § 207(c) of the Act, receive the required repairs. States shall require that owners of recalled vehicles have the necessary recall repairs completed, either in order to complete an annual or biennial inspection process or to obtain vehicle registration renewal. All recalls for which owner notification occurs after July 1, 1994 shall be included in the enhanced I/M recall requirement.

(a) *General Requirements.* (1) The state shall have an electronic means to identify recall vehicles based on lists of VINs with unresolved recalls made available by EPA, the vehicle manufacturers, or a third party supplier approved by the Administrator. The state shall update its list of unresolved recalls on a quarterly basis at a minimum.

(2) The state shall require owners or lessees of vehicles with unresolved recalls to show proof of compliance with recall notices in order to complete either the inspection or registration cycle.

(3) compliance shall be required on the next registration or inspection date after notification of recall was received by the state.

(b) *Enforcement.* (1) A vehicle shall either fail inspection or be denied vehicle registration if the required recall repairs have not been completed.

(2) In the case of vehicles obtaining recall repairs but remaining on the updated list provided in paragraph (a)(1) of this section, the state shall have a means of verifying completion of the required repairs; electronic records or paper receipts provided by the authorized repair facility shall be required. The vehicle inspection or registration record shall be modified to include (or be supplemented with other VIN-linked records which include) the recall campaign number(s) and the date(s) repairs were performed. Documentation verifying required repairs shall include the following:

(i) The VIN, make, and model year of the vehicle, and

(ii) The recall campaign number and the date repairs were completed.

(c) *Reporting Requirements.* The state shall submit to EPA, by July of each year for the previous calendar year, an annual report providing the following information:

(1) The number of vehicles in the I/M area initially listed as having unresolved recalls, segregated by recall campaign number;

(2) The number of recall vehicles brought into compliance by owners;

(3) The number of recall vehicles still in non-compliance that, as of the end of the calendar year, were not yet due for inspection or registration;

(4) The number of recall vehicles still in non-compliance that have either failed inspection or been denied registration on the basis of non-compliance with recall; and

(5) The number of recalled vehicles that are otherwise not in compliance.

(d) *SIP Submittals.* (1) The SIP shall describe the procedures used to incorporate the vehicle lists provided in program (a)(1) of this section into the inspection or registration database.

(2) The SIP describe the quality control methods used to insure the recall repairs are properly documented and tracked.

(3) The SIP shall describe the method (inspection failure or registration denial) used to enforce the recall requirements.

§ 51.371 On-road testing.

On-road testing is defined as the measurement of HC, CO, NO_x, and/or CO₂ emissions on any road or roadside in the nonattainment area or the I/M program area. On-road testing is required in enhanced I/M areas and is an option for basic I/M areas.

(a) *General Requirements.* (1) On-road testing is to be part of the emission testing system, but is to be a complement to testing otherwise required.

(2) On-road testing is not required in every season or on every vehicle but shall evaluate the emission performance of 0.5% of the subject fleet each year.

(3) The on-road testing program shall provide information about the emission performance of in-use vehicles, by measuring on-road emissions through the use of remote sensing devices or roadside pullovers including tailpipe emission testing. The program shall collect, analyze and report on-road testing data.

(4) Owners of vehicles found to be high emitters shall be notified that the vehicles are required to pass an out-of-cycle follow-up inspection; notification may be by mailing in the case of remote sensing on-road testing or through immediate notification if roadside pullovers are used.

(b) *SIP Requirements.* (1) The SIP shall include a detailed description of the on-road testing program, including the types of testing, the number of vehicles (the percentage of the fleet) to

be tested, the number of employees to be dedicated to the on-road testing effort, the methods for collecting, analyzing, utilizing, and reporting the results of on-road testing and, the portion of the program budget to be dedicated to on-road testing.

(2) The SIP shall include the legal authority necessary to implement the on-road testing program, including the authority to enforce off-cycle inspection and repair requirements.

(3) Emission reduction credit for on-road testing programs shall be granted for a program designed to obtain significant reductions over and above those already predicted to be achieved by other aspects of the I/M program. The SIP shall include technical support for the claimed additional emission reductions.

§ 51.372 State implementation plan submissions.

(a) *SIP Submittals.* The SIP shall address each of the elements covered in this rulemaking, including, but not limited to:

(1) A schedule of implementation of the program including interim milestones leading to mandatory testing. The milestones shall include, at a minimum:

(i) Passage of enabling statutory or other legal authority;

(ii) Proposal of draft regulations and promulgation of final regulations;

(iii) Issuance of final specifications and procedures;

(iv) Issuance of final Request for Proposals (if applicable);

(v) Licensing or certifications of stations, inspectors;

(vi) The date mandatory testing will begin for each model year to be covered by the program;

(vii) The date full-stringency cutpoints will take effect;

(viii) All other relevant dates.

(2) An analysis of emission level targets for the program using the most current EPA mobile source emission model or an alternative approved by the Administrator showing that the program meets the performance standard described in § 51.351 or § 51.352, as applicable;

(3) A description of the geographic coverage of the program, including ZIP codes if the program is not county-wide;

(4) A detailed discussion of each of the required design elements, including provisions for federal facility compliance;

(5) Legal authority related to implementation of the I/M program, including testing, contracting, and enforcement authority as needed and

authority to conduct the evaluation program;

(6) Legal authority for I/M program operation until such time as it is no longer necessary (i.e., until a Section 175 maintenance plan without an I/M program is approved by EPA);

(7) Implementing regulations, interagency agreements, and memoranda of understanding;

(8) Evidence of adequate funding and resources to implement all aspects of the program; and

(9) For areas attempting to demonstrate equivalency under § 51.353(b) of this subpart, the regulations and legal authority requiring implementation of the back-up program.

(b) *Submittal Schedule.* The SIP shall be submitted to EPA according to the following schedule—

(1) States shall submit a SIP revision by November 15, 1992 which includes the schedule required in paragraph (a)(1) of this section and a formal commitment from the Governor to the adoption and implementation of an I/M program meeting all requirements of this rule.

(2) A SIP revision, including all necessary legal authority and the items specified in paragraphs (a)(1) through (a)(9) of this section, shall be submitted no later than November 15, 1993.

(3) States will be required to revise SIPs as EPA develops further regulations. Revisions to incorporate onboard diagnostic checks in the I/M program shall be submitted within 2 years after promulgation of OBD regulations under Section 202(m)(3) of the Clean Air Act, as amended.

§ 51.373 Implementation deadlines.

I/M programs shall be implemented as expeditiously as practicable.

(a) Decentralized basic programs shall be fully implemented by July 1, 1993, and centralized basic programs shall be fully implemented by January 1, 1994.

(b) For areas newly required to implement basic I/M after promulgation of this regulation (as a result of failure to attain, reclassification, or redesignation) decentralized programs shall be fully implemented within one year of obtaining legal authority. Centralized programs shall be fully implemented within two years of obtaining legal authority. More implementation time may be approved by the Administrator if an enhanced I/M program is implemented.

(c) All requirements related to enhanced I/M programs shall be implemented by July 1, 1994, with the following exceptions.

(1) Areas switching from an existing test-and-repair network, to a test-only network may phase in the change

between July of 1994 and January of 1996. Starting in July of 1994, at least 30% of the vehicles that will eventually be subject to transient IM240 testing by 1996 shall participate in the test-only system. By January 1, 1996, all applicable vehicle model years and types shall be included in the test-only system. During the phase-in period, all requirements of this regulation shall be applied to the test-only portion of the program; existing requirements may continue to apply for the test-and-repair portion of the program until it is phased out by July 1, 1996.

(2) Areas starting new test-only programs and those with existing test-only programs may also phase in the transient and evaporative system checks between July 1, 1994 and January 1, 1996, starting with 30% coverage by July 1994 as in paragraph (c)(2) of this section. Other program requirements shall take effect on July 1, 1994. For existing test-only areas that have testing services contract expiration dates no later than December 31, 1994, alternate schedules for initiation of transient and evaporative emission tests may be approved.

(d) In the case of areas newly required to implement enhanced I/M after promulgation of this regulation (as a result of failure to attain, reclassification, or nonattainment designation) enhanced I/M shall be implemented within 24 months of obtaining legal authority.

(e) Legal authority for the implementing agency or agencies to implement and enforce an I/M program consistent with these regulations shall be obtained from the state legislature or local governing body in the first legislative session after this rule takes effect or after being newly required to implement or upgrade an I/M program as in paragraph (b) or (c) of this section, including sessions already in progress if at least 21 days remain before the final bill submittal deadline.

Appendix A to Subpart 5—Steady-State Test Equipment: Calibrations and Adjustments

(a) Equipment shall be calibrated in accordance with the manufacturers' instructions.

(b) *Prior to each test.*—(1) *Hydrocarbon Hang-up Check.* Immediately prior to each test the analyzer shall automatically perform a hydrocarbon hang-up check. If the HC reading, when the probe is sampling ambient air, exceeds 20 ppm, the system shall be purged with clean air or zero gas. If HC hang-up does not drop below 20 ppm within 150 seconds the analyzer shall lock out from testing.

(2) *Automatic Zero and Span.* The analyzer shall conduct an automatic zero and span

check prior to each test. The span check shall include the HC, CO, and CO₂ channels, and the NO and O₂ channels, if present. If zero and/or span drift cause the signal levels to move beyond the adjustment range of the analyzer, it shall lock out from testing.

(3) *Low Flow.* The system shall lock out from testing if sample flow is below the acceptable level as defined in paragraph (b)(6) of appendix D to this subpart.

(c) *Daily Checks.* A system leak check shall be performed within twenty-four hours before the test and may be performed in conjunction with the gas calibration described in subparagraph (1) of paragraph (d). If a leak check is not performed within the preceding twenty-four hours, or if the analyzer fails the leak check, the analyzer shall lock out from testing. The leak check shall be a procedure demonstrated to effectively check the sample hose and probe for leaks and shall be performed in accordance with good engineering practices. An error of more than ±3% of the reading using low range span gas shall cause the analyzer to lock out from testing and shall require repair of leaks.

(d) *Every Seventy-Two Hours.* (1) *Gas Calibration.* The analyzer shall automatically require and successfully pass a gas calibration for HC, CO, and CO₂ within seventy-two hours before the test. Gas calibration shall be accomplished by introducing gas that meets the requirements of paragraph (d)(3) of this appendix into the analyzer through the calibration port. If the analyzer reads the span gas within the allowable tolerance range (i.e., the square root of sum of the squares of the span gas tolerance described in paragraph (d)(3) of this appendix and the calibration tolerance, which shall be equal to 2%), no adjustment of the analyzer is necessary. The gas calibration procedure shall correct readings that exceed the allowable tolerance range to the center of the allowable tolerance range. The pressure in the sample cell shall be the same with the calibration gas flowing during calibration as with the sample gas flowing during sampling. If the system is not calibrated, or the system fails the calibration check, the analyzer shall lock out from testing.

(2) *Span Points.* A two point gas calibration procedure shall be followed. The span shall be accomplished at one of the following pairs of span points:

(A) 300 ppm propane (HC), 1.0% carbon monoxide (CO), 6.0% carbon dioxide (CO₂), 1000ppm nitric oxide (if equipped with NO).

1200 ppm propane (HC), 4.0% carbon monoxide (CO), 12.0% carbon dioxide (CO₂), 3000 ppm nitric oxide (if equipped with NO).

(B) 0 ppm propane, 0.0% carbon monoxide, 0.0% carbon dioxide, 0ppm nitric oxide (if equipped with NO).

600 ppm propane (HC), 1.6% carbon monoxide (CO), 11.0% carbon dioxide (CO₂), 1200 ppm nitric oxide (if equipped with NO).

(3) *Span Gases.* The span gases used for the gas calibration shall be traceable to National Institute of Standards and Technology (NIST) standards ±2%, and shall be within two percent of the span points specified in paragraph (d)(2) of this appendix. Zero gases shall conform to the specifications

given in paragraph (a)(5) of § 86.114-79 of this title.

(e) *Monthly Check.* Within one month preceding each loaded test, the accuracy of the roll speed indicator shall be verified and the dynamometer shall be checked for proper power absorber settings.

(f) *Semi-annual Check.* Within six months preceding each loaded test, the road-load response of the variable-curve dynamometer or the frictional power absorption of the dynamometer shall be checked by a coast down procedure similar to that described in § 86.118.78 of this title. The check shall be done at 30 mph, and a power absorption load setting to generate a total horsepower (hp) of 4.1 hp. The actual coast down time from 45 mph to 15 mph shall be within ± 1 second of the time calculated by the following equation:

$$\text{Coast Down Time} = \frac{0.0508 \cdot W}{\text{HP}}$$

where W is the total inertia weight as represented by the weight of the rollers (excluding free rollers), and any inertia flywheels used, measured in pounds. If the coast down time is not within the specified tolerance the dynamometer shall be taken out of service and corrective action shall be taken.

(g) *Other Checks.* In addition to the above periodic checks, these shall also be used to verify system performance under the following special circumstances.

(1) *Gas Calibration.* Each time the analyzer electronic or optical systems are repaired or replaced, a gas calibration shall be performed prior to returning the unit to service.

(2) *Leak Checks.* Each time the sample line integrity is broken, a leak check shall be performed prior to testing.

Appendix B to Subpart 5—Test Procedures

1. Idle Test

(a) *General requirements. (1) Exhaust gas sampling algorithm.* The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a minimum rate of two lines per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.

(2) *Pass/fail determination.* A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in Appendix C to this subpart, and the measured value for HC and CO as described in paragraph (a)(1) of this section. A vehicle shall pass the test mode if any pair of simultaneous measured values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards. (3) *Void test conditions.* The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO

plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) *Multiple exhaust pipe.* Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) *Test sequence.* (1) The test sequence shall consist of a first-chance test and a second-chance test as follows:

(i) The first-chance test, as described under paragraph (c) of this section, shall consist of an idle mode.

(ii) The second-chance test as described under paragraph (d) of this section shall be performed only if the vehicle fails the first-chance test.

(2) The test sequence shall begin only after the following requirements are met:

(i) The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating.)

(ii) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(iii) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(iv) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) *First-chance test.* The test timer shall start ($t=0$) when the conditions specified in paragraph (b)(2) of this section are met. The first-chance test shall have an overall maximum test time of 145 seconds ($t=145$). The first-chance test shall consist of an idle mode only.

(1) The mode timer shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum mode length shall be determined as described under paragraph (c)(2) of this section. The maximum mode length shall be 90 seconds elapsed time ($mt=90$).

(2) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(i) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$), if prior to that time the criteria of paragraph (c)(2)(i) of this section are not satisfied and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(iii) The vehicle shall pass the idle mode and the test shall be immediately terminated

if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(iv) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (c)(2)(i), (ii) and (iii) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

(v) *Optional.* The vehicle may fail the first-chance test and the second-chance test shall be omitted if no exhaust gas concentration lower than 1800 ppm HC is found by an elapsed time of 30 seconds ($mt=30$).

(d) *Second-chance test.* If the vehicle fails the first-chance test, the test timer shall reset to zero ($t=0$) and a second-chance test shall be performed. The second-chance test shall have an overall maximum test time of 425 seconds ($t=425$). The test shall consist of a preconditioning mode followed immediately by an idle mode.

(1) *Preconditioning mode.* The mode timer shall start ($mt=0$) when the engine speed is between 2200 and 2800 rpm. The mode shall continue for an elapsed time of 180 seconds ($mt=180$). If engine speed falls below 2200 rpm or exceeds 2800 rpm for more than five seconds in any one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing.

(2) *Idle mode.* (i) *Ford Motor Company and Honda vehicles.* The engines of 1981-1986 Ford Motor Company vehicles and 1984-1985 Honda Precludes shall be shut off for not more than 10 seconds and restarted. This procedure should not be used for other vehicles. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure.

(ii) The mode timer shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (d)(2)(iii) of this section. The maximum idle mode length shall be 90 seconds elapsed time ($mt=90$).

(iii) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the idle mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$), if prior to that time the criteria of paragraph (d)(2)(iii)(A) of this section are not satisfied and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$),

measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (d)(2)(iii)(A), (d)(2)(iii)(B), and (d)(2)(iii)(C) of this section are satisfied by an elapsed time of 90 seconds ($mt=90$).

2. Two Speed Idle Test

(a) *General requirements.* (1) *Exhaust gas sampling algorithm.* The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.

(2) *Pass/fail determination.* A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in Appendix C to this regulation, and the measured value for HC and CO as described in paragraph (a)(1) of this section. A vehicle shall pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(3) *Void test conditions.* The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) *Multiple exhaust pipes.* Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) *Test sequence.* (1) The test sequence shall consist of a first-chance test and a second-chance test as follows:

(i) The first-chance test, as described under paragraph (c) of this section, shall consist of an idle mode followed by a high-speed mode.

(ii) The second-chance high-speed mode, as described under paragraph (c) of this section, shall immediately follow the first-chance high-speed mode. It shall be performed only if the vehicle fails the first-chance test. The second-chance idle mode, as described under paragraph (d) of this section, shall follow the second-chance high-speed mode and be performed only if the vehicle fails the idle mode of the first-chance test.

(2) The test sequence shall begin only after the following requirements are met:

(i) The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(ii) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(iii) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(iv) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) *First-chance test and second-chance high-speed mode.* The test timer shall start ($tt=0$) when the conditions specified in paragraph (b)(2) of this section are met. The first-chance test and second-chance high-speed mode shall have an overall maximum test time of 425 seconds ($tt=425$). The first-chance test shall consist of an idle mode followed immediately by a high-speed mode. This is followed immediately by an additional second-chance high-speed mode, if necessary.

(1) *First-chance idle mode.* (i) The mode timer shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (c)(1)(ii) of this section. The maximum idle mode length shall be 90 seconds elapsed time ($mt=90$).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode terminated as follows:

(A) The vehicle shall pass the idle mode and the mode shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the mode shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (c)(1)(ii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the idle mode and the mode shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the mode shall be terminated if none of the provisions of paragraph (c)(1)(ii)(A), (B), and (C) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

(E) *Optional.* The vehicle may fail the first-chance test and the second-chance test shall be omitted if no exhaust gas concentration less than 1800 ppm HC is found by an elapsed time of 30 seconds ($mt=30$).

(2) *First-chance and second-chance high-speed modes.* This mode includes both the first-chance and second-chance high-speed modes, and follows immediately upon termination of the first-chance idle mode.

(i) The mode timer shall reset ($mt=0$) when the vehicle engine speed is between 2200 and 2800 rpm. If engine speed falls below 2200

rpm or exceeds 2800 rpm for more than two seconds in one excursion, or more than six seconds over all excursions within 30 seconds of the final measured value used in the pass/fail determination, the measured value shall be invalidated and the mode continued. If any excursion lasts for more than ten seconds, the mode timer shall reset to zero ($mt=0$) and timing resumed. The minimum high-speed mode length shall be determined as described under paragraphs (c)(2)(ii) and (iii) of this section. The maximum high-speed mode length shall be 180 seconds elapsed time ($mt=180$).

(ii) *Ford Motor Company and Honda vehicles.* For 1981-1986 model year Ford Motor Company vehicles and 1984-1985 model year Honda Preludes, the pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$) using the following procedure. This procedure should not be used for other vehicles.

(A) A pass or fail determination, as described below, shall be used, for vehicles that passed the idle mode, to determine whether the high-speed test should be terminated prior to or at the end of an elapsed time of 180 seconds ($mt=180$).

(1) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, prior to an elapsed time for 30 seconds ($mt=30$), the measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(2) The vehicle shall pass the high-speed mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (c)(2)(ii)(A)(1) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(3) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 180 seconds ($mt=180$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(4) *Restart.* If at an elapsed time of 90 seconds ($mt=90$) the measured values are greater than the applicable short test standards as described in paragraph (a)(2) of this section, the vehicle's engine shall be shut off for not more than 10 seconds after returning to idle and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off ($mt=90$) and resume upon engine restart. The pass/fail determination shall resume as follows after 100 seconds have elapsed ($mt=100$).

(i) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, at any point between an elapsed time of 100 seconds ($mt=100$) and 180 seconds ($mt=180$), the measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(ii) The vehicle shall fail the high-speed mode and the test shall be terminated if paragraph (c)(2)(ii)(A)(4)(i) of this section is not satisfied by an elapsed time of 180 seconds ($mt=180$). (B) A pass or fail determination shall be made for vehicles that failed the idle mode and the high-speed mode terminated at the end of an elapsed time of 180 seconds ($mt=180$) as follows: (1) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 180 seconds ($mt=180$) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(2) *Restart.* If at an elapsed time of 90 seconds ($mt=90$) the measured values of HC and CO exhaust gas concentrations during the high-speed mode are greater than the applicable short test standards as described in paragraph (a)(2) of this section, the vehicle's engine shall be shut off for not more than 10 seconds after returning to idle and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. The mode timer will stop upon engine shut off ($mt=90$) and resume upon engine restart. The pass/fail determination shall resume as follows after 100 seconds have elapsed ($mt=100$).

(i) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 180 seconds ($mt=180$) if any measured values of HC and CO exhaust gas concentrations during the high-speed mode are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(ii) The vehicle shall fail the high-speed mode and the test shall be terminated if paragraph (c)(2)(ii)(B)(2)(i) of this section is not satisfied by an elapsed time of 180 seconds ($mt=180$).

(iii) *All Other Light-Duty Motor Vehicles.* The pass/fail analysis for vehicles not specified in paragraph (c)(2)(ii) of this section shall begin after an elapsed time of 10 seconds ($mt=10$) using the following procedure.

(A) A pass or fail determination, as described below, shall be used for vehicles that passed the idle mode, to determine whether the high-speed mode should be terminated prior to or at the end of an elapsed time of 180 seconds ($mt=180$).

(1) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), any measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(2) The vehicle shall pass the high-speed mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (c)(2)(iii)(A)(1) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(3) The vehicle shall pass the high-speed mode and the test shall be immediately

terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 180 seconds ($mt=180$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(4) The vehicle shall fail the high-speed mode and the test shall be terminated if none of the provisions of paragraphs (c)(2)(iii)(A)(1), (2), and (3) of this section is satisfied by an elapsed time of 180 seconds ($mt=180$).

(B) A pass or fail determination shall be made for vehicles that failed the idle mode and the high-speed mode terminated at the end of an elapsed time of 180 seconds ($mt=180$) as follows: (1) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 180 seconds ($mt=180$) if any measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(2) The vehicle shall fail the high-speed mode and the test shall be terminated if paragraph (c)(2)(iii)(B)(1) of this section is not satisfied by an elapsed time of 180 seconds ($mt=180$).

(d) *Second-chance idle mode.* If the vehicle fails the first-chance idle mode and passes the high-speed mode, the test timer shall reset to zero ($tt=0$) and a second-chance idle mode shall commence. The second-chance idle mode shall have an overall maximum test time of 145 seconds ($tt=145$). The test shall consist of an idle mode only.

(1) The engines of 1981-1986 Ford Motor Company vehicles and 1984-1985 Honda Preludes shall be shut off for not more than 10 seconds and restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. This procedure should not be used for other vehicles.

(2) The mode timer shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If the engine speed exceeds 1100 rpm or falls below 350 rpm the mode timer shall reset to zero and resume timing. The minimum second-chance idle mode length shall be determined as described in paragraph (d)(3) of this section. The maximum second-chance idle mode length shall be 90 seconds elapsed time ($mt=90$).

(3) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the second-chance idle mode shall be terminated as follows:

(i) The vehicle shall pass the second-chance idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), any measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the second-chance idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (d)(3)(i) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(iii) The vehicle shall pass the second-chance idle mode and the test shall be

immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(iv) The vehicle shall fail the second-chance idle mode and the test shall be terminated if none of the provisions of paragraphs (d)(3)(i), (ii), and (iii) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

3. Loaded Test

(a) *General requirements.* (1) *Exhaust gas sampling algorithm.* The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a minimum rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.

(2) *Pass/fail determination.* A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in Appendix C to this subpart and the measured value for HC and CO as described in paragraph (a)(1) of this section. A vehicle shall pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(3) *Void test conditions.* The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) *Multiple exhaust pipes.* Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) *Test sequence.* (1) The test sequence shall consist of a loaded mode using a chassis dynamometer followed immediately by an idle mode as described under paragraphs (c)(1) and (2) of this section.

(2) The test sequence shall begin only after the following requirement are met:

(i) The dynamometer shall be warmed up, in stabilized operating condition, adjusted, and calibrated in accordance with the procedures of Appendix A to this subpart. Prior to each test, variable-curve dynamometers shall be checked for proper setting of the road-load indicator or road-load controller.

(ii) The vehicle shall be test in as-received condition with all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(iii) The vehicle shall be operated during each mode of the test with the gear selector in the following position:

(A) In drive for automatic transmissions and in second (or third if more appropriate) for manual transmissions for the loaded mode;

(B) In part or neutral for the idle mode.

(iv) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(v) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(vi) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) *Overall test procedure.* The test timer shall start (tt=0) when the conditions specified in paragraph (b)(2) of this section are met and the mode timer initiates as specified in paragraph (c)(1) of this section. The test sequence shall have an overall maximum test time of 240 seconds (tt=240). The test shall be immediately terminated upon reaching the overall maximum test time.

(1) *Loaded mode.* The mode timer shall start (mt=0) when the dynamometer speed is within the limits specified for the vehicle engine size according to the following schedule.

Dynamometer Test Schedule

Gasoline engine size (cylinders)	Roll Speed (mph)	Normal Loading (brake horsepower)
4 or less	22-25	2.8-4.1
5-6	29-32	6.8-8.4
7 or more	32-35	8.4-10.8

If the dynamometer speed falls outside the limits for more than five seconds in one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing. The minimum mode length shall be determined as described in paragraph (c)(1)(ii) of this section. The maximum mode length shall be 90 seconds elapsed time (mt=90).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the loaded mode and the mode shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 90 seconds (mt=90), measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(B) The vehicle shall fail the loaded mode and the mode shall be terminated if paragraph (c)(1)(ii)(A) of this section is not satisfied by an elapsed time of 90 seconds (mt=90).

(C) *Optional.* The vehicle may fail the loaded mode and any subsequent idle mode shall be omitted if no exhaust gas concentration less than 1800 ppm HC is found by an elapsed time of 30 seconds (mt=30).

(2) *Idle mode.* (i) The mode timer shall start (mt=0) when the dynamometer speed is zero and the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (c)(2)(ii) of the section. The maximum idle mode length shall be 90 seconds elapsed time (mt=90).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds (mt=30) if, prior to that time, the criteria of paragraph (c)(2)(ii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a) of this section.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 90 seconds (mt=90), measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (c)(2)(ii)(A), (c)(2)(ii)(B), and (c)(2)(ii)(C) of this section is satisfied by an elapsed time of 90 seconds (mt=90).

4. Preconditioned Idle Test

(a) *General requirements.* (1) *Exhaust gas sampling algorithm.* The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a minimum rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.

(2) *Pass/fail determination.* A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in Appendix C to this regulation, and the measured value for HC and CO as described in paragraph (a)(1) of this section. A vehicle shall pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(3) *Void test conditions.* The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentrations of CO plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) *Multiple exhaust pipes.* Exhaust gas concentrations from vehicle engines equipped

with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) *Test sequence.* (1) The test sequence shall consist of a first-chance test and a second-chance test as follows:

(i) The first-chance test, as described under paragraph (c) of this section, shall consist of a preconditioning mode followed by an idle mode.

(ii) The second-chance test as described under paragraph (d) of this section shall be performed only if the vehicle fails the first-chance test.

(2) The test sequence shall begin only after the following requirements are met:

(i) The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(ii) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(iii) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(iv) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) *First-chance test.* The test timer shall start (tt=0) when the conditions specified in paragraph (b)(2) of this section are met. The test shall have an overall maximum test time of 200 seconds (tt=200). The first-chance test shall consist of a preconditioning mode followed immediately by an idle mode.

(1) *Preconditioning mode.* The mode timer shall start (mt=0) when the engine speed is between 2200 and 2800 rpm. The mode shall continue for an elapsed time of 30 seconds (mt=30). If engine speed falls below 2200 rpm or exceeds 2800 rpm for more than five seconds in any one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing.

(2) *Idle mode.* (i) The mode timer shall start (mt=0) when the vehicle engine speed is between 350 and 1100 rpm. If engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (c)(2)(ii) of this section. The maximum idle mode length shall be 90 seconds elapsed time (mt=90).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of

an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria for paragraph (c)(2)(ii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (c)(2)(ii)(A), and (B), and (C) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

(E) *Optional.* The vehicle may fail the first-chance test and the second-chance test shall be omitted if no exhaust gas concentration less than 1800 ppm HC is found at an elapsed time of 30 seconds ($mt=30$).

(d) *Second-chance test.* If the vehicle fails the first-chance test, the test timer shall reset to zero and a second-chance test shall be performed. The second-chance test shall have an overall maximum test time of 425 seconds. The test shall consist of a preconditioning mode followed immediately by an idle mode.

(1) *Preconditioning mode.* The mode timer shall start ($mt=0$) when engine speed is between 2200 and 2800 rpm. The mode shall continue for an elapsed time of 180 seconds ($mt=180$). If the engine speed falls below 2200 rpm or exceeds 2800 rpm for more than five seconds in any one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing.

(2) *Idle Mode.* (i) *Ford Motor Company and Honda vehicles.* The engines of 1981-1988 Ford Motor Company vehicles and 1984-1985 Honda Preludes shall be shut off for not more than 10 seconds and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. This procedure should not be used for other vehicles.

(ii) The mode timer shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If the engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (d)(2)(iii) of this section. The maximum idle mode length shall be 90 seconds elapsed time ($mt=90$).

(iii) The pass/fail analysis shall begin after an elapsed time for 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (d)(2)(iii)(A) of this section are not satisfied, and the measured values are less than or

equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (d)(2)(iii)(A), (B), and (C) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

5. Idle Test with Loaded Preconditioning

(a) *General requirements.* (1) *Exhaust gas sampling algorithm.* The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a minimum rate of two times per second. The measured value for pass/fail determinations shall be a simple running average of the measurements taken over five seconds.

(2) *Pass/fail determination.* A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in appendix C to this subpart, and the measured value for HC and CO as described in paragraph (a)(1) of this section. A vehicle shall pass the test mode if any pair of simultaneous values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(3) *Void test conditions.* The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) *Multiple exhaust pipes.* Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) *Test sequence.* (1) The test sequence shall consist of a first-chance test and a second-chance test as follows:

(i) The first-chance test, as described under paragraph (c) of this section, shall consist of an idle mode.

(ii) The second-chance test as described under paragraph (d) of this section shall be performed only if the vehicle fails the first-chance test.

(2) The test sequence shall begin only after the following requirements are met:

(i) The dynamometer shall be warmed up, in stabilized operating condition, adjusted, and calibrated in accordance with the procedures of appendix A to this regulation. Prior to each test, variable-curve dynamometers shall be checked for proper setting of the road-load indicator or road-load controller.

(ii) The vehicle shall be tested in as-received condition with all accessories

turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(iii) The vehicle shall be operated during each mode of the test with the gear selector in the following position:

(A) In drive for automatic transmissions and in second (or third if more appropriate) for manual transmissions for the loaded preconditioning mode;

(B) In park or neutral for the idle mode.

(iv) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(v) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(vi) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) *First-chance test.* The test timer shall start ($tt=0$) when the conditions specified in paragraph (b)(2) of this section are met. The test shall have an overall maximum test time of 155 seconds ($tt=155$). The first-chance test shall consist of an idle mode only.

(1) The mode time shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If the engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum mode length shall be determined as described in paragraph (c)(2) of this section. The maximum mode length shall be 90 seconds elapsed time ($mt=90$).

(2) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(i) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (c)(2)(i) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(iii) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(iv) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (c)(2) (i), (ii), and (iii) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

(v) *Optional.* The vehicle may fail the first-chance test and the second-chance test shall be omitted if no exhaust gas concentration less than 1800 ppm HC is found at an elapsed time of 30 seconds ($mt=30$).

(d) *Second-chance test.* If the vehicle fails the first-chance test, the test timer shall reset to zero ($tt=0$) and a second-chance test shall be performed. The second-chance test shall have an overall maximum test time of 200 seconds ($tt=200$). The test shall consist of a preconditioning mode using a chassis dynamometer, followed immediately by an idle mode.

(1) *Preconditioning mode.* The mode timer shall start ($mt=0$) when the dynamometer speed is within the limits specified for the vehicle engine size in accordance with the following schedule.

DYNAMOMETER TEST SCHEDULE

Gasoline engine size (cylinders)	Roll speed (mph)	Normal loading (brake horsepower)
4 or less	22-25	2.8-4.1
5-6	29-32	6.8-8.4
7 or more.....	32-35	8.4-10.8

The mode shall continue for a minimum elapsed time of 30 seconds ($mt=30$). If the dynamometer speed falls outside the limits for more than five seconds in one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing.

(2) *Idle mode.* (i) The mode timer shall start ($mt=0$) when the dynamometer speed is zero and the vehicle engine speed is between 350 and 1100 rpm. If the engine speed exceeds 1100 rpm or falls below 350 rpm, the mode time shall reset to zero and resume timing. The minimum idle mode length shall be determined as described in paragraph (d)(2)(ii) of this section. The maximum idle mode length shall be 90 seconds elapsed time ($mt=90$).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (d)(2)(ii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (d)(2)(ii)(A), (B), and (C) of this section is satisfied by an elapsed time of 90 seconds ($mt=90$).

6. Preconditioned Two Speed Idle Test

(a) *General requirements.* (1) *Exhaust gas sampling algorithm.* The analysis of exhaust gas concentrations shall begin 10 seconds after the applicable test mode begins. Exhaust gas concentrations shall be analyzed at a minimum rate of two times per second. The measured value for pass/fail determinations shall be simple running average of the measurements taken over five seconds.

(2) *Pass/fail determination.* A pass or fail determination shall be made for each applicable test mode based on a comparison of the short test standards contained in appendix C to this subpart, and the measured value for HC and CO as described in paragraph (a)(1) of this section. A vehicle shall pass the test mode if any pair simultaneous values for HC and CO are below or equal to the applicable short test standards. A vehicle shall fail the test mode if the values for either HC or CO, or both, in all simultaneous pairs of values are above the applicable standards.

(3) *Void test conditions.* The test shall immediately end and any exhaust gas measurements shall be voided if the measured concentration of CO plus CO₂ falls below six percent or the vehicle's engine stalls at any time during the test sequence.

(4) *Multiple exhaust pipes.* Exhaust gas concentrations from vehicle engines equipped with multiple exhaust pipes shall be sampled simultaneously.

(5) The test shall be immediately terminated upon reaching the overall maximum test time.

(b) *Test sequence.* (1) The test sequence shall consist of a first-chance test and a second-chance test as follows:

(i) The first-chance test, as described under paragraph (c) of this section, shall consist of a first-chance high-speed mode followed immediately by a first-chance idle mode.

(ii) The second-chance test as described under paragraph (d) of this section shall be performed only if the vehicle fails the first-chance test.

(2) The test sequence shall begin only after the following requirements are met:

(i) The vehicle shall be tested in as-received condition with the transmission in neutral or park and all accessories turned off. The engine shall be at normal operating temperature (as indicated by a temperature gauge, temperature lamp, touch test on the radiator hose, or other visual observation for overheating).

(ii) The tachometer shall be attached to the vehicle in accordance with the analyzer manufacturer's instructions.

(iii) The sample probe shall be inserted into the vehicle's tailpipe to a minimum depth of 10 inches. If the vehicle's exhaust system prevents insertion to this depth, a tailpipe extension shall be used.

(iv) The measured concentration of CO plus CO₂ shall be greater than or equal to six percent.

(c) *First-chance test.* The test timer shall start ($tt=0$) when the conditions specified in paragraph (b)(2) of this section are met. The test shall have an overall maximum test time of 290 seconds ($tt=290$). The first-chance test

shall consist of an high-speed mode followed immediately by an idle mode.

(1) *First-chance high-speed mode.* (i) The mode timer shall reset ($mt=0$) when the vehicle engine speed is between 2200 and 2800 rpm. If the engine speed falls below 2200 rpm or exceeds 2800 rpm for more than two seconds in one excursion, or more than six seconds over all excursions within 30 seconds of the final measured value used in the pass/fail determination, the measured value shall be invalidated and the mode continued. If any excursion lasts for more than ten seconds, the mode timer shall reset to zero ($mt=0$) and timing resumed. The high-speed mode length shall be 90 seconds elapsed time ($mt=90$).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the high-speed mode and the mode shall be terminated at an elapsed time of 90 seconds ($mt=90$) if any measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(B) The vehicle shall fail the high-speed mode and the mode shall be terminated if the requirements of paragraph (c)(1)(ii)(A) of this section are not satisfied by an elapsed time of 90 seconds ($mt=90$).

(C) *Optional.* The vehicle shall fail the first-chance test and any subsequent test shall be omitted if no exhaust gas concentration lower than 1800 ppm HC is found at an elapsed time of 30 seconds ($mt=30$).

(2) *First-chance idle mode.* (i) The mode timer shall start ($mt=0$) when the vehicle engine speed is between 350 and 1100 rpm. If the engine speed exceeds 1100 rpm or falls below 350 rpm, the mode timer shall reset to zero and resume timing. The minimum first-chance idle mode length shall be determined as described in paragraph (c)(2)(ii) of this section. The maximum first-chance idle mode length shall be 90 seconds elapsed time ($mt=90$).

(ii) The pass/fail analysis shall begin after an elapsed time of 10 seconds ($mt=10$). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds ($mt=30$), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds ($mt=30$) if, prior to that time, the criteria of paragraph (c)(2)(ii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds ($mt=30$) and 90 seconds ($mt=90$), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the idle mode and the test shall be terminated if none of the provisions of paragraphs (c)(2)(ii)(A), (B), and (C) of this section is satisfied by an elapsed time of 90 seconds (mt=90).

(d) *Second-chance test.* If the vehicle fails either mode of the first-chance test, the test timer shall reset to zero (tt=0) and a second-chance test shall commence. The second-chance test shall be performed based on the first-chance test failure mode or modes as follows:

(A) If the vehicle failed only the first-chance high-speed mode, the second-chance test shall consist of a second-chance high-speed mode as described in paragraph (d)(2) of this section. The overall maximum test time shall be 280 seconds (tt=280).

(B) If the vehicle failed only the first-chance idle mode, the second-chance test shall consist of a second-chance preconditioning mode followed immediately by a second-chance idle mode as described in paragraphs (d)(3) and (4) of this section. The overall maximum test time shall be 425 seconds (tt=425).

(C) If both the first-chance high-speed mode and first-chance idle mode were failed, the second-chance test shall consist of the second-chance high-speed mode followed immediately by the second-chance idle mode as described in paragraphs (d)(2) and (4). However, if during this second-chance procedure the vehicle fails the second-chance high-speed mode, then the second idle mode may be eliminated. The overall maximum test time shall be 425 seconds (tt=425).

(2) *Second-chance high-speed mode.* (i) *Ford Motor Company and Honda vehicles.* The engines of 1981-1986 Ford Motor Company vehicles and 1984-1985 Honda Preludes shall be shut off for not more than 10 seconds and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. This procedure should not be used for other vehicles.

(ii) The mode timer shall reset (mt=0) when the vehicle engine speed is between 2200 and 2800 rpm. If the engine speed falls below 2200 rpm or exceeds 2800 rpm for more than two seconds in one excursion, or more than six seconds over all excursions within 30 seconds of the final measured value used in the pass/fail determination, the measured value shall be invalidated and the mode continued. The minimum second-chance high-speed mode length shall be determined as described in paragraph (d)(2)(iii) and (iv) of this section. If any excursion lasts for more than ten seconds, the mode timer shall reset to zero (mt=0) and timing resumed. The maximum second-chance high-speed mode length shall be 180 seconds elapsed time (mt=180).

(iii) In the case where the second-chance high-speed mode is not followed by the second-chance idle mode, the pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, prior to an elapsed time of 30

seconds (mt=30), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the high-speed mode and the test shall be terminated if at the end of an elapsed time of 30 seconds (mt=30) if, prior to that time, the criteria of paragraph (d)(2)(iii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the high-speed mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 180 seconds (mt=180), the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the high-speed mode and the test shall be terminated if none of the provisions of paragraphs (d)(2)(iii)(A), (B), and (C) of this section is satisfied by an elapsed time of 180 seconds (mt=180).

(iv) In the case where the second-chance high-speed mode is followed by the second-chance idle mode, the pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A pass or fail determination shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the high-speed mode and the mode shall be terminated at the end of an elapsed time of 180 seconds (mt=180) if any measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(B) The vehicle shall fail the high-speed mode and the mode shall be terminated if paragraph (d)(2)(iv)(A) of this section is not satisfied by an elapsed time of 180 seconds (mt=180).

(3) *Second-chance preconditioning mode.* The mode timer shall start (mt=0) when engine speed is between 2200 and 2800 rpm. The mode shall continue for an elapsed time of 180 seconds (mt=180). If the engine speed falls below 2200 rpm or exceeds 2800 rpm for more than five seconds in any one excursion, or 15 seconds over all excursions, the mode timer shall reset to zero and resume timing.

(4) *Second-chance idle mode.* (i) *Ford Motor Company and Honda vehicles.* The engines of 1981-1986 Ford Motor Company vehicles and 1984-1985 Honda Preludes shall be shut off for not more than 10 seconds and then shall be restarted. The probe may be removed from the tailpipe or the sample pump turned off if necessary to reduce analyzer fouling during the restart procedure. This procedure should not be used for other vehicles.

(ii) The mode timer shall start (mt=0) when the vehicle engine speed is between 350 and 1100 rpm. If the engine speed exceeds 1100 rpm or falls below 350 rpm the mode timer shall reset to zero and resume timing. The minimum second-chance idle mode length shall be determined as described in paragraph (d)(4)(iii) of this section. The maximum second-chance idle mode length shall be 90 seconds elapsed time (mt=90).

(iii) The pass/fail analysis shall begin after an elapsed time of 10 seconds (mt=10). A

pass or fail determining shall be made for the vehicle and the mode shall be terminated as follows:

(A) The vehicle shall pass the second-chance idle mode and the test shall be immediately terminated if, prior to an elapsed time of 30 seconds (mt=30), measured values are less than or equal to 100 ppm HC and 0.5 percent CO.

(B) The vehicle shall pass the second-chance idle mode and the test shall be terminated at the end of an elapsed time of 30 seconds (mt=30) if, prior to that time, the criteria of paragraph (d)(4)(iii)(A) of this section are not satisfied, and the measured values are less than or equal to the applicable short test standards as described in paragraph (a)(2) of this section.

(C) The vehicle shall pass the second-chance idle mode and the test shall be immediately terminated if, at any point between an elapsed time of 30 seconds (mt=30) and 90 seconds (mt=90), measured values are less than or equal to the applicable short test standards described in paragraph (a)(2) of this section.

(D) The vehicle shall fail the second-chance idle mode and the test shall be terminated if none of the provisions of paragraphs (d)(4)(iii)(A), (B), and (C) of this section is satisfied by an elapsed time of 90 seconds (mt=90).

Appendix C to Subpart S—Steady-State Short Test Standards

1. Short Test Standards for 1981 and Later Model Year Light-duty Vehicles

For 1981 and later model year light-duty vehicles for which any of the test procedures described Appendix B to this subpart are utilized to establish Emissions Performance Warranty eligibility (i.e., 1981 and later model year light-duty vehicles at low altitude and 1982 and later model year vehicles at high altitude to which high altitude certification standards of 1.5 gpm HC and 15 gpm CO or less apply), short test emissions for all tests and test modes shall not exceed:

- (1) Hydrocarbons: 220 ppm as hexane.
- (2) Carbon monoxide: 1.2%

2. Short Test Standards for 1981 and Later Model Year Light-duty Trucks

For 1981 and later model year light-duty trucks for which any of the test procedures described in appendix B to this subpart are utilized to establish Emissions Performance Warranty eligibility (i.e., 1981 and later model year light-duty trucks at low altitude and 1982 and later model year trucks at high altitude to which high altitude certification standards of 2.0 gpm HC and 26 gpm CO or less apply), short test emissions for all tests and test modes shall not exceed:

- (1) Hydrocarbons: 220 ppm as hexane.
- (2) Carbon monoxide: 1.2%.

Appendix D to Subpart S—Steady-State Short Test Equipment

1. Steady-State Test Exhaust Analysis System

(a) *Sampling System.* (1) *General requirements.* The sampling system for

steady-state short tests shall, at a minimum, consist of a tailpipe probe, a flexible sample line, a water removal system, particulate trap, sample pump, flow control components, tachometer or dynamometer, analyzers for HC, CO, and CO₂, and digital displays for exhaust concentrations of HC, CO, and CO₂, and engine rpm. Materials that are in contact with the gases sampled shall not contaminate or change the character of the gases to be analyzed, including gases from alcohol fueled vehicles. The probe shall be capable of being inserted to a depth of at least ten inches into the tailpipe of the vehicle being tested, or into an extension boot if one is used. A digital display for dynamometer speed and load shall be included if the test procedures described in Appendix B to this subpart, Section 3 or 5, are conducted. Minimum specifications for optional NO and O₂ analyzers are also described in this section. The analyzer system shall be able to test, as specified in at least one section in Appendix B to this subpart, all model vehicles in service at the time of sale of the analyzer.

(2) *Temperature Operating Range.* The sampling system and all associated hardware shall be of a design certified to operate within the performance specifications described in paragraph (b) in ambient air temperatures ranging from 42 to 110 degrees Fahrenheit. The analyzer system shall, where necessary, include features to keep the sampling system within the specified range.

(3) *Humidity Operating Range.* The sampling system and all associated hardware shall be of a design certified to operate within the performance specifications described in paragraph (b) at a minimum of 80 percent relative humidity throughout the required temperature range.

(4) *Barometric Pressure Compensation.* Barometric pressure compensation shall be provided. Compensation shall be made for elevations up to 6000 feet (above mean sea level). At any given altitude and ambient conditions specified in (2) and (3), errors due to barometric pressure changes of ±2 inches of mercury shall not exceed the accuracy limits specified in paragraph (b).

(5) *Dual Sample Probe Requirements.* When testing a vehicle with dual exhaust pipes, a dual sample probe of a design certified by the analyzer manufacturer to provide equal flow in each leg shall be used. The equal flow requirement is considered to be met if the flow rate in each leg of the probe has been measured under two sample pump flow rates (the normal rate and a rate equal to the onset of low flow), and if the flow rates in each of the legs are found to be equal to each other (within 15% of the flow rate in the leg having lower flow).

(6) *System Lockout During Warm-up.* Functional operation of the gas sampling unit shall remain disabled through a system lockout until the instrument meets stability and warm-up requirements. The instrument shall be considered "warmed-up" when the zero and span readings for HC, CO, and CO₂ have stabilized, within ±3% of the full range of low scale, for five minutes without adjustment.

(7) *Electromagnetic Isolation and Interference.* Electromagnetic signals found in an automotive service environment shall

not cause malfunctions or changes in the accuracy in the electronics of the analyzer system. The instrument design shall ensure that readings do not vary as a result of electromagnetic radiation and induction devices normally found in the automotive service environment, including high energy vehicle ignition systems, radio frequency transmission radiation sources, and building electrical systems.

(8) *Vibration and Shock Protection.* System operation shall be unaffected by the vibration and shock encountered under the normal operating conditions encountered in an automotive service environment.

(9) *Propane Equivalency Factor.* The propane equivalency factor shall be displayed in a manner that enables it to be viewed conveniently, while permitting it to be altered only by personnel specifically authorized to do so.

(b) *Analyzers (1) Accuracy.* The analyzers shall be of a design certified to meet the following accuracy requirements when calibrated to the span points specified in appendix A to this subpart:

Channel	Range	Accuracy	Noise	Repeatability
HC, ppm	0-400	±12	6	8
as hexane	401-1000	±30	10	15
	1001-2000	±80	20	30
CO, %				
0-2.00		±0.06	0.02	0.03
	2.01-5.00	±0.15	0.06	0.08
	5.01-9.99	±0.40	0.10	0.15
CO ₂ , %				
0-4.0		±0.6	0.2	0.3
	4.1-14.0	±0.5	0.2	0.3
	14.1-16.0	±0.6	0.2	0.3
NO, ppm				
0-1000		±32	16	20
	1001-2000	±60	25	30
	2001-4000	±120	50	60

(2) *Minimum Analyzer Display Resolution.* The analyzer electronics shall have sufficient resolution to achieve the following:

HC	1	ppm HC as hexane.
CO	0.01	% CO.
CO ₂	0.1	% CO ₂ .
NO	1	ppm NO.
RPM	1	rpm.

(3) *Response Time.* The response time from the probe to the display for HC, CO, and CO₂ analyzers shall not exceed eight seconds to 90% of a step change in input. For NO analyzers, the response time shall not exceed twelve seconds to 90% of a step change in input.

(4) *Display Refresh Rate.* Dynamic information being displayed shall be refreshed at a minimum rate of twice per second.

(5) *Interference Effects.* The interference effects for non-interest gases shall not exceed ±10 ppm for hydrocarbons, ±0.05 percent for carbon monoxide, ±0.20 percent for carbon dioxide, and ±20 ppm for oxides of nitrogen.

(6) *Low Flow Indication.* The analyzer shall provide an indication when the sample flow is below the acceptable level. The sampling system shall be equipped with a flow meter (or equivalent) that shall indicate sample flow degradation when meter error exceeds three percent of full scale, or causes system response time to exceed 13 seconds to 90 percent of a step change in input, whichever is less.

(7) *Engine Speed Detection.* The analyzer shall utilize a tachometer capable of detecting engine speed in revolutions per minute (rpm) with a 0.5 second response time and an accuracy of ±3% of the true rpm.

(8) *Test and mode timers.* The analyzer shall be capable of simultaneously determining the amount of time elapsed in a test, and in a mode within that test.

(9) *Sample rate.* The analyzer shall be capable of measuring exhaust concentrations of gases specified in this section at a minimum rate of twice per second.

(c) *Demonstration of conformity.* The analyzer shall be demonstrated to the satisfaction of the inspection program manager, through acceptance testing procedures, to meet the requirements of this section and that it is capable of being maintained as required in Appendix A to this subpart.

2. Steady-State Test Dynamometer

(a) The chassis dynamometer for steady-state short tests shall provide the following capabilities:

(1) *Power absorption.* The dynamometer shall be capable of applying a load to the vehicle's driving tire surfaces at the horsepower and speed levels specified in paragraph (b).

(2) *Short-term stability.* Power absorption at constant speed shall not drift more than ±0.5 horsepower (hp) during any single test mode.

(3) *Roll weight capacity.* The dynamometer shall be capable of supporting a driving axle weight up to four thousand (4,000) pounds or greater.

(4) *Between roll wheel lifts.* These shall be controllable and capable of lifting a minimum of four thousand (4,000) pounds.

(5) *Roll brakes.* Both rolls shall be locked when the wheel lift is up.

(6) *Speed indications.* The dynamometer speed display shall have a range of 0-60 mph, and a resolution and accuracy of at least 1 mph.

(7) *Safety interlock.* A roll speed sensor and safety interlock circuit shall be provided which prevents the application of the roll brakes and upward lift movement at any roll speed above 0.5 mph.

(b) The dynamometer shall produce the load speed relationships specified in sections 3 and 5 of appendix B to this regulation.

Appendix E to Subpart S—Transient Test Driving Cycle

Time	Speed
0*	0
2	0
3	0

Time	Speed	Time	Speed	Time	Speed
4	0	87	18.1	171	47.5
5	3	88	14.6	172	47.3
6	5.9	89	11.1	173	47.2
7	8.6	90	7.6	174	47.2
8	11.5	91	4.1	175	47.4
9	14.3	92	0.6	176	47.9
10	16.9	93	0	177	48.5
11	17.3	94	0	178	49.1
12	18.1	95	0	179	49.5
13	20.7	96	0	180	50
14	21.7	97	0	181	50.6
15	22.4	98	3.3	182	51
16	22.5	99	6.6	183	51.5
17	22.1	100	9.9	184	52.2
18	21.5	102	16.5	185	53.2
19	20.9	103	19.8	186	54.1
20	20.4	104	22.2	187	54.6
21	19.8	105	24.3	188	54.9
22	17	106	25.8	189	55
23	14.9	107	26.4	190	54.9
24	14.9	108	25.7	191	54.6
25	15.2	109	25.1	192	54.6
26	15.5	110	24.7	193	54.8
27	16	111	25.2	194	55.1
28	17.1	112	25.4	195	55.5
29	19.1	113	27.2	196	55.7
30	21.1	114	26.5	197	56.1
31	22.7	115	24	198	56.3
32	22.9	116	22.7	199	56.6
33	22.7	117	19.4	200	56.7
34	22.6	118	17.7	202	56.3
35	21.3	119	17.2	203	56
36	19	120	18.1	204	55
37	17.1	121	18.6	205	53.4
38	15.8	122	20	206	51.6
39	15.8	123	20.7	207	51.8
40	17.7	124	21.7	208	52.1
41	19.8	125	22.4	209	52.5
42	21.6	126	22.5	210	53
43	23.2	127	22.1	211	53.5
44	24.2	128	21.5	212	54
45	24.6	129	20.9	213	54.9
46	24.9	130	20.4	214	55.4
47	25	131	19.8	215	55.6
48	25.7	132	17	216	56
49	26.1	133	17.1	217	55.8
50	26.7	134	15.8	218	55.2
52	28.6	135	15.8	219	54.5
53	29.3	136	17.7	220	53.6
54	29.8	137	19.8	221	52.5
55	30.1	138	21.6	222	51.5
56	30.4	139	22.2	223	50.5
57	30.7	140	24.5	224	48
58	30.7	141	24.7	225	44.5
59	30.5	142	24.8	226	41
60	30.4	143	24.7	227	37.5
61	30.3	144	24.6	228	34
62	30.4	145	24.6	229	30.5
63	30.8	146	25.1	230	27
64	30.4	147	25.6	231	23.5
65	29.9	148	25.7	232	20
66	29.5	149	25.4	233	16.5
67	29.8	150	24.9	234	13
68	30.3	152	25.4	235	9.5
69	30.7	153	26	236	6
70	30.9	154	26	237	2.5
71	31	155	25.7	238	0
72	30.9	156	26.1	239	
73	30.4	157	26.7		
74	29.8	158	27.3		
75	29.9	159	30.5		
76	30.2	160	33.5		
77	30.7	161	36.2		
78	31.2	162	37.3		
79	31.8	163	39.3		
80	32.2	164	40.5		
81	32.4	165	42.1		
82	32.2	166	43.5		
83	31.7	167	45.1		
84	28.6	168	46		
85	25.1	169	46.8		
86	21.6	170	47.5		

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40 CFR Parts 51 and 52

[FRL-4158-3]

New Source Review Simplification Workshop**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of workshop.

SUMMARY: The EPA is currently revising its new source review (NSR) rules (40 CFR 51.160-166, 40 CFR appendix S, 40 CFR 52.10, 40 CFR 52.21, and 40 CFR 52.24) to incorporate the requirements of the 1990 Clean Air Act Amendments. In conjunction with this revision, the EPA is considering ways to simplify the NSR process. In order to facilitate its efforts to identify potential methods for simplifying the NSR process, the EPA will conduct a workshop that is open to the public and solicit comments from any interested parties.

The purpose of this workshop is to identify and discuss potential approaches for simplifying the NSR process. Approximately 25-30 selected representatives from industry, environmental organizations, EPA Regions, and State/local air pollution control agencies knowledgeable on the NSR rules will be invited to serve as spokespersons to present suggestions and ideas. Invitees have been allocated the majority of the time to identify and discuss the various NSR issues and potential simplification methods. It time permits, the general public will also be given an opportunity to present their ideas.

This workshop is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92-463, as amended.

DATES: This workshop will convene on August 12, 1992 from 8 a.m. until 5 p.m. and August 13, 1992 from 8 a.m. until 1 p.m. Written comments may be submitted to Wm. Larry Elmore, Agency contract, until September 13, 1992.

ADDRESSES: This workshop will be held at the Omni-Europa Hotel, 1 Europa Drive, Chapel Hill, North Carolina 27514, telephone 1-800-843-6664

A summary of this workshop will be included in docket A-90-37 for the NSR rulemaking, including all written comments submitted within 30 days of the workshop. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., weekdays at EPA's Air Docket (LE-131), room M-1500, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

Public Participation: The workshop will be open to the public. Seating for

interested members of the public will be available on a first-come, first-serve basis and will begin at 7:30 a.m. each day of the workshop.

FOR FURTHER INFORMATION CONTACT: Wm. Larry Elmore, New Source Review Section (MD-15), Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone: (919) 541-5433; telefax: (919) 541-0237.

Dated: July 21, 1992.

D.K. Berry,*Acting Director, Office of Air Quality Planning and Standards.*

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INTERSTATE COMMERCE COMMISSION**49 CFR Parts 1207 and 1249**

[Ex Parte No. MC-206]

Revision to Accounting and Reporting Requirements for Motor Carriers of Property**AGENCY:** Interstate Commerce Commission.**ACTION:** Notice of Proposed rulemaking.

SUMMARY: The Commission proposes to adopt new accounting and reporting provisions that would significantly reduce the annual compliance burden by about 350,000 hours. The Uniform System of Accounts (USOA) would no longer be required as the prescribed accounting system. Class II motor carriers would not be required to file either annual or quarterly reports. In addition, comments are sought on amending the classification regulations by raising the annual transportation revenue threshold for Class I status from \$5 million (1978 dollars) to a minimum of \$25 million (1993 dollars), or alternatively, to \$50, \$75 or \$100 million. As alternatives to *Annual Report Form M* reporting, public comment is also sought on a proposal to confine annual reporting to publicly traded Class I carriers which would submit their SEC 10K and shareholder report forms or to limit reporting to quarterly reports only. Lastly, comments and suggestions are invited for simplification of *Form M*.

DATES: Comments must be received on or before August 26, 1992.

ADDRESSES: An original and fifteen copies, if possible, of comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Andrew J. Lee, (202) 927-6387, (TDD for hearing impaired: (202) 927-5721).

SUPPLEMENTARY INFORMATION: The Commission has decided to initiate this proceeding to set forth several proposals which would result in substantial reduction of regulatory accounting and reporting burden. The basis for these proposals is the Commission policy which requires the collection of data only if the information is used by the Commission on a regular and frequent basis. Accordingly, the Commission believes that only the largest Class I motor carriers should be required to file annual reports, and that quarterly reporting should be eliminated. Class II motor carriers would be relieved from all periodic reporting. Because the classification revenue thresholds have not been raised since 1979, the Commission proposes to increase the level to at least \$25 million for Class I motor carriers, but comments are also requested on alternative threshold levels of \$50, \$75 and \$100 million. At \$25 million, only an estimated 300 or so motor carriers would continue to report. The Commission also proposes to allow these carriers to use generally accepted accounting principles (GAAP) as the basis for preparing the reports instead of requiring the use of our prescribed USOA found at 49 CFR part 1207.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone (202) 927-7428. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

This revision will not have a significant economic impact on a substantial number of small entities and this decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is estimated that no additional burden hours per response are required to complete this collection of information. It is anticipated that the proposed changes would benefit smaller motor carriers because they would not be subject to the Commission's reporting requirements. The information collection requirements contained in this proposal will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and 5 CFR part 1320. Respondents may direct comments concerning the paperwork burden and burden estimates to the OMB and ICC by addressing them to:

Office of Management & Budget, Office of Information and Regulatory Affairs, Desk Officer for ICC, Washington, DC 20503.

Interstate Commerce Commission, ATTN: Forms Clearance Officer, room 1312, Washington, DC 20423.

List of Subjects

49 CFR Part 1207

Accounting, and reporting and recordkeeping requirements, Motor carriers.

49 CFR Part 1249

Motor carriers, Reporting and classification.

Decided: July 9, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Phillips commented with a separate expression. Vice Chairman McDonald and Commissioner Simmons dissented with separate expressions. Sidney L. Strickland, Jr., Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1207

and 1249 of the Code of Federal Regulations are proposed to be amended as follows:

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

1. The authority citation for part 1207 continues to read as follows:

Authority: 49 U.S.C. 10321, 10751, 11142, and 11145; 5 U.S.C. 553.

§ 1207.1 [Amended]

2. Instruction 36 of § 1207.1 is redesignated as § 1207.2, Business Entertainment Expenses.

3. § 1207.1 is proposed to be revised to read as follows:

§ 1207.1 Accounting regulations for motor carriers of property.

The Uniform System of Accounts for common and contract carriers of property has been deprecised effective January 1, 1993. Motor carriers of property shall follow Generally Accepted Accounting Principles for all accounting matters with the exception of business entertainment expenses which shall be dealt with in accordance with § 1207.2.

PART 1249—REPORTS OF MOTOR CARRIERS

4. The authority citation for part 1249 continues to read as follows:

Authority: 49 U.S.C. 11142 and 11145; 5 U.S.C. 553.

§ 1249.1 [Amended]

5. Section 1249.1 is proposed to be amended by removing the words "and quarterly" from the heading of the section, removing the words "and Class II" from where it now twice appears in the first sentence in paragraph (a), and revising the words "Class III" to the words "Class II" at the beginning of the second sentence in paragraph (a).

§ 1249.2 [Amended]

6. In § 1249.2(a), Class I and Class II definitions, the words "\$5 million" are proposed to be revised to read alternatively to "\$25 million," "\$50 million," "\$75 million," or "\$100 million." Also, in paragraph (b)(4) revise the words "Bureau of Accounts" to the words "Office of Economics."

[FR Doc. 92-17669 Filed 7-27-92; 8:45 am]

BILLING CODE 7035-01-M

Notices

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Voluntary Foreign Aid Advisory Committee; Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA) on Tuesday, September 15, 1992.

Date: September 15, 1992, (9 a.m. to 5 p.m.).

Location: U.S. Department of State.

This meeting is the first in a two-meeting module which will examine the A.I.D./PVO relationship from the perspective of U.S. private voluntary organizations. The purpose of the meeting will be to examine the program and institutional trends of PVO's over the last decade. The meeting will touch upon three broad areas: the role of private voluntarism in international development; the evolution of U.S. private voluntary organizations; and, the strengths, weaknesses and comparative advantages of private voluntary organizations.

The meeting is free and open to the public. However, Notification by Friday, September 11, 1992, through the advisory committee headquarters is required. Persons wishing to attend the meeting must call Theresa Graham or Susan Saragi (703) 351-0202, or facsimile (703) 351-0212. Persons attending must include their name, organization, birth date and social security number for security purposes.

Dated: July 15, 1992.

Sally H. Montgomery,

Deputy Assistant Administrator, Office of Private and Voluntary Cooperation, Bureau for Food and Humanitarian Assistance.

[FR Doc. 92-17722 Filed 7-27-92; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Intent to Grant a Partially Exclusive Patent License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant a partially exclusive patent license to Organon Teknika Corporation, Durham, North Carolina, on U.S. Patent Application Serial No. 07/586,116, "Preenriched Broth Medium for the Simultaneous Sampling of Foods for *Salmonella* and *Listeria*, filed September 21, 1990. Notice of Availability for licensing the invention was given in the *Federal Register* on April 3, 1991.

DATES: Comments must be received by September 28, 1992.

ADDRESS: Send comments to: USDA-ARS—Office of Cooperative Interactions, Beltsville Agricultural Research Center, Baltimore Boulevard, Building 005, room 403, BARC-W, Beltsville, Maryland 20705-2350.

FOR FURTHER INFORMATION CONTACT: M. Ann Whitehead of the Office of Cooperative Interactions at the Beltsville address given above; telephone: 301/504-6786.

SUPPLEMENTARY INFORMATION: The USDA-ARS intends to grant a partially exclusive license to practice the aforementioned invention. Patent rights to this invention are assigned to the United States of America as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as said company has submitted a complete and sufficient application for a license, promising therein to bring the benefits of said invention to the U.S. public.

The prospective partially exclusive patent license will be royalty-bearing and will comply with the terms and condition of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive patent license may be granted unless, within sixty days from the date of this published Notice, Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be

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consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

W.H. Tallent,

Assistant Administrator.

[FR Doc. 92-17793 Filed 7-27-92; 8:45 am]

BILLING CODE 3410-03-M

Animal and Plant Health Inspection Service

[Docket No. 92-093-1]

List of U.S. Veterinary Biological Product and Establishment Licenses and U.S. Veterinary Biological Product Permits, Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to veterinary biological product and establishment licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the months of April and May 1992. This action has been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to inform interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the listing.

FOR FURTHER INFORMATION CONTACT: Joan Montgomery, Program Assistant, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 435-8245. For copies of the list or to be placed on the mailing list, write to Ms. Montgomery at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for

determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Protect Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Product Permits.

Each month the Veterinary Biologics section of Biotechnology, Biologics and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the lists for the months of April and May 1992. The monthly lists are also mailed on a regular basis to interested persons. To be placed on the mailing list you can call or write the person designated under "**FOR FURTHER INFORMATION CONTACT.**"

Done in Washington, DC, this 23rd day of July 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-17786 Filed 7-27-92; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Creaky Hart Timber Sale, Idaho Panhandle National Forests Shoshone County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare an Environmental Impact Statement.

SUMMARY: Notice is hereby given that the Forest Service is gathering information in order to prepare an Environmental Impact Statement (EIS) for a proposal to harvest timber and build roads in the Browns Creek and

Uranus Creek drainages. The area is located approximately 10 air miles northeast of Kellogg, Idaho. Part of the proposed timber harvest and road construction are proposed within the Trouble Creek roadless area (#01138).

DATES: Written comments concerning the scope of the analysis must be received by September 11, 1992.

ADDRESSES: Submit written comments and suggestions concerning scope of the analysis to Mr. Steve Williams, District Ranger, Wallace Ranger District, Box 14, Silverton, Idaho, 83867. Public meetings will be held in Prichard and Silverton, Idaho to review existing information and facilitate public scoping.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement to Rod Chaffe, Project Coordinator, Wallace Ranger District, P.O. Box 14, Silverton, ID 83867 Telephone: (208) 752-1221.

SUPPLEMENTARY INFORMATION: The proposed action involves federally owned lands in all or portions of Sections 5-10, 15-20, T.50N., R.3E.; and Sections 1-3, 10-15, 23-25, T.50N., R.4E., Boise Meridian. Implementation of the proposed activity will begin in Fiscal Year 94. The project area will include about 11,800 acres in lands allocated to Management Areas 1 and 4; with an estimated output of 16 million board feet of timber, and construction or reconstruction of 10 miles of road. Various harvest methods; tractor and cable yarding systems would be used.

A number of issues have been identified. Major issues focus on the effects harvest and road construction will have on the resources of the Trouble Creek Roadless Area, health and growth of forest stands, fisheries and water quantity and stream channel stability, and effects of the visual resources along the Coeur d'Alene River Road. Detailed alternatives will be developed, including a no action alternative will be analyzed. Other possible alternatives to be analyzed include, a leave it green alternative, a minimum new roads alternative and a various levels of development alternative.

The Forest Service is the lead agency in this project. This EIS will tier to the Final EIS and Forest Plan (Forest Plan Record of Decision, September 1987). The Forest Plan provides forest-wide standards and guidelines, management area standards and guidelines, desired future conditions, and management area prescriptions for management practices that will be utilized during the implementation of the Forest Plan.

The Creaky Hart Analysis Area contains about 11,800 acres. Approximately 5,700 acres of those are in the Trouble Creek Roadless Area. The Analysis Area is allocated to the following Management Areas (MA):

- Approximately 50 percent is in Management Area 1 which is designed to intensively manage for timber production.
- Approximately 50 percent is in Management Area 4 which is designed to provide timber production within big game winter range. A large proportion of this management area has a high visual sensitivity.

Public participation will be especially important at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed project. Public meetings will be held in Prichard and Silverton, Idaho to review existing information and facilitate public scoping. This input will be used in preparation of the Draft EIS. The scoping process includes:

1. Identifying potential issues.
2. Identifying major issues to be analyzed in depth.
3. Identifying issues which have been covered by a relevant previous environmental analysis.
4. Exploring additional alternatives based on themes which will be derived from issues recognized during scoping activities.
5. Identifying potential environmental effects of this project and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).
6. Determining potential cooperating agencies and task assignments.
7. Notifying the interested public of opportunities to participate through meetings, personal contacts, or written comments. Keeping the public informed through the media and/or written material (i.e., newsletters, correspondence, etc.)

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February, 1993. At that time, EPA will publish a Notice of Availability of the Draft EIS in the *Federal Register*.

The Forest Service believes it is important to give reviewers notice of this early stage of public participation and of several court rulings related to public participation in the environmental review process.

First, reviewers of Draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. vs NRDC*, 435 U.S. 519, 553, (1978). Also, environmental objections that could be raised at the Draft EIS stage, but are not raised until after completion of the Final EIS, may be waived or dismissed by the court. *City of Angoon vs Hodel*, 803 F.2d. 1016, 1022, (9th Cir. 1986) and *Wisconsin Heritages, Inc. vs Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully be considered and responded to in the Final EIS.

The Final EIS is scheduled to be completed by June, 1993. In the Final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. Mr. Steve Williams, District Ranger, Wallace Ranger District, is the responsible official. As the responsible official, he will document the decision and reasons for the decision in the Record of Decision.

Dated: July 15, 1992.

Steve Williams,
District Ranger.

[FR Doc. 92-17716 Filed 7-27-92; 8:45 am]
BILLING CODE 3410-11-M

Soil Conservation Service

Lower Lamoille Watershed, VT

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Lower Lamoille Watershed, Chittenden, Franklin and Lamoille Counties, Vermont.

FOR FURTHER INFORMATION CONTACT: John C. Titchner, State Conservationist, Soil Conservation Service, 69 Union Street, Winooski, Vermont 05404, telephone (802) 951-6795.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, John C. Titchner, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection and water quality improvement. The planned works of improvement include conservation land treatment and agricultural waste management practices.

The notice of a finding of no significant impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting John C. Titchner, State Conservationist.

No administration action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance Program No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: July 21, 1992.

John C. Titchner,

State Conservationist

[FR Doc. 92-17743 Filed 7-27-92; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 64-91 and Foreign-Trade Zone 177—Evansville, IN]

Proposed Subzone Meade Johnson & Company, Pharmaceutical Plant Evansville and Mt. Vernon, IN; Amendment to Application

Notice is hereby given that the application submitted by the Indiana Port Commission, grantee of FTZ 177, requesting special-purpose subzone status for the pharmaceutical and

nutritional products manufacturing facilities of Meade Johnson & Company (MJC) located in Evansville and Mt. Vernon, Indiana (56 FR 56186, 11/1/91) has been amended to include two additional sites in Evansville, Indiana. The original application requested subzone status for the company's main plant (Site 1) in Evansville and a production/warehouse complex (Site 2) in Mt. Vernon. This amendment adds two other related MJC facilities to the subzone application: (Site 3)—the Mead Johnson Post Office Annex Warehouse (1.2 acres, 39,000 sq. ft.), leased and operated by MJC, 1901 West Illinois St., Evansville; and, (Site 4)—a warehouse facility (8.2 acres, 270,000 sq. ft.), leased and operated by Warehousing, Inc., to handle MJC products, 301 North Kentucky Ave., Evansville. MJC will be the zone operator of both additional sites. The application remains otherwise unchanged.

The comment period is reopened until September 11, 1992.

Dated: July 21, 1992.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 92-17696 Filed 7-27-92; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 24-92]

Proposed Foreign-Trade Zone—Dona Ana County, New Mexico Application Filed

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Board of County Commissioners of Dona Ana County, New Mexico, requesting authority to establish a general-purpose foreign-trade zone in Dona Ana County, New Mexico, adjacent to the Santa Teresa Station of the El Paso Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 14, 1992. The applicant is authorized to make the proposal under Senate Bill 586, Chapter 154, as amended, 40th Legislature of the State of New Mexico, First Session, approved April 3, 1991.

The proposed foreign-trade zone would consist of 2 sites (983 acres) in Dona Ana County. Site 1 (777 acres) is located within the Santa Teresa Airport complex (1,712 acres), approximately 6 miles north of the United States-Mexico Border Crossing at Santa Teresa. The complex is operated by the County of Dona Ana, which is also the principal

owner. Site 2 (206 acres) is within the West Mesa Industrial Park (1,820 acres) adjacent to the Las Cruces International Airport, some 40 miles northwest of the Santa Teresa Border Crossing. It is owned by the City of Las Cruces.

The application indicates there is a need for zone services in the Dona Ana County area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as flexible polyurethane foam and fabric for the automotive industry, weight training equipment, and glass and packaging products. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 56 FR 50790-50808, 10-8-91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 28, 1992. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 13, 1992.

While no public hearing has been scheduled for the FTZ Board, consideration will be given to such a hearing during the review.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

County Manager's Complex, 180 West Amador Avenue, room 105, Las Cruces, New Mexico 88001.

Office of the Executive Secretary, Foreign-Trade Zones Board, room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: July 20, 1992.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 92-17697 Filed 7-27-92; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

[Application No. 87-8A004]

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the National Machine Tool Builders' Association (now known as AMT—The Association For Manufacturing Technology ("AMT")) on May 19, 1987. Notice of issuance of the Certificate was published in the *Federal Register* on May 22, 1987 (52 FR 19371).

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing title III are found at 15 CFR part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the *Federal Register*. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 87-00004, was issued to the National Machine Tool Builders' Association ("NMTBA") on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987), January 3, 1989 (54 FR 837, January 10, 1989), April 20, 1989 (54 FR 19427, May 5, 1989), May 31, 1989 (54 FR 24931, June 12, 1989), May 29, 1990 (55 FR 23576, June 11, 1990), June 7, 1991 (56 FR 28140, June 19, 1991), and November 27, 1991 (56 FR 63932, December 6, 1991).

NMTBA's (AMT's) Export Trade Certificate of Review has been amended to:

1. Change the name of its current Export Trade Certificate of Review from "The National Machine Tool Builders' Association (a.k.a. NMTBA—The Association for Manufacturing Technology)" to "AMT—The Association For Manufacturing Technology." The Export Trade, Export Markets, and Export Trade Activities and Methods of Operation covered by the certificate of review are unchanged;

2. Add each of the following companies as a new "Member" of the

Certificate: Airlock Manufacturing Company, Birmingham, AL; Automation & Modular Components, Inc., Auburn Hills, MI; Berger Lahr Motion Technology, Inc., Plymouth MI (controlling entity: Sig-Holding USA, Inc.); Century Machine, Inc., Colter, IA; Control Laser Corporation, Orlando, FL (controlling entity: Quantronix Corporation); D.A. Griffin Corporation, Buffalo, NY; Huron Machine Products, Inc., Fort Lauderdale, FL; Hypneumat, Inc., Milwaukee, WI; J.A.C.P., Inc., Cleves, OH; Lynn Electronics Corp., Charlotte, NC; Metl-Saw Systems, Inc., Benicia, CA (controlling entity: Inductotherm Industries); Miyano Machinery USA, Inc., Wood Dale, IL (controlling entity: Miyano Machinery Japan, Inc.); Pacific Roller Die Company, Inc., Hayward, CA; and The J. L. Wickham Company, Inc., Baltimore, MD;

3. Delete each of the following companies as a "Member" of the Certificate: Advanced Technologies, Incorporated; B & H Tool and Machine Corporation; Bayer Industries, Inc.; CIMA USA; Cross & Trecker Corporation; Elb-Florida, Inc.; Ferranti Sciaky, Inc.; Miller Fluid Power; NATCO, Inc.; Roto-Finish Co. Inc.; Siber Hegner North America Inc.; Spitfire, a Unit of General Signal; Standard Tool & Manufacturing Co.; Sweco, Inc.; Textron Inc./North American Machine Tool Division; and Trumpf Industrial Lasers, Inc.; and

4. Change the listing of the company name for the current "member" Giddings and Lewis, A Division of AMCA International Corp., to Giddings & Lewis, Inc.

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: July 20, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-17698 Filed 7-27-92; 8:45 am]
BILLING CODE 3510-DR-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of

a field of use exclusive license in the United States to practice the invention embodied in U.S. Patent Application SN 7-858,959, a reissued application of U.S. Patent No. 4,912,206 titled, "cDNA Clone Encoding Brain Amyloid of Alzheimer's Disease," for use with transgenic animals carrying the gene sequences covered by the patent application to TSI Corporation, having a place of business at Innovation Drive, Worcester MA 01605. The patent rights in this invention have been assigned to the United States of America.

The prospective field of use exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective partially exclusive license may be granted unless, within sixty days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention covers four clones that have been isolated from an adult human brain cDNA library using an oligonucleotide probe corresponding to the first 20 amino acids of the brain amyloid polypeptide of the Alzheimer's disease. The open reading frame of the sequenced clone coded for 97 amino acids including the known amino acid sequence of this polypeptide. The 3.5 kb messenger RNA has been detected in mammalian brains and human thymus. The gene is highly conserved in evolution and has been mapped to human chromosome 21.

The availability of the invention for licensing was published in the *Federal Register* of October 23, 1990. A copy of US Patent No. 4,912,206 may be purchased from the Commissioner of Patents and Trademarks, Box 9, Washington, DC 20231 for \$3.00.

Requests for claims of the reissued application (under a nondisclosure agreement), inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 92-17717 Filed 7-27-92; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limit for Certain Wool Apparel Products Produced or Manufactured in Brazil

July 22, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: July 29, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, call (202) 377-3715. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Inasmuch as a mutually satisfactory solution concerning Category 443 was not reached during consultations held on June 22, 1992, the United States Government has decided to control imports in this category for the prorated period beginning on July 29, 1992 and extending through March 31, 1993.

The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Brazil, further notice will be published in the *Federal Register*.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see *Federal Register* notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 21971, published on May 26, 1992.

Auggie D. Tantillo,
Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 22, 1992.

*Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.*

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of September 15 and 19, 1988, as amended, between the Governments of the United States and Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 29, 1992, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in category 443, produced or manufactured in Brazil and exported during the period beginning on July 29, 1992 and extending through March 31, 1993, in excess of 55,839 numbers.¹

Textile products in Category 443 which have been exported to the United States on and after July 29, 1992 shall remain subject to the aggregate limit established in the directive dated May 19, 1992 for the period April 1, 1992 through March 31, 1993.

Imports charged to this category for the period April 30, 1992 through July 28, 1992 shall be charged against that level of restraint to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of 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. 92-17760 Filed 7-27-92; 8:45 am]

BILLING CODE 3510-DR-F

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange Proposed Futures and Futures Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and futures option contracts.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has applied for designation as a contract

¹ The limits have not been adjusted to account for any imports exported after July 28, 1992.

market in three-month Euromark time deposit futures, three-month Euroyen time deposit futures, and options on those two futures contracts. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulations 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 27, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CME three-month Euromark time deposit futures contract, the three-month Euroyen time deposit futures contract, or the options on those two futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Steve Sherrord of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202-254-7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions of the proposed contracts will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the CME in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the terms and conditions of the proposed contracts, or with respect to other materials submitted by the CME in support of the applications, should send

such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on July 22, 1992.

Gerald Gay,

Director.

[FR Doc. 92-17710 Filed 7-27-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board will meet in closed session on August 9-21, 1992 at the Beckman Center, Irvine, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At that time the Board will examine the substance, interrelationships, and the US national security implications of three critical areas identified and tasked to the Board by the Secretary of Defense, Deputy Secretary of Defense, and Under Secretary of Defense for Acquisition. The subject areas are: Technical Military Capabilities for Future Contingencies; Simulation, Readiness, and Prototyping; and Engineering in the Manufacturing Process. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Acquisition, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB meeting, concerns matters listed in 5 U.S.C. 552(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: July 23, 1992.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-17768 Filed 7-27-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Intent to Grant Exclusive Patent License

Pursuant to the provisions of part 404 of title 37, Code of Federal Regulations, which implements Public Law 96-517, the Department of the Air Force announces its intention to grant Beam Tech Corporation, P.O. Box 68025, San Antonio, TX 78268, an exclusive domestic license under United States Letters Patent No. 5,003,050, which matured from application Serial No. 07/489,561 filed 7 March 1990 in the names of Johnathan L. Kiel, and Gerald J. O'Brien for "Diazoluminonelanin and a Method for Preparing Same" and/or United States Letter Patent No. 5,028,541 which matured from application Serial No. 07/56,034 filed 1 June 1987 in the names of Johnathan L. Kiel and Gerald J. O'Brien for "Flow-Through Cell Cultivation System" and/or patent application Serial No. 07/779,694 filed 21 October 1991 in the names of Johnathan L. Kiel, Jill E. Parker, Eric A. Holwitt, and Harvey A. Schwertner for "Biosynthesis of Diazoluminonelanin and Diazoluminonelanin" and/or patent application Serial No. 07/821,525 filed 15 January 1992 in the names of Johnathan L. Kiel, John L. Alls, Richard A. Weber and Jill E. Parker for "Rapid Identification of Environment Bacillus" and/or patent application Serial No. 07/829,015 filed 6 May 1992 in the names of Johnathan L. Kiel, David N. Erwin, David M. Simmons, and Christopher McQueen for "Blood and Tissue Rewarming Device."

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent and/or patent applications may be obtained upon request from the same addressee.

All communications concerning this Notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Air Force Legal Services Agency, AFLSA/JACP, 1900 Half Street, SW., Washington DC 20324-1000, Telephone No. (202) 475-1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-17718 Filed 7-27-92; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army**Office of the Secretary of the Army,
Draft Environmental Impact Statement
for Base Realignment at Aberdeen
Proving Ground, MD**

Dated: July 22, 1992.

AGENCY: Department of Defense, United States Army.**ACTION:** Notice of Availability.

SUMMARY: The recommendation to establish an Army Research Laboratory facility at Aberdeen Proving Ground, Maryland and to realign some Army research and technology functions to the new facility was mandated by Public Law 101-510 (BRAC 91), the Defense Base Closure and Realignment Act of 1990. This document focuses on the environmental and socioeconomic impacts and mitigations associated with the construction of the Army Research Laboratory facility at Aberdeen Proving Ground.

No long-term adverse ecological or environmental health effects are expected due to the construction of the Laboratory facility. The small increase in population, caused by the realignment of research and technical functions to the new Laboratory facility, is expected to have a net positive impact on the local economy. The preferred alternative site for the proposed construction project will not significantly impact environmental resources.

A scoping meeting was held in Aberdeen, Maryland, on January 7, 1992. Public Notices requesting input and comments from the public were issued in the regional area surrounding Aberdeen Proving Ground.

ADDRESSES: The public is encouraged to comment on the draft Environmental Impact Statement. Copies of the draft Environmental Impact Statement can be requested by contacting Mr. John Butler at (410) 962-4937 or by writing to: United States Army Corps of Engineers, Baltimore District, ATTN: CENAB-PL-EM, P.O. Box 1715, Baltimore, Maryland 21203-1715. Written public comments and suggestions received within 45 days of this Notice of Availability will be addressed in the final Environmental Impact Statement.

Lewis D. Walker,

*Deputy Assistant Secretary of the Army
(Environment, Safety & Occupational Health),
OASA (I, L&E).*

[FR Doc. 92-17680 Filed 7-27-92; 8:45 am]

BILLING CODE 3710-08-M

**Environmental Impact Statement to
Assess the Impacts of Disposal of Fort
Benjamin Harrison, IN**

July 22, 1992.

AGENCY: United States Army, DoD.**ACTION:** Notice of intent.

SUMMARY: Public Law 101-510 (BRAC (91)), the Defense Base Closure and Realignment Act of 1990 mandates the closure of Fort Benjamin Harrison, Indiana. The Army is required by law to analyze the environmental and socioeconomic impacts of the disposal of real property excess to the Department of Defense at Fort Benjamin Harrison. An Environmental Impact Statement will be prepared to analyze and document the impacts of disposal.

Alternatives

- a. No Action.
- b. Transfer Property to Other Agencies.
- c. Lease Property.
- d. Sell Property.

Scoping: The public will be notified of the scoping meeting to be held in vicinity of Fort Benjamin Harrison. Exact date, time and location will be distributed via local media. Public notices requesting input and comments from the public will be issued in the regional area surrounding Fort Benjamin Harrison.

ADDRESSES: Written comments may be forwarded to: Commander, Fort Benjamin Harrison, Attention: Director of Installation Support (Colonel Greg Miller), Fort Benjamin Harrison, Indiana 46216-5000.

FOR FURTHER INFORMATION CONTACT: Questions regarding this proposal may be directed to Colonel Greg Miller, (317) 542-5383.

Lewis D. Walker,

*Deputy Assistant Secretary of the Army,
(Environment, Safety & Occupational Health)
OASA (I, L&E).*

[FR Doc. 92-17681 Filed 7-27-92; 8:45 am]

BILLING CODE 3710-08-M

**Proposed Plan Containing the
Environmental Response and
Corrective Actions for Environmental
Restoration and Cleanup of Jefferson
Proving Ground****AGENCY:** U.S. Army, DoD.**ACTION:** Notice of availability.

SUMMARY: The Army announced today the availability of the proposed plan containing the environmental response

and corrective actions required for the environmental restoration and cleanup, with a range of reuse options, for the entire 55,000 acres of Jefferson Proving Ground, Madison, Indiana. This action is in accordance with the Defense Authorization Act for FY 92, Public Law 102-190.

Jefferson Proving Ground will cease operations and realign its mission to Yuma Proving Ground, Arizona, by September 30, 1995.

A public comment period of 60 days begins with publication of this Notice of Availability. Also, as part of the 60-day comment period, a public meeting will be held in 45 days in the Madison, Indiana area.

A final plan is scheduled for submission to Congress in January 1993, as part of the President's fiscal year 1994 budget submission.

A future National Environmental Policy Act (NEPA) analysis will address specific reuse alternatives and their environmental and socioeconomic impacts. The proposed plan can be reviewed at the Jefferson, Ripley and Jennings Counties libraries.

Comments on the proposed plan are acceptable either orally at the public meeting or in writing.

ADDRESSES: Written comments may be forwarded to: Mr. Bob Jameson, U.S. Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001; or by telephone at (703) 274-8157.

Lewis D. Walker,

*Deputy Assistant Secretary of the Army
(Environment, Safety & Occupational Health)
OASA (I, L&E).*

[FR Doc. 92-17682 Filed 7-27-92; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463, announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 17-19 August 1992.

Time: 0900-1700 hours.

Place: Pentagon, Washington, DC.

The Army Science Board Ad Hoc Subgroup reviewing the U.S. Army Materiel Command (AMC) Research, Development and Engineering Centers (RDEC) will meet for initial discussions to plan the review. The Group will discuss how to structure a review of the AMC RDEC's. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C.,

specifically subparagraph (2) and (9) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The matters to be discussed relate solely to the internal personnel rules and practices of the Army, and discloses information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action thereby precluding opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-17719 Filed 7-27-92; 8:45 am]

BILLING CODE 3710-8-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 24 August 1992.

Time: 1000-1130 hours.

Place: Pentagon, Washington, DC.

The members of the ASB Study Group on Longbow for Apache and Comanche will meet with representatives from the Army Materiel Systems Analysis Activity to review Longbow Fire Control Radar Stationary Target Indications. Representatives of the Missile Command will discuss technology and classified parameters of the radar. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified, proprietary, and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-17720 Filed 7-27-92; 8:45 am]

BILLING CODE 3710-8-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of the Meeting: 27 August 1992.

Time: 0900-1600 Hours.

Place: Vienna, VA 22182.

Agenda: The Army Science Board Ad Hoc Subgroup on "Evaluating and Selecting Proposals" will meet to discuss the study terms of reference and plan of action. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695-0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 92-17721 Filed 7-27-92; 8:45 am]

BILLING CODE 3710-8-M

Defense Logistics Agency

Privacy Act of 1974; Amend a Record System

AGENCY: Defense Logistics Agency, DOD.

ACTION: Amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend an existing record system notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective without further notice on August 27, 1992 unless comments are received that would result in a contrary determination.

ADDRESSES: Privacy Act Officer, Administrative Management Branch, Planning and Resource Management Division, Defense Logistics Agency, room 5A120, Cameron Station, Alexandria, VA 22304-6100.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 617-7583.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the *Federal Register* as follows:

50 FR 22897, May 29, 1985 (DOD

Compilation, changes follow)

50 FR 51898, Dec. 20, 1985

51 FR 27443, Jul. 31, 1986

51 FR 30104, Aug. 22, 1986

52 FR 35304, Sep. 18, 1987

52 FR 37495, Oct. 7, 1987

53 FR 04442, Feb. 16, 1988

53 FR 09965, Mar. 28, 1988

53 FR 21511, Jun. 8, 1988

53 FR 26105, Jul. 11, 1988

53 FR 32091, Aug. 23, 1988

53 FR 39129, Oct. 5, 1988

53 FR 44937, Nov. 7, 1988

53 FR 48708, Dec. 2, 1988

54 FR 11997, Mar. 23, 1989

55 FR 21918, May 30, 1990 (Updated

Mailing Addresses)

55 FR 32284, Aug. 8, 1990

55 FR 32947, Aug. 13, 1990

55 FR 34050, Aug. 21, 1990

55 FR 42755, Oct. 23, 1990

55 FR 53178, Dec. 27, 1990

56 FR 5806, Feb. 13, 1991

56 FR 8987, Mar. 4, 1991

56 FR 11207, Mar. 15, 1991

56 FR 19838, Apr. 30, 1991

56 FR 31392, Jul. 10, 1991 (Updated

Index)

56 FR 35852, Jul. 29, 1991

56 FR 52017, Oct. 17, 1991

56 FR 55910, Oct. 30, 1991

56 FR 56065, Oct. 31, 1991

56 FR 65245, Dec. 16, 1991

57 FR 2715, Jan. 23, 1992

57 FR 13718, Apr. 17, 1992

57 FR 13718, Apr. 21, 1992

57 FR 20471, May 13, 1992

57 FR 28490, Jun. 25, 1992

57 FR 29294, Jul. 1, 1992

The amendment is not within the purview of subsection (r) of the Privacy Act which requires the submission of an altered system report. The specific changes to the record system being amended are set forth below, followed by the system notice, as amended, in its entirety.

Dated: July 23, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.11 DMDC

SYSTEM NAME:

Federal Creditor Agency Debt Collection Data Base (52 FR 37495, Oct 7, 1987).

Changes:

* * * * *

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Add a new second paragraph "To the Office of Finance of the U.S. House of Representatives and the Disbursing Office of the U.S. Senate, records of individual indebtedness from this system of records consisting of individual name, Social Security Number and amount, to be used to identify House and Senate members and their employees indebted to the Federal government for the purpose of collecting the debts."

* * * * *

S322.11 DMDC**SYSTEM NAME:**

Federal Creditor Agency Debt Collection Data Base.

SYSTEM LOCATION:

Primary location: W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Decentralized segments: Military and civilian payment and personnel centers of the military services, the Office of Personnel Management, and Federal creditor agencies.

Backup location: Defense Manpower Data Center, 99 Pacific Street, suite 155A, Monterey, CA 93940-2453.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense officers and enlisted personnel, members of reserve and guard components, retired military personnel. All Federal-wide civilian employees and retirees. Individuals identified by Federal creditor agencies as delinquent in repayment of debts owed to the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number, debt principal amount, interest and penalty amount, if any, debt reason, debt status, demographic information such as grade or rank, sex, date of birth, duty and home address, and various dates, identifying the status changes occurring in the debt collection process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Debt Collection Act of 1982 (Pub. L. 97-365); 5 U.S.C. 5514 "Installment Deduction of Indebtedness"; 10 U.S.C. 136; 4 CFR Chapter II "Federal Claims Collection Standards"; 5 CFR 550.1101-1108 "Collection by Offset from Indebted Government Employee"; "Guidelines on the Relationship Between the Privacy Act of 1974 and the Debt Collection Act of 1982", March 30, 1983 (48 FR 15556, April, 1983); the Interagency Agreement for Federal Salary Offset Initiative (Office of Management and Budget, Department of the Treasury, Office of Personnel Management and the Department of Defense, April 1987); and Office of Management and Budget Guidelines (54 FR 52818, June 19, 1989) interpreting the provisions of the Privacy Act (5 U.S.C. 552a) pertaining to computer matching.

PURPOSE(S):

The primary purpose for the establishment of this system of records is to maintain a computer data base permitting computer matching in compliance with the Privacy Act of 1974

(5 U.S.C. 552a) as amended, to assist and implement debt collection efforts by Federal creditor agencies under the Debt Collection Act of 1982 to identify and locate individual debtors.

To increase the efficiency of U.S. Government-wide efforts to collect debts owed the U.S. Government.

To provide a centralized Federal data bank for computer matching of Federal employment records with delinquent debt records furnished by Federal creditor agencies under an Interagency agreement sponsored and monitored by the Department of the Treasury and the Office of Management and Budget.

To identify and locate employees or beneficiaries who are receiving Federal salaries or other benefit payments and indebted to the creditor agency in order to recoup the debt either through voluntary repayment or by administrative or salary offset procedures established by law.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Individual's name, SSN, Federal agency or military service, category of employees, Federal salary or benefit payments, record of debts and current work or home address and any other appropriate demographic data to a Federal creditor agency for the purpose of contacting the debtor to obtain voluntary repayment and, if necessary, to initiate any administrative or salary offset measures to recover the debt.

To the Office of Finance of the U.S. House of Representatives and the Disbursing Office of the U.S. Senate, records of individual indebtedness from this system of records consisting of individual name, Social Security Number and amount, to be used to identify House and Senate members and their employees indebted to the Federal government for the purpose of collecting the debts.

The Defense "Blanket Routine Uses" do not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

Records are stored on magnetic computer tape.

RETRIEVABILITY:

Records are retrieved by social security number and name from a computerized index.

SAFEGUARDS:

Primary location at the W.R. Church Computer Center, Monterey, CA, tapes are stored in a controlled access area; tapes can be physically accessed only by computer center personnel and can

be mounted for processing only if the appropriate security code is provided.

At the backup location in Monterey, CA, tapes are stored in rooms protected with cipher locks, the building is secured after hours, and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Records are erased within six months after each match cycle.

SYSTEM MANAGER(S) AND ADDRESS(ES):

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940-2453.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940-2453.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940-2453.

Written requests for information should contain the full name, social security number, current address and telephone number of the individual requesting information.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations are contained in Defense Logistics Agency Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Federal creditor agencies, the Office of Personnel Management and DoD personnel and finance centers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-17785 Filed 7-28-92; 8:45 am]
BILLING CODE 3810-01-M

Department of the Navy**Navy Affirmative Salvage Claims**

AGENCY: Department of the Navy, DoD.

ACTION: Notice

SUMMARY: The Department of the Navy is authorized by 10 USC 7361-7367 to render salvage services to civilian and

foreign vessels and to be compensated for such services. The rates of compensation were published in 32 CFR Part 754 and amended at 47 FR 6011, Feb. 10, 1982. 32 CFR Part 754 was removed by 51 FR 19830, June 3, 1986, because the underlying Navy instruction was canceled. That instruction has been replaced by Naval Sea Systems Command Instruction (NAVSEAINST) 4740.8. NAVSEAINST 4740.8 will shortly be replaced by NAVSEAINST 4740.8A which will contain the revised rates for ships and craft set forth below. Some of the rates have increased and some have decreased since the last publication of rates at 53 FR 4700, Feb. 17, 1988.

EFFECTIVE DATE: February 1, 1992.

FOR FURTHER INFORMATION CONTACT: William L. Peck, Assistant Supervisor of Salvage (Admiralty), Naval Sea Systems Command (Code 00CL), Washington, DC 20362-5101. Telephone number (703) 607-2753.

SUPPLEMENTARY INFORMATION: The Navy does not maintain salvage facilities beyond its own requirements. It is authorized by 10 USC 7361-7367 to provide salvage facilities for private vessels in appropriate circumstances. This authority does not obligate the Navy to maintain excess salvage facilities, nor to render salvage assistance.

It is the policy of the Department of the Navy, however, to assist in the salvage of privately owned vessels when such assistance is required and requested, where adequate privately owned salvage facilities do not exist or are not readily available, and where Navy salvage assets are reasonably available.

Charges for Navy salvage services are independent of the value of the object of the operation and of the operation's success. The user will be billed the full amount, regardless of whether the property is salvaged or lost and irrespective of the ultimate success or failure of the salvage operation.

The Navy adopts the per diem rates below as a matter of policy, and does not waive nor surrender the right to submit a salvage bonus claim. Per diem billing is made on the express condition that the bills be paid promptly and in full. Until receipt of payment the Navy reserves all rights, including the right to withdraw the per diem billing without notice and to present a claim under traditional principles of admiralty law.

The following rates apply for each day of 24 hours or any part thereof, for salvage services rendered by the Navy:

(1) Ships and craft	Rate
Salvage ship (ATS)	\$33,800
Salvage ship (ARS)	48,700
Fleet tug (T-ATF 166 class)	
with salvage crew	17,100
without salvage crew	14,600
Large tug	6,800
Medium tug	5,400
Floating crane (200 ton) (YD)	10,100
Diving tender	4,100

Rates for other types of vessels will be established on a case-by-case basis, normally by analogy to the least expensive type of scheduled vessel capable of performing the salvage assistance rendered. Per diem charges normally begin when the assisting vessel leaves her berth or diverts from her voyage, and end when she arrives back at her berth or regains her pre-diversion position upon completion of the salvage operation.

(2) *Salvage and oil spill response equipment:* Per diem rates for portable salvage equipment, oil and hazardous substance spill response equipment, and special equipment, are based on equivalent commercial rates. If commercial rates are not available, charges will be based upon the schedule of rental rates published at 55 FR 14106 for Rental of Navy Salvage Equipment. If not so scheduled, they will be established on a case-by-case basis.

(3) In addition to the above rates, charges may include out-of-pocket costs for a salvage operation, including but not limited to:

- (a) Consumable materials procured for the operation;
- (b) Equipment lost, damaged, destroyed or expended in connection with the operation;
- (c) Repairs to ships and craft damaged during or in connection with the salvage operation;
- (d) Navy Industrial Fund charges;
- (e) Travel and personnel per diem costs;
- (f) Civil Service or contractor employee overtime paid by or charged to the Navy;
- (g) Transportation of Things (TOT);
- (h) Rental of commercial equipment; and
- (i) Other specific procurements and direct charges, including contractor charges and wages and expenses of additional personnel required by the operation.

Fuel, lube oil, water and other consumables expended by Navy vessels in the ordinary course of an operation are included in the per diem charges for those vessels. A charge will be made, however, to recover the cost of extraordinary usage of such

consumables in connection with the operation.

Dated: July 15, 1992.

Wayne T. Baucino

*Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.*

[FR Doc. 92-17745 Filed 7-27-92; 8:45 am]

BILLING CODE 3810-AE-F

Rental of Navy Salvage and Oil Spill Response Equipment

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy is authorized by 10 USC 7361-7367 to rent its salvage equipment to civilian companies in appropriate circumstances. Naval Sea Systems Command Instruction (NAVSEAINST) 4740.8 outlines the Navy's policy and procedures for rentals. Pursuant to that instruction, certain daily rental rates have been established and are published below.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: William L. Peck, Assistant Supervisor of Salvage (Admiralty), Naval Sea Systems Command (Code 00CL), Washington, DC 20362-5101. Telephone (703) 607-2753.

SUPPLEMENTARY INFORMATION: The Navy does not maintain salvage facilities beyond its own requirements. It is authorized by 10 USC 7361-7367 to provide salvage facilities and assistance for private vessels in appropriate circumstances. This authority does not obligate the United States or the Department of the Navy to maintain excess salvage facilities, nor to render salvage assistance.

It is the policy of the Department of the Navy, however, to assist in the salvage of privately owned vessels when such assistance is requested and is required by the circumstances, and where adequate privately owned salvage facilities do not exist or are not readily available.

Charges for salvage assistance by the Navy are independent of both the value of object of the operation and the operation's success. The user will be billed the full amount of daily rental charges regardless of whether the property is salvaged or lost and irrespective of the ultimate success or failure of the salvage operation.

The Navy adopts the per diem rates below as a matter of policy, and does not waive nor surrender the right to claim salvage. Per diem billing is made on the express condition that the bill be paid promptly and in full. Until receipt

of full payment the Navy reserves the right to withdraw the per diem billing without notice and to present a claim for salvage under traditional principles of admiralty law, including a claim for environmental salvage.

Per diem rates charged for salvage services rendered by Navy vessels are published elsewhere in this issue of the *Federal Register*. For the rental of salvage equipment by the Navy the following rates apply for each day of 24 hours or any part thereof:

Equipment type	Rate
Class V skimmer vessel.....	\$2,400
Class XI skimmer unit.....	2,400
24-foot tow boat.....	1,901
23-foot inflatable boat with motor.....	720
19-foot inflatable boat with motor.....	720
17-foot inflatable boat with motor.....	200
18-foot boom tending boat.....	144
Oil storage bladder.....	355
40-foot command trailer.....	520
Command van.....	520
Workshop van.....	400
Rigging van.....	400
Cleaning van.....	66
Oil containment boom (per 55-foot section).....	129
Boom mooring system.....	47
8-ton portable crane.....	617
6-inch submersible hydraulic pump.....	900
Mod 6 hydraulic power unit.....	900
Mod 7 hydraulic power unit.....	300
Auger pump.....	185
Satellite communications system.....	393

The above charges apply from the time the equipment begins transportation from the site(s) where it is issued until it arrives back at that site or at another location designated by the Navy. The renter will also be charged for all necessary repairs, including work necessary to refurbish the equipment to ready-for-issue condition, normal wear and tear excepted, and for government-provided transportation to and from the site of the operation. The renter will be charged replacement cost for all equipment lost or damaged beyond economical repair.

Dated: July 15, 1992.

Wayne T. Baucino
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
 [FR Doc. 92-17744 Filed 7-27-92; 8:45 am]
 BILLING CODE 3810AE-F

Privacy Act of 1974; Amend Record Systems

AGENCY: Department of the Navy, DOD.
ACTION: Amend record systems.

SUMMARY: The Department of the Navy proposes to amend two existing systems of records to its inventory of record

systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendments will be effective on August 27, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn Aitken at (703) 614-2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, were published in the *Federal Register* as follows:

- 51 FR 12908, Apr. 16, 1986
- 51 FR 18086, May 16, 1986 (DON Compilation changes follow)
- 51 FR 19884, Jun. 3, 1986
- 51 FR 30377, Aug. 26, 1986
- 51 FR 30393, Aug. 26, 1986
- 51 FR 45931, Dec. 23, 1986
- 52 FR 2147, Jan. 20, 1987
- 52 FR 2149, Jan. 20, 1987
- 52 FR 8500, Mar. 18, 1987
- 52 FR 15530, Apr. 29, 1987
- 52 FR 22671, Jun. 15, 1987
- 52 FR 45846, Dec. 2, 1987
- 53 FR 17240, May 16, 1988
- 53 FR 21512, Jun. 8, 1988
- 53 FR 25363, Jul. 6, 1988
- 53 FR 39499, Oct. 7, 1988
- 53 FR 41224, Oct. 20, 1988
- 54 FR 8322, Feb. 28, 1989
- 54 FR 14378, Apr. 11, 1989
- 54 FR 32682, Aug. 9, 1989
- 54 FR 40160, Sep. 29, 1989
- 54 FR 41495, Oct. 10, 1989
- 54 FR 43453, Oct. 25, 1989
- 54 FR 45781, Oct. 31, 1989
- 54 FR 48131, Nov. 21, 1989
- 54 FR 51784, Dec. 18, 1989
- 54 FR 52976, Dec. 26, 1989
- 55 FR 21910, May 30, 1990 (Updated Mailing Addresses)
- 55 FR 37930, Sep. 14, 1990
- 55 FR 42758, Oct. 23, 1990
- 55 FR 47508, Nov. 14, 1990
- 55 FR 48678, Nov. 21, 1990
- 55 FR 53167, Dec. 27, 1991
- 56 FR 424, Jan. 4, 1991
- 56 FR 12721, Mar. 27, 1991
- 56 FR 27503, Jun. 14, 1991
- 55 FR 28144, Jun. 19, 1991
- 56 FR 31394, Jul. 10, 1991 (DOD Updated Indexes)
- 56 FR 40877, Aug. 16, 1991
- 56 FR 46167, Sep. 10, 1991
- 56 FR 59217, Nov. 25, 1991
- 56 FR 63503, Dec. 4, 1991
- 57 FR 2719, Jan. 23, 1992
- 57 FR 2726, Jan. 23, 1992

- 57 FR 2896, Jan. 24, 1992
- 57 FR 5430, Feb. 14, 1992
- 57 FR 9246, Mar. 17, 1992
- 57 FR 12914, Apr. 14, 1992
- 57 FR 14698, Apr. 22, 1992
- 57 FR 18472, Apr. 30, 1992
- 57 FR 26422, Jun. 10, 1992
- 57 FR 26821, Jun. 16, 1992
- 57 FR 28499, Jun. 25, 1992
- 57 FR 28502, Jun. 25, 1992

The amendments are not within the purview of subsection (r) of the Privacy Act of 1974 (5 U.S.C. 552a), as amended, which requires the submission of altered systems reports. The specific changes to the systems of records are set forth below followed by the systems of records notices published in their entirety, as amended.

Dated: July 10, 1992.

L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

N04060-1

System name:

Navy and Marine Corps Exchange and Commissary Sales Control and Security Files, (51 FR 18132, May 16, 1986).

Changes:

System name:

Delete "and Commissary".

System location:

Delete entry and replace with "Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

Categories of individuals covered by the system:

In lines two and three, delete "and Commissaries".

* * * * *

Authority for maintenance of the system:

At end of entry, add "and Executive Order 9397."

Purpose(s):

Delete entry and replace with "To control sales, prevent and detect abuse of privileges, and determine responsibility when there are violations of regulations or criminal statutes. Information may be furnished to the Naval Investigative Service Command or command legal personnel for prosecution of military offenses and other administrative actions."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete paragraph two.

Storage:

Delete entry and replace with "Automated records may be stored on magnetic media. Manual records may be stored in file folders or microform, in file cabinets or other containers."

Retrievability:

Delete entry and replace with "Name and Social Security Number."

* * * * *

Retention and disposal:

Delete entry and replace with "Records are retained for six years and then destroyed."

System manager(s) and address:

Delete entry and replace with "Policy Official: Commander, Navy Exchange Service Command, Naval Station, New York, Staten Island, NY 10305-5097. The system manager is the Commanding Officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices."

Notification procedure:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the naval activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of records notices."

Record access procedure:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the commanding officer of the naval activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of records notices."

Contesting record procedures:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

Record source categories:

Delete entry and replace with "Individual; investigators; witnesses; and activity sales and contract records."

Exemptions claimed for the system:

Delete entry and replace with "Parts of this system may be exempt under 5 U.S.C. 552a(k)(2), as applicable.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information, contact the system manager."

* * * * *

N04060-1

SYSTEM NAME:

Navy and Marine Corps Exchange Sales Control and Security Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customers and employees at Navy and Marine Corps Exchanges, including individuals making large dollar volume purchases and contract purchases; individuals having requested adjustments or made claims; individuals having previously passed bad checks or been apprehended for shoplifting.

CATEGORIES OF RECORDS IN THE SYSTEM:

Sales and contract records; lists, logs, or card records of individuals; claims and adjustment records; large volume purchase records; mail orders; customer special order records; customer list; correspondence; and abuser notification letters. Records of complaints and investigations of regulatory and criminal violations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations and Executive Order 9397.

PURPOSE(S):

To control sales, prevent and detect abuse of privileges, and determine responsibility when there are violations of regulations or criminal statutes. Information may be furnished to the Naval Investigative Service Command or command legal personnel for prosecution of military offenses and other administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Federal Bureau of Investigation or foreign organizations for further investigation or prosecution.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records may be stored on magnetic media. Manual records may be stored in file folders or microform, in file cabinets or other containers.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Access is provided on a need-to-know basis, only. Automated records are located in restricted areas accessible only to authorized persons. Manual records and computer printouts are maintained in locked or controlled access areas.

RETENTION AND DISPOSAL:

Records are retained for six years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

The system manager is the Commanding Officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the naval activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of records notices.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves should address written inquiries to the commanding officer of the naval activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of records notices.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual; investigations; witnesses; and activity sales and contract records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(k)(2), as applicable.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information, contact the system manager.

N04066-1

System name:

Bad Checks and Indebtedness Lists, (52 FR 45850, December 2, 1987).

Changes:

* * * * *

System location

Delete entry and replace with "Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097 (for all Navy exchanges)."

Categories of individuals covered by the system:

In line 11, delete the phrase "or service number".

* * * * *

Authority for maintenance of the system:

At end of entry add "80 Stat 308 and 88 Stat 393, Federal Claims Collection Act of 1966 (Pub. L. 89-508) and Debt Collection Act of 1982 (Pub. L. 97-365); and Executive Order 9297."

Purpose(s):

Delete entry and replace with "To maintain an automated tracking and accounting system for individuals indebted to the Department of the Navy. Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

At beginning of entry add "To a commercial credit reporting agency for

the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

To a debt collection agency for the purpose of collection services to recover indebtedness owed to the Department of the Navy.

To the Internal Revenue Service (IRS) to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by Navy against the tax payer pursuant to 26 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3217 and 3718.

Note: Rediscovery of a mailing address from the IRS may be made only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the IRS will not be used or shared for any other Navy purpose or disclosed to another Federal, state, or local agency which seeks to locate the same individual for its own debt collection purpose."

* * * * *

Storage:

At end of entry add "and floppy and hard disks."

* * * * *

Retention and disposal:

Delete the word "six" and replace with "ten".

System manager(s) and address:

Delete entry and replace with "Policy Official: Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

Record Holder: Director, Treasury Division (TD), Naval Station New York, Staten Island, NY 10305-5097 (for Navy exchanges)."

Notification procedure:

Delete entry and replace with "Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

In the initial inquiry, the requester must provide full name, Social Security Number, and the activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of

identity containing the requester's signature."

Record access procedures:

Delete entry and replace with "Individuals seeking access to records about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

In the initial inquiry, the requester must provide full name, Social Security Number, and the activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature."

Contesting record procedures:

Delete entry and replace with "The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager."

Record source categories:

Delete entry and replace with "The individual; the bank involved; activity sales records; Internal Revenue Service; credit bureaus; and the Defense Manpower Data Center."

* * * * *

N04066-1

SYSTEM NAME:

Bad Checks and Indebtedness Lists.

SYSTEM LOCATION:

Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097 (for all Navy exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patrons of Navy exchanges who have passed bad checks; recruits who have open accounts with Navy exchanges; patrons who have made C.O.D. mail order transactions and those patrons who make authorized charge or credit purchases where their accounts are maintained on the basis of an identifying particular such as name and/or Social Security Number.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bad Check System (including: Returned Check Ledger; Returned Check Report; copies of returned checks; bank advice relative to the returned check(s);

correspondence relative to attempt by the Navy exchange to locate the patron and/or obtain payment; a printed report of names of those persons who have not made full restitution promptly, or who have had one or more checks returned through their own fault or negligence); Accounts Receivable Ledger, detailed by patron; COD Sales Ledger.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 6011; 80 Stat 308 and 88 Stat 393, Federal Claims Collection Act of 1966 (Pub. L. 89-508) and Debt Collection Act of 1982 (Pub. L. 97-365); and Executive Order 9397.

PURPOSE(S):

To maintain an automated tracking and accounting system for individuals indebted to the Department of the Navy. Records in this system are subject to use in approved computer matching programs authorized under the Privacy Act of 1974, as amended, for debt collection purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To a commercial credit reporting agency for the purpose of either adding to a credit history file or obtaining a credit history file for use in the administration of debt collection.

To a debt collection agency for the purpose of collection services to recover indebtedness owed to the Department of the Navy.

To the Internal Revenue Service (IRS) to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a Federal claim by Navy against the tax payer pursuant to 28 U.S.C. 6103(m)(2) and in accordance with 31 U.S.C. 3711, 3217, and 3718.

Note: Redislosure of a mailing address from the IRS may be made only for the purpose of debt collection, including to a debt collection agency in order to facilitate the collection or compromise of a Federal claim under the Debt Collection Act of 1982, except that a mailing address to a consumer reporting agency is for the limited purpose of obtaining a commercial credit report on the particular taxpayer. Any such address information obtained from the IRS will not be used or shared for any other Navy purpose or disclosed to another Federal, state, or local agency which seeks to locate the same individual for its own debt collection purpose.

The "Blanket Routine Uses" that appear at the beginning of the Department of the Navy's compilation of systems notices also apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act of 1966 (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The disclosure is limited to information necessary to establish the identity of the individual, including name and taxpayer identification number (SSN).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The media in which these records are maintained vary, but include: magnetic tape; printed reports; file folders; file cards, and floppy and hard disks.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Locked file cabinets; supervised office spaces; supervised computer tape library which is accessible only through the computer center (entry to the computer center is controlled by a combination lock known by authorized personnel only).

RETENTION AND DISPOSAL:

Records are kept for ten years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

Record Holder: Director, Treasury Division (TD), Naval Station New York, Staten Island, NY 10305-5097 (for Navy exchanges).

NOTIFICATION PROCEDURE:

Individual's seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

In the initial inquiry, the requester must provide full name, Social Security Number, and the activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves should address written inquiries to the Commander, Navy Exchange Service Command, Naval Station New York, Staten Island, NY 10305-5097.

In the initial inquiry, the requester must provide full name, Social Security Number, and the activity where they had their dealings. A list of other offices the requester may visit will be provided after initial contact is made at the office listed above. At the time of a personal visit, requesters must provide proof of identity containing the requester's signature.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual; the bank involved; activity sales records; Internal Revenue Service; credit bureaus; and the Defense Manpower Data Center.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 92-16877 Filed 7-28-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before August 27, 1992.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok; Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, N.W., room 3208, New Executive Office Building, Washington DC 20503. Requests for copies of the proposed information collection requests should

be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: July 22, 1992.

Cary Green,

Director, Information Resources Management Service.

Office of Bilingual Education and Minority Language Affairs

Type of Review: Revisions.

Title: Application and Annual Survey of Bilingual Education SEA Program.

Frequency: Annually.

Affected Public: State or local government.

Reporting Burden:

Responses: 57.

Burden Hours: 3,420.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by State educational agencies to apply funding under the Bilingual Education SEA Program. It will also be used to collect, aggregate, analyze, and report data and information on their limited English proficient students. The Department will use the information to make grant awards.

Office of Vocational and Adult Education

Type of Review: New.

Title: Financial Status Report for the State-administered Vocational Education Programs.

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden:

Responses: 53.

Burden Hours: 2,730.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This data will be used to determine State's compliance with the Carl D. Perkins Vocational and Applied Technology Education Act of 1990. In addition, it will be used to close out each year's grant and to provide information for the Secretary's report to Congress on the status of vocational education.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Performance Report for the Women's Educational Equity Act Program.

Frequency: Annually.

Affected Public: Individuals or households; state or local governments; non-profit institutions; small businesses or organizations.

Reporting Burden:

Responses: 30.

Burden Hours: 90.

Recordkeeping Burden:

Recordkeepers: 30.

Burden Hours: 6.

Abstract: This report is used by grantees who have participated in the Women's Educational Equity Act Program. The Department uses this information to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Office of Postsecondary Education

Type of Review: Revision.

Title: Guarantee Agency Monthly Claims and Collections Report.

Frequency: Monthly.

Affected Public: State or local governments; non-profit institutions.

Reporting Burden:

Responses: 672.

Burden Hours: 2,016.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form is used by guarantee agencies to request payments of reinsurance for default, bankruptcy,

death, and disability claims paid to lenders and for costs incurred for supplemental preclaims assistance. The Department will use the information to reimburse agencies for claims paid to lenders and overpayment refunds to borrowers in connection with the IRS income tax refund offset program.

Office of Postsecondary Education

Type of Review: Extension.

Title: Physician's Certification of Borrower's Total and Permanent Disability.

Frequency: One time.

Affected Public: Individuals or households.

Reporting Burden:

Responses: 2,652.

Burden Hours: 1,326.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form is used by lenders to obtain information from a borrower's physician to support a disability claim to the Department. The Department uses the information to show the aggregate amount of disability claims under the Federal Student Assistance Programs.

Office of Educational Research and Improvement

Type of Review: New.

Title: Fast Response Survey System—National Assessment of Vocational Education Teacher Survey.

Frequency: One time.

Affected Public: Individuals or households.

Reporting Burden:

Responses: 2,000.

Burden Hours: 1,000.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This survey will be used to provide descriptive information on vocational education and academic courses in public secondary schools. The Department will use the information to report to Congress.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Early Estimate Portion of the Private Schools Survey.

Frequency: Annually.

Affected Public: Small businesses or organizations.

Reporting Burden:

Responses: 1,200.

Burden Hours: 600.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This collection will be used to sample the private school universe to produce early estimates of the universe characteristics. The Department will use the information to build an NCES universe frame of private schools that is of sufficient accuracy and completeness to serve as a sampling frame for NCES surveys of private schools. The Department will also use the survey to generate annual data on the total number of private schools, teachers, and students.

[FR Doc. 92-17712 Filed 7-27-92; 8:45 am]

BILLING CODE 4000-1-M

[CFDA No.: 84.073C]

**National Diffusion Network Program—
New State Facilitator Project Notice
inviting applications for a new award
for fiscal year (FY) 1993**

Purpose of Program: To provide a grant to disseminate exemplary education programs within Ohio. This program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by making current information about exemplary programs available to educators.

Note: Under the State Facilitator Projects program, the Secretary makes an award in each State. In FY 1992, the Secretary made new awards for a State Facilitator project in each State except Ohio.

Eligible Applicants: Any public or nonprofit private agency, organization, or institution located in Ohio may apply for the State Facilitator award.

Deadline for Transmittal of Applications: September 8, 1992.

Deadline for Intergovernmental Review: November 6, 1992.

Applications Available: July 30, 1992.

Available Funds: The Administration estimates that \$208,000 will be available for this project for FY 1993. However, the actual level of funding is contingent upon final congressional action.

Estimated Range of Award: \$158,500-208,000.

Estimated Average Size of Award: \$183,000.

Estimated Number of Awards: One.

Note. The Department is not bound by any estimate in this notice.

Project Period. Up to 42 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; (b) the regulations under 34 CFR

part 98 (Student Rights in Research, Experimental Activities, and Testing); and (c) the regulations for this program in 34 CFR parts 785 and 788.

For Applications or Information Contact: Ms. Helen O'Leary, U.S. Department of Education, 555 New Jersey Avenue, NW., room 510, Washington, DC 20208-5645. Telephone: (202) 219-2139. 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. 2962.

Dated: July 22, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92-17711 Filed 7-27-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for the Proposed Tampa Electric Coal-Fired Integrated Gasification Combined Cycle Project

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) to assess the environmental effects of the construction and operation of the proposed coal-fired Integrated Gasification Combined Cycle (IGCC) power plant and associated transmission lines at a Tampa Electric Company (TECO) site in Polk County, Florida, and to conduct a public scoping meeting.

SUMMARY: DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed construction and operation of a project proposed by TECO. The Region IV Office of the U.S. Environmental Protection Agency (EPA) has requested "Cooperating Agency" status because of their responsibilities pursuant to the Clean Water Act and the likelihood that the proposed project would require a National Pollutant Discharge Elimination System (NPDES) permit.

The proposed project involves the construction and operation of a new coal-fired nominal 260-megawatt electric (MWe) (approximately 1900 tons per day) IGCC power plant and associated transmission lines in Polk County,

Florida. TECO is the utility servicing the area. DOE is proposing to provide cost-shared financial assistance for the project. However, no EPA financing is involved in the project.

Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500-1508), and the DOE regulations for compliance with NEPA (57 FR 15122, April 24, 1992). The purpose of this notice is to invite public participation in the process that DOE will follow to comply with NEPA and to solicit public comments on the proposed scope and content of the EIS.

INVITATION TO COMMENT AND DATES: To ensure that the full range of issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS will be considered in preparing the draft EIS and should be postmarked by Thursday, August 27, 1992. Written comments postmarked after that date will be considered to the degree practicable.

DOE will also hold a public scoping meeting at which agencies, organizations, and the general public are invited to present oral comments or suggestions with regard to the range of actions, alternatives, and impacts to be considered in the EIS. The location, date, and time for the scoping meeting are provided in the section of this notice entitled Scoping Meeting. Written and oral comments will be given equal weight and will be considered in determining the scope of the draft EIS. When the draft EIS is completed, its availability will be announced in the *Federal Register*, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS. Requests for copies of the draft and/or final EIS, or questions concerning the project, should be sent to Mr. Bruce J. Buvinger at the address noted below.

ADDRESSES: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meeting, or questions concerning the project, should be directed to: Mr. Bruce J. Buvinger, Environmental Specialist, U.S. Department of Energy, Morgantown Energy Technology Center (METC), P.O. Box 880, Morgantown, WV 26507-0880, telephone: (304) 291-4379. Envelopes should be labeled "Scoping for TECO EIS."

FOR FURTHER INFORMATION CONTACT: For general information on the EIS

process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Tel. (202) 586-4600 or (800) 472-2756.

SUPPLEMENTARY INFORMATION:

Background and Need for the Proposed Action

Under terms of Public Law No. 100-446, Congress provided approximately \$575 million to DOE to support the construction and operation of demonstration facilities selected for cost-shared financial assistance as part of DOE's Clean Coal Technology (CCT) Demonstration Program. The CCT projects cover a broad spectrum of technologies having the following in common:

- (1) All are intended to increase the use of coal in an environmentally acceptable manner, and
- (2) All are ready to be proven at the demonstration scale.

On May 1, 1989, DOE issued Program Opportunity Notice (PON) Number DE-PSO1-89FE61825 for Round III of the CCT program, soliciting proposals to conduct cost-shared projects to demonstrate innovative, energy efficient, economically competitive technologies. These technologies must be capable of: (1) Achieving significant reductions in the emissions of sulfur dioxide and/or the oxides of nitrogen from existing facilities to minimize environmental impacts such as transboundary and interstate pollution and/or (2) providing for future energy needs in an environmentally acceptable manner. The PON provided that candidate technologies must be capable of either retrofitting or repowering existing facilities. Such existing facilities currently may be designed to use any fuel (e.g., coal, oil, gas, etc.) and may be either stationary (e.g., power plants) or mobile (e.g., transportation applications). The demonstration projects, however, can be at new facilities, provided the technology is capable of retrofitting or repowering applications. In response to the solicitation, 48 proposals were received.

From these 48 proposals, thirteen projects were selected by DOE for negotiation in December 1989, including a project proposed by CRSS Capital Inc., and TECO Power Services Corp., known as the Air-Blown IGCC Demonstration Project. After selection, CRSS Capital and TECO formed a partnership entity called Clean Power Cogeneration, Inc. (CPC). At that time, the proposed project site was the City of Tallahassee, Florida's, Arvah B. Hopkins power

station. DOE published a Federal Register NOI for the CPC project on March 7, 1991 (56 FR 9691). However, uncertainties regarding the project resulted in the publication of a notice of postponement of the scoping meeting (April 26, 1991; 56 FR 19345).

In September, 1991, the site of the proposed project was relocated to Polk County, Florida. Additionally, the CPC Limited Partnership was restructured. CRSS Capital has ceased its participation in the project, and TECO has assumed all of CRSS Capital's previous obligations.

TECO has requested financial assistance from DOE for the design, construction, and demonstration of an approximately 1900 tons-per-day (nominal 280 MWe) IGCC plant. The proposed project would occupy about one-third of the 4348-acre site in west-central Florida, in the southwestern corner of Polk County, approximately 28 miles southeast of Tampa. Much of the site and surrounding region in this part of Florida has been used for phosphate mining, which is still continuing in this area. The proposed IGCC project would be fueled with medium- to high-sulfur content eastern bituminous coal to produce electric power for the utility grid. Cost, environmental, and technical data from the project would be developed for use by the utility industry in evaluating this technology as a commercially viable power generation alternative. After the anticipated 24-month Federally-assisted demonstration period of operation, TECO intends to continue operating the plant commercially to meet customer needs for power.

Proposed Action

The proposed Federal action is for DOE to provide cost-shared financial assistance to TECO for the construction and operation of the IGCC Project. The objective of the project is to demonstrate the integration of technologically advanced subsystems, including a gasifier, gas turbine, steam boiler/turbine, and a hot gas cleanup system, to produce power in an efficient, economical, and environmentally sound manner. In addition, TECO would install a cold gas cleanup system which could be operated in parallel with the hot gas cleanup system. DOE will not share in costs associated with the cold gas cleanup system. The estimated cost-shared portion of the proposed demonstration project is approximately \$242 million, of which DOE's share would be 50 percent. The total estimated cost for TECO's entire project, including aspects associated with cold gas cleanup design, construction and

operation, is \$640 million. The project would last approximately 84 months, including design, construction, and demonstration. Construction would commence in January 1994; however, no DOE funds would be provided for construction until the NEPA process has been completed. Operation of the project during the anticipated 24-month demonstration period would provide the information and experience needed for future applications and commercialization of the IGCC technology. Once DOE's involvement is completed, TECO intends to continue operating the plant.

The TECO site is located in southwestern Polk County, Florida, about 17 miles south of the City of Lakeland, 11 miles south of the City of Mulberry, 11 miles west of Fort Meade, and 13 miles southwest of the City of Bartow. The site consists of 4,348 acres, and is bounded by the Hillsborough County line along the western boundary; Fort Green Road (County Road 663) on the east; portions of County Road 630, Bethlehem Road, and Albritton Road on the north; and State Road 674 and several phosphate mine settling ponds on the south. State Road 37 bisects the site, running in a southwest-northeast direction. In general, lands surrounding the site and in the region have been used for previous and ongoing surface phosphate mining operations. The portion of the property to the east of State Road 37 consists primarily of unreclaimed land from previous phosphate mines. The areas west of State Road 37 is currently being mined for phosphate, and these operations are scheduled to continue into 1994.

The proposed coal-fired IGCC Project would occupy approximately one-third of the existing 4,348 acre site and would include the following facilities:

- A handling system to receive, store, crush, and convey coal.
- A gasifier that converts solid coal into coal gas to be used as a fuel in a combustion (gas) turbine.
- An air separation unit which produces 95% pure oxygen to use in the gasifier.
- A Hot Gas Cleanup (HGCU) System that will remove sulfur from the coal gas at high temperatures.
- A parallel Cold Gas Cleanup (CGCU) System that will remove sulfur from the coal gas at lower temperatures.
- A combustion turbine to burn the clean coal gas and generate electricity.
- A Heat Recovery Steam Generator (HRSG) to make steam.
- A steam turbine that generates electricity from steam.

- A stack to handle exhaust gases produced by combustion of the coal gas.

The proposed project would require the construction of two short transmission lines to tie into TECO's existing 230 kilovolt (kV) system. A northern transmission line corridor would extend about 5 miles north of the site, running through rural and phosphate mining areas. An eastern transmission line corridor would be approximately one mile long and would lie within the proposed site.

Alternatives

Under its authority pursuant to Public Law No. 100-446, DOE is presented with only two alternatives: (1) To cooperatively fund the proposed project; and (2) to decline to fund it (the "no action" alternative). In the latter case, the project would not contribute to the objective of the CCT program, which is to make available to the U.S. energy marketplace a number of advanced, more efficient, economically feasible, and environmentally acceptable, coal technologies. The facility probably would not be constructed and operated; therefore, neither potential environmental impacts related to facility construction and operation, nor potential environmental benefits resulting from commercialization of the technology, would occur.

DOE acknowledges the obligation to examine reasonable alternatives which are beyond its immediate authority to implement, but which could also meet the objectives of the CCT Program. DOE is requesting public comment on reasonable alternatives to the TECO IGCC Demonstration Project.

A Final Programmatic Environmental Impact Statement (PEIS) for the CCT Program was issued by DOE in November 1989 (DOE/EIS-0146). Two alternatives were evaluated in the PEIS:

(1) The "no action" alternative, which assumed that the CCT Program was not continued and that conventional coal-fired technologies with flue gas desulfurization and oxides of nitrogen controls to meet New Source Performance Standards would continue to be used; and

(2) The proposed action, which assumed that CCT projects were selected and funded, and that successfully demonstrated technologies would undergo widespread commercialization by the year 2010.

Identification of Environmental Issues

The following issues associated with the construction and operation of the proposed TECO Project will be considered in detail by DOE during its evaluation. This list is neither intended

to be all inclusive, nor is it a predetermination of potential impacts. Additions to or deletions from this list may occur as a result of the scoping process.

(1) *Air Quality*: The effects of air emissions within the region surrounding the site.

(2) *Water Resources and Water Quality*: The qualitative and quantitative effects on water resources and other water users in the region.

(3) *Floodplains*: The 100-year floodplain for the pre-mining condition has been documented by the Federal Emergency Management Agency. The vast majority of the floodplain areas on-site have been mined and generally are not longer connected to the stream drainage basins. The main plant site area would be developed at elevations well above the 100-year flood stage. After development and reclamation of the site and project construction, no facilities will be located in areas subject to the 100-year flood.

(4) *Wetlands*: The majority of the site and adjacent properties have been disturbed through past and current mining operations. The site would be reclaimed in accordance with Florida Department of Natural Resources requirements to restore equivalent acreages of wetland habitat that existed prior to mining. If required, formal wetland jurisdictional determinations by both state and federal agencies would be conducted on-site for wetland areas which may be affected by the project.

(5) *Socioeconomics*: Potential bearing on communities that might be affected by the project.

(6) *Land Use*: The potential consequences to land, utilities, transportation routes, and traffic patterns resulting from the project.

(7) *Solid Waste*: The environmental effects of generation, treatment, transport, storage, and disposal of solid wastes.

(8) *Biological Resources*: There are several federally endangered, threatened, or candidate species which are either present or potential present on the site. Potential disturbance or destruction of species, including the potential effects on threatened or endangered species of flora and fauna will be evaluated.

(9) *Cultural Resources*: Potential effects on historical, archaeological, scientific, or culturally important sites.

(10) *Cumulative Impacts*: CEQ NEPA regulations require that the EIS evaluate the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what

agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Cumulative impacts will be evaluated within the EIS for all important issues in the vicinity of the site. DOE currently is aware of several energy-related facilities proposed for the vicinity of the TECO project, including TECO's plans for additional capacity at the site of the proposed project.

Issues that are significant will be addressed in detail; issues that are not significant will be discussed in less detail, or as appropriate to clarify and distinguish among alternatives.

NEPA and the Scoping Process

DOE will comply with the NEPA process as outlined in the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR part 1500-1508) and DOE's regulations for compliance with NEPA (57 FR 15122, April 24, 1992).

Scoping, which is an integral part of the NEPA process, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume time and effort; (3) the draft EIS is thorough and balanced; and (4) delays occasioned by an inadequate draft EIS are avoided (40 CFR 1501.7). DOE's NEPA Guidelines require that the scoping process commence as soon as practicable after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. The scope of issues to be addressed in a Draft EIS will be determined, in part, from written comments submitted by mail, and comments presented orally or in writing at public scoping meetings (see below). The results of the scoping process will be incorporated into a document called an Implementation Plan (IP), which provides guidance for the preparation of an EIS.

The above preliminary identification of reasonable alternatives and environmental issues is not meant to be exhaustive or final. DOE identified the reasonable alternatives and potential environmental issues shown above based on its experience with similar subjects that have been raised for other comparable DOE projects. DOE considers the scoping process to be open and dynamic in the sense that alternatives other than those given

above may warrant examination, and new matters may be identified for potential evaluation. The scoping process will involve all interested agencies (Federal, State, County, and local), groups, and individual members of the public. Interested parties are invited to participate in the scoping process by providing comments on both the alternatives and the issues to be addressed in the EIS. DOE will consider all comments in preparing the IP, which will specify the reasonable alternatives, identify the significant environmental issues to be analyzed in depth, and eliminate from detailed study those alternatives and environmental issues that are not significant or pertinent. When complete, the IP will be available for public review at the locations identified below.

Scoping Meeting

A public scoping meeting will be held at the location, on the date, and at the time indicated below. This scoping meeting will be informal, with a presiding officer designated by DOE who will establish procedures governing the conduct of the meeting.

The meeting will not be conducted as an evidentiary hearing, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, DOE may allow longer times for representatives of organizations. Persons wishing to speak on behalf of an organization should identify that organization in their request to speak. Persons who have not submitted a request to speak in advance may register to speak at any of the scoping meetings. They will be called on to present their comments as time permits. Oral and written comments will be given equal weight by DOE. Written comments may also be submitted after the scoping meetings, but should be postmarked by Thursday, August 27, 1992, and forwarded to Mr. Bruce J. Buvinger, Environmental Specialist, Morgantown Energy Technology Center, as provided in the **ADDRESS** section of this Notice. Written comments postmarked after that date will be considered to the degree practicable.

The meeting is scheduled as follows:

Date: Wednesday, August 12, 1992

Time: 7 p.m. (Registration opens at 6 p.m.)

Place: For Meade Community Center, Fort Meade, Florida 33841

A complete transcript of the public scoping meeting will be retained by DOE and made available for inspection

during business hours, Monday through Friday, at the Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, and at the Department of Energy, Morgantown Energy Technology Center, 3610 Collins Ferry Road, Morgantown, West Virginia 26505. Additional copies of the public scoping meeting transcript will also be made available during normal business hours at the following locations:

1. Tampa Hillsborough Public Library, 900 North Ashley Drive, Tampa, Florida 33602
2. Tampa Electric Company, Mulberry Customer Service Office, 101 2nd St. NW., Mulberry, Florida 33860

In addition, copies of the public scoping meeting transcript will be made available for purchase. Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Draft EIS when it is prepared, should notify Mr. Bruce J. Buvinger, Environmental Specialist, Morgantown Energy Technology Center, at the address given in the Invitation to Comment and Dates section of this notice.

Signed in Washington, DC this 22nd day of July 1992, for the United States Department of Energy.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 92-17964 Filed 7-27-92; 8:45 am]

BILLING CODE 6450-01-M

Floodplain and Wetland Notification for Proposed Environmental Restoration Action at the Department of Energy's Oak Ridge Reservation, Oak Ridge, Tennessee

AGENCY: U.S. Department of Energy.

ACTION: Notice of Floodplain and Wetland Involvement and opportunity to comment.

SUMMARY: The U.S. Department of Energy (DOE) proposes to establish measures to prevent the migration of radiologically contaminated soils from the K-25 site, specifically the K-1407-B Surface Impoundment on the DOE Oak Ridge Reservation, Oak Ridge, Tennessee. These activities may take place in the 100-year floodplain of Poplar Creek Watershed. All activities related to the proposed environmental restoration action would occur within a restricted (fenced) area of approximately 1.3 acres on federally owned property. This proposed action would consist of fill and a cap to

preclude the transport of radiologically contaminated soils from the K-25 site.

DATE: Comments are due no later than August 12, 1992.

ADDRESS: Send comments to Mr. Robert C. Sleeman, Director, Environmental Restoration Division (EW-91), Oak Ridge Field Office, U.S. Department of Energy, Post Office Box 2001, Oak Ridge, Tennessee 37831-8541, or fax comments to 615-576-6074.

FOR FURTHER INFORMATION CONTACT: Carol Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 or call (202) 586-4600.

SUPPLEMENTARY INFORMATION: DOE would take the proposed action as a remedial action under section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order 12580, and National Contingency Plan. The excavated surface impoundment would be backfilled with borrow soil and capped with clay and a vegetative cover.

The proposed action, if implemented, would be carried out the concurrence of the U.S. Environmental Protection Agency, the Army Corps of Engineers, and the Tennessee Department of Environment and Conservation. The proposed remedy is intended to reduce potential exposure to radiation. The action would be performed in such a manner as to avoid or minimize potential impacts on the floodplain.

DOE will prepare a floodplain assessment and publish a statement of findings in accordance with 10 CFR part 1022. Maps and further information are available from DOE at the Information Resource Center, 105 Broadway Avenue, Oak Ridge, Tennessee, 37831-8541.

Paul D. Grimm,

Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 92-17795 Filed 7-27-92; 8:45 am]

BILLING CODE 6450-01-M

Extension of Financial Assistance Award; Energy Child Development Center, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of a noncompetitive grant award extension to an organization substantially owned or controlled by one or more current Department of Energy employees.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR

600.7(b)(2)(i) (B) and (G), it is making a noncompetitive extension award to Energy Child Development Center, Inc. (ECDC), under Grant Number DE-FG01-91AD69085. The extension grant will provide an increase in funding in the amount of \$42,000 (\$112,000 was obligated on the basic grant).

The purpose of the grant extension is to provide additional time and funding support to the ECDC for continued operation of the Department of Energy Forrestal child care and development facility (the "facility") which provides child care and development services for Federal employees.

The child care and development center project is necessary to support the Department's mission. This relationship to mission was defined by the Secretary in the "Determination To Establish Child Care Centers in Department of Energy Facilities in Forrestal and Germantown" dated April 4, 1989. The DOE support of this program should assist the Department in furthering certain statutorily recognized social goals such as equal employment opportunities. The ECDC, a non-profit corporation established and controlled by DOE employees, has been actively involved, since its inception in 1989, in departmental efforts to establish a child care and development facility. ECDC members have participated in the design and equipment of the facility and in the development of a curriculum for all stages of child development. This organization is chartered specifically to provide child care and development services at the facility and is therefore uniquely positioned to operate and manage the facility.

Based on the findings made above regarding the uniqueness of this corporate entity and the public interest served in the award of this grant, the restriction of 10 CFR 600.7(c)(2) regarding eligibility of an organization substantially owned or controlled by one or more current DOE employees has been waived.

The period of performance for the extension is from July 15, 1992 through January 14, 1993.

FOR FURTHER INFORMATION CONTACT:
U.S. Department of Energy, Office of Placement and Administration, Attn: Rosemarie H. Marshall, 1000 Independence Avenue SW., Washington, DC 20585.

Jeffrey Rubenstein,

Director, Operations Division "A", Office of Placement and Administration.

[FR Doc. 92-17796 Filed 7-27-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-720-000, et al.]

Century Power Corp., et al. Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Century Power Corp.

[Docket No. ER92-720-000]

July 17, 1992.

Take notice that on July 13, 1992, Century Power Corporation (Century) tendered for filing an agreement between Century and Utah Associated Municipal Power Systems (UAMPS). The agreement provides for the sale to UAMPS 15 MW of capacity and associated energy from Century's entitlement in San Juan Unit No. 3 effective July 1, 1992 through September 30, 1992.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Co.

[Docket Nos. ER90-525-008, ER90-525-000, ER89-562-004, ER88-630-009, and ER83-647-003]

July 17, 1992.

Take notice that on July 1, 1992, New England Power Company (NEP) filed a Compliance Refund Report associated with three separate refund obligations. NEP stated that these refunds were sent to your Primary Customers on June 5, 1992 in respect to Settlement Agreements in Docket Nos. ER90-525-000 et al. and Docket No. ER83-647-000.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Iowa Power Inc.

[Docket No. ER92-288-000]

July 17, 1992.

Take notice that on July 14, 1992, Iowa Power Inc. (Iowa Power) tendered for filing the second amendment to the original filing for this docket dated January 27, 1992.

Iowa Power states that the second amendment to the filing provides for a revised Exhibit F of the General Facilities Agreement between Iowa Power and Central Iowa Power Cooperative (CIPCO).

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. Wisconsin Electric Power Co.

[Docket No. ER92-72-000]

July 17, 1992.

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on July 13, 1992, tendered for filing an Interchange Agreement between itself and Otter Tail Power Company. The Interchange Agreement provides for the purchase or sale of Negotiated Capacity Service and General Purpose Energy Service.

Wisconsin Electric requests an effective date of July 15, 1992. Wisconsin Electric is authorized to state that Otter Tail Power Company joins in the requested effective date.

A copy of the filing has been served on the Public Service Commission of Wisconsin.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Puget Sound Power & Light Co.

[Docket No. ER92-693-000]

July 17, 1992.

Take notice that on July 6, 1992, Puget Sound Power & Light Company (Puget Sound) tendered for filing certain information related to its Residential Purchase and Sale Agreement with Bonneville Power Administration (BPA) under the Pacific Northwest Electronic Power Planning and Conservation Act.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Co.

[Docket No. ER92-718-000]

July 17, 1992.

Take notice that on July 13, 1992, Portland General Electric Company tendered for filing proposed changes in Rate Schedule No. 73, as set forth in Amendment No. 1 to the Long-term Power Sale Agreement with Western Area Power Administration. This change effects minor adjustments in scheduling and billing, with no net increase or decrease in sales or revenues.

Copies of the filing have been served on the distribution list, as included in the filing.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Tucson Electric Power Co.

[Docket No. ER92-719-000]

July 17, 1992.

Take notice that on July 13, 1992, Tucson Electric Power Company (Tucson) tendered for filing an

Interchange Agreement (the Agreement) between Tucson and the city of Vernon (Vernon). The purpose of the Agreement is to establish the terms and conditions for the interconnection of the electrical systems of Tucson and Vernon and the exchange of economy energy. Tucson states that services may be provided under Service Schedule A to the Agreement entitled "Economy Energy Interchange."

It has been requested that the Agreement be accepted for filing and become effective sixty (60) days after the date of such filing pursuant to 18 CFR 35.2(e).

Copies of this filing have been served on all parties affected by this proceeding.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Co.

[Docket No. ER89-34-004]
July 17, 1992.

Take notice that on July 13, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing a compliance report in accordance with the Commission's May 12, 1992 letter accepting for filing the Interconnection Agreement between Pacific Gas and Electric Company (PG&E) and the Northern California Power Agency (NCPA) in the above referenced dockets. The Commission required that PG&E submit a compliance report showing, among other refunds, the refund made to NCPA due to collection in excess of the settlement rates during the period of January 1, 1991 through March 31, 1992. On June 26, 1992, all refunds were paid to NCPA.

Copies of this filing have been served upon NCPA, the California Public Utilities Commission and the parties to the service list in the above referenced dockets.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Interstate Power Co.

[Docket No. ER92-505-000]
July 17, 1992.

Take notice that on June 24, 1992, Interstate Power Company tendered for filing an amendment to its April 29, 1992 filing in the above-referenced docket.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Interstate Power Co.

[Docket No. ER92-710-000]
July 17, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the Public Utility Commission of the City of Adrian and Interstate. Interstate states that this amendment revises the transmission loss factors.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Interstate Power Co.

[Docket No. ER92-709-000]
July 17, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the City of Worthington, Minnesota and Interstate. Interstate states that this amendment revises the transmission loss factors.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Interstate Power Co.

[Docket No. ER92-708-000]
July 17, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the City of Mountain Lake, Minnesota and Interstate. Interstate states that this amendment revises the transmission loss factors.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. Interstate Power Co.

[Docket No. ER92-707-000]
July 17, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the Municipal Light and Water Commission of the City of Westbrook, Minnesota and Company. Interstate states that this amendment revises the transmission loss factors.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Public Service Company of Colorado

[Docket Nos. ER92-317-002 and ER92-456-002]
July 17, 1992.

Take notice that on July 10, 1992, Public Service Company of Colorado

tendered its compliance filing in this proceeding. This compliance filing was made at the direction of the Commission in its June 12, 1992 order in this proceeding. The compliance filing consists of revised terms and conditions for the Transmission Service Tariff filed in Docket No. ER92-317-000 and revised rate sheets for the four contracts filed in Docket No. ER92-456-000.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Indiantown Cogeneration, L.P.

[Docket No. QF90-214-001]
July 17, 1992.

On July 13, 1992, Indiantown Cogeneration, L.P., tendered for filing a supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining to ownership structure of the facility.

Comment date: August 6, 1992, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Co.

[Docket No. ER92-48-000]
July 17, 1992.

Take notice that on July 8, 1992, Central Maine Power Company (CMP) tendered for filing Revised Exhibits 7, 8, 10, and 11. The Revised Exhibits 7, 8, 10 and 11 are intended as substitutes for the original Exhibits 7, 8, 10 and 11 that were included in CMP's supplemental filing, dated June 29, 1992, in the above referenced docket. The original and supplemental filing sought approval of the following schedules and agreements:

1. Energy Reservation Charge Rate Schedule (First Revision), effective as of April 26, 1980;

2. Amendment and Consent to Sales Agreement, effective as of May 1, 1984, between CMP and Boston Edison Company (BECO);

3. Amendment and Consent to Sales Agreement, effective as of April 2, 1983, between CMP and Central Vermont Public Service Corporation (CVPS);

4. Amendment and Consent to Sales Agreement, effective as of June 11, 1983, between CMP and Connecticut Municipal Electric Energy Cooperative (CMEEC);

5. Amendment and Consent to Sales Agreement, effective as of January 20, 1983, between CMP and Green Mountain Power Corporation (GMP);

6. Amendment and Consent to Sales Agreement, effective as of September 17,

1983, between CMP and New England Power Company (NEP);

7. Amendment and Consent to Sales Agreement, effective as of May 1, 1983, between CMP and Massachusetts Municipal Wholesale Electric Company (MMWEC);

8. Amendment and Consent to Sales Agreement, effective as of April 28, 1980, between CMP and Northeast Utilities Companies (NU);

9. Amendment and Consent to Sales Agreement, effective as of June 16, 1981, between CMP and Public Service Company of New Hampshire (PSNH); and

10. Amendment and Consent to Sales Agreement, effective as of April 22, 1991 between CMP and Unutil Power Corp. (Unutil).

CMP has served a copy of the filing on each affected customer and state regulatory commission.

Comment date: July 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power Corp.

[Docket No. ER92-671-000]

July 17, 1992.

Take notice that on June 26, 1992, Florida Power Corporation (FPC) tendered for filing a Transmission Service Agreement between Oglethorpe Power Corporation and FPC.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

18. Interstate Power Co.

[Docket No. ER92-706-000]

July 17, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the City of Lakefield, Minnesota and Interstate. Interstate states that this amendment revises the transmission loss factors.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

19. PacifiCorp

[Docket No. ER92-689-000]

July 17, 1992.

Take notice that on July 2, 1992, PacifiCorp tendered for filing executed copies of the Power and Transmission Service Agreement between PacifiCorp, Public Service Company of Colorado, Tri-State Generation and Transmission Association, Inc.

Comment date: July 31, 1992, in accordance with Standard Paragraph E at the end of this notice.

20. Kamine/Besicorp Syracuse L.P.

[Docket No. QF88-269-002]

July 17, 1992.

On July 6, 1992, Kamine/Besicorp Syracuse L.P., of 1620 route 22 East, Union, New Jersey, 07083, submitted for filing an application for recertification 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 in the Town of Geddes, Village of Solvay, Onondaga County, New York. The Commission previously certified the facility as a qualifying cogeneration facility, [Kamine LCP Cogen Co. Inc., 43 FERC ¶ 62,241 (1988), and Kamine/Besicorp Syracuse L.P., 58 FERC ¶ 62,031 (1992)]. The instant request for recertification is due to the updated thermal requirements of the host facilities.

Comment date: August 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

21. Interstate Power Co.

[Docket No. ER92-711-000]

July 20, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the City of Windom, Minnesota and Company. Interstate states that this amendment revises the transmission loss factors.

Comment date: August 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

22. Interstate Power Co.

[Docket No. ER92-712-000]

July 20, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 1 to the Electric Service Agreement between the City of Jackson, Minnesota and Interstate. Interstate states that this amendment revises the transmission loss factors.

Comment date: August 3, 1992, in accordance with Standard Paragraph E at the end of this notice.

23. Florida Power Corp.

[Docket No. ER92-671-000]

July 20, 1992.

Take notice that on July 10, 1992, Florida Power Corporation (Florida Power) filed a request to amend its filing in the above docket to allow an effective date of July 20, 1992 for the filed transmission service agreement with

Oglethorpe Power Corporation, filed on June 26, 1992, instead of August 26, 1992 as originally requested. The purpose of the amendment is to allow Florida Power to provide transmission service for an opportunity transaction between Tampa Electric and Oglethorpe to begin on July 20, 1992.

Comment date: August 3, 1992, in accordance with Standard Paragraph E at the end of this notice.

24. Interstate Power Co.

[Docket No. ER92-713-000]

July 20, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 2 to the Electric Service Agreement between the Public Utilities Commission of the City of Springfield, Minnesota and Interstate. Interstate states that this amendment revises the transmission loss factors.

Comment date: August 3, 1992, in accordance with Standard Paragraph E at the end of this notice.

25. Lakewood Cogeneration, L.P.

[Docket No. QF88-418-003]

July 20, 1992.

On July 10, 1992, Lakewood Cogeneration, L.P. (Applicant) tendered for filing a supplement to its filing in this docket.

The amendment provides additional technical information pertaining to its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: August 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

26. Sithe/Independence Power Partners, L.P.

[Docket No. QF92-142-000]

July 20, 1992.

On July 14, 1992, Sithe/Independence Power Partners, L.P. (Applicant) tendered for filing a supplement to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure of its cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: August 7, 1992, in accordance with Standard Paragraph E at the end of this notice.

27. Arroyo Energy, Limited Partnership

[Docket No. QF92-179-000]

July 20, 1992.

On July 6, 1992, Arroyo Energy, Limited Partnership, 18552 MacArthur Boulevard, No. 324, Irvine, California

92715, 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 at 525 North Tulip Street, Escondido, California. The facility will consist of a gas turbine generator, a heat recovery boiler (HRB) and an extraction/condensing steam turbine generator. Thermal energy from the facility, in the form of extraction steam and steam from the HRB will be used in absorption refrigeration equipment which provides refrigeration for the host ice skating and health facility. The net electric power production capacity of the facility will be 49.8 MW. The primary energy source for the facility will be natural gas. Installation of the facility is expected to begin in 1995.

Comment date: August 27, 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. 92-17701 Filed 7-27-92; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ES92-47-000, et al.]

UtiliCorp United Inc., et al., Electric rate, Small power production, and Interlocking Directorate filings

Take notice that the following filings have been made with the Commission:

1. UtiliCorp United Inc.

[Docket No. ES92-47-000]
July 21, 1992.

Take notice that on July 15, 1992, UtiliCorp United Inc. (UtiliCorp) filed an application with the Federal Energy Regulatory Commission under § 204 of the Federal Power Act requesting authorization to issue up to and including 425,000 shares of common stock, par value \$1.00 per share. Also, UtiliCorp requests exemption from the Commission's competitive bidding regulations.

Comment date: August 14, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp

[Docket No. ER92-721-000]
July 22, 1992.

Take notice that on July 14, 1992, PacifiCorp tendered for filing a Notice of Cancellation of Service Agreement No. 9 under PacifiCorp's Electric Tariff, Original Volume No. 5 and Twelfth Revised Sheet No. 3.0 Superseding Eleventh Revised Sheet No. 3.0 of PacifiCorp's FERC Electric Tariff, Original Volume No. 5. (Index of Utilities Executing Service Agreements).

Comment date: August 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

GEO East Mesa Limited Partnership-GEM 2

[Docket No. QF 88-203-005]
July 22, 1992.

On July 14, 1992, GEO East Mesa Limited Partnership (Applicant) of 18101 Von Karman Ave., Suite 1700, Irvine, California 92715-1007, submitted for filing an application for recertification of a facility as a qualifying small power production 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 small power production facility is presently certified for 19.6 MW [59 FERC ¶ 62,323 (1992)]. The instant recertification is requested to reflect an increase in the net electric power production capacity of the facility. Applicant represents that the increase in capacity is due to two adjustments to the certified net. First, the recalculation of the net capacity which reflects the actual design configuration and operation. Second, the inclusion of the non-power production portions of the energy used by reinjection pumps.

Comment date: August 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

GEO East Mesa Limited Partnership-GEM 1

[Docket No. QF88-202-005]
July 22, 1992.

On July 14, 1992, GEO East Mesa Limited Partnership (Applicant) of 18101 Von Karman Ave, Suite 1700, Irvine, California 92715-1007, submitted for filing an application for recertification of a facility as qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is presently certified for 19.6 MW [59 FERC ¶ 62,323 (1992)]. The instant recertification is requested to reflect an increase in the net electric power production capacity of the facility. Applicant represents that the increase in capacity is due to two adjustments to the certified net. First, the recalculation of the net capacity which reflects the actual design configuration and operation. Second, the inclusion of the non-power production portions of the energy used by reinjection pumps.

Comment date: August 27, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Interstate Power Company

[Docket No. ER92-716-000]
July 22, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment No. 5 to the Electric Service Agreement between the Municipal Light and Water Department Board of Trustees of the City of Bellevue and Interstate.

Interstate states that this amendment revises the transmission loss factors.

Comment date: August 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Maine Public Service Company

[Docket No. ER92-725-000]
July 22, 1992.

Take notice that on July 14, 1992, Maine Public Service Company (Maine Public) tendered for filing a proposed initial rate schedule pertaining to the short term, nonfirm sale of capacity and energy. The rate will be negotiated between Maine Public and the purchaser at the time of the transaction, but not to exceed Maine Public's cost of service for the units available for sale. A Service Agreement will be executed prior to the time of a purchase by a particular utility and submitted to the Commission. Maine Public has

requested that the rate schedule become effective on July 15, 1992.

Comment date: August 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

7. Interstate Power Company

[Docket No. ER92-715-000]

July 22, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment Nos. 2, 3, 4 and 5 to the Electric Service Agreement between the Board of Trustees of the Municipal Electric Utility of the City of Independence, Iowa and Interstate.

Interstate states that these amendments revise the firm power commitment and transmission loss factors.

Comment date: August 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Interstate Power Company

[Docket No. ER92-714-000]

July 22, 1992.

Take notice that on July 13, 1992, Interstate Power Company (Interstate) tendered for filing Amendment Nos. 2 and 3 to the Electric Service Agreement between the Board of Trustees of Municipal Utilities of McGregor, Iowa and Interstate.

Interstate states that these amendments revise the firm power commitment and transmission loss factors.

Comment date: August 5, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Central Hudson Gas & Electric Corporation

[Docket No. ER92-726-000]

July 22, 1992.

Take notice that on Central Hudson Gas & Electric Corporation (Central Hudson) on July 16, 1992 tendered for an amended filing as a supplement to its Rate Schedule FERC No. 22 a letter of agreement and notification dated January 31, 1992 between Central Hudson and New York State Electric and Gas Corporation. Central Hudson states that this letter provides for a decrease in the monthly facilities charge from \$4,075.67 to \$3,823.17 in accordance with Article IV.1 of its Rate Schedule FERC No. 22, an increase in the monthly Transmission Charge from \$4,414.05 to \$4,075.67 to \$3,823.17 in accordance with Article IV.1 of its Rate Schedule FERC No. 22, an increase in the annual Operation and Maintenance Charge from \$4,179.49 to \$5,367.57 in accordance with Article IV.2 of its Rate Schedule

FERC No. 22. Central Hudson requests waiver of the notice requirement of Subsection 35.3 of the Commission's Regulations to permit this proposed increase to become effective January 1, 1992.

Copies of the filing were served upon the New York State Electric and Gas Corporation.

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 the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17779 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2016-012 Washington]

City of Tacoma; Availability of Environmental Assessment

July 22, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to amend the license for the Cowlitz River Project to make revisions to the approved recreation plan, including the development of a major recreation facility. The project is located on Riffe Lake in Lewis County, Washington. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17704 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-598-000, et al.]

Transcontinental Gas Pipeline Corporation, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipeline Corporation

[Docket No. CP92-598-000]

July 21, 1992.

Take notice that on July 16, 1992, Transcontinental Gas Pipe Line Corporation (TGPL), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP92-598-000, an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon by sale to Delhi Gas Pipeline Corporation (Delhi) certain small-diameter gathering pipelines and related measurement and regulating stations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

TGPL states that the facilities it seeks authority to abandon are located in production areas in the Laredo/Lopeno, Texas area (Webb and Zapata Counties) and in the East Texas area (Rusk County). It is further stated that after the sale of the subject facilities by TGPL to Delhi, such facilities would be incorporated by Delhi into its intrastate pipeline systems in these two areas and would no longer be jurisdictional facilities.

TGPL indicates that as part of settlement of a lawsuit between TGPL and Delhi, TGPL agreed to sell to Delhi and Delhi agreed to purchase from TGPL the subject facilities, subject to approval by the Commission. TGPL further indicates that it desires to sell these facilities to Delhi because they attach gas supply sources directly to Delhi's intrastate pipeline system. TGPL states that it originally built and owned these facilities because they attached gas supplies under gas purchase contract to TGPL. However, it is stated that certain sellers have terminated their gas purchase contracts with TGPL, and overall volumes purchased by TGPL

continue to be reduced. Moreover, TGPL indicates that these facilities are far removed from TGPL's system and TGPL pays Delhi a fee for operating the facilities on behalf of TGPL.

It is stated that Delhi would purchase the subject facilities at their net book values as of December 31, 1991. TGPL further states that the total purchase price of the Laredo/Lopeno facilities is \$870,229.56 and the total purchase price of the East Texas facilities is \$349,835.36 for a grand total of \$1,220,064.92.

TGPL states that it is requesting that the Commission issue to TGPL an order (a) permitting and approving the abandonment and the subject facilities by sale to Delhi; and (b) declaring that, with the abandonment so approved, the facilities would be part of Delhi's intrastate pipeline system and that neither Delhi nor such facilities would thereafter be subject to the Commission's jurisdiction under the NGA by virtue of this sale and purchase of such facilities.

Comment date: August 11, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. Pelican Interstate Gas System

[Docket No. CP92-602-000]

July 22, 1992.

Take notice that on July 20, 1992, Pelican Interstate Gas System (Pelican), 1600 Smith, Suite 4775, Houston, Texas 77002, filed in Docket No. CP92-602-000 a petition for declaratory order declaring that its facilities are gathering facilities exempt from jurisdiction consistent with section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Pelican states that the Commission on February 5, 1992, issued a declaratory order in *Blue Dolphin Pipe Line Company*, 58 FERC ¶ 61,103 (referred to as *Blue Dolphin*), where the Commission found that facilities which function in the same manner, and have the same general configuration as those of Pelican's are non-jurisdictional gathering facilities. Pelican requests that the Commission declare that the Pelican system and services that it provides are exempt from the Commission's NGA jurisdiction pursuant to section 1(b) of the NGA. In addition, Pelican requests that its original certificate issued in Docket No. CP68-323, 40 FPC 395, authorizing the construction of operation of its facilities, its open-access blanket certificate issued in RP89-73-000, as well as any related certificates be rescinded.

Pelican states that in *Blue Dolphin*, the Commission declared that approximately 49.75 miles of 20-inch and 16-inch pipeline qualify as gathering. It is indicated that those facilities consist of 1.75 miles of 20-inch pipeline that interconnect platforms located on the Outer Continental Shelf, extend from one of the platforms for 38.8 miles, through a 20-inch pipeline, to an onshore processing plant, and thereafter continuing beyond the tailgate of the plant for an additional 9.2 miles through a 16-inch pipeline to both an intrastate pipeline and to chemical plants owned by a third party. It is stated that the Commission concluded that Blue Dolphin qualified as a gatherer because its facilities satisfied the "modified primary function" test set forth in *Amerada Hess Corp., et al*, 52 FERC ¶ 61,268 (1960), ("*Amerada Hess*"). It is indicated that under that test the Commission applies five criteria to determine the jurisdictional status of a facility: (1) The diameter and length of a facility; (2) the location of compressors and processing plants; (3) the extension of facilities beyond a central point in the field; (4) the location of wells along all or part of the facility; and (5) the geographic configuration of the system.

Pelican states that the facilities which together comprise its gathering system which begins in offshore Louisiana, West Cameron and High Island areas and terminates in Cameron Parish, Louisiana consists of the following facilities:

- (1) 27.56 miles of 16-inch pipe (Line 1-16) that extends from West Cameron Block 165 to the onshore terminus of the system in Cameron Parish, Louisiana;
- (2) 23.5 miles of 12-inch pipe (Line 1-12) from West Cameron Block 165 to West Cameron Block 229;
- (3) 1.535 miles of 4-inch pipe (Line 12-4) from West Cameron Block 118 to an interconnection with Line 1-16 at West Cameron Block 117;
- (4) 3.997 miles of 6-inch pipe (Line 13-6) from West Cameron Block 289 to an interconnection with Line 1-16 at West Cameron Block 165;
- (5) 16.38 miles of 12-inch pipe (Line 2-12) from High Island Block 129 to an interconnection with Line 1-16 at West Cameron Block 165; and
- (6) 11.95 miles of 10-inch pipe (Line 3-10) from High Island Block 14 to West Cameron Block 117 where the Line 3-10 facilities interconnect with Line 1-16 facilities.

Pelican states that the total length of the Pelican system is approximately 85 miles.

Pelican argues that the length and configuration of its facilities are solely a function of the geographic/geologic

location of the reserves attached to the system, and are typical of other systems that have been granted gathering status by the Commission.

Pelican also argues that it further meets the modified primary test because it owns no compression or processing facilities. Pelican indicates that field compression facilities operated by producers are located on the production platforms to bring the gas to a pressure to enable it to enter Pelican's lines. It is also indicated that while Pelican's system operates at a pressure of 1000 psig, the Commission has previously determined that a maximum operating pressure of 1,440 psig is not inconsistent with a determination that a gathering function is being performed. It is also indicated that at the production platforms the producers also dehydrate and separate liquids from the gas to prevent the collection of water in the system. It is also indicated that after moving through the Pelican facilities, the gas enters a liquid separation facility owned by unaffiliated third parties and delivered into the facilities of Natural Gas Pipeline of America.

Pelican also states that, with respect to the extension of facilities beyond a central point in the field, there is no central point in the field. It is indicated that the Pelican system is configured generally like an inverted Y, but with gas entering the inverted leg of the Y on Line 1-16 approximately midway from the onshore terminus of the system and gas enters the system at various locations along the entire length of the system. It is also indicated that wells attached to the system are located throughout the producing areas in which Pelican has facilities.

It is also argued that the configuration of the integrated facilities supports its status as a gatherer. It is stated that systems that resemble a Y have been found to comprise a network configuration that provided gathering service.

Pelican also states that it also satisfies additional criteria previously considered by the Commission set forth in determining gathering. It is indicated that Pelican makes no sales of gas, has no system supply, and has no local distribution customers. It is also indicated that after January 1, 1993, the date Natural has elected to terminate Pelican's firm transportation service, Pelican will have no firm transportation customers. It is stated that after that date all shippers on the Pelican system will be interruptible transportation customers.

Comment date: August 12, 1992, in accordance with Standard Paragraph F at the end of this notice.

3. El Paso Natural Gas Company

[Docket No. CP92-580-000]

July 22, 1992.

Take notice that on July 7, 1992, El Paso Natural Gas Company (Applicant), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP92-580-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity requesting authorization to construct and operate certain pipeline, metering and compression facilities in order to provide transportation service to the International Boundary between the United States and the Republic of Mexico (hereby called the Yuma Lateral Expansion Project), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate the following facilities to link Applicant's existing interstate system to a point of interconnection with facilities to be sited at the International Boundary between the United States and the Republic of Mexico in Yuma County, Arizona, near San Luis Rio Colorado, Sonora, Mexico:

Compression

1. Wenden Compressor Station

Install one (1) 6,500 ISO horsepower Solar Taurus compressor unit, with appurtenances, and one (1) 5,650 ISO horsepower Solar Centaur "H" compressor unit, with appurtenances, at the existing Wenden Compressor Station located in La Paz County, Arizona.

Pipeline

2. Wenden Compressor Station to Quartzite, Arizona

Install approximately 21.0 miles of 36-inch O.D. pipeline, with appurtenances, commencing at the Wenden Compressor Station at milepost 670.5 on Applicant's existing 30-inch O.D. pipeline and terminating at milepost 691.5 in La Paz County, Arizona.

3. Install approximately 93.5 miles of 30-inch O.D. pipeline, with appurtenances, at milepost 714.6 on Applicant's existing 30-inch O.D. pipeline in La Paz County, Arizona, and terminating in Yuma County, Arizona.

Meter Stations

4. Yuma, Arizona

Install two (2) 8-inch standard orifice-type meter runs, with appurtenances, at

milepost 91.8 on Applicant's proposed 30-inch pipeline located in Yuma County, Arizona.

5. International Boundary

Install one (1) 16-inch standard orifice-type meter run, with appurtenances, at milepost 93.5 at the terminus of Applicant's proposed 30-inch pipeline located in Yuma County, Arizona.

Applicant estimates the cost of the proposed facilities to be \$91,899,440. Applicant indicates that it will finance the proposed construction through use of internally generated funds or through short-term borrowing.

Applicant states that its proposal will provide for firm and interruptible transportation service of up to 400,000 Mcf/d of natural gas, primarily for shippers serving existing and proposed electric generation facilities and other possible needs in Baja California Norte, Mexico, and existing and proposed electric generating facilities and other possible needs in the Yuma, Arizona area.

Applicant indicates that it has received from shippers requests for service in the area served from the facilities downstream of Applicant's Wenden Compressor Station amounting to an additional 2.1 Bcf per day of new capacity. Applicant states that, based on current negotiations, the requested services actually represent a near-term requirement for approximately 400,000 Mcf per day in new capacity from the existing mainline south towards Yuma. Applicant further states that it intends to finalize negotiations with shippers in the near future.

Applicant states that the single largest use for the proposed capacity is the 606 megawatt, Rosarito Power Plant which is located in Baja California Norte, Mexico. Applicant indicates that the Rosarito Power Plant, which currently generates electricity for use within Mexico, currently uses a very high sulphur residual oil. Applicant further indicates that plans are now underway to convert the existing plant to natural gas beginning in July, 1994, and that the Comision Federal de Electricidad is currently reviewing a plan for the phased expansion of capacity of the plant over a five-year period.

Applicant indicates that Petroleos Mexicanos (PEMEX) will own the necessary downstream pipeline in Mexico to move gas from the International Boundary to the Rosarito Power Plant and other potential delivery points.

Applicant submits that it has offered transportation arrangements to the

expansion shippers which allow for flexible receipt points. Applicant further states that it may receive gas from the San Juan, Permian, or Anadarko Basins or from any pipeline interconnect. Applicant states that its existing pipeline system upstream of the Wenden Compressor Station is capable of receiving and transporting to the Wenden Compressor Station all or any portion of the proposed additional 400,000 Mcf per day of additional throughput from any of the above-named supply sources without significant additional capital investment.

Applicant states that the various shippers utilizing Applicant's proposed facilities at the border will be required to obtain the proper authorizations from the Department of Energy, Office of Fossil Energy for the exportation of natural gas. Applicant further states that it will not itself export any gas, and does not require any export authorization.

Applicant indicates that it filed concurrently with the subject application, an application for an order, under Section 3 of the Act and § 153.1 of the Commission's Regulations under the Act, authorizing the siting of pipeline facilities at the International Boundary between the United States and the Republic of Mexico in Yuma County, Arizona near San Luis Rio Colorado, Sonora, Mexico, and under § 153.10 of the Commission's Regulations under the Act, for a Presidential Permit authorizing the proposed construction, connection, operation and maintenance of pipeline facilities at the International Boundary.

Applicant proposes to provide service utilizing the proposed facilities in accordance with its current Rate Schedules T-1 and T-3. Applicant states that new shippers will be offered Transportation Service Agreements in accordance with Rate Schedule T-1 and T-3, with system-wide receipt points, and with delivery points located on the proposed expansion facilities.

Applicant requests pre-approval of rolled-in rate treatment for those costs subject to the necessary showing in the appropriate rate case. Applicant states that it is willing to accept the financial risk for undersubscription, and it is willing to agree that its existing customers will be shielded from any risk of economic harm.

Comment date: August 12, 1992, in accordance with Standard Paragraph F at the end of the notice.

4. El Paso Natural Gas Company

[Docket No. CP92-581-000]

July 22, 1992.

Take notice that on July 7, 1992, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP92-581-000 an application pursuant to section 3 of the Natural Gas Act and §§ 153.3 and 153.10 through 153.12 of the Commissions Regulations and Executive Order 10485, as amended by Executive Order 12038, and Secretary of Energy Delegation Order No. 0204-112. In that application, El Paso requested an order authorizing the siting, construction, operation and maintenance of pipeline facilities at the United States-Mexico international boundary in Yuma County, Arizona near San Luis Rio Colorado, Sonora, Mexico. In addition, El Paso requested a Presidential Permit covering the proposed construction, connection and operation of pipeline facilities at the United States-Mexico border, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

El Paso request authorization to site, construct, operate, maintain, and connect pipeline facilities at the International Boundary between the United States and Mexico in Yuma County, Arizona near San Luis Rio Colorado, Sonora, Mexico. El Paso proposes to construct approximately 60 feet of 30-inch O.D. pipeline, with appurtenances, necessary to connect El Paso's upstream facilities with a new pipeline system to be owned in Mexico by Petroleos Mexicanos (PEMEX).

El Paso states that it is filing concurrently an application, pursuant to section 7(c) of the Natural Gas Act, for authorization to construct and operate approximately 114.5 miles of pipeline, 12,150 horsepower of compression, and certain metering facilities, with appurtenances, to transport natural gas from its existing interstate system to the International Boundary (hereby called the Yuma Lateral Expansion Project).

El Paso states that the proposed facilities to be constructed and operated at the International Boundary will constitute a portion of the Yuma Lateral Expansion Project and will facilitate the transportation and delivery of up to 350,000 Mcf per day of natural gas to PEMEX at the International Boundary for eventual delivery to the Rosarito Power Plant for electric generation in Baja California Norte, Mexico, and to possible delivery to other Mexican communities located along the line to be constructed in Mexico.

El Paso submits that the proposed border facilities will be made available

to any shipper who has executed a transportation service agreement with El Paso. El Paso also submits that the shippers who execute transportation service agreements with El Paso will obtain the necessary export authorization from the Department of Energy, Office of Fossil Energy prior to the commencement of service.

El Paso states that the transportation rates to be charged by El Paso for transportation service are those rates set forth in its firm transportation service Rate Schedule T-3 and its interruptible transportation service Rate Schedule T-1. El Paso further states that the rates between the shippers and the ultimate purchaser in Mexico will be set by competition, and should be comparable to rates charged by any selling entity for similar service in the United States.

Comment date: August 12, 1992, in accordance with the first subparagraph of Standard Paragraph F 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.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17777 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER92-717-000]

Bangor Hydro-Electric Co.; Filing

July 22, 1992.

Take notice that on July 13, 1992, Bangor Hydro-Electric Company (Bangor) tendered for filing a Notice of Termination of FERC Rate Schedule No. 4. Bangor states that this cancellation is effective as of August 1, 1990.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 3, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17705 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

Old Dominion Electric Cooperative; Filing

[Docket No. ER92-432-001]

July 22, 1992.

Take notice that Old Dominion Electric Cooperative (Old Dominion), on June 11, 1992, tendered for filing supplementary information pursuant to its rate tariff, accepted for filing by the Director of the Division of Applicants of the Office of Electric Power Regulation by letter order dated May 18, 1992.

Old Dominion's original filing included a generic version of the Amended and Restated Wholesale Power Contract between Old Dominion and its member cooperative customers. In its original filing Old Dominion indicated that it would file executed copies of that contract, including

customer specific terms of service under the tariff, subsequent to FERC acceptance of the tariff. The executed contracts are the subject of this filing.

The executed contracts submitted by Old Dominion are unchanged format the generic version of the contract submitted with the rate filing. The filing does not modify or otherwise affect the rates or charges calculated pursuant to the Comprehensive Cost of Service formula accepted by the Commission. The filing is ministerial in nature and does not serve to change any charges, classifications or calculations under the accepted formula rate.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before August 4, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17702 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

Southern Natural Gas Co., Rescheduling Informal Settlement Conference

[Docket No. RP92-134-000]

July 22, 1992.

Take notice that the informal settlement conference previously set for Wednesday, July 29, 1992 has been rescheduled for Monday, August 3, 1992, at 11 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Betsy Carr at (202) 208-1240 or James A. Pederson at (202) 208-2158.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17703 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

Texas Eastern Transmission Corp.; Petition To Amend

[Docket No. CP92-475-001]

July 22, 1992.

Take notice that on July 17, 1992, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056-5310, filed in Docket No. CP92-475-001, a petition to amend Docket No. CP92-475-000, which is currently pending before the Commission, so as to abandon a related sales service to United Cities Gas Company (United Cities) under Rate Schedule SCQ, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Texas Eastern states that in Docket No. CP92-475-000, it requested permission and approval to abandon its firm obligation to provide firm storage service under Rate Schedule SS-1 to United Cities. Texas Eastern also states that in Docket No. CP92-475-000, the abandonment of storage service is requested to accommodate United Cities, which has arranged for other storage service and desires to terminate its Rate Schedule SS-1 storage service. In addition, it is stated that simultaneously with the abandonment of service in Docket No. CP92-475-000 to United Cities, Texas Eastern will initiate firm storage service to Mississippi Valley Gas Company pursuant to its blanket storage certificate issued in Docket Nos. CP90-186-001 and RP88-67-000, *et al.*

Texas Eastern states that it has discovered that it failed to request authorization to abandon the related sales service to United Cities under Rate Schedule SCQ, therefore, requests permission and approval, herein, to abandon the sales service to United Cities provided under Texas Eastern's Rate Schedule SCQ. Texas Eastern further states that the sales service under Rate Schedule SCQ is available only to fill Rate Schedule SS-1 storage service.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 3, 1992, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211) 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. All persons who have heretofore filed need not file again.

Lois D. Cashell,

Secretary.

[FR Doc. 92-17706 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 92-79-NG]

Czar Gas Corporation Inc.; Application to Import Natural Gas From and Export Natural Gas to 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 on June 23, 1992, of an application filed by Czar Gas Corporation Inc. (Czar Inc.) for blanket authorization to import up to 146 Bcf of natural gas from Canada and to export up to 146 Bcf of natural gas to Canada. The application requests that the authorization be approved for a period of two years beginning on the date of the first delivery. Only existing U.S. pipeline facilities would be used to transport this gas.

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 27, 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:

C. Frank Duchaine Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H-087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8233.
 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:

Czar Inc. is a Delaware corporation with its principal place of business in Calgary, Alberta, Canada, and a wholly-owned subsidiary of Czar Resources Ltd. Czar Inc. markets gas produced by affiliated and nonaffiliated companies to pipelines, local distribution companies and commercial and industrial end-users. According to the application, the authority requested by Czar Inc. contemplates the following types of import and export arrangements: (1) Importation of supplies of Canadian natural gas for consumption in U.S. markets; (2) importation of Canadian natural gas for eventual return (via export) to Canadian markets; (3) exportation of domestically produced natural gas for consumption in Canadian markets; and (4) exportation of domestically produced gas for eventual return (via import) to U.S. markets.

Czar Inc. proposes to import and export this gas either for its own account or as agent on behalf of others. Although the identity of the parties are not known at this time, Czar Inc. states that the individual transactions would be conducted through arms-length bargaining and the price would be competitive in the marketplace. The gas to be exported is asserted to be incremental to the needs of current domestic purchasers in the area from which the supplies would come.

The decision on Czar Inc.'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 reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties,

especially those that may oppose this application, should comment on these matters as they relate to the requested import and export authority. The applicant asserts that this import/export arrangement would be in the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

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 the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs 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 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 Czar Inc.'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, July 21, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-17797 Filed 7-27-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-71-NG]**Offshore Gas Marketing, Inc.; Application for Blanket Authorization to Export Natural Gas to Mexico**

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 June 11, 1992, by Offshore Gas Marketing, Inc. (OGM) requesting blanket authorization to export up to 150 Bcf of natural gas to Mexico over a two-year period beginning on the date of first delivery. OGM intends to use existing pipeline facilities, and will submit quarterly reports of its transactions.

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 27, 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 CONTACT:

Peter Lagiovane, Office of Fuels
Programs, Fossil Energy, U.S.
Department of Energy, Forrestal
Building, room 3F-056, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-8116.
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: OGM, a Texas corporation with its principal place of business in Houston, Texas, is a wholly owned subsidiary of Deep Tech International, Inc. and was formed to purchase, resell, and transport natural gas in the interstate, intrastate and export natural gas markets. The exported gas would come from production areas in the United States with surplus supplies of natural gas. No contracts for the sale of the proposed exports have been executed, however, OGM asserts that such contracts will be the product of arms-length negotiations between OGM and its Mexican customers and the natural gas prices will reflect market conditions.

This export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

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 OGM'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 July 17, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels
Programs, Office of Fossil Energy.

[FR Doc. 92-17798 Filed 7-27-92; 8:45 am]

BILLING CODE 6540-01-M

[FE Docket No. 92-24-NG]

Salmon Resources, Ltd.; 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 of the Department of Energy (DOE) gives notice of receipt of an application filed on February 25, 1992, as amended July 9, 1992, by Salmon Resources Ltd. (Salmon) for authorization to import up to 20,500 MMBtu per day of Canadian natural gas over a 15-year term, and up to 9,800 MMBtu per day over a ten-year term, pursuant to two gas purchase contracts between Salmon and Shell Canada Limited (Shell). The imported gas would enter the U.S. at a point on the international border near Port of Morgan, Montana/Monchy, Saskatchewan, through the pipeline facilities of Northern Border Pipeline Company (Northern Border).

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 27, 1992.

ADDRESS: 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) 586-9487.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine, Jr., 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) 586-8233.

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) 586-8667.

SUPPLEMENTARY INFORMATION: Salmon, a Wyoming corporation with its principal place of business in Lakewood, Colorado, is a wholly owned subsidiary of Shell. Salmon intends to resell the gas to Midwest Gas, a Division of Iowa Public Service Company (Midwest Gas), and Enron Gas Marketing, Inc. (Enron) under separate agreements. Gas sold to Midwest Gas would be delivered on the Northern Border system to an interconnection with the Northern Natural Gas pipeline system at Ventura, Iowa. Gas sold to Enron would be delivered by Northern Border to an interconnection with Northern Natural at Ventura and Clear Lake, Iowa. The gas would be transported in the U.S. by Northern Border and Northern Natural to the system of Midwest Gas, and using the facilities of Northern Border and either Northern Natural or if the gas purchase agreement is amended to add Clear Lake as a delivery point, using the facilities of Natural Gas Pipeline Company of America (NGPL), to the Enron markets. In Canada, Shell has arranged with NOVA Corporation of Alberta (NOVA) and Foothills PipeLines Ltd. (Foothills) to transport the gas from the fields in Alberta to Monchy, Saskatchewan.

Shell/Salmon/Midwest Gas Agreement

Under a March 1, 1991, agreement with Shell, Salmon has agreed to purchase up to a maximum daily quantity (MDQ) of 20,500 MMBtu commencing on the date of the DOE authorization of Salmon's import application through November 1, 2006. The terms of the Shell-Salmon agreement are derived from and incorporate a gas sales contract between Salmon and Midwest Gas. Under this contract, Midwest Gas must take or pay for a minimum annual quantity equal to 80 percent of the MDQ on an annual aggregate basis. This minimum purchase obligation is subject to a one-year make-up period and an annual deficiency payment equal to 20 percent of the commodity charge times the deficiency volume.

The price payable to Shell by Salmon in connection with the Midwest Gas sale is equal to the price paid by Midwest Gas to Salmon minus the transportation charges paid by Salmon to Northern Border, less 1.5 percent for Salmon costs. The price payable to Salmon by Midwest Gas consists of a demand charge equal to the sum of

monthly demand charges of Canadian transporters or \$308,730, whichever is greater, and a commodity charge equal to 94 percent of Northern Natural's monthly commodity rate. The contract provides for limited renegotiation of the commodity charge if it exceeds by 120 percent a monthly price based on average spot prices in the same midwest gas market, and arbitration if the parties cannot agree on a new commodity charge.

Shell/Salmon/Enron Agreement

Like the Midwest Gas arrangement, The second Shell-Salmon contract, dated March 31, 1991, incorporates a gas sales contract between Salmon and Enron. This contract provides for the sale of a daily contract quantity (DCQ) of 9,800 MMBtu commencing on the date of the DOE authorization of Salmon's import application through November 1, 2001. Enron is required to purchase each month quantities of (a) "Tier I gas" equal to the monthly contract quantity (MCQ) multiplied by the rate of take under Enron's contracts in its California markets, and (b) "Tier II gas" equal to the MCQ less the quantity of Tier I gas purchased, provided that the quantity of Tier I gas purchased for the year shall equal at least 65 percent of the MCQs in such contract year.

The price payable to Shell by Salmon in connection with the Enron sale is equal to the price paid by Enron to Salmon minus the transportation charges paid by Salmon to Northern Border, less 1.5 percent. The price payable to Salmon by Enron consists of a demand charge and Tier I and II commodity charges. The demand charge each month equals the lesser of (1) Salmon's actual cost of reserving firm transportation for the DCQ on Northern Border, or (2) \$0.50 per MMBtu multiplied by the DCQ multiplied by the number of days in that month. The Tier I commodity charge is equal to the actual monthly weighted average sales price during the month in which Salmon delivers the gas to Enron paid by Enron's California firm markets having terms of at least one year, less Northern Natural's interruptible transportation rate. The Tier II commodity charge is equal to a monthly reference index based generally on the sum of average spot market gas price indices of three major U.S. pipeline companies supplying gas into the midwest U.S. market area plus transportation and fuel, less a marketing fee and the demand charge for that month.

The contract provides for renegotiation of the gas price prior to completion of the five-year primary term. If agreement is not reached, either

Enron or Salmon has the right to terminate the contract.

The decision on Salmon'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. Salmon 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. 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 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 Salmon'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, July 21, 1992.
Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-17799 Filed 7-27-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Proposal to Establish Additional Designated Federal Points of Delivery for Power From the Salt Lake City Area Integrated Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of intent to establish additional designated Federal points of delivery.

SUMMARY: On February 7, 1986, Western Area Power Administration (Western)

published the Final Post-1989 General Power Marketing and Allocation Criteria (Criteria), 51 FR 4843, for the Salt Lake City Area Integrated Projects (SLCA/IP), which included the Colorado River Storage Project (CRSP). Listed in Part III, Section D, thereof, "Delivery Conditions," are the designated or equivalent Federal points of delivery, tap points, and voltages at which delivery of SLCA/IP power will be available. Subsequent to that notice, Western amended the Criteria and added three additional points of delivery, one each in Arizona, Colorado, and Utah, which was published July 6, 1987, in the Federal Register (52 FR 25300), dated July 6, 1987.

The points listed in the notice dated February 7, 1986, are repeated below as follows:

Designated or Equivalent Federal Points of Delivery, Tap Points, and Voltages

Arizona:	
Glen Canyon.....	69 kV
Kayenta.....	230 kV
Long House Valley.....	230 kV
Mesa ^{1 2}	230 kV
Pinnacle Peak ¹	230 kV
Colorado:	
Ault.....	230 kV
Beaver Creek ²	115 kV
Collbran Switchyard.....	115 kV
North Main Tap (Gunnison).....	115 kV
Gore Pass Tap.....	138 kV
Green Mountain.....	115 kV
Gunnison.....	115 kV
Hayden.....	138 kV
Lost Canyon.....	115, 230, or (345 kV) ³
Midway.....	115, 230 kV
Montrose.....	115 kV
Pueblo ²	115 kV
Rangely.....	138 kV
Salida (Poncha Junction).....	115 kV
Skito Tap.....	115 kV
Story ²	230 kV
Weld.....	115/230 kV
New Mexico:	
Albuquerque ²	115 kV
Ambrosia Lake ²	115 kV
Elephant Butte.....	69/115 kV
Four Corners.....	230 or (345 kV) ³
Shiprock.....	115/230/(345 kV) ⁴
Utah:	
Brigham City Tap ²	138 kV
Bountiful Tap ²	138 kV
Centerfield ²	138 kV
Fillmore ²	138 kV
Flaming Gorge.....	69/24.9 kV
Hale Plant Tap ²	138 kV
Hyrum ²	138 kV
Murray Tap ²	138 kV
New Castle Tap ²	138 kV
Paragonah ²	138 kV
Sigurd ²	138 kV
Smithfield Tap ²	138 kV
South Provo Tap ²	138 kV
Springville ²	138 kV
St. George ²	138 kV
Vernal.....	138 kV
Upalco Tap ²	138 kV
Henrieville Tap ²	230 kV
Archer.....	115/230 kV
Casper ²	115 kV
Glenrock ²	230/115 kV

Designated or Equivalent Federal Points of Delivery, Tap Points, and Voltages—Continued

Thermopolis ²	115 kV
Fontenelle.....	69 kV
Montana:	
Yellowtail ²	230 kV

¹ Deliveries to Southern Division Nevada customers are made from Mesa or Pinnacle Peak.
² Points of delivery on another Federal system or the system of a non-Federal entity.
³ Scheduled for uprating from 230 kilovolts (kV) to 345 kV.
⁴ A 345-kV yard previously under construction has been completed.

The July 6, 1987, notice amended the Criteria by adding the following points to those listed above:

Powell, Arizona—69 kV
 Gunnison, Colorado—115 kV or 12.5 kV
 Tyzack, Utah—138 kV

Since publishing of the February 7, 1986, and July 6, 1987, Federal Register notices, Western has completed the uprating and construction of the Western Colorado 345-kV transmission system from Craig, Colorado, to Shiprock, New Mexico, and has also completed the construction and interconnection of the Bears Ears-Bonanza 345-kV transmission line from Craig, Colorado, to Bonanza, Utah. Western therefore proposes to further amend the Criteria by adding the following designated Federal points of delivery and voltages in Arizona, Colorado, and Utah at which delivery of SLCA/IP power will be available:

Arizona:	
Glen Canyon.....	230 kV
J. Dean Slavens Tap.....	69 kV
Colorado:	
Bears Ears.....	345 kV
Hayden.....	230kV
Craig.....	230/345 kV
Rifle.....	230/345 kV ¹
North Fork.....	230 kV
Grand Junction.....	345 kV
Blue Mesa.....	115 kV
Montrose.....	345 kV
Hesperus.....	345 kV
Utah:	
Bonanza.....	345 kV

¹ Western has plans to construct a 345-kV substation at Rifle.

In addition to the points listed above, SLCA/IP power may be delivered at any future interconnection to the Federal Colorado River Storage Project Transmission System, as may be mutually agreed between Western and a requesting part.

DATES: Written comments on the proposal are due in the office of the Area Manager at the address given below no later than August 27, 1992. This proposal will become final 30 days after its publication in the Federal Register unless Western publishes

another Federal Register notice reflecting any differences between this original proposal and any amended final determination.

FOR FURTHER INFORMATION CONTACT:

Mr. Lloyd Greiner, Area Manager, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147-0606, (801) 524-6372.

SUPPLEMENTARY INFORMATION: The Glen Canyon delivery point is located adjacent to the Glen Canyon Dam approximately 1 mile west of Page, Arizona.

The J. Dean Slavens Tap delivery point is located approximately 1 mile southwest of Glen Canyon Substation.

The Bears Ears delivery point is located approximately 3/4 of a mile north of the Craig Generating Station Switchyard where Western's 345-kV lines terminate at the Bears Ears Substation, about 4 miles southwest of Craig, Colorado.

The Hayden delivery points is located adjacent to the Hayden Generating Station, approximately 3 miles east of Hayden, Colorado.

The Craig delivery points are located at the Craig Generating Station Switchyard where Western's 230-kV and 345-kV lines intersect the Craig Generating Switchyard, about 4 miles southwest of Craig, Colorado.

The Rifle delivery points are located at Western's Rifle Substation, approximately 3 miles south of Silt, Colorado.

The North Fork delivery point is located approximately 4 miles south of Paonia, Colorado.

The Grand Junction delivery point is located at the Grand Junction Substation, approximately 4 miles southeast of Clifton, Colorado.

The Blue Mesa delivery point is located adjacent to Blue Mesa Dam approximately 2 miles west of Sapinero, Colorado, approximately 25 miles west of Gunnison, Colorado.

The Montrose delivery point is located at the Montrose Substation, approximately 5 miles southwest of Montrose, Colorado.

The Hesperus delivery point is located at the Hesperus Substation, approximately 7 miles southeast of Hesperus, Colorado.

The Bonanza delivery point is located at the Bonanza Generation Station, approximately 28 miles southeast of Vernal, Utah.

With the completion of the Western Colorado and Bears Ears-Bonanza 345-kV transmission projects, Western proposes to establish these additional designated Federal points of delivery for

the benefit of the customers of the SLCA/IP, which is administered by Western.

Issued at Golden, Colorado, July 17, 1992.

William H. Clagett,
Administrator.

[FR Doc. 92-17800 Filed 7-27-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4158-5]

Science Advisory Board

Environmental Health Committee; Open Meeting

Under Public Law 92-463, notice is hereby given that the Environmental Health Committee (EHC) of the Science Advisory Board will meet on August 17 and 18, 1992 at the Holiday Inn Georgetown, 2101 Wisconsin Avenue NW., Washington, DC 20007. The hotel telephone number is (202) 338-4600.

The meeting, which is open to the public, will start at 9 a.m. each day, and adjourn no later than 5 p.m. each day.

The main purpose of the meeting is to review the Office of Research and Development's draft document Dermal Exposure Assessment: Principles and Applications (EPA/600/8-91/011B, January 1992). Principal issues to be discussed include the validity of certain assumptions about skin composition and dermal absorption; the application of certain models for evaluating dermal absorbed dose; and the use of measured absorption constants in evaluating dermal absorbed dose. Additional information on the topic, and copies of the draft document can be obtained from Miss Kim Hoang (RD-689), Office of Health and Environmental Assessment, Office of Research and Development, USEPA, 401 M St. SW., Washington, DC 20460. Miss Hoang may be called at (202) 260-2059. The Committee will also be briefed on Agency conflict of interest policy.

An agenda for the meeting is available from Ms. Mary Winston, Staff Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202-260-6552). Members of the public desiring additional information about the conduct of the meeting should contact Mr. Samuel Rondberg, Designated Federal Official, Environmental Health Committee, by telephone at the number noted above or by mail to the address noted above. Anyone wishing to make a presentation at the meeting should forward a written

statement (35 copies) to Mr. Rondberg by August 11, 1992. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes.

Dated: July 20, 1992.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92-17775 Filed 7-27-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-44589; FRL-4079-9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on ortho-, meta- and para-phenylenediamine (CAS Nos. 95-54-5, 108-45-2, and 106-50-3), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the Federal Register reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for ortho-, meta- and para-phenylenediamine were submitted by E. I. du Pont de Nemours and Company pursuant to a test rule at 40 CFR 799.3300. They were received by EPA on July 8, 1992. The submissions describe subchronic neurotoxicity testing including functional observational battery, motor activity and neuropathology. Health effects testing is required by this test rule. This chemical is used in aramid fibers, rubber and plastic antioxidants, photographic chemicals, dye intermediates, corrosion inhibitors and pesticides.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is

unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS-44589). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: July 20, 1992.

James B. Willis,

Acting Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-17772 Filed 7-27-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59310; FRL 4081-8]

Certain Chemical; Test Market Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES:

Written comments by:

T 92-15, August 12, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPTS-59310)" and the specific TME number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW, Rm. 201ET, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT:

Susan B. Hazen, Director, Environmental

Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW, Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

T 92-15

Close of Review Period. August 26, 1992.

Manufacturer. Confidential.
Chemical. (G) Tertiary ammonium chloride.

Use/Production. (G) Fabric softener ingredient. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: > 2,000 mg/kg species (mouse). Static acute toxicity: time LC50 96h 3.1 mg/L species (killfish). Skin irritation: slight species (guinea pig). Mutagenicity: negative. Skin sensitization: negative species (guinea pig).

Dated: July 22, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-17771 Filed 7-27-92 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59309A; FRL-4081-1]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of applications for test marketing exemptions (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TME-92-13 and TME-92-14. The test marketing conditions are described below.

EFFECTIVE DATES: (July 21, 1992.).

FOR FURTHER INFORMATION CONTACT: Rick Keigwin, New Chemicals Branch, Chemical Control Division (TS-794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-611, 401 M St. SW., Washington, DC 20460, (202) 260-2440.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to human health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME-92-13 and TME-92-14. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to human health or the environment. Production volume, use, and the number of customers must not exceed that specified in the applications. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-92-13 and TME-92-14. A bill of lading accompanying each shipment must state that the use of the substances is restricted to that approved in the respective TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substances produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substances.

TME-92-13

Date of Receipt: June 11, 1992.

Notice of Receipt: June 24, 1992 (57 FR 28180).

Applicant: Confidential.

Chemical: (G) 2-Propenamide, copolymer with cationic monomer.

Use: (G) Retention/drainage aid in papermaking; industrial wastewater flocculant.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential.

TME-92-14

Date of Receipt: June 11, 1992.

Notice of Receipt: June 24, 1992 (57 FR 28180).

Applicant: Confidential.

Chemical: (G) 2-propenamamide, terpolymer with cationic monomers.

Use: (G) Industrial wastewater flocculant; water clarification of produced oil field fluids.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Confidential.

Risk Assessment: EPA identified no significant health concerns for the test market substances. Regarding environmental concerns, based on test data available to the Agency on structurally similar compounds, the substances may be acutely toxic to aquatic life. These same data, however, indicate that the potential effects of these TME substances will be significantly mitigated in natural surface waters. Therefore, EPA has determined that the test market activities will not present an unreasonable risk of injury to human health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to human health or the environment.

Dated: July 21, 1992.

John W. Melone,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-17773 Filed 7-27-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPT-59299D; FRL-4080-7]

Certain Chemicals; Extension of Test Marketing Period for Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of extension to the test marketing period for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA designated the original test marketing applications as TME-91-19 and TME-91-20. Therefore, this extension is a modification of the previously granted TMEs. The test marketing conditions are described below.

EFFECTIVE DATES: (July 20, 1992).

FOR FURTHER INFORMATION CONTACT:

David Giamporcaro, Section Chief, Biotechnology Program, Chemical Control Division (TS-794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-613, 401 M St. SW., Washington, DC 20460, (202) 260-6362.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves the extension of the test marketing period for TME-91-19 and TME-91-20. EPA has determined that test marketing of the pesticide intermediates described below, under the conditions set out in the TME applications and modification requests, and for the modified time periods specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the original application. All other conditions and restrictions described in the original Notice of Approval of Test Marketing Application must be met.

T-91-19 and T-91-20

Notice of Approval of Original Application: July 8, 1991 (56 FR 30923).

Further extension of Modified Test Marketing Period: October 19, 1992, representing a 90 day extension from the previous expiration date of July 21, 1992.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

Dated: July 20, 1992.

John W. Melone,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-17774 Filed 7-27-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for review of the information collection system described below.

Type of review: Extension of the expiration date of a currently approved collection without any change in the method or substance of collection.

Title: Recordkeeping And Disclosure Requirements In Connection With Regulation M (Consumer Leasing).

Form Number: None.

OMB Number: 3064-0083.

Expiration Date of OMB Clearance: August 31, 1992.

Respondents: Insured nonmember banks.

Frequency of Response: On occasion.

Number of Respondents: 7,636.

Annual Hours per Respondent: 4.0.

Total Annual Hours: 30,690.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0083, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before September 11, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Regulation M (12 CFR 213) implements

the consumer leasing provisions of the Truth In Lending Act. Regulation M is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of title I of the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*) Section 105 of the Act (15 U.S.C. 1604) designates the FRB as the issuer of the implementing regulations, and section 108(a) of the Act (15 U.S.C. 1607) designates the FDIC as having enforcement responsibilities in the case of insured nonmember banks.

Dated: July 22, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-17684 Filed 7-27-92; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the method or substance of collection.

Title: Recordkeeping and Disclosure Requirements in Connection With Regulation E (Electronic Funds Transfers).

Form Number: None.

OMB Number: 3064-0084.

Expiration Date of OMB Clearance: August 31, 1992.

Respondents: Insured nonmember banks.

Frequency of Response: On occasion.

Number of Respondents: 7,636.

Annual Hours per Respondent: 120.4.

Total Annual Hours: 919,150.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0084, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome

and should be submitted before September 28, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above.

Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION:

Regulation E (12 CFR 205) establishes the rights, liabilities, and responsibilities of parties in electronic funds transfers ("EFT") and protects customers using EFT systems. Regulation E is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of title IX of the Consumer Credit Protection Act (15 U.S.C. 1693). Section 904 of the Act (15 U.S.C. 1693b) designates the FRB as the issuer of the implementing regulations, and section 917(a) of the Act (15 U.S.C. 1693o) designates the FDIC as having enforcement responsibilities in the case of insured nonmember banks.

Dated: July 22, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-17686 Filed 7-27-92; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for review of the information collection system described below.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the method or substance of collection.

Title: Recordkeeping And Disclosure Requirements In Connection With Regulation B (Equal Credit Opportunity).

Form Number: None.

OMB Number: 3064-0085.

Expiration Date of OMB Clearance: August 31, 1992.

Respondents: Insured nonmember banks.

Frequency of Response: On occasion.

Number of Respondents: 7,636.

Annual Hours per Respondent: 43.0.

Total Annual Hours: 327,829.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0085, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before September 11, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above.

Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION:

Regulation B (12 CFR part 202) prohibits creditors from discriminating against applicants on any of the bases specified by the Equal Credit Opportunity Act, establishes guidelines for gathering and evaluating credit information, and requires creditors to give applicants a written notification of rejection of an application. Regulation B is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of Title VII of the Consumer Credit Protection Act (15 U.S.C. 1691). Section 703 of the Act (15 U.S.C. 1691b) designates the FRB as the issuer of the implementing regulations, and section 704(a) of the Act (15 U.S.C. 1691c) designates the FDIC as having enforcement responsibilities in the case of insured nonmember banks.

Dated: July 22, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-17687 Filed 7-27-92; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for

review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Recordkeeping and Disclosure Requirements In Connection With Regulation Z (Truth In Lending).

Form Number: None.

OMB Number: 3064-0082.

Expiration Date of OMB Clearance: August 31, 1992.

Respondents: Insured nonmember banks.

Frequency of Response: On occasion.

Number of Respondents: 7,636.

Annual Hours per Respondent: 787.

Total Annual Hours: 6,011,648.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0082, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted before September 11, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Regulation Z (12 CFR 226) prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts. Regulation Z is issued by the Board of Governors of the Federal Reserve System ("FRB") under the authority of title I of the Consumer Credit Protection Act (15 U.S.C. 1601 *et seq.*) Section 105 of the Act (15 U.S.C. 1604) designates the FRB as the issuer of the implementing regulations, and section 108(a) of the Act (15 U.S.C. 1607) designates the FDIC as having enforcement responsibilities in the case of insured nonmember banks.

Dated: July 22, 1992.

Federal Deposit Insurance Corporation.
[FR Doc. 92-17683 Filed 7-27-92; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Emergency Food and Shelter National Board Program Amendment

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the Emergency Food and Shelter National Board Program (EFSP) Plan's previously published listing of localities selected for funding.

DATES: Funding for the additional localities began May 14, 1992.

FOR FURTHER INFORMATION CONTACT: Fran McCarthy, Disaster Assistance Programs, Federal Emergency Management Agency, (202) 646-3652, or Robert G. Chappell, Chair, EFSP National Board, (202) 646-3615.

SUPPLEMENTARY INFORMATION: Funding for the additional localities is from a reallocation of \$1.4 million. This sum includes unexpended or reclaimed funds from the local level as well as earned interest and unexpended administrative funds from the National level. The criteria for selection were based on unemployment data for the period March 1991 through February 1992. Jurisdictions not previously receiving direct funding, including balance of counties, had to meet the following criteria to qualify:

- Jurisdictions, including balance of counties, with 18,000+ unemployed and a 5.3% rate of unemployment.
- Jurisdictions, including balance of counties, with 500 to 17,999 unemployed and a 7.9% rate of unemployment.
- Jurisdictions, including balance of counties, with 500 or more unemployed and an 11% rate of poverty.

Also, jurisdictions with the highest percentage of increase in unemployment levels since the previous allocation qualified for an award.

The following is a listing of jurisdictions that meet the above requirements:

Emergency Food and Shelter Program National Board Reallocations—Phase X

Alabama.....	10-0070-00 Crenshaw County.	2,023.00
Alaska.....	10-0202-00 Kenai Peninsula Borough.	2,604.00
	10-0208-00 Kodiak Island Borough.	4,116.00
Arizona.....	10-0248-00 Gila County.	1,348.00
	10-0254-00 La Paz County.	4,337.00
California.....	10-0695-00 Los Angeles City/County.	378,750.00
Connecticut.....	10-1422-01 Fairfield Census/Bridgeport.	13,199.00
	10-1422-02 Fairfield Census/Danbury.	4,017.00
	10-1422-03 Fairfield Census/Norwalk.	4,878.00
	10-1422-04 Fairfield Census/Stamford.	6,600.00
	10-1438-00 Hartford Census County.	34,286.00

	10-1458-00 New Haven Census County.	32,252.00
	10-1478-00 State Set-Aside Committee, CT.	65,033.00
Florida.....	10-1692-00 Pasco County.	96,999.00
Idaho.....	10-2142-00 Blaine County.	3,183.26
	10-2208-00 Shoshone County.	1,005.00
Illinois.....	10-2220-00 Aurora/Dupage, Kane Counties.	36,737.00
	10-2348-00 Boone County.	2,126.00
	10-2364-00 Christian County.	3,161.00
	10-2374-00 Cook County.	81,569.00
	10-2378-00 Chicago County.	124,880.00
	10-2404-00 De Witt County.	2,039.00
	10-2464-00 Kankakee County.	4,406.00
	10-2478-00 Lee County.	10,324.00
	10-2494-00 Macoupin County.	2,156.00
	10-2496-00 Madison County.	10,120.00
	10-2508-00 Mercer County.	2,262.00
	10-2516-00 Moultrie County.	4,243.00
	10-2524-00 Perry County.	1,403.00
	10-2556-00 Shelby County.	5,006.00
	10-2578-00 Whiteside County.	8,541.00
	10-2580-00 Will County.	15,680.00
	10-2588-00 Winnebago County.	12,019.00
Indiana.....	10-2670-00 Fountain County.	3,434.00
Kentucky.....	10-3328-00 Bell County.	1,245.00
	10-3334-00 Boyd County.	2,109.00
	10-3348-00 Caldwell County.	6,612.00
	10-3358-00 Carter County.	1,660.00
	10-3386-00 Fleming County.	6,144.00
	10-3406-00 Greenup County.	1,422.00
	10-3412-00 Harlan County.	1,628.00
	10-3420-00 Henry County.	6,720.00
	10-3424-00 Hopkins County.	1,753.00
	10-3454-00 Letcher County.	1,375.00
	10-3470-00 Mc Lean County.	6,456.00
	10-3478-00 Marshall County.	6,700.00
	10-3482-00 Mason County.	6,924.00
	10-3498-00 Muhlenberg County.	1,349.00
	10-3514-00 Perry County.	1,294.00
	10-3516-00 Pike County.	2,713.00
	10-3554-00 Webster County.	6,684.00

Louisiana.....	10-3606-00 Catahoula Parish.	3,346.00
	10-3608-00 Claiborne Parish.	3,113.00
	10-3618-00 East Carroll Parish.	3,653.00
	10-3620-00 East Feliciana Parish.	2,747.00
	10-3646-00 La Salla Parish.	6,576.00
	10-3672-00 Red River Parish.	6,060.00
Michigan.....	10-4664-00 Cheboygan County.	2,397.00
	10-4736-00 Leelanau County.	3,628.00
	10-4744-00 Mackinac County.	1,497.00
Minnesota.....	10-4940-00 Faribault County.	6,156.00
Mississippi.....	10-5144-00 Humphreys County.	6,216.00
	10-5202-00 Perry County.	6,060.00
	10-5238-00 Walthall County.	6,024.00
	10-5250-00 Winston County.	1,107.00
	10-5252-00 Yalobusha County.	8,888.00
Montana.....	10-5556-00 Fergus County.	2,732.34
	10-5614-00 Roosevelt County.	4,169.03
	10-5618-00 Sanders County.	4,281.08
New Mexico.....	10-6050-00 Chaves County.	2,498.00
New York.....	10-6174-00 Genesee County.	22,569.00
	10-6182-00 Jefferson County.	5,322.00
North Carolina.	10-6326-00 Anson County.	1,143.00
	10-6336-00 Bladen County.	1,415.00
	10-6338-00 Brunswick County.	2,360.00
	10-6450-00 Madison County.	6,960.00
	10-6512-00 Transylvania County.	2,124.00
Ohio.....	10-6826-00 Morrow County.	4,982.00
Oklahoma.....	10-6902-00 Adair County.	6,780.00
	10-6988-00 Latimer County.	2,982.00
	10-7012-00 Murray County.	3,234.00
	10-7054-00 Seminole County.	1,135.00
	10-7058-00 Stephens County.	1,445.00
Oregon.....	10-7098-00 Columbia County.	5,916.00
	10-7116-00 Hood River County.	10,536.00
	10-7120-00 Jefferson County.	2,512.00
Pennsylvania ...	10-7312-00 Pike County.	14,400.00
	10-7340-00 Wyoming County.	7,236.00
Tennessee.....	10-7628-00 Campbell County.	2,237.00
	10-7656-00 Decatur County.	3,938.42
	10-7710-00 Johnson County.	2,719.90
	10-7744-00 Meigs County.	3,354.82
	10-7786-00 Smith County.	2,130.24

Texas.....	10-7916-00 Burnet County.	2,165.00
	10-8020-00 Dimmit County.	2,700.00
	10-8062-00 Frio County.	3,946.00
	10-8134-00 Hockley County.	1,699.00
	10-8170-00 Jim Wells County.	1,598.00
	10-8280-00 Newton County.	2,507.00
	10-8302-00 Pecos County.	2,353.00
	10-8310-00 Presidio County.	2,836.00
	10-8414-00 Tyler County.	2,544.00
	10-8468-00 Young County.	2,713.00
Virginia.....	10-8630-00 Culpeper County.	1,173.00
	10-8652-00 Giles County.	1,203.00
	10-8710-00 Northumberland County.	1,840.00
Washington.....	10-8858-00 Adams County.	1,069.00
	10-8898-00 Kittitas County.	1,438.00
	10-8906-00 Mason County.	3,9802.00
	10-8920-00 Skagit County.	18,104.00
West Virginia ...	10-8950-00 Huntington/Cabell, Wayne Cos..	6,273.00
	10-8954-00 Barbour County.	1,108.00
	10-8958-00 Boone County.	1,250.00
	10-8960-00 Braxton County.	1,156.00
	10-8984-00 Hancock County.	1,408.00
	10-8986-00 Hardy County.	3,670.00
	10-8992-00 Jefferson County.	2,132.00
	10-9002-00 Logan County.	1,956.00
	10-9004-00 McDowell County.	1,608.00
	10-9006-00 Marion County.	2,766.00
	10-9006-00 Marshall County.	1,861.00
	10-9010-00 Mason County.	1,527.00
	10-9020-00 Monroe County.	3,535.00
	10-9024-00 Nicholas County.	1,730.00
	10-9054-00 Upshur County.	1,516.00
Wisconsin.....	10-9220-00 Racine County.	37,436.00

(Catalog of Federal Domestic Assistance No. 83.523, Federal Emergency Management Food and Shelter Program)
Grant C. Peterson,
Associate Director, State and Local Programs and Support.
 [FR Doc. 92-17778 Filed 7-27-92; 8:45 am]
BILLING CODE 6718-07-M

FEDERAL MARITIME COMMISSION

Tampa Port Authority/Starlite Cruises; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984. Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 224-200624-001.
Title: Tampa Port Authority/Starlite Cruises, (Suncoast) Inc., Non-Exclusive Preferential Agreement.

Parties: The Tampa Port Authority ("Port Authority"), Starlite Cruises, (Suncoast) Inc. ("Starlite").

Synopsis: The Agreement provides for a joint marketing effort between the parties wherein the Port Authority through October 31, 1993, will allocate, on two day cruises or less, an amount of one dollar and fifty cents (\$1.50) per passenger embarking or disembarking Starlite's vessels at the passenger facility.

Agreement No. 203-011063-010.
Title: United States/Jamaica Discussion Agreement.

Parties: Crowley Caribbean Transport, Inc., Kirk Lines Ltd., Sea-Land Service, Inc., Calypso Container Lines, Shipping Corporation of Trinidad and Tobago, Ltd., West Indies Shipping Corporation, North American Caribbean Line Ltd., Blue Caribe Line.

Synopsis: The proposed amendment deletes Shipping Corporation of Trinidad and Tobago, Ltd., West Indies Shipping Corporation, North American Caribbean Line Ltd., and Calypso Container Lines as parties to the agreement.

Agreement No. 207-011380.
Title: HUAL/V.A.G. Transport Joint Service Agreement.

Parties: Hoegh-Ugland Auto Liners A/S (HUAL), V.A.G. Transport GmbH & Co. OHG (VAGT).

Synopsis: The proposed Agreement will permit the parties to establish a joint service for the carriage of liner

cargo, including automobiles and other rolling stock, in the trade from ports in Germany to ports on the U.S. Atlantic Coast.

Dated: July 21, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-17688 Filed 7-27-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section

7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 070692 AND 071792

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
General Parts, Inc., Northern Industries, Inc., Northern Industries, Inc.	92-1119	07/06/92
The Morgan Stanley Leveraged Equity Fund II, L.P., Presidio Oil Company, Mountain Gas Resources, Inc.	92-1126	07/06/92
Edward P. Welter, ABF Investors, Inc., Fab Investors Inc.	92-1154	07/06/92
Telefonaktiebolaget L M Ericsson, Joint Venture Corporation, Joint Venture Corporation	92-1158	07/06/92
General Electric Company, Joint Venture Corporation, Joint Venture Corporation	92-1159	07/06/92
Mycogen Corporation, The Lubrizol Corporation, The Lubrizol Corporation and Lubrizol Genetics, Inc.	92-1160	07/06/92
The Lubrizol Corporation, Mycogen Corporation, Mycogen Corporation	92-1161	07/06/92
Baker & Hughes Incorporated, Borg-Warner Corporation, BW-Hughes Tool Stock Corporation	92-1163	07/06/92
Carlton L. Rintz, Sensormatic Electronics Corp., Sensormatic Electronics Corp.	92-1164	07/06/92
FPL Group, Inc., Compagnie Generale des Eaux, Cogeneration National Corporation	92-1165	07/06/92
Peter Steiner, The Turner Corporation, The Turner Corporation	92-1166	07/06/92
Esther Baumann-Steiner, The Turner Corporation, The Turner Corporation	92-1167	07/06/92
American General Corporation, Trustmark Corporation, Credit Centers, Inc.	92-1168	07/06/92
Fluor Corporation, Bethlehem Steel Corporation, Primeacre Land Corporation and BethEnergy Mines Inc.	92-1145	07/07/92
C. Itoh, Ito-Yokado Co., Ltd., The Southland Corporation	92-1169	07/07/92
Pioneer Electronic Corporation, Carolco Pictures Inc., Carolco Pictures Inc.	92-1174	07/07/92
Pitney Bowes Inc., The Regency Group, Inc., Atlantic Mortgage & Investment Corporation	92-1172	07/09/92
First Financial Management Corporation, McDonnell Douglas Corporation, TeleCheck Services, Inc.	92-1177	07/09/92
Scott K. Ginsburg, Century Broadcasting Corporation, FM Radio Broadcast Station KMEL	92-1173	07/10/92
Merrill Lynch Capital Appreciation Company Ltd., II, Unifax Holdings, Inc., Unifax Holdings, Inc.	92-1182	07/10/92
Edward K. Christian, Boston Ventures Limited Partnership, Saga Communications Limited Partnership	92-1187	07/10/92
Provident Life & Accident Insurance Company of America, John Hancock Mutual Life Insurance Company, John Hancock Mutual Life Insurance Company	92-1190	07/10/92
Green Equity Investors, L.P., Pacific Enterprises, United Merchandising Corp.	92-1197	07/10/92
Tyler Capital Fund, L.P., The Mead Corporation, Ampad Corporation	92-1206	07/10/92
La Chemise Lacoste S.A., Crystal Brands, Inc., Crystal Brands, Inc.	92-1216	07/10/92
Compagnie Financiere Ehrbar, The Horn & Hardart Company, The Horn & Hardart Company and The Hanover Companies	92-1199	07/13/92
Forest Laboratories, Inc., E. I. du Pont de Nemours and Company, The Du Pont Merck Pharmaceutical Company	92-1179	07/14/92
Forest Laboratories, Inc., Merck & Co., Inc., The Du Pont Merck Pharmaceutical Company	92-1186	07/14/92
First Financial Management Corporation, Payment Services Company—U.S., Payment Services Company—U.S.	92-1188	07/15/92
The Reliable Life Insurance Company, Vereniging AEGON, Monumental Life Insurance Company	92-1194	07/15/92
Vereniging AEGON, The Reliable Life Insurance Company, The Reliable Life Insurance Company	92-1195	07/15/92
Green Equity Investors, L.P., Pacific Enterprises, Thrifty Holdings, Inc.	92-1198	07/15/92
American Home Products Corporation, Imperial Chemical Industries PLC, ICI Americas Inc.	92-1146	07/16/92
Medical Care International, Inc., Critical Care America, Inc., Critical Care America, Inc.	92-1175	07/16/92
Critical Care America, Inc., Medical Care International, Inc., Medical Care International, Inc.	92-1176	07/16/92
Burlington Resources, Inc., Mobil Corporation, Mobil Producing Texas & New Mexico Inc.	92-1185	07/16/92
Enron Corp., 1991 Enron NGL Trust, 1991 Enron/NGL Trust assets	92-1203	07/16/92
Formosa Plastics Corporation, USA, Chi Tai Lee, Country Plastics Systems, Inc.	92-1133	07/17/92
Finalco Limited Partnership I, Intelogic Trace, Inc., Intelogic Trace TexCom Group, Inc. and The	92-1201	07/17/92
ITT Corporation, Marriott Corporation, Four Seven Redevelopment Corporation, Airline	92-1202	07/17/92
Vereniging AEGON, American National Insurance Company, Commonwealth Life and Insurance Company	92-1210	07/17/92
The Reliable Life Insurance Company, American National Insurance Company, Commonwealth Life and Insurance Company	92-1211	07/17/92
E-Z Serve Corporation, The Equitable Life Assurance Society of the U.S., TOC Retail, Inc.	92-1212	07/17/92
International Transport Services Limited, Larry L. Hillblom, DHL International limited	92-1215	07/17/92
Kyoei Steel Ltd., FLS Holdings Inc., FLS Holdings Inc.	92-1220	07/17/92
Bacardi Limited, Allied-Lyon, Inc., Fleming Packaging Corp.	92-1221	07/17/92
Lehman Brothers Merchant Banking Portfolio Partnership, Loral Corporation, Space Systems/Loral, Inc.	92-1222	07/17/92
Land Free II Investments Limited, Price Communications Corporation, The New York Law Publishing Company	92-1223	07/17/92
The Equitable Life Assurance Society of the U.S., Tide West Oil Company, Tide West Oil Company	92-1224	07/17/92
Tide West Oil Company, The Equitable Life Assurance Society of the U.S., Draco Gas Partners, L.P.	92-1226	07/17/92
Alusuisse-Lonza Holding Ltd., Therma-Plate Corporation, Therma-Plate Corporation	92-1236	07/17/92
IVAX Corporation, Dr. and Mrs. N. Craig Roberts, Flori Roberts, Inc. and Searoads, Inc.	92-1238	07/17/92

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-17755 Filed 7-27-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Developmental Disabilities

Meeting of the Interagency Committee on Developmental Disabilities

AGENCY: Administration for Children and Families (ACF), DHHS.

ACTION: Notice of meeting.

SUMMARY: The Interagency Committee on Developmental Disabilities (ICDD) was established in 1984 by section 108(b) of the Developmental Disabilities Assistance and Bill of Rights Act of 1984 (42 U.S.C. 6007 [b]) to "meeting regularly to coordinate and plan activities by Federal departments and agencies for persons with developmental disabilities." In 1990, the Act was amended to provide that the meetings be open to the public and that a notice of the meeting be published in the *Federal Register*. Under section 107(c)(1)(E) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6006(c)(1)(E)), the Secretary must annually report on "the accomplishments of the interagency committee in comparison to the goals and objectives of such committee." The ICDD is chaired by the Assistant Secretary for Special Education and Rehabilitative Services and the Commissioner of the Administration on Developmental Disabilities.

MISSION AND GOALS: The mission of the ICDD is to promote the collaboration of appropriate Federal departments and agencies to improve the effectiveness of Federal programs in assisting persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community and in such other ways that assist people with developmental disabilities to attain a more normalized and higher quality of life.

The ICDD has adopted the following goals:

- To exchange information on Federal activities that affect people with developmental disabilities so that each agency is able to utilize this information in managing and directing its programs;

- To identify the needs of people with developmental disabilities and barriers to achieving the goals of the Developmental Disabilities Act and to recommend solutions for meeting these needs and removing these barriers.

- To establish coordinated planning, when appropriate, for activities that are complementary or similar;

- To stimulate joint activities (e.g., joint research, joint development of policies and regulations, joint demonstration or evaluation projects) among the affected Federal agencies.

The ICDD meets regularly on the first Tuesday in December, April and August. The meeting is open to the public.

DATE: Tuesday, August 4, 1992, from 9:30 a.m. to 11:30 a.m.

ADDRESS: Auditorium of the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Edward Burke, room 327D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington DC 20201 (202) 690-7693 or Wendell Johnson, room 3127, Mary E. Switzer Building, 330 C Street SW., Washington, DC 20202 (202) 205-9674.

SUPPLEMENTARY INFORMATION: At the meeting the ICDD will discuss: (1) Status of long-term funding strategies for persons with disabilities in supported employment; (2) the agreement between the Departments of Education and Labor on policy guidelines for the application of the Fair Labor Standards Act and the Individuals with Disabilities Education Act to students with severe disabilities engaging in transitional work activities; and other matters that may arise.

Dated: July 17, 1992.

Deborah L. McFadden,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 92-17707 Filed 7-27-92; 8:45 am]

BILLING CODE 4130-01-M

Food and Drug Administration

Studies for the Development and Improvement of Analytical Methodology for Animal Drug Residues in Tissues; Availability of Grants (Cooperative Agreements); Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Veterinary Medicine (CVM), is announcing the anticipated availability of approximately \$300,000 for Fiscal Year (FY) 1993 for cooperative agreements to support studies on the development of analytical methodologies for residues of animal drugs in tissues. FDA anticipates making up to three awards in FY 93 for an approximate amount of \$100,000 each (this amount is for total costs including any indirect costs requested). Awards are subject to the availability of funds. The purpose of this program is to provide financial assistance to support basic research and development on the isolation, separation, detection, quantitation, and identification of animal drug residues in tissue matrices (including milk). Support for these agreements may be for a period of up to 3 years.

DATES: The closing date for submission of applications is October 28, 1992. (See section IX. Method of Application, for details of submission of applications).

ADDRESSES: Application forms are available from, and completed applications should be submitted to: Robert L. Robins, State Contracts and Assistance Agreements Branch (HFA-520), Food and Drug Administration, Park Bldg., Rm. 3-40, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6170.

NOTE: Applications hand-carried or commercially delivered should be addressed to Park Bldg., Rm. 3-40, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Regarding the administrative and financial management aspects of this notice: Robert L. Robins, address above.

Regarding the programmatic aspects of this notice: David B. Batson, Center for Veterinary Medicine (HFV-500), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8702.

SUPPLEMENTARY INFORMATION: FDA's authority to fund research projects is set out in section 301 of the Public Health Service Act (42 U.S.C. 241). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103.

The Public Health Service (PHS) urges applicants to submit work plans that address specific objectives of the publication *Healthy People 2000*. Potential applicants may obtain a copy of *Healthy People 2000* (full report; Stock No. 017-001-00474-0) or *Healthy People 2000* (summary report; Stock No. 017-001-00473-1) through the Superintendent of Documents,

Government Printing Office,
Washington, DC 20402-9325, 202-783-
3238.

I. Background

Tolerances for residues of new animal drugs in meat, poultry, milk, and eggs are prescribed in 21 CFR Part 556, Subpart B. In order to ensure that the tolerances are met, FDA requires, as a condition of approval of a new animal drug application, that analytical methods be available that can be used to monitor compliance.

Because the responsibility for monitoring analytical methods for residues of individual approved drugs in meat, milk, and eggs rests primarily with FDA, FDA is interested in funding research that will lead to improved monitoring programs for residues by introducing: (1) Multiresidue methods of analysis, (2) new analytical techniques that were not available at the time of approval of many animal drugs, and (3) labor-saving and solvent-minimizing techniques that will improve the efficiency of residue monitoring. The agency has also undertaken the development of residue methods for certain individual drugs, e.g., chloramphenicol, for which there has been evidence of unapproved use in food animals. Under its residue methods development program, the agency has, since 1986, funded a number of cooperative agreements with academic and research laboratories that were designed to evaluate the applicability of new and emerging technology in analytical chemistry to State and Federal residue monitoring programs. Accomplishments of this program to date include the introduction of matrix solid phase dispersion, new liquid chromatography/mass spectrometry (LC/MS) interfaces such as particle beam, molecular weight cut-off filters, on-column (LC) concentration of analytes, and tandem mass spectrometry into one or more official residue methods of analysis. Other techniques that were investigated under the program, but have not yet been utilized in an official method, include fluorescence polarization immunoassay, supercritical fluid extraction, and atmospheric pressure ionization MS. Special consideration will be given to funding proposed research that will employ new and emerging analytical technology to meet the goals and objectives outlined below.

II. Research Goals and Objectives

The specific objective of this program will be to provide financial assistance to investigators conducting basic research

and development on the isolation, separation, detection, quantitation, and unambiguous identification of animal drug residues in tissue matrices (including milk). Projects that fulfill any one or a combination of the following objectives will be considered for funding:

1. Extraction and clean-up of extracts are often the rate limiting steps in terms of time, sensitivity, and specificity of currently available analytical methods for residues. Research on new approaches to make these steps more efficient is needed. One specific need is for techniques designed to reduce, or even eliminate, the use of organic solvents, especially those solvents that are incompatible with subsequent chromatography or immunoassay separation and detection steps in many analytical procedures. A second need is for extraction techniques that are amenable to automation.

2. Improved techniques for analyte separation and detection are needed that are characterized by high sample capacity, high sensitivity, and increased specificity. Examples of techniques that might find application in residue monitoring programs include immunoaffinity chromatography and the use of biosensors to detect very low levels of certain analytes. One significant problem that the use of biosensors might help solve is the need for a rapid test that can be used to confirm positive milk samples found in industry and state milk monitoring programs. In order to provide the necessary increase in confidence that an over-tolerance/over-action level of residue is indeed present in the milk sample, the analytical response of the confirmatory procedure should rely on a different physical property of the analyte than that measured by the currently utilized receptor- and enzyme-linked immunosorbent assay (ELISA) - based screening assays for milk.

3. Analytical methods used to regulate residue levels in food provide a high degree of confidence that the analyte being quantified is the drug residue the method is designed to determine. This is usually accomplished by subjecting all positive samples to a separate confirmatory procedure. Virtually all official confirmatory procedures are based on mass spectrometry. Despite the significant advances made in mass spectrometry in recent years, adequate confirmatory procedures do not exist for a number of high molecular weight, low tolerance, or otherwise unique animal drug residues. Beta lactam and aminoglycoside antibiotics are two examples of drugs in this category. Also,

the development of confirmatory procedures based on alternative, specific technologies such as infrared spectrometry would be of interest. Initial efforts along these lines would best be directed to drug residues that are assigned relatively high tolerances and possess other characteristics that make them amenable to confirmation by the new technology.

4. The development of new analytical systems and strategies capable of multiresidue separation, determination and/or confirmation would be of interest.

III. Animal Drug List

The major focus of research proposed for funding under these cooperative agreements should be on demonstrating the applicability of new and emerging analytical techniques for residue monitoring programs and not on the development of a regulatory method for residues of a given animal drug. As a practical matter, however, applicants will find it necessary to select specific compounds on which to conduct their research. For this reason, CVM is providing the following list of animal drugs that at one time needed improved analytical methods for residues in meat, milk, or eggs. The fact that methods for some of the drugs on the list have been, or are being, developed should not constrain applicants from selecting those drugs as subjects for their research on analytical technology that is new to existing residue monitoring programs.

aklomid
amoxicillin
ampicillin
amprolium
azaperone
cephapirin
chloramphenicol
chlorothiazide
chlortetracycline
cloxacillin
dexamethasone
dihydrostreptomycin
3,5-dinitrobenzamide
erythromycin
fenbendazole
furosemide
hetacillin
hygromycin-B
levamisole
lincomycin
neomycin
oxfendazole
oxytetracycline
penicillin
phenothiazine
piperazine
prednisolone
spectinomycin

streptomycin
tetracycline
thiabendazole
xylazine
zoalene

IV. Reporting Requirements

A program progress report and a Financial Status Report (FSR) (SF-269) are required. An original FSR and two copies of this report shall be submitted to FDA's Grants Management Officer within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR (SF-269) on time will be grounds for suspension or termination of the grant. Progress reports will be required quarterly within 30 days following each Federal fiscal quarter (January 31, April 30, July 30, October 31), except that the fourth report, which will serve as the annual report and be due 90 days after the budget expiration date. CVM program staff will advise the grantee of the suggested format for the program progress report at the appropriate time. A final FSR (SF-269), program progress report, and Invention Statement must be submitted within 90 days after the expiration of the project period as noted on the Notice of Grant Award.

Program monitoring of grantees will be conducted on an ongoing basis and written reports will be done at least quarterly by the project officer. The monitoring may be in the form of telephone conversations between the project officer/grants management specialist and the principal investigator and/or a site visit with appropriate officials of the grantee organization. The results of these reports will be duly recorded in the official grant file and may be available to the grantee upon request.

V. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of cooperative agreements. These cooperative agreements will be subject to all policies and requirements that govern the research grant programs of the Public Health Service, including the provisions of 42 CFR Part 52 and 45 CFR Parts 74 and 92. The regulations promulgated under Executive Order 12372 do not apply to this program.

B. Eligibility

These cooperative agreements are available to any public or private nonprofit organization (including State and local units of government) and any for-profit organization. For-profit organizations must exclude fees or profit from their request for support.

C. Length of Support

The length of support will be for up to 3 years. Funding beyond the first year will be noncompetitive and will depend on: (1) Satisfactory performance during the preceding year; and/or (2) the availability of funds.

VI. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency. Accordingly, FDA will have a substantive involvement in the programmatic activities of all the projects funded under the request for applications (RFA). Substantive involvement includes but is not limited to the following:

1. FDA will appoint project officers who will actively monitor the FDA-supported program under each award. During monitoring, FDA may direct or redirect the selection of animal drugs to be studied.

2. FDA will establish an Analytical Advisory Group which will provide guidance and direction to the project officer with regard to the analytical methods, animal drugs, and animal tissues to be investigated. In some cases, FDA scientists will collaborate with grantees in determining the methodological approaches to be used.

3. FDA scientists will collaborate with the recipient and have final approval on the experimental protocol. This collaboration may include protocol design, data analysis, interpretation of findings, and coauthorship of publications.

4. FDA will cooperate extensively in the production of animal tissues containing incurred residues.

VII. Review Procedures and Criteria

A. Review Methods

All applications submitted in response to this request for applications will first be reviewed by grants management and program staff for responsiveness to this request for applications. If applications are found to be nonresponsive, they will be returned to the applicant.

Responsive applications will be reviewed and evaluated for scientific and technical merit by experts in the subject field. This review will take the form of either competitive review panels or field readers. To ensure fairness, the score by both types of reviews (panels and readers) will be combined into one rank order for the entire competition. Responsive applications will also be subject to a second level of review by a National Advisory Council for concurrence of the recommendations made by the first level reviewers with

funding decisions made by the Commissioner, Food and Drug Administration.

B. Review Criteria

Applications will be reviewed according to the following criteria:

1. Research should be proposed on an analytical technique/drug residue/tissue matrix combination that is new and novel, i.e., one that is not currently being used in State or Federal residue monitoring programs.

2. Whether the proposed study is within the budget and costs have been adequately justified and fully documented;

3. Soundness of the rationale for the proposed study and appropriateness of the study design to address the objectives of the RFA;

4. Availability and adequacy of laboratory and associated animal facilities;

5. Availability and adequacy of support services, e.g., biostatistical computer, etc., and;

6. Research experience, training, and competence of the principal investigator and support staff.

VIII. Submission Requirements

The original and five copies of the completed Grant Application Form PHS 398 (Rev. 9/91) or the original and two copies of the PHS 5161 for State and local governments with sufficient copies of the appendix for each application, should be delivered to Robert L. Robins (address above). No supplemental material will be accepted after the established closing date. The outside of the mailing package and item 2 of the application face page should be labeled, "Response to RFA-FDA-CVM-92-1".

IX. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, 8 a.m. to 4:30 p.m., Monday through Friday, on or before October 26, 1992. Applications will be considered received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service dated postmark or a legible dated receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant.

NOTE: Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this

method, applicants should check with their local post office.

B. Format for Application

Applications must be submitted on Grant Application Form PHS-398 (Rev. 9/91). All "General Instructions" and "Specific Instructions" in the application kit should be followed with the exception of the receipt dates and the mailing label address. Do not send applications to the Division of Research Grants, the National Institutes of Health. Applications from State and local governments should be submitted on Form PHS 5181. Completed applications should be submitted to: Robert L. Robins (address above). Applications hand-carried or commercially delivered should be addressed to Park Bldg., Rm. 3-40, 12420 Parklawn Dr., Rockville, MD 20857. The face page of the application must reflect the request for applications number RFA-FDA-CVM-92-1. Data included in the application, if restricted with the legend specified below, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

Information collection requirements requested on Form PHS 398 and the instructions have been submitted by (PHS) to the Office of Management and Budget (OMB) and were approved and assigned OMB control number 0925-0001.

C. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552) as determined by the freedom of information officials of the Department of Health and Human Services or by a court, data contained in the portions of an application which have been specifically identified by page number, paragraph, etc., by the applicant as containing confidential commercial information or other information that is exempt from public disclosure will not be used or disclosed except for evaluation purposes.

Dated: July 6, 1992.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 92-17692 Filed 7-27-92; 8:45 a.m.]

BILLING CODE 4160-01-F

[Docket No. 92C-0265]

Kemira, Inc.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Kemira, Inc., has filed a petition proposing that the color additive regulations be amended to provide for the safe use of phlogopite mica as a color additive for use in externally applied drugs and externally applied cosmetics, including those for use in the area of the eye.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9515.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1) (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 2C0238) has been filed by Kemira, Inc., P.O. Box 368, Savannah, GA 31402. The petition proposes to amend the color additive regulations in §§ 73.1496 Mica and 73.2496 Mica (21 CFR 73.1496 and 73.2496) to provide for the safe use of phlogopite mica as a color additive for use in externally applied drugs and externally applied cosmetics, including those for use in the area of the eye.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: July 15, 1992.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-17747 Filed 7-27-92; 8:45 a.m.]

BILLING CODE 4160-01-F

[Docket No. 83F-0245]

Purac Biochem b. v. (Formerly C. V. Chemie Combinatie Amsterdam C. C. A.); Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 3A3727) filed by Purac Biochem b. v. (formerly C. V. Chemie Combinatie Amsterdam C. C. A.) proposing that the food additive regulations be amended to

provide for the safe use of 4-O-(β-galactosyl)-D-glucitol as a reduced calorie sweetening agent for food.

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9515.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 19, 1983 (48 FR 37708), which was corrected in the Federal Register of September 27, 1983 (48 FR 44113), FDA published a notice that it had filed a petition (FAP 3A3727) from C. V. Chemie Combinatie Amsterdam C. C. A., Gorinchem, Holland. This petition proposed that Part 172 (21 CFR Part 172) be amended to provide for the safe use of 4-O-(β-galactosyl)-D-glucitol as a reduced calorie sweetening agent for food. Purac Biochem b. v. has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: July 22, 1992.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 92-17746 Filed 7-27-92; 8:45 a.m.]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-92-3477]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a

toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and

hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 22, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Improvement Assistance Program (CIAP): Reporting/Monitoring.

Office: Public and Indian Housing.
Description of the Need for The Information and its Proposed Use:

Form HUD-52826 and HUD-53001 provides the Public Housing Agency and Indian Housing Authority (herein referred to as HA) with a systematic method of recording and reporting its actual obligations and expenditures and for determining the current status of its comprehensive improvement assistance program (CIAP) in progress. It also enables the HUD Field Office to monitor HA obligations and expenditures and to ensure that modernization work is progressing in a timely manner. The collected information will also be used to satisfy HUD's review and monitoring responsibilities.

Form Number: HUD-52826 and HUD-53001.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion and Quarterly.

Reporting Burden:

	Number of respondents	×	Frequency of Response	×	Hours per response	=	Burden hours
Form HUD-52826	600		4		1.5		3,600
Narrative report on management improvements	150		4		1.5		900
Request for proposal for professional services relating to management improvements	75		1		2.0		150
Form HUD-53001	600		1		1.0		600

Total Estimated Burden Hours: 5,250.
Status: Reinstatement.

Contact: Pris P. Buckler, HUD, (202) 708-1640. Jennifer Main, OMB, (202) 395-6880.

Dated: July 22, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Improvement Assistance Program (CIAP): Survey Instrument.

Office: Public and Indian Housing.
Description of the Need for the Information and its Proposed Use: The Public Housing Agency and the Indian Housing Authority (herein referred to as the HA) are required to use the

survey instrument to prepare for the Joint Review, and on-site inspection of the development proposed for comprehensive modernization, conducted by both the HA and the HUD Field Office.

Form Number: HUD-52827.

Respondents: State or Local Governments, Non-Profit Institutions.

Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey Instrument	300		1		12		3,600

Total Estimated Burden Hours: 3,600.
Status: Reinstatement.

Contact: Pris P. Buckler, HUD, (202) 708-1640; Jennifer Main, OMB, (202) 395-6880.

Dated: 22, July 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Pre-foreclosure Sale Demonstration Program-FR-2714.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Defaulting mortgagors with stagnant or declining property value can qualify to sell their homes at current fair market value to third-party buyers. HUD pays the shortfall between proceed and mortgage indebtedness to the mortgagee via the claims process. Mortgagor avoids

foreclosure; HUD saves foreclosure, maintenance and marketing cost.

Form Number: None.

Respondents: Individuals or Households, Businesses or Other For-Profit and Non-Profit Institutions.

Frequency of Submission: Monthly.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Applicants.....	13,040		1.027		0.669		8,959

Total Estimated Burden Hours: 8,959.
Status: Extension.
Contact: Joseph Bates, HUD, (202) 708-3680; Jennifer Main, OMB, (202) 395-6880.

Dated: 22, July 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Monthly Reports for Establishing Net-Income.
Office: Housing.

Description of the Need for the Information and its Proposed Use:
 Accounting reports submitted by selected owners and agents of Multifamily Projects will be used to monitor compliance with contractual agreements and to analyze cash flow trends as well as occupancy and rent collection levels. The reports will alert field staff of the need for remedial actions to correct deficiencies or the

need for more aggressive servicing action.
Form Number: HUD-93479, 93480 and 93481.
Respondents: Businesses or Other For-Profit and Non-Profit Institutions.
Frequency of Submission: Monthly and Recordkeeping.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Monthly Reports.....	4,000		12		3.5		168,000
Recordkeeping.....	4,000		1		1		4,000

Total Estimated Burden Hours: 172,000.
Status: Extension.
Contact: James J. Tahash, HUD, (202) 708-3944; Jennifer Main, OMB, (202) 395-6880.

Dated: 22, July 1992.

[FR Doc. 92-17784 Filed 7-27-92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-92-3475]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 17, 1992.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public and Indian Housing: Demolition/Disposition/Conversion/Taking.

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The purpose of the Housing Authorities request is to seek HUD approval of a change in a public housing development application from what was originally authorized under the Annual Contribution Contract.

Form Number: None.

Repondents: State or Local Governments, and Non-Profit Institutions.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application.....	120		1		15.8		1,900
Recordkeeping.....	120		7		10		1,200

Total Estimated Burden Hours: 3,100.
Status: Reinstatement.

Contact: Virginia Mathis, HUD, (202) 708-1640, Jennifer Main, OMB, (202) 395-6880.

Dated: July 17, 1992.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Supplemental Assistance for Facilities to Assist the Homeless

(SAFAH) Program—Annual Progress Report.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: This information is used to monitor progress and to learn how to coordinate comprehensive supportive services designed to enable homeless families with children currently living in transitional housing to achieve

long-term self-sufficiency by obtaining and remaining in permanent housing.

Form Number: HUD-40077.

Respondents: State or Local Governments, and Non-Profit Institutions.

Frequency of Submission: Annually and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application.....	250		1		94.86		26,560
Environmental assessment.....	60		1		14		840
Recordkeeping for application.....	40		1		1		40
Recordkeeping for APR.....	14		1		200		2,800
Reporting for APR.....	14		1		10		140

Total Estimated Burden Hours: 30,380.
Status: Revision.

Contact: James N. Forsberg, HUD (202) 708-4300, Jennifer Main, OMB, (202) 395-6880.

Dated: July 17, 1992.

[FR Doc. 92-17715 Filed 7-27-92; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. D-92-999; FR 3299-D-01]

Order of succession, Acting Assistant Secretary for Community Planning and Development

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Order of succession.

SUMMARY: The Assistant Secretary for Community Planning and Development is revising the order of succession of officials authorized to serve as Acting Assistant Secretary for Community Planning and Development when, by reason of absence, disability, or vacancy in office, the Assistant Secretary is not available to exercise the powers or perform the duties of the Office.

EFFECTIVE DATE: July 6, 1992.

FOR FURTHER INFORMATION CONTACT: John C. Barnett, Organization and Management Services Division, Office of Management, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., room 7230, Washington, DC 20410, (202) 708-2087. A telecommunications device for deaf

persons (TDD) is available at (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: This Order of Succession supersedes the Order of Succession of designees to act as Acting Assistant Secretary for Community Planning and Development published on February 26, 1991 at 56 FR 7873. The authorization to act under this Order is subject to the 30-day limitation of the Vacancies Act, 5 U.S.C. 3348, whereby a vacancy caused by death or resignation of an appointee, whose appointment is vested in the President by and with the advice and consent of the Senate, may be filled temporarily for not more than 30 days.

Accordingly, the Assistant Secretary for Community Planning and Development designates the following order of succession:

Section A. Order of Succession

During any period when, by reason of absence, disability, or vacancy in office, the Assistant Secretary for Community Planning and Development is not available to exercise the powers or perform the duties of the Office of the Assistant Secretary for Community Planning and Development, the following are hereby designated to serve as Acting Assistant Secretary for Community Planning and Development with all the powers, functions, and duties delegated or assigned to the Assistant Secretary for Community Planning and Development:

- (1) Deputy Assistant Secretary for Grant Programs
- (2) Deputy Assistant Secretary for Economic Development
- (3) Deputy Assistant Secretary for Operations

These officials shall serve as Acting Assistant Secretary for Community Planning and Development under this order of succession in the order specified herein and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office. If all the officials designated in this order of succession are unable to act as Acting Assistant Secretary for Community Planning and Development by reason of absence, disability, or vacancy in office, officials designated to serve as acting officials for these designated officials will serve in this same order of succession. Authorization to serve as Acting Assistant Secretary of Community Planning and Development shall not exceed 30 days pursuant to the Vacancies Act, 5 U.S.C. 3348.

Section B. Authorization

Each head of an organizational unit of the Office of Community Planning and Development is authorized to designate an employee under his/her supervision to act for him/her by reason of absence, disability, or vacancy in the position of head of the unit.

Section C. Supersedure

This Order of Succession supersedes the Order published on February 26, 1991 at 56 FR 7873.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 13, 1992.

Randall H. Erben,

Acting Assistant Secretary for Community Planning and Development

[FR Doc. 92-17714 Filed 7-27-92; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR**Office of the Secretary****Privacy Act of 1974—Deletion of System of Records**

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is deleting from its inventory of Privacy Act systems of records a notice describing records maintained by the Geological Survey. The system of records notice being abolished is entitled "Office of Minerals Exploration (OME) Financial Assistance Applications—Interior, USGS-16," and was previously published in the **Federal Register** on February 16, 1988 (53 FR 4467). The records described in the existing system of records notice continue to be maintained, but the records are not retrieved by a personal identifier. The records are retrieved by a docket or contract number and by the state, county and geologic information. The records are therefore not subject to the Privacy Act.

This change shall be effective on publication in the **Federal Register** (July 28, 1992). Additional information regarding this action may be obtained from the Departmental Privacy Act Officer, Office of the Secretary, 1849 "C" Street, NW., Mail Stop 2242, (PMI), Washington, D.C. 20240, telephone 202-208-5339.

Dated: July 17, 1992.

Oscar W. Mueller, Jr.,

Director, Office of Management Improvement.
[FR Doc. 92-17723 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-31

Fish and Wildlife Service**Availability of a Draft Revised Recovery Plan for the Delmarva Fox Squirrel for Review and Comment**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft revised recovery plan for the Delmarva Fox Squirrel. This population now occurs naturally in four counties on the Eastern Shore of Maryland, and has been introduced to localities in Maryland, Delaware, Pennsylvania, and Virginia. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before

August 31, 1992, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan can obtain a copy from the U.S. Fish and Wildlife Service, region five, One Gateway Center, suite 700, Newton Corner, Massachusetts 02158, telephone (617) 965-5100, ext. 316.

FOR FURTHER INFORMATION CONTACT: Mary J. Parkin (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:**Background**

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing recovery plans.

The document submitted for review is the draft Delmarva Fox Squirrel (*Sciurus niger cinereus*) Recovery Plan (Second Revision). Remnant populations of this subspecies persist naturally in portions of four counties on the Eastern Shore of Maryland, representing less than 10% of its historical range; in addition, the squirrel has been introduced to 17 sites within its historical range, at least 11 of which appear to be successfully established.

The Delmarva fox squirrel's forested habitat is subject to continued loss and fragmentation through overcutting and land use changes, although this is balanced to some extent by regeneration of forest resources. Hunting may have also contributed to the decline of this

species over a large part of its range. The Delmarva fox squirrel was listed as an endangered species in 1967.

The overall objective of the draft recovery plan is to delist the Delmarva fox squirrel by increasing its population and protecting its habitat. The species will be reclassified from endangered to threatened status when: (1) Ecological requirements and distribution within the remaining natural range are understood sufficiently to permit effective management, (2) benchmark populations are shown to be stable or expanding based on at least five years of data, and (3) ten new colonies are successfully established throughout the historical range. Delisting will be considered when, in addition to the above: (4) Five additional (post-1990) colonies are established outside of the remaining natural range, (5) periodic monitoring shows that translocated populations have persisted over the recovery period, (6) mechanisms that ensure perpetuation of suitable habitat at a level sufficient to allow for desired distribution are in place within all counties in which the species occurs, and (7) mechanisms are in place to ensure protection of new populations, allow for expansion, and provide inter-population corridors to permit gene flow among populations.

This will be accomplished through determining the species' population status and distribution, determining habitat availability and use, protecting the squirrels and their habitat, implementing management to maintain suitable habitat for the squirrel, planning and conducting additional translocations, and fostering increased public awareness of the squirrel's status and recovery needs.

This revised recovery plan is being submitted for agency review. After consideration of comments received during the review period, the plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 21, 1992.

Ronald E. Lambertson,

Regional Director.

[FR Doc. 92-17633 Filed 7-24-92; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

[PRT-770046]

Applicant: Gerret Copeland, West Palm Beach, FL.

The applicant requests a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) from the captive herd of F.W.M. Bowker, Jr., Grahamstown, South Africa, for the purpose of enhancement of survival of the species.

[PRT-770082]

Applicant: Heather Tunstall, Tampa, FL.

The applicant requests a permit to import 8 turquoise parakeets (*Neophema pulchella*) and 8 scarlet-chested parakeets (*Neophema splendida*) bred in captivity by Mr. Willy de Herdt of Belgium for enhancement of propagation.

[PRT-769851]

Applicant: Bruce J. Turner, Johnson City, TN 37601.

The applicant requests a permit to take (capture and sacrifice) 10 specimens devils hole pupfish (*Cyprinodon diabolis*) and 20 specimens of each of the following species of pupfish: *Cyprinodon nevadensis mionectes*, *Cyprinodon maclari*, *Cyprinodon nevadensis pectoralis* and *Cyprinodon radiosus*, for DNA research. Pupfish will be collected in Nevada from Ash Meadows and in California from Bishop and Salton Seas and its adjacent waters.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281)

Dated: July 23, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92-17699 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[NM-930-4212-24; NMMN 89114]

Termination of Small Tract Classification; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates Small Tract Classification No. 34 affecting 32 acres of Federal mineral estate in Eddy County. Classification No. 34 determined the suitability of the lands for disposal in aid of the expansion of the small community of Loco Hills, New Mexico. The lands within the immediate vicinity of Loco Hills were conveyed into private ownership, with all minerals reserved to the United States Government. This action also terminates the segregative effect and will open the Federal mineral estate to mining and mineral leasing.

EFFECTIVE DATE: August 27, 1992.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM, New Mexico State Office, P.O. Box 27115, Santa Fe, NM 87502-7115, 505-438-7594.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by the Small Tract Act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U.S.C. 682a), it is ordered as follows:

1. Pursuant to 43 CFR 2091.7-1(b)(2), and the authority delegated to me by BLM Manual 1203, Classification Order, New Mexico Small Tract Classification No. 34, dated May 29, 1953, which classified approximately 32 acres of public lands as suitable for small tracts is hereby terminated insofar as it affects the following described lands:

New Mexico Principal Meridian

T. 17 S., R. 30 E.,

Sec. 20, lots 3 to 6, inclusive, and lots 8, 9, and 11

Sec. 21, lots 1, 22, 23, 24, lots 29 to 36, inclusive, and lots 51, 55, 58, 59, 64, 70, 71, 74, 75, 78, 80, 82, 83, and 84.

The areas described aggregate 32 acres in Eddy County.

2. At 8 a.m. on August 27, 1992, the lands will be open to location and entry under the United States mining laws and to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals,

other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: July 10, 1992.

Monte G. Jordan,

Associate State Director.

[FR Doc. 92-17724 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-FB-M

[NV-030-92-05] [NV-951-4340-11-24-1A]

Temporary Closure of Public Lands; Washoe County, NV

SUMMARY: The Carson City District Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the 1992 Reno National Championship Air Races.

EFFECTIVE DATE: September 14 through September 20, 1992.

FOR FURTHER INFORMATION CONTACT: James M. Phillips, Lahontan Resource Area Manager, Carson City District, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706. Telephone (702) 885-6000.

SUPPLEMENTARY INFORMATION: This closure applies to all the public, on foot or in vehicles. The public lands affected by this closure are described as follows:

Mt. Diablo Meridian

T. 21 N., R. 19 E.,

Sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 16, N $\frac{1}{2}$ and SW $\frac{1}{4}$.

Aggregating approximately 680 acres.

The above restrictions do not apply to emergency or law enforcement personnel or event officials. The authority for this closure is 43 CFR 8364.1. Persons who violate this closure orders are subject to arrest and, upon conviction, may be fined not more than \$1,000 and/or imprisoned for not more than 12 months.

A map of the closed area is posted in the Carson City District Office of the Bureau of Land Management.

Dated this 15th day of July, 1992.

James W. Elliott,

District Manager.

[FR Doc. 92-17726 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-HC-M

[OR-110-6310-11-257A; G2-332]

**Medford District Advisory Council;
Meeting**

AGENCY: Bureau of Land Management,
Medford District Office.

ACTION: Notice.

SUMMARY: This notice announces the meeting date of the Medford District Advisory Council on September 3, 1992, at 8:30 a.m. at the Medford District Office, 3040 Biddle Road, Medford, Oregon. This notice is given in accordance with Public Law 99-463.

FOR FURTHER INFORMATION CONTACT: Kurt Austermann, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504; Telephone 503-770-2424.

SUPPLEMENTARY INFORMATION: The meeting will begin at 8:30 a.m. in the Oregon room of the Bureau of Land Management office at 3040 Biddle Road, Medford, Oregon. The agenda for the Advisory Council includes a status report on the District's Resource Management Plan and efforts to revise the Management Plan for the Wild and Scenic Rogue River.

Persons interested in making oral statements during the Council meeting may do so following conclusion of the Council's other agenda items, or written statements may be submitted for the Council's consideration. Anyone wishing to make an oral statement at the Council meeting must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by close of business September 2, 1992. Depending on the number of persons wishing to make oral statements, per-person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

David A. Jones,
District Manager.

[FR Doc. 92-17725 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-33-M

[AK-050-02-4230-21; AA-75657]

Lease of Public Land; Soule Lake, AK

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of realty action.

SUMMARY: This notice of realty action involves a proposal for a 5 year renewable commercial lease to James M. Wright. The lease is intended to resolve an unintentional occupancy trespass on public lands.

DATES: Comment and an application must be received on or before September 11, 1992.

ADDRESSES: Comments and an application must be submitted to the Glennallen District Manager, P.O. Box 147, Glennallen, Alaska 99588-0147.

FOR FURTHER INFORMATION CONTACT: David Mushovic, (907) 822-3217.

SUPPLEMENTARY INFORMATION: The site examined and found suitable for leasing under the provisions of section 302 of the Federal Land Policy and Management Act of 1976, and 43 CFR part 2920, is described as within:

Sec. 4, T. 20 S., R. 5 W., Fairbanks Meridian.

An application will only be accepted from James M. Wright, who owns the existing structures located on the subject site. The comments and application must include a reference to this notice. Fair market rental as determined by appraisal will be collect for the use of these lands, as well as full payment of past trespass liabilities, and reasonable administrative and monitoring costs for processing the lease. A final determination will be made after completion of an environmental assessment.

Dated: July 16, 1992.

Gene R. Keith,

District Manager.

[FR Doc. 92-17725 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF INTERIOR

[CA-060-4740-10]

**Prohibition of Commercial Vending
Along and Adjacent to Gecko Road in
the Imperial Sand Dunes Near Glamis,
Imperial County, California, Except on
the Established "Vending Pad"
Developed for That Purpose**

AGENCY: Bureau of Land Management,
Interior.

ACTION: Notice of Prohibition of
Commercial Vending on Public Lands
along and adjacent to Gecko Road in the
Imperial Sand Dunes.

SUMMARY: Notice is hereby given that commercial vending on and adjacent to Gecko Road in the Imperial Sand Dunes near Glamis, Imperial County, California is prohibited. The exception to this rule

is commercial vending which takes place on the established "vending pad" adjacent to Gecko Road, located approximately 4.25 miles south of Highway 78. This rule does not apply to vending conducted from mobile vending vehicles in a safe manner off of the asphalt roadway, e.g. ice cream/ice trucks. Further exception to this rule may be granted on a case by case basis at the El Centro Resources Area Manager's discretion.

Order: As of the prescribed effective date, Gecko Road will be closed to all commercial vending except on the vending pad 4.25 miles south of Highway 78 and mobile vending vehicles. For the purpose of this rule, "commercial vending" refers to the sale and purchase of any item be it food, clothing, accessories, equipment, fuel, or any other commodity, or the proffering of any service for economic gain. This includes advertisement or presentation of products for their promotion or for the enticement of any other commercial venture. For the purpose of this rule, Gecko Road refers to the roadway itself and its shoulders for a distance of 500 feet to either side of road centerline.

All exemptions to this rule will be by written authorization of the El Centro Resource Area Manager. Persons seeking an exemption must submit a written request to the El Centro Resource Area Manager (333 So. Waterman Ave., El Centro, CA 92243). Requests must include a detailed description outlining the purpose and need for the vending activity to be exempt from the existing Imperial Sand Dunes Recreation Area Management Plan (RAMP), specific area(s) needed and the dates for which the exemption is requested.

BACKGROUND: Gecko Road is a heavily used part of the Imperial Sand Dunes Recreation Area, being popular for camping and access to the dunes. Previous commercial vending along the side of the road has caused disruption of vehicle circulation with great potential for vehicle accidents and other safety hazards. This supplementary rule is consistent with management prescriptions in the Imperial Sand Dunes RAMP and seeks to reduce the occurrence of such hazards while giving vendors a convenient location to conduct business near the camping areas that traditionally receive high use near Gecko Road.

EFFECTIVE DATE: This closure will be effective on July 28, 1992 and will remain in effect until rescinded or modified by the authorized officer.

SUPPLEMENTARY INFORMATION: The authority for this prohibition is found in 43 CFR 8365.1-6. Violation of this prohibition is punishable by a fine not to exceed \$100,000 and/or imprisonment not to exceed one year.

Dated: July 16, 1992.

Jean Rivers-Council,
Acting District Manager.

[FR Doc. 92-17741 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-40-M

DEPARTMENT OF THE INTERIOR

[WY-010-5700-11; WYW-123107]

Realty Actions; Sales, Leases, etc.; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed exchange involving public lands in Park County Wyoming.

SUMMARY: The surface estate of the following described public land is being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756, 43 U.S.C. 1716):

Sixth Principal Meridian

- T. 50 N., R. 99 W.,
sec. 33, tract 41.
The area described contains 40.92 acres.
- T. 50 N., R. 101 W.,
sec. 6, lots 3-7;
sec. 10, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$,
N $\frac{1}{2}$ SE $\frac{1}{4}$;
sec. 16, lot 1.
The areas described aggregate 593.30 acres.
- T. 51 N., R. 101 W.,
sec. 18, lots 11 and 12;
sec. 19, lot 5, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
sec. 20, lots 7-9;
sec. 30, lot 1, lot 2;
sec. 31, lots 1-5, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$,
E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
sec. 32, lots 2-4;
sec. 34, lot 1, lot 2, Tract 38 A, Tract 38 B,
Tract 38 C.
The areas described aggregate 1,349.60 acres.
- T. 50 N., R. 102 W.,
sec. 1, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$;
sec. 12, lot 1, lot 2, lot 5;
sec. 13, lot 3.
The areas described aggregate 203.55 acres.
- T. 51 N., R. 102 W.,
sec. 36, lots 1 and 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$.
The areas described contains 184.96 acres.
- T. 51 N., R. 103 W.,
sec. 14, lot 6, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
sec. 15, lot 5, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
sec. 21, lots 1-4;
sec. 22, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
sec. 23, SW $\frac{1}{4}$;
sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$.

The areas described aggregate 1,253.72 acres.

EFFECTIVE DATE: The publication of this notice in the *Federal Register* will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, except for exchange pursuant to section 206(b) of the Federal Land Policy and Management Act of 1976. The segregative effect will terminate upon issuance of patent or upon expiration of two years from the effective date, or by publication of a Notice of Termination by the Authorized Officer, whichever comes first.

FOR FURTHER INFORMATION CONTACT: Lylia Livingston, Bureau of Land Management, P.O. Box 518, 1714 Stampede Avenue, Cody, Wyoming 82414, (307) 587-2216.

SUPPLEMENTARY INFORMATION: Some of the lands described may be deleted from consideration to eliminate possible conflicts that could arise during processing, to achieve equal values between the offered and selected lands in the exchange. The first selection of properties will be made to achieve comparable values between the offered and selected lands.

Private lands to be acquired by the United States are under negotiation but are generally located within T. 53 N., R. 98 W.; T. 53 N., R. 99 W.; T. 53 N., R. 100 W.; T. 49 N., R. 103 W.; Sixth Principal Meridian, Park County Wyoming. A Notice of Realty Action with detailed information on lands to be exchanged will be published in the *Federal Register* when an agreement with the proponent is reached.

Dated: July 22, 1992.

Darrell Barnes,
Worland District Manager.

[FR Doc. 92-17804 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-22-M

[ES-962-4730-12; ES-045439, Group 142, Wisconsin]

Filing of Plat of Dependent Resurvey and Subdivision of Section 12 and 13

The plat of the dependent resurvey of a portion of the east boundary, a portion of the subdivisional lines, and the survey of the subdivision of sections 12 and 13 of Township 38 North, Range 9 West, Fourth Principal Meridian, Wisconsin, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on September 10, 1992.

The survey was made upon request submitted by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., September 10, 1992.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of \$1.75 per copy.

Dated: July 20, 1992.

Denise P. Meridith,
State Director.

[FR Doc. 92-17728 Filed 7-27-92; 8:45 am]

BILLING CODE 4310-GJ-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 18, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by August 12, 1992.

Carol D. Shull,
Chief of Registration, National Register.

ARIZONA

Maricopa County

Fort McDowell, Indian Rt. 1, off AZ 87,
Yavapai Indian Reservation, Fort
McDowell, 92001050

ARKANSAS

Pulaski County

Runyan, J.P., House, 1514 S. Schiller, Little
Rock, 92001067

CONNECTICUT

Hartford County

Copper Ledges and Chimney Crest, Along
Founders Dr. between Bradley and
Woodland Sts.,

FLORIDA

Brevard County

Barton Avenue Residential District
(Rockledge MPS), 11-59 Barton Ave.,
Rockledge, 92001046
Rockledge Drive Residential District
(Rockledge MPS), 15-23 Rockledge Ave.,
219-1361 Rockledge Dr. and 1-11 Orange
Ave., Rockledge, 92001045
Valencia Subdivision Residential District
(Rockledge MPS), 14-140 Valencia Rd.,
825-827 Osceola Dr. and 24-28 Orange
Ave., Rockledge, 92001047

Walton County

Biddle, Perry L., House (DeFuniak Springs MPS), 203 Scribner Ave., DeFuniak Springs, 92001049

DeFuniak Springs Historic District (DeFuniak Springs MPS), Roughly bounded by Nelson and Park Aves. and 2nd and 12th Sts., DeFuniak Springs, 92001048

GEORGIA**Turner County**

Ashburn Commercial Historic District, Roughly, Main St. between Murray and Monroe Aves., Ashburn, 92001042

MASSACHUSETTS**Middlesex County**

Bogle—Walker House, 55 and 62 Goodman's Rd., Sudbury, 92001044

MICHIGAN**Washtenaw County**

Salem Methodist Episcopal Church and Salem Walker Cemetery, 7150 Angle Rd., Salem Township, Salem, 92001054

MISSOURI**Platte County**

Washington Chapel C.M.E. Church, 1137 West St., Parkville, 92001055

MONTANA**Lewis and Clark County**

Kemna, Herman, House, 635 First St., Helena, 92001056

NEW YORK**Essex County**

Adsit Log House, Point Rd. N of Ligonier Pt., Willsboro, 92001053

Montgomery County

Temple of Israel, 8 Mohawk Pl., Amsterdam, 92001043

Ontario County

Riphey Cobblestone Farmhouse (Cobblestone Architecture of New York State MPS), 1227 Leet Rd., Seneca, 92001051

St. Bridget's Roman Catholic Church Complex, 15 Church St., between Church and Michigan Sts., Bloomfield, 92001052

UTAH**Carbon County**

Harmon, Oliver John, House, 211 South 200 East, Price, 92001058

Salt Lake County

Anderson, John A., House (Sandy City MPS), 510 East 8800 South, Sandy, 92001066

Drapper—Steadman House, 13518 South 1700 West, Riverton, 92001057

Farrer, Benjamin and Jane Cook, House (Sandy City MPS), 530 East 8800 South, Sandy, 92001065

Farrer, John William, House (Sandy City MPS), 39 E. Pioneer, Sandy, 92001064

Holman, Abba R., Block, 142 E. Main St. (8720 South) Sandy, 92001063

Nelson, Nels A., House (Sandy City MPS), 8840 South 90 East, Sandy, 92001062

Peterson, Charles, House (Sandy City MPS), 82 East 8880 South, Sandy, 92001061

Sandy Co-Op Block (Sandy City MPS), 8750 S. Center St. (150 East), Sandy, 92001060

Utah County

Douglass, Samuel, House, 215 N. Main St., Payson, 92001059

VERMONT**Windsor County**

Kendron Brook Bridge (Metal Truss, Masonry and Concrete Bridges in Vermont MPS), Town Hwy. 65 over Kendron Brook, Woodstock, 92001037
West Woodstock Bridge (Metal Truss, Masonry and Concrete Bridges in Vermont MPS), Town Hwy. 50 over the Ottauquechee R., West Woodstock, 92001038

WASHINGTON**Pierce County**

Rialto Theater (Movie Theaters in Washington State MPS), 310 Ninth St., Tacoma, 92001041

Spokane County

Central Schoolhouse (District No. 49) (Rural Public Schools in Washington State MPS), Jct. of Ritchey and Four Mound Rds., NW corner, Nine Mile Falls vicinity, 92001040

(FR Doc.92-17647 Filed 7-27-92; 8:45 am)

BILLING CODE 4136-65-M

DEPARTMENT OF JUSTICE**Davis Abatement Systems, Inc.; Lodging of Consent Decree**

In accordance with Departmental policy, 28 C.F.R. 50.7, notice is hereby given that on July 15, 1992, a proposed Consent Decree in *United States v. Davis Abatement Systems, Inc.*, Civil Action No. 91-C-278, was lodged with the United States District Court for the Eastern District of Wisconsin. The proposed Consent Decree requires Davis Abatement Systems, Inc. to comply in the future with the federal Clean Air Act provisions concerning asbestos abatement operations and to pay a Clean Air Act civil penalty of \$15,000.00 to the United States.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Davis Abatement Systems, Inc.*, D.J. Ref. No. 90-5-2-1-1553.

The proposed Consent Decree may be examined at the office of the United States Attorney, Eastern District of Wisconsin, 330 Federal Building, 517 East Wisconsin Avenue, Milwaukee,

Wisconsin 53202; at the Region V Office of U.S. EPA, Records Center, Seventh Floor, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590; and at the Consent Decree Library, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044.

Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004, 202-347-2072. In requesting a copy, please refer to the case by name and D.J. Ref. No. 90-5-2-1-1553 and enclose a check in the amount of \$3.25 (25 cents per page for reproduction cost), payable to the Consent Decree Library.

John C. Cruden,

Environment and Natural Resources Division, Environmental Enforcement Section.

(FR Doc. 92-17729 Filed 7-27-92; 8:45 am)

BILLING CODE 4410-01-M

Minnesota Mining and Manufacturing Co.; Lodging of Stipulation and Order of Dismissal

Notice is hereby given that a Stipulation and Order of Dismissal in *United States v. Minnesota Mining and Manufacturing Company*, Civil Action No. 87-C-7631 has been filed with the United States District Court for the Northern District of Illinois on July 16, 1992. The Complaint filed by the United States alleged that 3M violated section 113 of the Clean Air Act, 42 U.S.C. 7413, by failing to comply with applicable provisions of the Illinois State Implementation Plan ("SIP") regulating the emission of volatile organic compounds ("VOCs") at a facility located in Bedford Park, Illinois. The proposed Stipulation and Order requires Defendant to pay the United States \$25,000.00 in civil penalties and to dismiss its counterclaims with prejudice.

The Department of Justice will receive comments relating to the proposed Stipulation and Order of Dismissal for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Minnesota Mining and Manufacturing Company*, D.J. Ref. No. 90-5-2-1-1099.

The proposed Stipulation and Order may be examined at the Office of the United States Attorney for the Northern District of Illinois, Office of the United States Environmental Protection Agency, 111 West Jackson Boulevard, Chicago, Illinois 60604, and at the

Consent Decree Library, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072). A copy of the Joint Stipulation and Order of Dismissal may be obtained in person or by mail from the Consent Decree Library, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of \$1.25 (25 cents per page) for reproduction costs, payable to the Consent Decree Library.
John C. Cruden

Chief, Environmental Enforcement Section,
Environment and Natural Resources Division.
[FR Doc. 92-17731 Filed 7-2-92; 8:45 am]

BILLING CODE 4410-01-M

Miles Diagnostic, Corp., et al.; Consent Judgment

In accordance with Department Policy, 28 CFR 50.7, 38 Fed. Reg. 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed Consent Decree in *United States v. Miles Diagnostics Corporation; Miles, Inc.; Cooper Development Company; and Revlon, Inc.*, Civil Action No. 92-1928, was lodged with the United States District Court for the District of Puerto Rico on July 8, 1992. The proposed consent decree requires the Defendants to implement remedial measures for the Frontera Creek Superfund Site, located in Humacao, Puerto Rico, set forth in the September 24, 1991 Record of Decision, and to pay past and future oversight costs incurred by the United States for its oversight of the work performed under the Consent Decree. The remedy consists of identification, excavation, and removal of mercury contaminated in the ditch and property of the Technicon facility. In the Consent Decree, the Defendants agree to implement the 1991 Record of Decision, and to pay all past and future oversight costs incurred by the United States at the Site in overseeing work performed under the Consent Decree.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Miles Diagnostics Corporation, et al.* D.O.J. Ref. No. 90-11-2-769.

The Consent Decree may be examined at the Office of the United States Attorney, Federal Building, room 101, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00998; at the Region II Office

of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10288; and at the Consent Decree Library, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of \$37.00 (for copying costs) payable to the Consent Decree Library.

Roger Clegg,

Acting Assistant Attorney General,
Environmental and Natural Resources
Division.

[FR Doc. 92-17730 Filed 7-27-92; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of July 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,009; *Semtech Corpus Christi Corp., Corpus Christi, TX*

TA-W-27,236; *Coltec Industries, Inc., Fairbanks Morse Engine Div., Beloit, WI*

TA-W-27,153; *McCormick and Baxter Creosoting Co., Portland, OR*

TA-W-27,238; *Bates Fabrics, Inc., Lewiston, ME*

TA-W-27,334; *Gemini Mining Corp., Stoystown, PA*

TA-W-27,214; *United Technologies, Motor Systems, Columbus, MS*

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-27,351; *New York Rail Car Corp., Brooklyn, NY*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-27,266; *Pinkham Lumber Co., Ashland, ME*

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-27,279; *Visy Board Packaging, Inc., Philadelphia, PA*

Aggregate U.S. imports of corrugated products are negligible.

TA-W-27,333; *Pearl Laboratories, Saddle Brook, NJ*

U.S. imports of ophthalmic lenses for eyeglasses decreased absolutely in 1991 compared to 1990.

TA-W-27,052; *Patter & Brumfield Siemens, Princeton, IN*

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,243; *Mobil Oil Corp., E & P Div., New Exploration Ventures, Dallas, TX*

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-27,166; *Wellhead Systems, Inc., Odessa, TX*

U.S. imports of oil and gas field machinery were negligible in the relevant period.

TA-W-27,146; *Inter-City Products (USA), Red Bud, IL*

U.S. imports of air conditioning, refrigeration and heating equipment declined absolutely and relative to domestic shipment in 1992 compared to 1991.

TA-W-27,274; *L-Bar Products, Inc., Chewelah, WA*

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-27,226 *J.E. Merit, Inc., Addy, WA*

The workers' firm does not produce an article as required for certification

under Section 222 of the Trade Act of 1974.

TA-W-27,265; *Prestoline Electric, Inc., Wagner, OK*

U.S. imports of integral horsepower motors, generators, alternators and magnetos declined absolutely in 1991 compared to 1990 and declined in the January through March 1992 period compared to the same period in 1991.

Affirmative Determinations

TA-W-27,170; *Petroleum, Inc., Wichita, KS*

A certification was issued covering all workers separated on or after April 8, 1992.

TA-W-27,175; *Nicor Oil and Gas Corp., Houston, TX*

A certification was issued covering all workers separated on or after April 13, 1992.

TA-W-27,181; *Liberty Lumber Co., Inc., Arlington, WA*

A certification was issued covering all workers separated on or after April 16, 1991.

TA-W-27,186; *Dynapower and Stratopower, Watertown, NY*

A certification was issued covering all workers separated on or after April 16, 1991.

TA-W-27,215; *Bendix Heavy Vehicle Systems, Salisbury, NC*

A certification was issued covering all workers separated on or after April 27, 1991.

TA-W-27,141; *Stride Rite Footwear of Missouri, Inc., Molding Facility, Tipton, MO*

A certification was issued covering all workers separated on or after January 1, 1992.

TA-W-27,200; *Sherico Cedar Products, Forks, WA*

A certification was issued covering all workers separated on or after April 22, 1991.

TA-W-27,205; *Mallard Bay Drilling, Inc., Lafayette, LA*

A certification was issued covering all workers separated on or after April 23, 1991.

TA-W-27,263; *Ritz-Tex Manufacturing, Montrose, PA*

A certification was issued covering all workers separated on or after May 5, 1991.

TA-W-27,260; *Rexnord Corp., Roller Chain Operation, Springfield, MA*

A certification was issued covering all workers separated on or after May 6, 1991.

TA-W-27,280, TA-W-27,281 & TA-W-27,282; *Bowie Manufacturing,*

Bowie, TX, Olney Manufacturing Co., Olney, TX & Haggard Apparel Co., Dallas, TX

A certification was issued covering all workers separated on or after April 20, 1991.

TA-W-27,228; *Acme Boot Co., Clarksville, TN*

A certification was issued covering all workers separated on or after April 27, 1991.

TA-W-27,253; *Otis Engineering, Wireline Div. (A Subsidiary of the Halliburton Co.), New Iberia, LA*

A certification was issued covering all workers separated on or after May 1, 1991.

TA-W-27,322; *Schnadig Corp., International Table Div., Henderson, KY*

A certification was issued covering all workers separated on or after May 29, 1991.

TA-W-27,383; *Brown Shoe Co., Houston, MO*

A certification was issued covering all workers separated on or after June 1, 1991.

TA-W-27,306; *Cluett Peabody & Co. Inc. (The Arrow Co), Austell, GA*

A certification was issued covering all workers separated on or after May 12, 1991.

TA-W-27,307; *Thomas Industries, Inc., Beaver Dam, KY*

A certification was issued covering all workers separated on or after May 15, 1991.

TA-W-27,330; *Bokenkamp Drilling Co., Lafayette, LA*

A certification was issued covering all workers separated on or after May 18, 1991.

TA-W-27,336; *R & S Tong Service, Odessa, TX*

A certification was issued covering all workers separated on or after May 20, 1991.

TA-W-27,374; *Marjo Fashions, Inc., Newark, NJ*

A certification was issued covering all workers separated on or after June 1, 1991.

TA-W-27,172, TA-W-27,187, & TA-W-27,189 & TA-W-27,190; *Milpark Drilling Fluids, Houston, TX, Corpus Christi, TX & Lafayette, LA*

A certification was issued covering all workers separated on or after April 13, 1991.

TA-W-27,192, TA-W-27,193; *Milpark Drilling Fluids, Laurie, MS and Anchorage, AK*

A certification was issued covering all workers separated on or after April 13, 1991.

I hereby certify that the aforementioned determinations were issued during the month of July 1992. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: July 20, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-17748 Filed 7-27-92; 8:45 am]

BILLING CODE 4510-30-M

Job Training Partnership Act; Indian and Native American Employment and Training Programs; Proposed Designation Procedures for Grantees for Program Years 1993-94

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of proposed designation procedures for grantees; request for comments.

SUMMARY: This document contains proposed procedures by which the Department of Labor (DOL) will designate potential grantees for Indian and Native American Employment and Training Programs under the Job Training Partnership Act (JTPA). The designations will be for JTPA Program Years (PYs) 1993 and 1994 (July 1, 1993 through June 30, 1995). This notice provides necessary information to prospective grant applicants to enable them to submit appropriate requests for designation.

DATES: The public is invited to submit written comments on the proposed procedures. Such written comments must be received on or before August 27, 1992.

ADDRESSES: Send written comments to: Assistant Secretary for Employment and Training, U.S. Department of Labor, Employment and Training Administration, room N-4641, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: Paul A. Mayrand, Director, Office of Special Targeted Programs (OSTP).

FOR FURTHER INFORMATION CONTACT: Mr. Herbert Fellman, Chief, Division of Indian and Native American Programs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington,

DC 20210. Telephone: 202-535-0502 (this is not a toll-free number).

Job Training Partnership Act; Indian and Native American Programs; Proposed Designation Procedures for Program Years 1993-94—Table of Contents

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Introduction: Scope and Purpose of Notice

Section 401 of the Job Training Partnership Act (JTPA) authorizes programs to serve the employment and training needs of Indians and Native Americans.

Requirements for these programs are set forth in the JTPA and in the regulations at 20 CFR part 632. The specific organization eligibility and application requirements for designation are set forth at 20 CFR 632.10 and 11. Pursuant to these requirements, the Department of Labor (DOL) selects entities for funding under section 401. It designates such entities as potential Native American grantees which will be awarded grant funds contingent upon all other grant award requirements being met. This notice describes how DOL will designate potential grantees who may apply for grants for Program Years 1993 and 1994. A designated entity may apply for a grant for PY 1993 and for a grant PY 1994 without further competition.

The designation process has two parts. The Advance Notice of Intent (see Part II, below) is optional although strongly recommended. The final Notice of Intent (see Part III, below) is mandatory for all applicants. Any organization interested in being designated as a Native American grantee should be aware of and comply with the procedures in these parts.

The amount of JTPA Section 401 funds to be awarded to designated Native American grantees is determined under procedures described at 20 CFR 632.171 and not through this designation process. The grantee application process is described at 20 CFR 632.18 and 20.

I. General Designation Principles

Based on JTPA and applicable regulations, the following general principles are intrinsic to the designation process:

(1) All applicants for designation shall comply with the requirements found at

20 CFR part 632 subpart B regardless of their apparent standing in the preferential hierarchy (see Part IV, Preferential Hierarchy For Determining Designations, below). The basic eligibility, application and designation requirements are found in 20 CFR part 632 subpart B.

(2) The nature of this program is such that Indians and Native Americans in an area are entitled to program services and are best serviced by a responsible organization directly representing them and designated pursuant to the applicable regulations. JTPA and the governing regulations give clear preference to Native American-controlled organizations. That preference is the basis for the steps which will be followed in designating grantees.

(3) A State or federally recognized tribe, band or group on its reservation is given absolute preference over any other organization if it has the capability to administer the program and meets all regulatory requirements. This preference applies only to the area within the reservation boundaries. A reservation organization which may have its service area given to another qualified organization for reasons specified in the regulations will be given a future opportunity to reestablish itself as the designated grantee, should it so desire.

In the event that such a tribe, band or group (including an Alaskan Native entity) is not designated to serve its reservation or geographic service area, the DOL will consult with the governing body of such entities as provided at 20 CFR 632.10(e). Such consultation may be accomplished in writing, in person or by telephone, as time and circumstances permit. When such vacancies occur, the Grant Officer will continue to utilize input from the Division of Indian and Native American Programs (DINAP) when designating alternative service deliverers.

(4) In designating Native American grantees for off-reservation areas, DOL will provide preference to Indian and Native American-controlled organizations as described in 20 CFR 632.10(f) and as further clarified in Part VIII (1) *Indian or Native American-Controlled Organization* of this notice. As noted in (3) above, when vacancies occur, the Grant Officer will continue to utilize input from DINAP when designating alternative service deliverers.

(5) All applicants, including incumbent grantees other than tribes serving their own reservations, must submit evidence of significant support from other Native American-controlled organizations within the communities

(geographic service areas) which they are currently serving or requesting to serve. The following documentation must be submitted:

(a) Evidence of organizational type, i.e., copy of articles of incorporation or charter, etc.; [see definition in part VIII (1), *Indian or Native American-Controlled Organization* of this notice].

(b) Evidence of Indian and Native American control;

(c) Size of the organization;

(d) Current Indian and Native American membership; and

(e) An attestation from the Indian and Native American-controlled organization that it supports the subject applicant to serve the specific geographic service area in which it is located.

In order for letters of support to be considered, the items enumerated above must be included.

(6) The Grant Officer will make the designations using a two-part process: (a) Those applicants described in Part IV, Preferential Hierarchy For Determining Designations (1), below, as Indian tribes, bands or groups on Federal or State reservations for their reservation; Oklahoma Indians only as specified in Part VII, Special Designation Situations, below; and Alaskan Native entities only as specified in Part VII, Special Designation Situations, below, who apply for their geographic service areas will be designated on a noncompetitive basis if all preaward clearances, responsibility reviews, and regulatory requirements are met. (b) All other applicants and those described in Part IV, Preferential Hierarchy For Determining Designations (1), below, who apply for off-reservation service delivery areas will be considered on a competitive basis and only information submitted with the Notice of Intent, as well as preaward clearances, responsibility reviews and all regulatory requirements will be considered.

(7) Special employment and training services for Indian and Native American people have been provided through an established service delivery network for the past 18 years under the authority of JTPA section 401 and its predecessor, section 302 of the repealed Comprehensive Employment and Training Act (CETA). The DOL intends to exercise its designation authority to preserve the continuity of such services and to prevent the undue fragmentation of existing geographic service areas. Consistent with present regulations and other provisions of this notice, this will include preference for those Native American organizations with an existing

capability to deliver employment and training services within an established geographic service area. Such preference will be determined through input from the Chief of DOL's Division of Indian and Native American Programs (DINAP) and the Director of DOL's Office of Special Targeted Programs (OSTP), and through the use of the rating system described in this notice. Unless a non-incumbent applicant in the same preferential hierarchy as an incumbent applicant grantee can demonstrate that it is significantly superior overall to the incumbent, the incumbent will be designated, if it otherwise meets all of the requirements for redesignation.

(8) In preparing applications for designation, applicants should bear in mind that the purpose of JTPA is "to afford job training to those economically disadvantaged individuals and other individuals facing serious barriers to employment, who are in special need of such training to obtain productive employment." (JTPA section 2, 29 U.S.C. 1501.)

II. Advance Notice of Intent

The purpose of the Advance Notice of Intent process is to provide section 401 applicants, prior to the submission of a final Notice of Intent, with information relative to potential competition. While DOL encourages the resolution of competitive requests at the local level prior to final submission, the Advance Notice of Intent process also serves to alert those whose differences cannot be resolved of the need to submit a complete final Notice of Intent.

Although the Advance Notice of Intent process is not mandated by the regulations, participation in the advance process by prospective Section 401 applicants is strongly recommended. The Advance Notice of Intent process allows the applicant to identify potential incumbent and non-incumbent competitors, to resolve conflicts if possible and to prepare a final Notice of Intent with advance knowledge of potential competing requests.

It should be emphasized, however, that the Advance Notice of Intent process does not ensure that all potential competitors have been identified. Some applicants may opt not to submit an Advance Notice of Intent; others may change geographic service area requests in the final Notice of Intent. Therefore, as noted above, final submissions should be prepared with these possibilities in mind. Although the regulations permit incumbents to submit no more than a Standard Form 424 Federal Assistance (SF 424) for their existing geographic service areas, this

choice may not be in the incumbent's best interests in the event of unanticipated competition.

The SF 424 is no longer used for the advance notification process. As in the PY 1991-1992 designation cycle, DOL will utilize the Advance Notice of Intent to expedite the identification of potentially competitive applicants.

By October 1 of the year preceding a designation year (in this case, by October 1, 1992), all organizations interested in being designated as section 401 grantees should submit an original and two copies of an Advance Notice of Intent. An organization may submit only one Advance Notice of Intent for any and all areas for which it wants to be considered. The Advance Notice of Intent is to be sent to the Chief, Division of Indian and Native American Programs at the address cited above.

Complete instructions for the Advance Notice of Intent process will be mailed to all current grantees on or about September 15, 1992. Incumbents will also receive a description of their present geographic service area at this time. New applicants may request copies of the Advance Notice of Intent instructions by writing to the Chief, Division of Indian and Native American Programs at the address cited above.

DOL's first step in the designation process is to determine which areas have more than one potential applicant for designation. For those areas for which more than one organization submits an Advance Notice of Intent, each such organization will be notified of the situation, and will be apprised of the identity of the other organization(s) applying for that area. Such notification will consist of providing affected applicants (including incumbents who have not submitted Advance Notices of Intent) with copies of all Advance Notices of Intent submitted for their requested areas. The notification will occur on or about November 30, 1992. The notification will state that organizations are encouraged to work out any conflicting requests among themselves, and that a final Notice of Intent should be submitted by the required postmark of January 1, 1993, deadline (see Part III, Notice of Intent, below).

Under the Advance Notice of Intent process, it is DOL policy that, to the extent possible within the regulations, a geographic service area and the applicant that wants to operate a Section 401 program in that area are to be determined by the Native American community to be served by the program. In the event the Native American community cannot resolve differences, applicants should take special care with

their final Notices of Intent to ensure that they are complete and fully responsive to all matters covered by the preferential hierarchy and rating systems discussed in this notice.

Information provided in the Advance Notice of Intent process shall not be considered as a final submission as referenced at 20 CFR 632.11. The Advance Notice of Intent is a procedural mechanism to facilitate the designation process. The regulations do not provide for formal application for designation through the Advance Notice of Intent.

III. Notice of Intent

All applicants must submit an original and two copies of a final Notice of Intent, postmarked no later than January 1, 1993, consistent with the regulations at 20 CFR 632.11. Final Notices of Intent may also be delivered in person not later than the close of business on the first business day of the designation year. Exclusive of charts or graphs and letters of support, the Notice of Intent should not exceed 75 pages of double-space un-reduced type.

Final Notices of Intent are to be sent to the Chief, Division of Indian and Native American Programs at the address cited above.

The regulations permit current grantees requesting their existing geographic service areas to submit an SF 424 in lieu of a complete application. As noted earlier in this notice, current grantees, other than tribes, bands or groups (including Alaskan Native entities) requesting their existing areas, are encouraged to consider submitting a full Notice of Intent even if their geographic service area request has not changed in the event that competition occurs. Tribes, bands and groups (including Alaskan Native entities) should consider submitting a full Notice of Intent if they currently serve areas beyond their reservation boundaries.

Applicants are encouraged to modify the geographic service area requests identified in their Advance Notices of Intent to avoid competition with other applicants. Applicants should not add territory to the geographic service area requests identified in the Advance Notice of Intent. Any organization applying by January 1, 1993, for non-contiguous geographic service areas shall prepare a separate, complete Notice of Intent for each such area unless currently designated for such areas.

It is the DOL's policy that no information affecting the panel review process will be solicited or accepted past the regulatory postmarked or hand delivered deadlines (see Part V, Use of

Panel Review Procedure, below). All information provided before the deadline must be in writing.

This policy does not preclude the Grant Officer from requesting additional information independent of the panel review process.

IV. Preferential Hierarchy for Determining Designations

In cases in which only one organization is applying for a clearly identified geographic service area and the organization meets the requirements at 20 CFR 632.10(b) and 632.11(d), DOL shall designate the applying organization as the grantee for the area. In cases in which two or more organizations apply for the same area (in whole or in part), DOL will utilize the order of designation preference described in the hierarchy below. The organization which falls into the highest category of preference will be designated, assuming all other requirements are met. The preferential hierarchy is:

(1) Indian tribes, bands or groups on Federal or State reservations for their reservation; Oklahoma Indians only as specified in Part VII, Special Designation Situations, below; and Alaskan Native entities only as specified in Part VII, Special Designation Situations, below.

(2) Native American-controlled, community-based organizations as defined in Part VIII (1) of the glossary in this notice, with significant support from other Native American-controlled organizations within the service community. This includes tribes applying for geographic service areas other than their own reservations.

Competition shall occur only when a non-incumbent can demonstrate in its application, by verifiable information, that it is potentially significantly superior overall to the incumbent. Such potential will be determined by the consideration of such factors as the following: Completeness of the application and quality of the contents; documentation of past experience; Native American-controlled organizational support; understanding of area training and employment needs and approach to addressing such needs; and the capability of the incumbent. If there is no incumbent, new applicants qualified for this category would compete against each other.

(3) Organizations (private nonprofit or units of State or local government) having a significant Native American advisory process, such as a governing body chaired by a Native American and having a majority membership of Native Americans.

(4) Non-Native American-controlled organizations without a Native American advisory process. In the event such an organization is designated, it must subsequently develop a Native American advisory process.

The Chief, DINAP, will make hierarchal determinations. He may convene a task force to assist in making such determinations. The task force also may perform such technical and advisory functions as determining which geographic service areas have more than one applicant for designation, documenting the eligibility of new applicants, and ascertaining the timeliness of final Notice of Intent submissions. The role of the task force is that of a technical advisory body.

The Chief, DINAP, will ultimately advise the Grant Officer in reference to which position an organization holds in the hierarchy. Within the regulatory time constraints of the designation process, the Chief, DINAP, will utilize whatever information is available.

The applying organization must supply sufficient information to permit the determination to be made. Organizations must indicate the category which they assume is appropriate and must adequately support that assertion.

V. Use of Panel Review Procedure

Competition may occur under the following circumstances:

(1) The Chief, DINAP, advises that a new applicant qualified for the second category of the hierarchy appears to be potentially significantly superior overall to an incumbent Native American-controlled, community-based organization with significant local Native American community support.

(2) The Chief, DINAP, advises that more than one new applicant is qualified for the second category of the hierarchy, and the incumbent grantee has not reapplied for designation.

(3) The Chief, DINAP, advises that two or more organizations have equal status in the third or fourth categories of the hierarchy, when there are no applicants qualified for the first and second categories.

When competition occurs, the Grant Officer may convene a review panel of Federal officials to score the information submitted with the Notice of Intent. The purpose of the panel is to evaluate an organization's capability, based on its application, to serve the area in question. The panel will be provided only the information described at 20 CFR 632.11 and submitted with the final Notice of Intent. The panel will not give weight to simple assertions. Any information must be supported by

adequate and verifiable documentation, e.g., supporting references must contain the name of the contact person, an address and telephone number.

The factors listed below will be considered in evaluating the capability of the applicant. In developing the Notice of Intent, the applicant should organize his documentation of capability to correspond with these factors.

(1) Operational Capability—40 points. (20 CFR 632.20 and 632.11)

(a) Previous experience in successfully operating an employment and training program serving Indians and Native Americans of a scope comparable to that which the organization would operate if designated—20 points.

(b) Previous experience in operating other human resources development programs serving Indians or Native Americans or coordinating employment and training services with such programs—10 points.

(c) Ability to maintain continuity of services to Indian or Native American participants with those previously provided under JTPA—10 points.

(2) Applicant's identification of the training and employment problems and needs in the requested area and approach to addressing such problems and needs—20 points. (20 CFR 632.2)

(3) Planning Process—20 points. (20 CFR 632.11)

(a) Private sector involvement—10 points.

(b) Community support as defined in Part VIII, Designation Process Glossary (1), below, and documentation as provided in Part I, General Designation Principles (5), above—10 points.

(4) Administrative Capability—20 points. (20 CFR 632.11)

(a) Previous experience in administering public funds under DOL or similar administrative requirements—15 points.

(b) Experience of senior management staff to be responsible for DOL grant, if designated—5 points.

VI. Notification of Designation/ Nondesignation

The Grant Officer will make the final designation decision giving consideration to the following factors: the review panel's recommendation, in those instances where a panel is convened; input from DINAP, OSTP, the DOL Employment and Training Administration's Office of Grants and Contracts Management and Office of Management Services, and the DOL Office of the Inspector General; and any other available information regarding the organization's financial and

operational capability, and responsibility. The Grant Officer's decisions will be provided to all applicants by March 1, 1993, as follows:

(1) Designation Letter

The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The letter will include the geographic service area for which the designation is made. It should be noted that the Grant Officer is not required to adhere to the geographic service area requested in the final Notice of Intent. The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or if acceptable to the designee, more than the area requested.

(2) Conditional Designation Letter

Conditional designations will include the nature of the conditions, the actions required to be finally designated and the time frame for such actions to be accomplished.

(3) Nondesignation Letter

Any organization not designated, in whole or in part, for a geographic service area requested will be notified formally of the nondesignation and given the basic reasons for the determination. An applicant for designation that is refused such designation, in whole or in part, may file a Petition for Reconsideration in accordance with 20 CFR 632.13, and subsequently, may appeal the nondesignation to an administrative law judge under the provisions of 20 CFR part 636. If an area is not designated for service through the foregoing process, alternative arrangements for service will be made in accordance with 20 CFR 632.12.

VII. Special Designation Situation

(1) Alaskan Native Entities

DOL has established geographic service areas for Alaskan Native employment and training programs based on the following: (a) The boundaries of the regions defined in the Alaska Native Claims Settlement Act (ANCSA); (b) the boundaries of major subregional areas where the primary provider of human resource development and related services is an Indian Reorganization Act (IRA)-recognized tribal council; and (c) the boundaries of the one Federal reservation in the State. Within these established geographic service areas, DOL will designate the primary Alaskan Native-controlled human resource development services provider or an entity formally designated by such provider. In the past, these entities have

been regional nonprofit corporations, associated corporations established by the regional nonprofit corporation, IRA-recognized tribal councils and the tribal government of the Metlakatla Indian Community. DOL intends to follow these principles in designating Native American grantees in Alaska for Program Years 1993 and 1994.

(2) Oklahoma Indians

DOL has established a service delivery system for Indian employment and training programs in Oklahoma based on a preference for Oklahoma Indians to serve portions of the State. Generally, geographic service areas have been designated geographically as countywide areas. In cases in which a significant portion of the land area of an individual county lies within the traditional jurisdiction of more than one tribal government, the service area has been subdivided to a certain extent on the basis of tribal identification information in the most recent Federal Decennial Census of Population. Wherever possible, arrangements mutually satisfactory to grantees in adjoining or overlapping geographic service areas have been honored by DOL. DOL intends to follow these principles in designating Native American grantees in Oklahoma for Program Years 1993 and 1994 to preserve continuity and prevent unnecessary fragmentation.

VIII. Designation Process Glossary

In order to ensure that all interested parties have the same understanding of the process, the following definitions are provided:

(1) Indian or Native American-Controlled Organization

This is defined as any organization with a governing board, more than 50 percent of whose members are Indians or Native Americans. Such an organization can be a tribal government, Native Alaskan or Native Hawaiian entity, consortium, or public or private nonprofit agency. For the purpose of hierarchy determinations, the governing board must have decision making authority for the Section 401 program.

(2) Service Area

This is defined as the geographic area described as States, counties, and/or reservations for which a designation is made. In some cases, it will also show the specific population to be served. The service area is defined finally by the Grant Officer in the formal designation letter. Grantees must ensure that all eligible population members have

equitable access to employment and training services within the service area.

(3) Community Support

This is evidence of active participation and/or endorsement from Indian or Native American-controlled organizations within the geographic service area for which designation is requested.

While applicants are not precluded from submitting attestations of support from individuals, the business community, State and local government offices, and community organizations that are not Indian or Native American-controlled, they should be aware that such endorsements do not meet DOL's definitional criteria for community support.

Signed at Washington, DC this 22nd day of July, 1992.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

Herbert Fellman,

Chief, Division of Indian and Native American Programs.

James C. DeLuca,

Grant Officer, Office of Grants and Contracts Management, Division of Acquisition and Assistance.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

[FR Doc. 92-17749 Filed 7-27-92; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SPACE COUNCIL

Meeting of the Space Launch Strategy Implementation Task Group

AGENCY: National Space Council.

ACTION: Notice of partial meeting closure.

SUMMARY: The Space Launch Strategy Implementation Task Group will meet in closed session from 1:45-5 p.m. on July 30, 1992 and from 1:45-3:30 p.m. on July 31, 1992.

DATES: July 30 and 31, 1992.

ADDRESSES: 1215 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Stephen Hopkins, (703) 685-3307, or James Beale, National Space Council, Executive Office of the President, Washington, DC (202) 395-6175.

SUPPLEMENTARY INFORMATION: As previously announced (57 FR 31221, July 14, 1992), the Space Launch Strategy Implementation Task Group will meet between 8:30 a.m. and 5 p.m. on July 30 and 31, 1992 at ANSER, Suite 800, 1215

Jefferson Davis Highway, Arlington, Virginia. This meeting will be closed to the public from 1:45-5 p.m. on July 30, 1992 under exemption 1 (classified matters) and exemption 4 (privileged or confidential commercial and financial information) and from 1:45-5 p.m. on July 31, 1992, under exemption 1 (classified matters) of 5 U.S.C. 552b(c). All other portions will be in open session. Persons interested in attending should contact Stephen Hopkins, ANSER, (703) 685-3307.

James R. Beale,

Committee Action Officer.

[FR Doc. 92-17709 Filed 7-27-92; 8:45 am]

BILLING CODE 3128-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Endowment for the Arts

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Professional Companies Panel A Section) to the National Council on the Arts will be held on August 19, 1992 from 9 a.m.-9 p.m., August 20 from 9 a.m.-10:30 p.m., and August 21 from 9 a.m.-5 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on August 19 from 9 a.m.-10 a.m. and on August 21 from 9 a.m.-10:30 a.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on August 19 from 10 a.m.-9 p.m., August 20 from 9 a.m.-10:30 p.m., and August 21 from 10:30 a.m.-5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the

full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5439.

Dated: July 20, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-17732 Filed 7-27-92; 8:45 am]

BILLING CODE 7537-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Opera-Musical Theater Advisory Panel (Professional Companies Panel B Section) to the National Council on the Arts will be held on August 24, 1992 from 9 a.m.-9 p.m., August 25 from 9 a.m.-10:30 p.m., and August 26 from 9 a.m.-5 p.m. in room 714 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on August 24 from 9 a.m.-10 a.m. and on August 26 from 9 a.m.-10:30 a.m. The topics will be introductory remarks and policy discussion.

The remaining portions of this meeting on August 24 from 10 a.m.-9 p.m., August 25 from 9 a.m.-10:30 p.m., and August 26 from 10:30 a.m.-5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the

full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5439.

Dated: July 20, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-17733 Filed 7-27-92; 8:45 am]

BILLING CODE 7537-01-M

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Presenting and Commissioning Advisory Panel (Presenting Organizations Panel B Section) to the National Council on the Arts will be held on August 18, 1992 from 9 a.m.-7 p.m., August 19-20 from 8:30 a.m.-6 p.m., and August 21 from 9 a.m.-5 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on August 21 from 2 p.m.-5 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on August 18 from 9 a.m.-7 p.m., August 19-20 from 8:30 a.m.-6 p.m., and August 21 from 8 a.m.-2 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the

full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5439.

Dated: July 20, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-17734 Filed 7-27-92; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Committee of Visitors Review of the Instrumentation and Instrument Development and Special Projects Programs; Meeting

The National Science Foundation announces the following meeting:

Date and Time: August 6-7, 1992, 8:30 a.m.-5 p.m.

Place: National Science Foundation, 1800 G St. NW, room 312, Washington, DC

Type of Meeting: Closed.

Contact Person: Dr. Frank Harris, Acting Division Director, Biological Instrumentation and Resources, rm 312, NSF, Washington, DC 20550 202-357-9880.

Purpose of Meeting: To provide oversight review of the Instrumentation and Instrument Development and Special Projects Programs.

Agenda: To carry out Committee of Visitors (COV) review including examination of decisions on proposals, reviewer comments, and other privileged materials.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If decisions were open to the public, these matters that are exempt under 5 U.S.C. 552 b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Reason for Late Notice: Difficulty in arranging meeting schedules of members.

Dated: July 23, 1992.

[FR Doc. 92-17756 Filed 7-27-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Draft Report on Accident Source Terms for Light-Water Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability for comment of Draft NUREG-1465, "Accident Source Terms for Light-Water Nuclear Power Plant."

SUMMARY: This notice announces the availability for comment of draft NUREG-1465, "Accident Source Terms for Light-Water Nuclear Power Plants." The information in this report provides revised accident source terms for light-water reactors (LWR) to replace those given in report TID-14844, issued in 1962. When final, these source terms are to be implemented through a rulechange to 10CFR50 for use in the design and licensing of future light-water reactor nuclear power plants. Although these revised source terms are intended to be applied toward future plant designs, voluntary proposals for their use by present reactor licensees will be considered by the NRC staff.

Any interested party may submit comments on this report for consideration by the staff. To be certain of consideration, comments must be received within 90 days of the date of this Federal Register notice and should be sent to the contact indicated below. Comments received after this date will be considered to the extent practical.

A copy of draft NUREG-1465 has been placed in the NRC Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC 20555. A free single copy may be obtained by writing to the U.S. Nuclear Regulatory Commission, Attn: Distribution and Mail Services Section, P-370, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Leonard Soffer, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492-3916.

Dated in Rockville, Maryland this 21st day of July, 1992.

For the Nuclear Regulatory Commission.

Warren Minners,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 92-17783 Filed 7-27-92; 8:45 am]

BILLING CODE 7590-01-M

NUREG: Issuance, Availability

The Nuclear Regulatory Commission has issued a draft report entitled

"Manual for Conducting Radiological Surveys in Support of License Termination" (NUREG/CR-5849). This draft manual, prepared for the NRC by Oak Ridge Associated Universities, is now available for review and comment.

The draft manual describes procedures for planning, conducting, and documenting site surveys which can be used to demonstrate that a site has been decontaminated to a level consistent with the Commission's criteria. It discusses the role of surveys in the decommissioning process, survey planning and design, selection and use of radiological instrumentation, conducting the survey, interpreting survey results, and documenting and reporting survey results. It also includes a sample Survey Plan and a sample Final Status Survey Report prepared in accordance with the procedures contained in the manual.

Although the draft manual does not constitute formal guidance from the Nuclear Regulatory Commission for the conduct of radiological surveys, it may serve as a source document for future guidance or as a reference document for licensee use. The draft manual also serves as potentially useful background for discussions and workshops related to the enhanced participatory rulemaking on radiological criteria for decommissioning currently being planned by the Commission. Comments are solicited on the draft manual, particularly with regard to the usefulness and appropriateness of the approaches outlined.

Copies of NUREG/CR-5849 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. Copies are also available from the National Technical Information Service, Springfield, Virginia 22161. A copy is also available for inspection, and copying for a fee, in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

A free single copy of the draft NUREG/CR-5849 may be requested by those considering submitting comments by writing to the Distribution and Mail Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Trial use of the report in developing comments is encouraged.

Comments on the draft report should be submitted to David L. Meyer, Chief, Rules and Directives Review Branch, P-223, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of the comments received may be examined at the NRC Public Document Room at 2120 L Street, NW.

(Lower Level), Washington, DC. Comments will be most helpful if they are received by January 28, 1993.

For further information contact James C. Malero, Radiation Protection and Health Effects Branch, Mail Shop NL/S-139, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3764.

Dated at Rockville, Maryland, this 26th day of June, 1992.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications
Office of Nuclear Regulatory Research.

[FR Doc. 92-17781 Filed 7-27-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-271]

**Vermont Yankee Nuclear Power Corp.;
Denial of Amendment to Facility
Operating License and Opportunity for
Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Vermont Yankee Nuclear Power Corporation, (licensee) for an amendment to Facility Operating License No. DPR-28 issued to the licensee for operation of the Vermont Yankee Nuclear Power Station, located in Vernon, Vermont. Notice of Consideration of Issuance of this amendment was published in the *Federal Register* on January 22, 1992 (57 FR 2603).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to delete specific supervisory titles from a section of the Technical Specifications relative to the composition of the Plant Operations Review Committee (PORC) and authorizes the Plant Manager to appoint members.

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 a letter, dated July 21, 1992.

By August 27, 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 Services 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 R.K. Gad, III, Ropes & Gray, One International Place, Boston, Massachusetts 02110-2624, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated December 27, 1991, and (2) the Commission's letter to the licensee dated July 21, 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 Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301. 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 21st day of July 1992.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Acting Director, Project Directorate I-3,
Division of Reactor Projects—I/II Office of
Nuclear Reactor Regulation.

[FR Doc. 92-17782 Filed 7-27-92; 8:45 am]

BILLING CODE 7590-01-M

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34-30946; File No. SR-Amex-92-20]

**Self-Regulatory Organizations; Filing
of Proposed Rule Change by American
Stock Exchange, Inc., Relating to
Specialist Disclosure of Orders on the
Book**

July 21, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 26, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

The Exchange is proposing to amend rule 174 to permit a specialist, upon

request of a member conducting a market probe, to disclose information regarding orders on his book which are at or near the prevailing quotation.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

**II. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

1. Purpose

Exchange rule 174 currently prohibits a specialist from disclosing to any person other than a Floor Official or other official of the Exchange any information regarding orders entrusted to him as a specialist, or the name of a bidder or offeror. However, a specialist, when requested, must disclose whether a bid or offer is in whole or in part for an account in which he has an interest, and the specialist is also permitted to respond to a request for the names of buying and selling member organizations in completed or partially executed transactions unless specifically directed to the contrary by the parties involved.

The Exchange believes that its marketplace will be made even more efficient if information regarding buying and selling interest at or near the prevailing quotation is made available to members conducting a market probe, and the Exchange is therefore proposing to amend rule 174 so that specialists may disclose such information, as well as the identity of the firm or firms that placed the orders. The amendment is similar to changes recently made to the comparable rule of the New York Stock Exchange ("NYSE").¹ Rather than

¹ See Securities Exchange Act Release No. 29318 (June 25, 1991), 56 FR 28937, (notice of filing of File No. SR-NYSE-89-02).

requiring members entering orders with the specialist to specifically grant permission to the specialist to disclose the name of the bidder or offeror, as required by the NYSE rule, the Exchange rule will permit the specialist to disclose such information unless specifically directed to the contrary by the entering broker. As is the case under the NYSE rule, information given by the specialist to one member must be made available in a fair and impartial manner to any member who inquires.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market, by providing Exchange members and the investors they represent with more information with which to make trading decisions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the *Federal Register* or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments,

all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-92-20 and should be submitted by August 18, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-17765 Filed 7-27-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30944; File No. SR-CBOE-92-09]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes by the Chicago Board Options Exchange, Inc. Relating to Position Limits for European-Style Standard & Poor's 500 Stock Index Options Settled Based on the Opening Prices of Component Securities

July 21, 1992.

I. Introduction

On April 22, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposal to raise position and exercise limits for European-style³ Standard & Poor's ("S&P") 500 Stock Index options that settle based on the opening prices of component securities and to broaden the existing hedge exemption from position limits. The proposal would also gradually phase-out all S&P 500 Stock Index options where settlement value upon expiration is based on the closing prices of component securities.⁴

¹ 15 U.S.C. 78a(b)(1) (1982).

² 17 CFR 240.19b-4 (1991).

³ A European-style option is one that can be exercised only on the expiration date.

⁴ The CBOE currently trades a S&P 500 Stock Index option, called the NSX, that settles based on the opening prices of component securities. The CBOE also presently trades several S&P 500 Stock

Index options that settle based on the closing prices of component securities. In particular, SPX, long-term options on the S&P 500 Stock Index ("SPL"), and long-term options on a Reduced Value S&P 500 Stock Index ("LSX") currently settle based on the closing prices at expiration. For purposes of this order, however, the term SPX encompasses both NSX and SPX options, unless otherwise indicated.

II. Background

Since the inception of standardized options trading, the options exchanges have had in place rules imposing limits on the aggregate number of options contracts of the same class that a market participant or market participants acting in concert could hold or exercise.⁷ Specifically, these restrictions are known as position and exercise limits. These rules are intended to, among other things, prevent the establishment of large options positions that can be used to manipulate or disrupt the underlying market so as to benefit the holder of an options position.

The CBOE believes, however, that the present rules governing index option position and exercise limits are too restrictive given the increasingly large equity portfolios that institutional investors and member firms manage and control. Specifically, the CBOE suggests that these investors have utilized the futures and over-the-counter ("OTC") derivatives markets in conjunction with the management of their assets because SPX position limits are too low. Accordingly, the CBOE has submitted this proposal to increase existing SPX position and exercise limits and broaden the hedge exemption from position limits to afford investors, namely institutional investors and member firms, greater opportunity and flexibility to use SPX

⁵ See Securities Exchange Act Release No. 30673 (May 8, 1992), 57 FR 20539.

⁶ See letters from the Honorable Christopher J. Dodd, Chairman, Securities Subcommittee, Committee on Banking, Housing and Urban Affairs, United States Senate, to Richard C. Breeden, Chairman, SEC, dated June 10, 1992; from Michael Rybinski to Richard C. Breeden, Chairman, SEC, dated July 7, 1992; from Daniel S. Carroll to Richard C. Breeden, Chairman, SEC, dated July 7, 1992; and from Harvey Wong to Richard C. Breeden, Chairman, SEC, dated July 10, 1992.

⁷ Position limits impose a ceiling on the number of options contracts relating to an underlying instrument which an investor, or group of investors acting in concert, may own or control. Exercise limits prohibit the exercise by an investor or group of investors acting in concert of more than a specified number of option contracts on a particular underlying security within five consecutive business days.

options in the hedging of their large stock portfolios.⁸

In addition, the CBOE's proposal to phase-out closing price settlement of SPX contracts in favor of settlement based on the opening prices of component securities is responsive to recommendations made by the Commission to dampen volatility associated with "Expiration Fridays."⁹ Specifically, in an effort to address stock market volatility experienced on the four Fridays per year when individual stock options, stock index options, stock index futures and options on such futures all expire together, the Commission has encouraged the index options markets to switch to opening or morning settlement.¹⁰ The Commission believes that opening-price settlement of derivative stock index products would allow the markets to apply pre-opening procedures to the significant order imbalances and increased volume experienced on quarterly expirations, thereby contributing to the orderly unwinding of SPX position and related equity positions. Indeed, in 1987, opening-price settlement of certain derivative instruments was implemented by the Chicago Mercantile Exchange ("CME"), New York Futures Exchange ("NYFE") and the New York Stock Exchange ("NYSE").¹¹ In addition, in

⁸ Exercise limits will correspond to position limits, such that investors are permitted to exercise during any five consecutive business days, only the number of option contracts set forth as the position limits. Accordingly, exercise limits will equal the number of contracts set forth in the position limit rule plus any available hedge and/or facilitation exemptions. For example, an exercise limit of 195,000 contracts would be available if the maximum hedge exemption is applicable (45,000 position limit plus 150,000 hedge exemption).

⁹ Quarterly expirations are the four expiration Fridays each year on which *all* stock index futures, stock index options, and options on stock index futures expire concurrently. Expiration Friday is the one Friday each month, including the four quarterly expirations, on which at least *some* stock index derivative instruments expire. Usually, Expiration Friday is the third Friday following the third Monday of each month.

¹⁰ See letter from Shirley E. Hollis, Acting Secretary, SEC, to Kenneth R. Leibler, President, American Stock Exchange, Inc.; Walter E. Auch, Chairman, CBOE; Gordon S. Macklin, Chairman, National Association of Securities Dealers, Inc.; Robert J. Birnbaum, President, NYSE; James S. Gallagher, President, Pacific Stock Exchange, Inc.; and Nicholas A. Giordano, Chairman, Philadelphia Stock Exchange, Inc., dated June 13, 1986.

¹¹ See letters from Jean A. Webb, Secretary, CFTC, to Dr. Thomas E. Killcollin, Senior Vice President and Chief Economist, CME, dated February 25, 1987 (CME) and Lynn K. Gilbert, Deputy Secretary, CFTC, to Richard T. Pombonyo, Director, Product Development, NYFE, dated April 24, 1987 (NYFE); and Securities Exchange Act Release Nos. 24276 (March 27, 1987), 52 FR 13894 and 25804 (June 15, 1988), 53 FR 23474 (NYSE).

April 1987, the CBOE introduced the NSX option, however, the remainder of its S&P 500 contracts continue to settle based on closing prices at expiration.

III. Description of the Proposal

The Exchange proposes to base the settlement value of all expiring European-style SPX options on the opening prices of the component securities ("A.M.-settled") instead of the closing prices ("P.M.-settled"), increase its existing position and exercise limit rules for its SPX contract and broaden the existing hedge exemption from position limits for customers and market professionals. To accomplish the elimination of P.M.-settled SPX contracts, the Exchange proposes to terminate the introduction of new P.M.-settled SPX contracts and re-name the NSX as SPX.¹² The proposed changes also include increasing SPX position limits from 25,000 to 45,000 contracts on the same side of the market and eliminating the telescoping provision for near-month positions.¹³ In addition, the proposal establishes exemptions for certain hedge positions¹⁴ and customer facilitation transactions involving A.M.-settled SPX options. A detailed summary of the proposed position limit changes follows.

First, the CBOE proposes to amend CBOE Rule 24.4 to increase the existing SPX position limit from 25,000 to 45,000 contracts and eliminate the telescoping provision of CBOE Rule 24.4 for A.M.-settled European-style SPX options.¹⁵

¹² The increased position and exercise limits and broadened hedge exemption only apply to A.M.-settled, European-style SPX contracts. Thus, outstanding SPX and SPL contracts with P.M.-settlement will continue to be subject to the lower position and exercise limits until they are phased out. All positions in A.M. and P.M. settled SPX contracts will be aggregated. With respect to American-style indexes or equity options or for P.M.-settled, European-style index or equity options, however, no changes are proposed for position limits or existing position limit hedge exemptions.

¹³ The telescoping provision in CBOE Rule 24.4 limits index options positions to 15,000 contracts on the same side of the market in the near-term expiration month.

¹⁴ Under existing rules, the hedge exemption program allows public customers to apply for a "hedge exemption" from established position limits for broad-based index options if those customers hold pre-approved portfolios of long positions in common stocks. In addition, this hedge exemption is also available to public customers with accounts having short stock positions who seek to offset economic risk by buying calls or selling puts on a broad-based stock index. The maximum size of an exempted position, however, cannot exceed the unhedged value of the qualified stock portfolio, and no exempted positions can exceed 75,000 contracts, regardless of the size of the stock portfolio. These rules would continue to apply to any broad-based index option traded on the CBOE except for A.M.-settled SPX contracts.

¹⁵ See *supra* note 13.

Second, the proposal would authorize CBOE's Department of Market Surveillance to grant an increased array of exemptions from the basic position and exercise limit of the Rule for positions in A.M.-settled SPX options.¹⁶ Proposed new interpretation .02 to Rule 24.4 lists seven (the last three of which are new) hedging transactions and positions involving A.M.-settled SPX options and a qualified portfolio which, upon application by public customers¹⁷ and approval by the Exchange, will not be counted against position limits up to a limit of 150,000 contracts.¹⁸ These positions and transactions include:

(1) Long put(s) used to hedge the holdings of a qualified portfolio (as defined in Interpretation .01, subpart (d), of Rule 24.4;¹⁹

(2) Long call(s) used to hedge a short position in a qualified portfolio;

(3) Short call(s) used to hedge the holdings of a qualified portfolio (a "covered write position");

(4) Short put(s) used to hedge a short position in a qualified portfolio;

(5) A covered write position accompanied by long put(s), where the short call(s) expire with the long put(s), and the strike price of the short call(s)

¹⁶ The CBOE believes that the seven listed options positions generally are taken by market participants to reduce the risks associated with certain equity market positions through the establishment of off-setting positions that provide minimal speculative opportunities.

¹⁷ See CBOE Rule 7.4(a) and proposed Interpretation .02 to CBOE Rule 24.4.

¹⁸ Proposed Commentary .02(d) to Rule 24.4 would permit the CBOE to grant hedge exemptions to public customers for positions in A.M.-settled, European-style SPX contracts to the extent the underlying value of the option does not exceed the unhedged value of the qualified portfolio. The unhedged value would be determined as follows: (1) the values of the net long or short positions for each of the stocks or their equivalent of the qualified portfolio are tallied; and (2) the value of (a) any opposite side of the market calls and puts in A.M.-settled SPX contracts, (b) any opposite side of the market positions in S&P 500 Stock Index futures, and (c) any economically equivalent opposite side of the market positions in A.M.-settled SPX contracts or S&P 500 options on stock index futures, is subtracted from the total. As previously stated, the exemption is limited to 150,000 same side of the market contracts. For example, assuming a qualified portfolio of \$7.9 billion and an index level of 410 for the S&P 500, the 45,000 SPX position limit provides coverage of up to \$1.8 billion while the hedge exemption of 150,000 SPX contracts allows additional SPX positions of \$6.1 billion.

¹⁹ Interpretation .01(d) to Rule 24.4 defines a qualified portfolio as follows: The stock portfolio or its equivalent is composed of net long or short positions in common stocks in at least four industry groups and contains at least twenty stocks, none of which accounts for more than 15% of the value of the portfolio ("qualified portfolio"). To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity in the stocks or their equivalents.

equals or exceeds the strike price of the long put(s) (a "hedgewrap");

(6) A long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) equals or exceeds the strike price of the short put(s), which total position is used to hedge the holdings of a qualified portfolio (a "debit put spread position"); and

(7) A covered write position accompanied by a debit put spread position, where the short call(s) expires with the puts and the strike price of the short call(s) equals or exceeds the strike price of the long put(s).²⁰

As noted above, however, in no event may positions exempt under the proposed hedge exemption exceed 150,000 contracts on the same-side-of-the-market option contracts in A.M.-settled SPX contracts. Before public customers may establish "exempted positions," however, they must receive approval for the hedge exemption from the CBOE's Department of Market Surveillance. In addition, under the proposal, Exchange approval for the position limit hedge exemptions may be granted on the basis of oral representations. If approval is based on oral representations the customer or members receiving the exemption shall, within no more than five business days, furnish the CBOE's Department of Market Surveillance with appropriate documentation and forms substantiating the basis for the exemption.²¹

Third, the proposal would authorize the CBOE to grant a higher position limit exemption for hedged positions applicable to money managers controlling or managing several options accounts.²² In particular, if the request is approved by the CBOE, a money manager could hold up to 250,000 exempted same-side-of-the-market SPX contracts in its aggregate accounts, with any single account under its control limited to 135,000 exempted same-side-of-the-market option contracts. With respect to the aggregation of non-

exempted positions, however, all of the aggregated accounts of a money manager will still be subject to the proposed 45,000 SPX position limit.

Fourth, proposed new interpretation .03 to Rule 24.4 would enable a member organization to obtain a position limit exemption of up to 100,000 SPX contracts on the same-side-of-the-market in order to facilitate the execution of large customer orders.²³

Prior to executing a facilitating trade, however, a member organization must receive approval from the CBOE's Exemption Committee.²⁴ The proposal also provides that Exchange approval may be given on the basis of verbal representations, in which event, the member organization shall furnish the CBOE's Department of Market Surveillance with appropriate forms and documentation substantiating the basis for the exemptions within five business days.²⁵

The proposal would establish several requirements member organizations must satisfy in order to receive approval of a facilitation trade exemption. No member organization may request a facilitation exemption for customer or member use in index arbitrage. Neither the member's nor the customer's order may be contingent on "all or none" or "fill or kill" instructions and the order may not be executed until the SPX Order Book Official has announced the orders to the entire crowd via an audio system and crowd members have been given a reasonable time to participate in the trade. In addition, the member must hedge, within five business days after the execution of a facilitation exemption order, all exempt options positions that have not been otherwise liquidated and furnish the Exchange's Department of Market Surveillance with documentation describing the resulting

hedge position(s).²⁶ In meeting this requirement, the member organization must liquidate and establish its customer's and its own option and stock position or their equivalent in an orderly fashion, and in a manner calculated not to cause unreasonable price fluctuations or unwarranted price changes. Finally, once liquidated or reduced, the member organizations may not increase the exempted option positions without approval from the Exchange.

IV. Comment Letters

The Commission received four comment letters. The first letter was from the Chairman of the United States Senate Subcommittee on Securities supporting the CBOE's proposal to move the time for determining the expiration settlement value of its SPX contract from the close to the open of the trading day. In supporting this aspect of the proposal, Senator Dodd emphasized that "[t]hese actions taken by the exchanges should provide a greater opportunity for investors and market professionals to react to order imbalances and enhance investors' overall confidence in the U.S. markets."²⁷ Subsequent letters from individual investors argue that changing the procedure for determining the settlement value of the SPX contract from the close to the open at expiration will have an adverse impact on the small investor, by eliminating potential trading opportunities for those investors.²⁸

²⁰ The facilitation exemption member organization, if requested, must also provide to the CBOE any information or documents concerning the exempted options and hedge positions and notify the Exchange of any material change in the exempted options position or the hedge.

²¹ See *supra* note 8; Senator Dodd also referred to the NYSE's modification of its procedures for handling market-on-close orders. See Securities Exchange Act Release No. 30680 (May 8, 1992), 57 FR 20720 (File No. SR-NYSE-92-09).

²² The Commission believes that these concerns are unfounded. First, the Commission does not believe that investor opportunity to profit through trading in SPX contracts will be significantly hampered or adversely effected as a result of shifting the SPX to opening price settlement. Profit from trading in SPX options is related to a myriad of factors and none of the fundamental economic factors that determine the price of an SPX options are affected by basing the settlement of SPX options on the opening prices of component securities. Even if particular strategies may no longer be feasible as a result of AM expiration, the Commission does not believe that switching the SPX to opening price settlement will make trading in the contract any more or less profitable. Second, for all of the reasons stated above, the Commission believes the potential benefits to the market as a whole from the CBOE's proposal justifies the potential consequences. Of course, the Commission will continue to monitor market events and the implications of the proposal for investors.

²⁰ The first four proposed hedge positions are presently available for equity options pursuant to Interpretation .04 to Rule 4.11.

²¹ See letter from Dr. William Barclay, Vice President, Strategic Planning and International Development, CBOE, to Howard L. Kramer, Assistant Director, Division of Market Regulation, SEC, dated April 22, 1992.

²² A position limit hedge exemption may be granted to an individual or an organization controlling or managing customer accounts in which option positions are held, *i.e.*, a money manager. The determination that one is a money manager is based on the concept of control over accounts pursuant to Interpretation .03 of CBOE Rule 4.11.

²³ A facilitation trade is a transaction that involves crossing an order of a member firm's public customer with an order from the member firm's proprietary account. See CBOE Rule 6.74 and 6.53(m). In addition, proposed Interpretation .03 to Rule 24.4 defines a facilitating order of a firm's own customer as one that will enter, clear and have the resulting position carried with the firm.

²⁴ The Exemption Committee is composed of twenty-three members who administer the criteria for granting position limit exemptions. In the case of written requests, a panel of three officials will review the exemption request after the close with the exemption effective the next business day. For oral requests, one official will consider the exemption request based on the selected criteria with another official reviewing such decision. The full three-person panel will then review the action the next time they meet. Conversation between Joyce Klouda, Staff Attorney, CBOE, and Jeffrey P. Burns, Attorney, Division of Market Regulation, Branch of Options Regulation, SEC, on July 9, 1992.

²⁵ See *supra* note 20.

V. Discussion

As discussed below, the Commission believes that the CBOE proposal is consistent with section 6 of the Act, in general, and section 6(b)(5), in particular, in that it should help remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade and protect investors and the public interest. Moreover, the Commission believes that the CBOE's proposal to switch the SPX option to an A.M.-settled option instead of a P.M.-settled option may help ameliorate the price effects associated with expirations of SPX options.

A. A.M. Settlement of SPX Options

The Commission believes that the CBOE proposal to switch the SPX contract from a p.m.-settled contract to an a.m.-settled contract is a reasonable attempt to address and ameliorate the effects on the equity markets that have been associated with, but not necessarily the result of, the expiration of index options.²⁹ The Commission notes that the CBOE's proposal is consistent with actions taken by other securities and futures exchanges to settle their expiring index options or futures contracts based on the opening prices of component securities.³⁰ The Commission believes that settling these index products based on opening prices, coupled with the auxiliary opening procedures developed by the NYSE,³¹ have significantly improved the ability of the market to alleviate and accommodate large and potentially destabilizing order imbalances associated with the unwinding of index-related positions. Indeed, based on the performance of the stock, options and futures markets over the past several years during expiration Fridays, the Commission continues to believe that "in general, basing the settlement of index products on opening, as opposed to closing, prices on expiration Fridays helps alleviate the stock market volatility once experienced frequently on expiration Fridays."³²

²⁹ See Division of Market Regulation, SEC, *The October 1987 Market Break* ("Market Break Study") (February 1988); Division of Market Regulation, SEC, *Market Analysis of October 13 and 16, 1989* ("Mini-Break Report") (December 1990); Report to the Board of Directors of the NYSE, *Market Volatility and Investor Confidence* ("Blue Ribbon Panel") (June 7, 1990).

³⁰ See *supra* note 10.

³¹ See *infra* note 33.

³² See Securities Exchange Act Release No. 24276 (March 27, 1987), 52 FR 10836.

The Commission has identified several benefits to opening-priced settlement for broad-based index options. First, an opening price settlement method for SPX options can help facilitate the development of contra-side interest to alleviate order imbalances in underlying markets from the unwinding of index-related positions. In contrast to expirations associated with P.M.-settled SPX options, firms providing contra-side interest will not necessarily assume overnight or weekend position risks because they will have the rest of the day to liquidate or trade out of their positions. Second, even if the opening price settlement results in a significant change in underlying stock prices, participants in the markets for those stocks will have the remainder of the trading day to adjust to those price movements and to determine whether those movements reflect changes in fundamental values or rather short-term supply/demand considerations. In addition, settling SPX options at the opening will allow corresponding stock positions associated with expiring SPX contracts to be subject to the NYSE's auxiliary opening procedures implemented on expiration Fridays. These procedures provide for the orderly entry, dissemination and matching of orders.³³

In sum, on the basis of the expirations over the past five years, the Commission believes that opening-price settlement of stock index options and futures is beneficial. Opening-price settlement procedures have operated smoothly and effectively and have contributed to dampening expiration Friday volatility. The Commission believes that moving

³³ Specifically, the NYSE's auxiliary opening procedures require all stock orders relating to options or futures contracts that settle based on opening expiration Friday prices to be received by 9 a.m., Eastern Standard Time. The NYSE then disseminates the size of substantial market order imbalances (50,000 shares or more) as of 9 a.m. in stocks which are major components of broad-based stock indexes. To facilitate the entry of orders, on expiration Fridays, the NYSE makes its automatic order routing system, known as "SuperDot," available to accept orders at 7:30 a.m. In addition, the NYSE's Opening Automated Report Service ("OARS"), an enhancement to SuperDot, is available at the opening. OARS accepts pre-opening market orders up to 30,099 shares and executes these orders at the market opening. This enhancement to the SuperDot system stores the pre-opening orders, continuously pairs buy and sell orders, and presents order imbalances to specialists up to the time each stock opens for trading. This OARS information, along with the knowledge of the standing limit orders, and the interests represented on the NYSE trading floor and in the Intermarket Trading System ("ITS"), enable the specialist to facilitate and report the opening price and volume for each stock within moments. See Securities Exchange Act Release No. 25202 (December 21, 1987), 52 FR 48355.

all SPX options to opening settlement will permit the market to benefit from the pre-opening procedures described above when positions in the contract are unwound on expiration Fridays. Accordingly, the Commission finds that switching the settlement of the SPX contract from the close to the open at expiration is consistent with the Act and the protection of investors and the public interest.

B. Position and Exercise Limit Increase

In establishing specific position and exercise limits as proposed by the options exchanges, the Commission has attempted to balance two competing concerns. First, limits must be sufficiently low to prevent investors from disrupting the underlying cash market. Second, limits must not be established at levels that are so low as to unnecessarily discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain fair and orderly markets.

The Commission believes that the proposed position limit of 45,000 A.M.-settled SPX contracts on the same side of the market will increase the depth and liquidity of the SPX market³⁴ without significantly increasing concerns regarding intermarket manipulations or disruptions of the market for the options or the underlying securities. As previously noted, markets that exhibit active and deep trading, as well as broad public ownership, are more difficult to manipulate or disrupt than less active markets with smaller public floats.³⁵ In this regard, the S&P 500 is a broad-based, capitalization-weighted index consisting of 500 of the most actively traded and liquid stocks in the U.S.³⁶ Accordingly, given the size and breadth of the S&P 500 Index, the Commission believes that increasing SPX position limit to 45,000 contracts in tandem with moving the SPX to opening price settlement will not increase any manipulative concerns. In addition, the Exchange's surveillance program will

³⁴ The increase in position limits likely will increase trading activity in SPX options and could increase market depth and liquidity by giving institutional investors wider latitude in trading to manage their portfolios.

³⁵ See Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201.

³⁶ In fact, according to S&P data, the market value of the Index is approximately 74% of the total value of the U.S. equity market (Based on figures for 1991, Source: S&P). The Commission also notes the absence of discernible manipulative concerns that have arisen under the current SPX position and exercise limits.

continue to be applicable to the trading of SPX options and should detect and deter trading abuses arising from the increased position and exercise limits.

1. Hedge Exemption

As detailed above, the proposal lists seven hedging transactions and positions involving A.M.-settled SPX contracts and a qualified portfolio which, upon application and approval by the Exchange,³⁷ will not be counted against position limits for a public customer. These seven listed positions are positions intended to reduce the risks of equity market positions. The proposal, however, limits the number of contracts on the same side of the market to 150,000. In addition, money managers are provided even greater flexibility, with an upward limit of 250,000 same side of the market contracts for all accounts under management provided that no single account has more than 135,000 contracts on the same side of the market.

The Commission believes that the CBOE proposal is consistent with the Commission's approach to position and exercise limits and adequately balances the benefits derived from increased position and exercise limits against the potential for increased market disruptions and manipulations. Specifically, because any SPX options position in excess of the outstanding SPX position limit must be fully hedged in conformity with the seven listed hedge positions, market disruption concerns are reduced. Moreover, to the extent that an SPX options position is hedged with a qualified stock portfolio, it should be more difficult to profit from an intermarket manipulation because an increase in the value of the SPX options position usually will be accompanied by a corresponding decrease in the value of the cash position. Accordingly, the Commission does not believe that the proposed expansion of the hedged position limit for SPX options (in tandem with moving the price settlement of the SPX at expiration to the open) will disrupt options or equity markets or materially increase the possibility of manipulation in the underlying securities or options. In addition, the Commission believes that the expansion of the hedge exemption to include the hedgewrap and debit put spread as qualified hedge positions is consistent

³⁷ A customer must receive approval for the hedge exemption from the CBOE's Department of Market Surveillance prior to taking on the greater positions. Although approval may be granted orally, the customer is required to follow-up with appropriate forms and documentation for the exemption within a time period designated by the Exchange.

with the Act because such hedged positions involve limited systemic risk to the marketplace.³⁸

Nevertheless, larger options positions raised the incentive and potential to engage in intermarket manipulations by providing a greater potential gain from the derivative position. The Commission, however, is confident that existing surveillance capabilities of the Exchange are sufficient to detect and deter trading abuses arising from the increased position and exercise limits associated with the hedge exemption proposal. Accordingly, the Commission believes that the CBOE proposal to increase its position limit exemption for SPX hedged positions is warranted in order to add needed flexibility for money managers, institutional investors and other professional traders.

Finally, the Commission believes that the larger hedged SPX position limit exemption for money managers (*i.e.*, 250,000 contracts with no more than 135,000 in one account), is reasonable and consistent with the Act because it will provide further flexibility to money managers in managing their accounts.³⁹ Even though a money manager could control up to 250,000 SPX contracts under this proposal, the Commission does not believe this limit will increase the potential for market disruption or manipulation for several reasons. First, even with this higher hedged position limit, no single account could hold pursuant to the exemption more than 135,000 SPX contracts, or 15,000 contracts less than the hedged exemption for other type of accounts. Second, the exempted options positions must be associated with one of the seven enumerated hedged positions contained in Interpretation .02 to CBOE rule 24.4. As noted above, our concerns about manipulation are reduced to the extent the positions are fully hedged.

2. Facilitation Exemption

The Commission believes that the "customer facilitation exemption" from SPX position and exercise limit rules for member organizations will further enhance the depth and liquidity of the

³⁸ In this regard, the effect of the expansion of the hedge exemption on credit risks likewise should be minimal because the SPX contract, like all standardized options under the jurisdiction of the SEC, are issued and cleared by the Options Clearing Corporation ("OCC"). These exemptions from position and exercise limits do not carry over to exempt the position holder from CBOE and OCC margin deposit requirements. Accordingly, hedged positions must be accessible to the members and/or OCC in the event the positions must be liquidated.

³⁹ Money managers occasionally execute trades and then allocate such trades to specific managed accounts. The proposal for increased position limits will facilitate these money manager operations.

options and underlying cash markets by providing members greater flexibility in executing large SPX customer orders.⁴⁰ In addition, the Commission believes that the risk of executing large customer orders in SPX options will be reduced by distributing such risk among market participants.

The Commission also believes that the Exchange has proposed several safeguards in connection with the facilitation exemption that will serve to minimize any potential market disruption or manipulation concerns. First, the member organization must receive approval from the Exchange prior to executing facilitating trades.⁴¹ In this regard, the Commission believes that permitting the CBOE to grant oral approval of facilitation exemptions will not result in trading abuses because of the follow-up documentation required. Second, a facilitation exemption member must hedge all exempt options positions that have not been previously liquidated within five consecutive business days after the execution of the facilitation exemption order, and furnish to the Exchange documentation reflecting the resulting hedged positions. Third, the facilitation exemption member is required to provide the Exchange with any information or documents requested concerning the exempted options positions and the positions hedging them.⁴² Fourth, a facilitation exemption member is not permitted to use the facilitation exemption for the purpose of engaging in index arbitrage. Thus, the Commission concludes that the member organization customer facilitation exemption from position and exercise limits (in tandem with moving the price settlement of the SPX at expiration to the open) is consistent with the Act and will promote fair and orderly markets.

VI. Conclusion

The Commission finds that changing the SPX in an A.M.-settled contract is consistent with the Act and may ameliorate volatility associated with the expiration of index products. The Commission also finds that the proposed increase in position and exercise limits, together with the broader hedge exemption, for A.M.-settled SPX

⁴⁰ Under existing Exchange rules, a market-maker participant in a facilitation transaction may obtain an exemption from position limits. See Interpretation .05 to Rule 4.11.

⁴¹ See *supra* text following note 23.

⁴² The Exchange is authorized to liquidate, as expeditiously as possible consistent with the maintenance of an orderly market, those positions carried by a member that are in excess of applicable position limits. See CBOE Rule 4.14.

contracts will allow more effective hedging of large stock portfolios and may increase the depth and liquidity of the stock index options market. At the same time, for the reasons discussed above, the Commission does not believe that an expansion of the hedge exemption for A.M.-settled SPX contracts will materially increase the potential for disruption in the underlying cash market or render the SPX readily susceptible to manipulation. In addition, the Commission believes that providing member organizations with SPX position and exercise exemptions for the purpose of facilitating large customer orders will better serve the needs of the investing public by distributing the risks of large customer transactions to several market participants.

In summary, the Commission believes that the increase in position and exercise limits will benefit market participants by allowing them to take larger positions in the context of an exchange-traded and regulated product without unnecessarily increasing manipulative concerns. In addition, although the hedging exemption appears large, the Commission is satisfied that on a fully hedged basis the positions will not present significant manipulation concerns. Similarly, the facilitation exemption is limited and must be liquidated or fully hedged within five business days. Further, the Commission further believes that these exemptions are appropriate in light of the composition, depth and liquidity of the S&P 500 Stock Index, making it less susceptible to manipulation.

Nevertheless, as a result of the significant increase in options positions that may result from the new 45,000 position limit, in addition to the elimination of the telescoping provision and the expansion of exemptions from SPX position limits, the Commission believes that the CBOE should study the market impact of these changes. Specifically, the Commission expects the CBOE to report on an annual basis for the next three years on the following matters:

- (1) The number of market participants that are at or near the 45,000 position limit level;
- (2) Any market impact concerns or issues raised by the large options positions, such as frontrunning, minimanipulation, capping and pegging, and other similar trading abuses;
- (3) Any discernible effects on the options and related markets due to the increased position limits and the change in the hedge exemptions (*i.e.*, depth and liquidity);
- (4) How often the hedge and facilitation exemptions are utilized;
- (5) The frequency and size of the hedge exemptions utilized;
- (6) The number of position limit violations;

(7) Any disciplinary actions brought as a result of such violations; and

(8) The number of oral exemption requests, the number of requests granted, and the number of times documentation was not timely filed.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,⁴³ that the proposed rule change (SR-CBOE-92-09), is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴⁴

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-30945; International Series No. 425; File No. SR-PHLX-92-13]

**Self-Regulatory Organizations;
Philadelphia Stock Exchange Inc.;
Order Approving Proposed Rule
Change Relating to the Listing of
Short-Term, End-of-Month Expiration
Foreign Currency Options**

July 21, 1992.

On April 17, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder,² a proposed rule change to provide for the listing of foreign currency options that will expire on the Saturday following the last Friday of the expiration month for certain near-term expiration months ("end-of-month expiration"). Currently, all foreign currency options traded on the Exchange expire during the middle of the expiration month. The new, end-of-the-month expiration options will be traded on the PHLX in addition to the existing foreign currency options expiring at the middle of the month.

The proposed rule change was published for comment in the *Federal Register* on May 12, 1992.³ No comments were received on the proposed rule change.

The Exchange proposes to amend its Rules 1000(b)(21) and 1012(a)(ii) to provide for the listing of three additional end-of-the-month expiration foreign currency options which will be listed and traded on all foreign currencies, including cross rate currencies,

⁴³ 15 U.S.C. 78s(b)(2) (1982).

⁴⁴ 17 CFR 200.30-3(a)(12) (1989).

¹ 15 U.S.C. 78s(b)(1) (1982).

² 17 CFR 240.19b-4 (1991).

³ See Securities Exchange Act Release No. 30609 (May 6, 1992), 57 FR 20313.

presently underlying options traded on the PHLX. Under the proposal, the month-end foreign currency options will only be available in the two nearest term consecutive month expirations and the nearest term cycle month expiration. Specifically, the options will expire on the Saturday following the last Friday of the expiration month.⁴ Accordingly, this end-of-the-month expiration feature will provide expirations approximately two weeks apart from existing foreign currency options expirations in the two nearest consecutive month expirations and the first cycle month expiration.

The proposed short-term, end-of-the-month expiration foreign currency options will trade simultaneously with, not independent of, currently listed and traded foreign currency options and the Exchange's cross-rate currency options.⁵ The proposed short-term, end-of-the-month expiration foreign currency options will be subject to the same rules that presently govern the trading of existing foreign currency options, contracts, including sales practice rules, margin requirements, and floor trading procedures. With regard to position and exercise limits, the PHLX proposes to aggregate positions in all foreign currency options as well as cross-rate foreign currency options that are based on the same underlying foreign currencies. In addition, in connection with the proposal, the Exchange has distributed a circular to all Exchange Options Members, Member Organizations and Foreign Currency Options Participants describing the new end-of-the-month expiration options, the contract specification of these contracts, and other material rules and procedures applicable to these options.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).⁶ In

⁴ Presently, PHLX Rule 1000(b)(21) provides that foreign currency options expire on the Saturday preceding the third Wednesday of the expiration month. With respect to each class of foreign currency options, the PHLX trades options with six expirations of up to one year in length with two consecutive month and four cycle month expirations, as well as longer-term foreign currency options listed on an every other cycle month expiration basis with up to thirty-six months until expiration.

⁵ See Securities Exchange Act Release No. 29919 (November 7, 1991), 56 FR 58109.

⁶ 15 U.S.C. 78f(b)(5) (1982).

particular, the Commission believes that the proposed rule change is designed to provide investors with additional means to hedge foreign currency portfolios and cash flows from short-term market risk, thereby facilitating transactions in foreign currency options. Specifically, by providing investors with the ability to use short-term foreign currency options that expire in two week intervals, the PHLX proposal will allow investors more flexibility to tailor their foreign currency options positions to satisfy their investment objectives. For instance, according to the PHLX, foreign currency options provide a strategic investment tool for sophisticated retail options customers, multi-national corporations and proprietary traders who manage and hedge foreign currency exposures. In addition, banking institutions trade short-term foreign currency options to hedge the risk of trading in the foreign currency, forward and cash markets. Accordingly, the Commission believes the PHLX proposal is a reasonable response by the Exchange to meet the demands of sophisticated foreign currency market participants who are increasingly focusing on shorter term foreign currency options products.⁷ Finally, the Commission believes the proposal will provide portfolio managers and other institutional currency market participants with an alternative to using futures contracts, forward contracts and/or off-exchange customized derivative instruments to satisfy their short-term foreign currency investment needs, thereby promoting competition among these markets.

In addition, the Commission believes that the PHLX proposal will help to promote the maintenance of a fair and orderly market because the purpose of the proposal is to extend the benefits of a listed currency market to short-term, end-of-the-month expiration foreign currency options. The attributes of the Exchange's foreign currency options market versus an over-the-counter market include, but are not limited to, a regulated market center, a liquid auction market with posted market quotations and transaction reporting, standardized contract specifications, parameters and procedures for clearance and settlement, and the guarantee of the Options Clearing Corporation ("OCC") for all contracts traded on the Exchange.

The Commission also notes that the Exchange's existing rules applicable to foreign currency options, including

among others, strike price interval, bid/ask differential, price continuity, and sales practice rules and position and exercise limits will apply to the short-term, end-of-the-month expiration foreign currency options. Accordingly, the Commission believes that the month-end expiration options will not compromise the protection of investors or have an adverse market impact. In fact, as noted above, the Commission believes the month-end expiration options will provide important benefits to market participants as they seek to hedge or speculate on short-term foreign currency fluctuations. The Commission also does not believe that the listing of end-of-the-month foreign currency options will cause a proliferation of options series since the month-end options will only be available for the three nearest term expiration months.

Lastly, based on representations for the PHLX, the Commission believes that the Options Price Reporting Authority ("OPRA") will have adequate computer processing capacity to accommodate the additional options listed in connection with the short-term, end-of-the-month expiration foreign currency options. Specifically, the Exchange represents that "our systems and the OPRA lines will be more than adequate to accommodate the listing and trading of Month-End Foreign Currency Options."⁸

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-PHLX-92-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret McFarland,
Deputy Secretary.

[FR Doc. 92-17753 Filed 7-27-92; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Privacy Act of 1974; Proposed New System of Records

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed new system of records.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(4), TVA is publishing for public comment a proposed notice for a new

system of records: TVA-36, "Section 26a Permit Application Records—TVA."

DATES: Comments on this notice must be received by August 27, 1992.

ADDRESSES: Comments should be sent to Mark R. Winter, Tennessee Valley Authority, 1101 Market Street (MR 2F), Chattanooga, TN 37402-2801. As a convenience to commenters, TVA will accept public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (615) 751-2902. Receipt of FAX transmittals will not be acknowledged.

FOR FURTHER INFORMATION CONTACT: Mark R. Winter, (615) 751-2523.

SUPPLEMENTARY INFORMATION: TVA is publishing a proposed new system of records notice to cover existing records which, due to a change in how TVA accesses the records, are now covered by the Privacy Act of 1974, as amended. Pursuant to 5 U.S.C. 552a(r), a report on this new system of records has been submitted to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget. The text of the proposed new system of records notice is set forth below.

TVA-36

SYSTEM NAME:

Section 26a Permit Application Records—TVA.

SYSTEM LOCATION:

For applications involving private facilities located on TVA reservoirs, such as boathouses, piers, docks, launching ramps, marine roadways, beaches, utilities, and ground improvements, the records are maintained in the following locations:

- Manager, Property Management, Eastern Land Resources District, TVA, 2611 West Andrew Johnson Highway, Morristown, TN 37814.
- Manager, Property Management, Central Land Resources District, TVA, PO Box 606, Athens, TN 37303.
- Manager, Property Management, Southern Land Resources District, TVA, 170 Office Service Warehouse Annex, Muscle Shoals, AL 35660.
- Manager, Property Management, Western Land Resources District, TVA, PO Box 280, Paris, TN 38242.

For applications involving other facilities, the records are maintained by the Manager, Property Management and Administration Department, Land Resources, TVA, Ridgeway Road, Norris, TN 37828.

⁷ According to the Exchange, short-term foreign currency options have been actively traded in the over-the-counter ("OTC") market both in the U.S. and globally.

⁸ See letter from Murray L. Ross, Secretary, PHLX, to Jeffrey P. Burns, Attorney, Division of Market Regulations, SEC, dated July 2, 1992.

⁹ 15 U.S.C. 78s(b)(2) (1982).

¹⁰ 17 CFR 200.30-3(a)(12) (1991).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes individuals who have filed a section 26a application for approval of construction of such things as boat ramps, docks, bridges, and dams located along, across, or in the Tennessee River and its tributaries. Also included in this system may be individuals whose structures do not have section 26a permits, or whose approved structures have deteriorated so as to pose a threat to navigation, flood control, public lands or reservations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Section 26a permit applications made by individuals, businesses and industries, utilities, and federal, state, county and city government agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

PURPOSE(S):

Section 26a of the Tennessee Valley Authority Act of 1933, as amended, requires that TVA review and approve plans for the construction, operation, and maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations across, along, or in the Tennessee River or any of its tributaries. The information collected is used to assess the impact of the proposed project on the statutory TVA programs and the environment and determine if the project can be approved. Rules on the application for review and approval of such plans are published in 18 CFR part 1304, Approval of Construction in the Tennessee River System and Regulation of Structures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To State or other Federal agencies for use in program evaluation, providing assistance to program participants, or engaged at TVA's direction in providing support services to the program, to the extent necessary to the performance of those services.

To TVA consultants, contractors, subcontractors or individuals who contract or subcontract with TVA, who are engaged in studies and evaluation of TVA's administration or other matters involving its section 26a program or who are providing support services to the program, to the extent necessary to the performance of the contract.

To provide information to a Federal, State, or local entity, in response to its request, in connection with the letting of

a contract, or issuance of a license, grant, or other benefit by the requesting entity to the extent that the information is relevant and necessary to the requesting agency's decision on such matters.

To respond to a request from a Member of Congress regarding the status of a specific application.

In litigation to which TVA is a party or in which TVA provides legal representation for a party by TVA attorneys or otherwise, for use for any purpose including the presentation of evidence and disclosure in the course of discovery. In all other litigation, to respond to process issued under color of authority of a court of competent jurisdiction.

To refer, where there is an indication of a violation of statute, regulation, order, or similar requirement, whether criminal, civil, or regulatory in nature, to the appropriate entity, including Federal, State, or local agencies or other entities charged with enforcement, investigative, or oversight responsibility.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Records are maintained on automated data storage devices, on microfilm, and in hardcopy files.

RETRIEVABILITY:

Records in the Property Management and Administration Department, Norris, Tennessee, may be retrieved by personal identifier (name of applicant), land tract number, or section 26a application number, stream location, reservoir, county, or subdivision. Records in field offices are interfiled with land tract records and are retrieved by land tract number.

SAFEGUARDS:

Access to and use of these records are limited through physical, administrative, and computer system safeguards to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records are retained in accordance with approved TVA records retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Property Management and Administration Department, Land Resources, TVA, Norris, TN 37828.

NOTIFICATION PROCEDURE:

Individuals seeking to learn if information on them is maintained in this system of records should address inquiries to the system manager named

above. Requests should include the individual's full name. A land tract number, section 26a permit application number, stream location or legal property description is not required but may expedite TVA's response.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about them in this system of records should contact the manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

RECORD SOURCE CATEGORIES:

Information in this system is solicited from individual to whom the record pertains. Information may also be obtained from other Federal, State, county or city government agencies; public records and directories; landowners, tenants, and other individuals and business entities, including financial institutions, having an interest in or knowledge related to land ownership, appraisal, or title history; and TVA personnel and contractors including independent appraisers and commercial title companies.

Charles E. Price,

Interim Vice President, Information Services.

[FR Doc. 92-17742 Filed 7-27-92; 8:45 am]

BILLING CODE 8120-08-M

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. 92-41; Notice 1]

Long Range Strategic Planning

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice and request for comment.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) is preparing to meet the challenges of the 21st century through a long range strategic planning initiative. Strategic planning will strengthen NHTSA's capability, flexibility and responsiveness in meeting the motor vehicle and traffic safety challenges that lie ahead.

The purpose of this notice is to invite comment, suggestions and

recommendations from all individuals and organizations that have an interest in highway safety, motor vehicle safety, the Agency's non-safety programs and/or other of NHTSA's activities. These comments should address the specific questions listed in the notice as well as the strategic planning process, the elements that the commenter believes should be considered in the plan, and substantive input on any elements for which the commenter has information, data or expertise.

DATES: Comments are due no later than September 28, 1992.

ADDRESS: Comments should refer to the docket number of this notice and should be submitted to: Docket Section, NHTSA, room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are 9:30 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Dr. Carl E. Nash, Director, Office of Strategic Planning and Evaluation, NPP-10, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366-1570.

SUPPLEMENTARY INFORMATION: NHTSA was established by the Highway Safety Act of 1970, as the successor to the National Highway Safety Bureau, to carry out safety programs under the National Traffic and Motor Vehicle Safety Act of 1966 and the Highway Safety Act of 1966. It also carries out consumer programs established by the Motor Vehicle Information and Cost Savings Act of 1972.

NHTSA is responsible for reducing deaths, injuries and economic losses resulting from motor vehicle crashes. This is accomplished by setting and enforcing safety performance standards for motor vehicles and items of motor vehicle equipment, and through grants to state and local governments to enable them to conduct effective local highway safety programs. NHTSA investigates safety defects in motor vehicles, sets and enforces fuel economy standards, helps states and local communities reduce the threat of drunk drivers, promotes the use of safety belts, child safety seats and air bags, investigates odometer fraud, establishes and enforces vehicle anti-theft regulations and provides consumer information on motor vehicle safety topics. NHTSA also conducts research on driver behavior and traffic safety to develop the most efficient and effective means of bringing about safety improvements.

NHTSA has a solid record of major achievements over its 25 year history. The fatality rate has dropped from 5.5 deaths per 100 million vehicle miles

traveled in 1966 to a historic low of 1.9 in 1991. Improved vehicle safety features such as safety belts, air bags, energy absorbing steering columns and side impact protection have reduced deaths and injuries in crashes. NHTSA's efforts to encourage stronger safety laws at the state level have resulted in increased safety belt usage, a reduction in alcohol-related crashes, more focused police traffic services, and a revolution in emergency medical services.

Despite this success, the Agency sees much unfinished business. More than 40,000 people still lose their lives in motor vehicle crashes annually and many more are seriously injured. These highway losses cost society more than \$100 billion annually. Automobile theft and odometer fraud also cost U.S. consumers billions of dollars each year. In the absence of effective efforts, highway losses could increase in coming years as the number of licensed drivers and vehicle miles of travel increase.

To prepare to meet the challenges of the 21st century, NHTSA is embarking upon a long range strategic planning initiative. The initiative will have two phases. Phase I begins with this solicitation of the views of individuals and public and private organizations interested in the nation's highway and motor vehicle safety programs or the Agency's non-safety programs such as fuel economy, vehicle theft, and odometer fraud. Phase I also will involve the collection and synthesis of a broad range of data and information about current and emerging highway and motor vehicle safety problems and programs. The input from these sources will provide the foundation for Phase II. Phase II of the strategic planning process will use the information generated in Phase I to formulate future scenarios and establish the vision, mission, values and goals to carry the Agency into the 21st century. Strategies for realizing the vision, mission, values and goals will then be developed and presented in the Agency's strategic plan.

The Agency requests information that will assist it in assessing the potential effects that changes in demographic, economic, institutional, and technological factors over the next 10 to 15 years will have on safety. A particular objective is to gain an understanding of the implications these factors may have for highway safety and NHTSA in the future. The Agency also requests information pertaining to its institutional relationships, its mission, and how it functions to achieve its mission.

The following are some of the key issues that the Agency would like commenters to address. In addition to

general comments, the public is requested to submit documents, analyses, or reference citations that are germane to the issues. The Agency is particularly interested in learning about emerging or potential safety problems and in receiving recommendations for addressing such problems effectively. The "future" time frame under consideration is 10 to 15 years. Based on the information received in response to this notice, the Agency will consider the need to hold public hearings on issues brought forward by commenters.

A. Further Factors and Issues

What do you consider to be the critical highway safety issues facing the nation in the future?

What do you consider to be the key demographic and social influences on highway safety (e.g., age, gender, geographic distribution, alcohol consumption, etc.) and how might they affect highway safety in the future?

What changes do you envision in fleet size and mix and how might they affect highway safety in the future?

How do you view the need for internationally harmonized safety standards as they affect auto safety in the U.S., the U.S. automotive industry, and the national economy in the future?

What changes do you envision in energy and environmental issues and how might they affect public policy and highway safety in the future? What changes in design, technology and vehicle use do you anticipate as a result of environmental considerations?

What changes do you envision in the automotive industry (e.g., its structure, international competition, etc.) and how might they affect motor vehicle safety in the future?

What changes do you envision in the area of auto and medical insurance and how might they affect highway safety and long-term injury outcomes in the future?

What changes do you envision in the national, state and local economies and how might they affect public policy and highway safety in the future? Will these economic changes require changes in Federal funding programs or delivery systems for highway safety?

What changes do you envision in vehicle theft and odometer fraud and how might they affect NHTA's future program efforts in these areas?

What research, sciences and technologies do you think NHTSA should pursue that would enable the Agency and the auto industry to improve motor vehicle safety more effectively and efficiently in the future? Are there current examples of regulatory

agencies that successfully support cooperative research with regulated industries and other interested parties? How might such an initiative between NHTSA and the auto industry best be structured?

What do you consider to be analytical needs in motor vehicle and highway safety that cannot be met with existing data? What data are needed to meet them? How might these data be collected, integrated, processed and made available in a cost-effective manner in the future?

What role will the media play in highway safety and how can NHTSA cost-effectively work with the media to promote safety programs?

What changes in the area of Federal, state and local legislation do you envision and how might that legislation affect traffic safety in the future?

What changes do you envision in the state and community highway program and how might that affect NHTSA's grant programs?

B. Technology

What changes do you envision in roadway and vehicle-related technologies and how might they affect highway safety in the future?

What technological changes do you envision in other modes of passenger and freight transportation and how might they affect highway safety in the future?

What changes do you envision in medical technology and how might they affect highway safety in the future (in the context of crash fatalities and injuries, including the severity of injury)?

What changes do you envision in automation, information management and work place alternatives (such as working at home with a computer and modern) and what affects might they have on highway safety and how people do work?

What changes do you envision in law enforcement practices and technologies and how might they affect safety in the future?

What technologies are now available, or will be in the future, that will assist aging and/or physically disabled drivers to maintain safe driving skills?

C. Institutional Relationships

How do you and/or your organization interact with NHTSA? Please explain the elements and dynamics of the relationship.

Does NHTSA help you do your job and/or help your organization achieve its mission? If so, how?

How could NHTSA improve its relationship with other organizations and institutions?

How could NHTSA provide greatest value to the individual citizen as well as the public and private organizations interested in highway and motor vehicle safety?

Are you aware of any organizations and institutions that NHTSA does not have a relationship with presently, but with whom we should interact? If so, who are they and what would be the benefit of establishing such relationships?

How could agencies responsible for highway safety and those responsible for highway design, construction and maintenance work more effectively to improve safety for pedestrians, bicyclists and motorists?

D. NHTSA's Role and Mission

In your view, should there be major changes in NHTSA's role/mission in the future?

What do you consider to be NHTSA's strengths and weaknesses in dealing with highway and motor vehicle safety issues (include comments on programmatic aspects, organizational aspects, etc.)?

In what ways could NHTSA have a greater affect in reducing injury and loss of life on the nation's highways?

How can NHTSA improve the way it does business?

It is requested, but not required that ten copies of each comment be submitted. No comments may exceed 15 (fifteen) pages in length. (49 CFR 553.21). Necessary attachments may be appended to those submissions without regard to the 15 page limit.

All comments received before the close of business on the comment closing date listed above will be considered and will be available for examination in the docket room at the above address both before and after that date. To the extent possible, comments filed after the closing date will be considered. The Agency will continue to file relevant information as it becomes available. It is recommended that interested persons continue to examine the docket for new material. Those people desiring to be notified upon receipt of their comments by the docket section should include a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of their comments, the docket supervisor will return the postcard by mail.

Issued on: July 22, 1992.

Donald C. Bischoff,

Associate Administrator for Plans and Policy.

[FR Doc. 92-17739 Filed 7-27-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of alteration of Privacy Act system of records.

SUMMARY: The Treasury Department, Bureau of Alcohol, Tobacco and Firearms, gives notice of a proposed alteration to the system of records entitled Internal Security—Treasury/ATF .006, which is subject to the Privacy Act of 1974, 5 U.S.C. 552a. The system notice was last published in its entirety in the *Federal Register*, Vol. 57, page 13932, April 17, 1992.

The purpose of this alteration is to bring the existing Privacy Act notice into compliance with the requirements of the Privacy Act. Changes have been made to the notice to more accurately describe the following: The categories of individuals covered by the system; the categories of records within the system; change in building location, as well as several editorial changes.

DATES: Comments must be received no later than August 27, 1992. The alteration to the system of records will be effective September 28, 1992, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be sent to Disclosure Branch, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Room 8250, Washington, DC 20226. Comments will be made available for inspection and copying in the Bureau Reference Library upon request.

FOR FURTHER INFORMATION CONTACT: Joyce Thomas, Senior Disclosure Specialist, Disclosure Branch, Bureau of Alcohol, Tobacco and Firearms, (202) 927-8480.

SUPPLEMENTARY INFORMATION: The specific changes to the record system (Treasury/ATF.006) being altered are set forth below. Under "System Location:" after "Bureau of Alcohol, Tobacco and Firearms", delete "1200 Pennsylvania Avenue NW." and change address to "650 Massachusetts Avenue NW."

Under "Categories of Individuals Covered by the System:" following "(3) Applicants for employment." add "(4) Non-Bureau employees involved in criminal acts towards Bureau employees and Bureau property. (5) Individuals who were interviewed by Internal Affairs Special Agents. (6) Contract employees involved in integrity matters."

Under "Categories of Records in the System:" after "(a) Conduct of employees." insert "and contract employees" in front of the period.

Under "Routine Uses of Records Maintained in the System Including Categories of Users and the Purposes of Such Uses:" add the words "and contract employees" at the end of the first sentence in front of the period.

Under "Storage:" insert "and computer system (hard disk)" after the word "cabinets."

Under "System Manager(s) and Address:" delete "1200 Pennsylvania Avenue NW." and in its place, add "650 Massachusetts Avenue NW."

Under "Record Source Categories:" After "(12) Other government agencies." add "(13) Claimants. (14) Victims."

Dated: July 21, 1992.

David M. Nummy,

Assistant Secretary (Management).

[FR Doc. 92-17700 Filed 7-27-92; 8:45 am]

BILLING CODE 4810-31

Customs Service

[T.D. 92-71]

Unresolved Reliquidation and Protest Actions Involving Merchandise Subject to Antidumping and Countervailing Duty Orders

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

ACTION: Notice.

SUMMARY: The Customs Service, in conjunction with the Office of Import Administration, International Trade Administration, Department of Commerce, is requesting parties that filed requests for reliquidation or protest actions prior to January 1, 1992, that involved merchandise subject to antidumping and countervailing duty orders and remain unresolved, to notify Customs in writing that the party/protestant still has an interest in proceeding with the protest.

EFFECTIVE DATE: Notifications should be received by September 11, 1992.

FOR FURTHER INFORMATION CONTACT: Jeffrey Laxague, Office of Trade Operations (202) 927-0402.

SUPPLEMENTARY INFORMATION:

Background

The Customs Service and the Office of Import Administration, International Trade Administration, Department of Commerce, are coordinating their efforts to clear up the backlog of unresolved requests for reliquidation and protests concerning merchandise subject to antidumping or countervailing duty orders under sections 514 and 520(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1514 and 1520(c)).

Notification to Customs

To ensure that all such actions are resolved, Customs is requesting parties that filed such actions prior to January 1, 1992, to notify Customs that the party/protestant is still interested in proceeding with the action. Such parties should submit a true copy of the request for reliquidation or protest and supporting documentation that was filed with Customs so that the nature of the action can be verified and its pendency confirmed. All such information should be submitted to: U.S. Customs Service, Office of Trade Operations, Import Specialist Division, room 1334, 1301 Constitution Avenue, NW., Washington, DC 20229.

We emphasize that this notice only relates to requests for reliquidation and protests filed prior to January 1, 1992, which involved merchandise subject to antidumping and/or countervailing duty orders.

Dated: July 20, 1992.

Michael H. Lane,

Acting Commissioner of Customs.

[FR Doc. 92-17763 Filed 7-27-92; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by August 27, 1992.

Dated: July 21, 1992.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Request for Organizational Data from Builder, VA Form Letter 26-312.

2. The form letter is completed by builders and sponsors to identify individuals who have controlling, proprietary, or financial interest in their company. The information is used to determine eligibility for participation in the Loan Guaranty Program.

3. Businesses or other for-profit.

4. 4,000 hours.

5. 30 minutes.

6. On occasion.

7. 8,000 respondents.

[FR Doc. 92-17738 Filed 7-27-92; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 145

Tuesday, July 28, 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).

DEPARTMENT OF ENERGY FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3 (a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

DATE AND TIME: July 30, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208-0400. For a recording listing items stricken from or added to the meeting, call (202) 208-1627.

This is a list of a matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 963rd Meeting—July 30, 1992, Regular Meeting (10:00 a.m.)

- CAH-1.
Project No. 4885-035, Twin Falls Hydro Associates, L.P.
- CAH-2.
Project Nos. 7270-008 and 010, Northern Wasco County People's Utility District
- CAH-3.
Project Nos. 9840-009 and 010, Appomattox River Water Authority
- CAH-4.
Omitted
- CAH-5.
Omitted
- CAH-6.
Project No. 9401-000, Halecrest Company
Project No. 8595-000, Energy Storage Corporation
Project No. 9105-000, Esperanza Power Limited Partnership
- CAH-7.
Project No. 8192-005, BMB Enterprises, Inc.
- CAH-8.
Project No. 3109-019, Eugene Water and Electric Board
- CAH-9.
Project No. 2614-018, City of Hamilton, Ohio

Consent Electric Agenda

- CAE-1.
Docket No. ER92-521-000, Hartwell Energy Limited Partnership
- CAE-2.
Docket No. ER92-592-000, Yankee Atomic Electric Company
- CAE-3.
Docket No. ER92-624-000, Western Resources, Inc. and Kansas Gas and Electric Company
- CAE-4.
Docket No. ER92-361-001 and ER92-362-001, Green Mountain Power Corporation
- CAE-5.
Docket No. ER92-317-001 and ER92-456-001, Public Service Company of Colorado
- CAE-6.
Docket No. ER92-286-001, New England Power Company
- CAE-7.
Docket No. EL91-56-001, Houlton Water Company, Van Buren Light and Power District, and Eastern Maine Electric Cooperative, Inc. v. Maine Public Service Company
- CAE-8.
Docket No. ER82-769-012, Minnesota Power & Light Company
- CAE-9.
Docket No. ER90-245-000 (Phase II), Canal Electric Company
Docket No. ER90-247-000 (Phase II), Montaup Electric Company, Eastern Edison Company and Blackstone Valley Electric Company
- CAE-10.
Docket No. FA89-28-000, System Energy Resources, Inc.
- CAE-11.
Docket No. EL92-23-000, Bechtel Power Corporation
- CAE-12.
Docket Nos. ER92-25-000, ER92-26-000 and ER92-31-000, Long Island Lighting Company
- CAE-13.
Docket No. ER92-330-002, Green Mountain Power Corporation
- CAE-14.
Docket Nos. ER92-346-000 and ER92-347-000, Central Hudson Gas & Electric Company
Docket No. ER92-379-000, Kansas Power & Light Company
Docket Nos. ER92-382-000 and ER92-550-000, New England Power Company
Docket No. ER92-430-000, Potomac Electric Power Company
Docket Nos. ER92-446-000 and ER92-538-000, Kansas Gas & Electric Company
Docket No. ER92-473-000, Puget Sound Power & Light Company
Docket No. ER92-486-000, Utilicorp United, Inc.
Docket Nos. ER92-495-000, ER92-496-000, ER92-497-000, ER92-498-000, ER92-499-000, ER92-500-000, ER92-501-000, ER92-

- 502-000, ER92-503-000 and ER92-504-000, Tucson Electric Power Company
Docket No. ER92-525-000, Florida Power & Light Company
Docket No. ER92-529-000, Centerior Energy
Docket No. ER92-532-000, Washington Water Power Company
Docket No. ER92-534-000, St. Joseph Light & Power Company
Docket No. ER92-535-000, UNITHL Power Corporation
Docket No. ER92-539-000, Pacific Gas & Electric Company
Docket Nos. ER92-540-000, ER92-541-000 and ER92-542-000, Duke Power Company
Docket No. ER92-544-000, Montaup Electric Company
Docket No. ER92-547-000, PacifiCorp Electric Operations
Docket No. ER92-548-000, Southern California Edison Company

Consent Oil and Gas Agenda

- CAG-1.
Docket No. RP92-196-000, Transwestern Pipeline Company
- CAG-2.
Docket No. RP89-48-017, Transwestern Pipeline Company
- CAG-3.
Docket Nos. RP92-198-000, RP91-204-008, RP91-79-000, *et al.*, and TQ92-5-2-000, East Tennessee Natural Gas Company
- CAG-4.
Omitted
- CAG-5.
Docket No. RP92-200-000, Texas Eastern Transmission Corporation
- CAG-6.
Docket No. RP92-193-000, Texas Eastern Transmission Corporation
- CAG-7.
Docket No. RP92-194-000, Florida Gas Transmission Company
- CAG-8.
Omitted
- CAG-9.
Docket No. RP92-184-000, Columbia Gas Transmission Corporation
- CAG-10.
Docket No. RP92-195-000, El Paso Natural Gas Company
- CAG-11.
Docket No. RP92-199-000, ANR Pipeline Company
- CAG-12.
Docket Nos. RP92-197-000, TQ92-11-4-000 and TM92-17-4-000, Granite State Gas Transmission, Inc.
- CAG-13.
Docket No. TM92-8-22-000, CNG Transmission Corporation
- CAG-14.
Docket Nos. TA92-1-52-000 and 001, Western Gas Interstate Company
- CAG-15.
Docket Nos. TA92-1-86-000 and RP92-180-000, Pacific Gas Transmission Company

- CAG-16.
Omitted
- CAG-17.
Docket No. TQ92-5-1-000, Alabama-Tennessee Natural Gas Company
- CAG-18.
Docket Nos. TA92-1-7-002 and 005, Southern Natural Gas Company
- CAG-19.
Docket No. RP92-191-000, Northwest Pipeline Corporation
- CAG-20.
Docket Nos. RP91-26-000, RP91-162-000 and RP92-18-000, El Paso Natural Gas Company
- CAG-21.
Docket Nos. RP91-100-000, RP91-101-000, RP91-102-000 and RP91-134-000, Texas Gas Transmission Corporation
Docket Nos. RP91-72-000, 003, RP91-73-000, 002, RP91-74-000, RP91-75-000, 002, TM91-6-17-000, TM91-7-17-000, TM91-10-17-000 and TM91-11-17-000, Texas Eastern Transmission Corporation
Docket Nos. RP91-80-000, RP91-86-000, RP91-87-000, TM91-8-20-000, TM91-9-20-000, TM91-12-20-000, TM92-4-20-000 and TM92-13-20-000, Algonquin Gas Transmission Company.
Docket Nos. RP91-51-000, RP91-98-000, RP91-125-000, TM91-6-22-000, TM91-7-22-000, TM91-9-22-000, TM92-4-22-000, TM92-5-22-000 and TM92-7-22-000, CNG Transmission Corporation
- CAG-22.
Docket No. RP92-74-003, South Georgia Natural Gas Company
- CAG-23.
Docket No. RP92-111-005, North Penn Gas Company
- CAG-24.
Docket No. TQ92-5-17-001, Texas Eastern Transmission Corporation
- CAG-25.
Docket No. RP92-160-001, Tennessee Gas Pipeline Company
- CAG-26.
Docket Nos. RP91-161-009 and RP92-3-005, Columbia Gas Transmission Corporation
- CAG-27.
Docket Nos. TM92-10-21-001 and RP91-41-013, Columbia Gas Transmission Corporation
- CAG-28.
Docket Nos. RP88-262-020, CP89-917-008, TA89-1-28-008, TA90-1-28-006, RP88-88-013 and RP91-229-009, Panhandle Eastern Pipe Line Company
- CAG-29.
Docket No. RP91-229-007, Panhandle Eastern Pipe Line Company
- CAG-30.
Docket No. RP91-229-008, Panhandle Eastern Pipe Line Company
- CAG-31.
Omitted
- CAG-32.
Omitted
- CAG-33.
Docket No. RP87-115-005, Williston Basin Interstate Pipeline Company
- CAG-34.
Docket No. RP92-165-002, Trunkline Gas Company
- CAG-35.
Omitted
- CAG-36.
Docket No. TA92-1-9-005, Tennessee Gas Pipeline Company
- CAG-37.
Omitted
- CAG-38.
Omitted
- CAG-39.
Omitted
- CAG-40.
Docket Nos. CP91-687-001 and CP90-2275-001, ANR Pipeline Company
- CAG-41.
Docket Nos. RP89-183-029 and TC89-8-002, Williams Natural Gas Company
- CAG-42.
Docket Nos. RP89-183-035, 036, TC89-8-003, RP91-43-004, TM91-3-43-004, RP91-152-010, 011 and 012, Williams Natural Gas Company
- CAG-43.
Docket Nos. RP91-152-019 and RP89-183-040, Williams Natural Gas Company
- CAG-44.
Omitted
- CAG-45.
Docket No. TA92-1-37-001, Northwest Pipeline Corporation
- CAG-46.
Docket Nos. TA87-1-37-011 and RS92-69-000, Northwest Pipeline Corporation
- CAG-47.
Docket Nos. RP89-137-000, 001, RP89-219-002, 000, 001, RP90-50-003, TM90-1-37-002 and TM90-4-37-002, Northwest Pipeline Corporation
- CAG-48.
Docket No. RP88-11-001, Northwest Pipeline Corporation
- CAG-49.
Docket Nos. RP88-47-034, RP89-196-004 and RP91-166-009, Northwest Pipeline Corporation
- CAG-50.
Docket Nos. P91-2392-002 and RP82-56-024, Northwest Pipeline Corporation
Docket No. CP91-2393-002, Williams Gas Processing Company
- CAG-51.
Docket No. CP92-79-001, Northwest Pipeline Corporation
Docket No. G-17350-011, Pacific Gas Transmission Company
- CAG-52.
Docket No. CP92-296-000, Northwest Gas Pipeline Corporation
Docket No. CP92-289-000, El Paso Natural Gas Company
- CAG-53.
Docket No. RP91-212-000, Stingray Pipeline Company
- CAG-54.
Docket No. PR92-13-000, Arkansas Western Gas Company
- CAG-55.
Docket No. PR91-23-000, Midcoast Ventures I
- CAG-56.
Docket Nos. RP91-65-000, 006, 007 and CP89-2107-000, Arkla Energy Resources, a Division of Arkla, Inc.
- CAG-57.
Omitted
- CAG-58.
Omitted
- CAG-59.
Docket No. RP90-8-008, United Gas Pipe Line Company v. Transcontinental Gas Pipe Line Corporation
- CAG-60.
Docket No. FA89-16-000, Carnegie Natural Gas Company
- CAG-61.
Omitted
- CAG-62.
Docket Nos. CP91-8-000, Jack J. Grynberg, Individually and as General Partner for the Greater Green River Basin Drilling Program: 72-73 v. Rocky Mountain Natural Gas Company, a Division of KN Energy, Inc.
Docket No. CP91-10-000, Rocky Mountain Natural Gas Company v. Jack J. Grynberg, Individually and as General Partner for the Greater Green River Basin Drilling Program: 72-73
- CAG-63.
Docket Nos. RS92-69-000 and RP91-166-000, Northwest Pipeline Corporation
- CAG-64.
Docket Nos. RS92-46-000, RP90-109-000, *et al.* and TA91-1-86-000, Pacific Gas Transmission Company
- CAG-65.
Docket No. RS92-9-000, Questar Pipeline Company
- CAG-66.
Docket Nos. RS92-60-000, 001, RP91-188-000 and CP92-261-000, El Paso Natural Gas Company
- CAG-67.
Docket No. CP89-1953-002, ANR Storage Company
- CAG-68.
Docket Nos. RP89-183-000, 002, TC89-8-000, RP91-43-000, TM91-3-43-000, RP91-152-000 and RS92-12-000, Williams Natural Gas Company
- CAG-69.
Docket No. RS92-54-000, Western Transmission Corporation
- CAG-70.
Docket No. RS92-40-000, Louisiana-Nevada Transit Company
- CAG-71.
Docket No. RS92-78-000, Sabine Pipe Line Company
- CAG-72.
Docket Nos. CP89-362-003 and CP89-363-003, North Country Gas Pipeline Corporation
- CAG-73.
Docket No. CP89-93-008, Williams Natural Gas Company
- CAG-74.
Docket Nos. CP91-780-004 and RP92-112-002, Northwest Pipeline Corporation
- CAG-75.
Docket No. CP92-479-001, New York State Electric & Gas Corporation
- CAG-76.
Docket No. CP91-1627-001, Tennessee Gas Pipeline Company
- CAG-77.
Docket No. CP89-2048-008, Kern River Gas Transmission Company
Docket No. CP89-1-011, Mojave Pipeline Company
- CAG-78.
Docket No. CP88-105-002, Yukon Pacific Company, L.P.

- CAG-79.
Omitted
- CAG-80.
Docket No. RM90-7-001, Revisions to Regulations Governing Transportation Under Section 311 of the Natural Gas Policy Act of 1978 and Blanket Transportation Certificates
- Docket No. GP88-11-004, Hadson Gas Systems, Inc.
- Docket No. CP88-286-005, Cascade Natural Gas Corporation v. Northwest Pipeline Corporation, *et al.*
- Docket Nos. RP88-81-015, RP88-67-048 and RP88-175-003, Texas Eastern Transmission Corporation
- CAG-81.
Docket No. CP89-2057-001, TPC Transmission, Inc.
- Docket No. CP92-354-000, TPC Transmission, Inc., TPC Services, Inc. and Tejas Power Corporation
- CAG-82.
Docket Nos. CP92-515-000, CP92-516-000 and CP92-517-000, Transcontinental Gas Pipe Line Corporation
- CAG-83.
Docket No. CP92-573-000, Transcontinental Gas Pipe Line Corporation
- CAG-84.
Omitted
- CAG-85.
Docket No. CP92-230-000, Northern Natural Gas Company
- CAG-86.
Docket No. CP92-207-000, Transwestern Pipeline Company
- CAG-87.
Docket No. CP92-226-000, Texas Eastern Transmission Corporation and CNG Transmission Corporation
- CAG-88.
Docket No. CP92-151-000, Algonquin Gas Transmission Company
- CAG-89.
Omitted
- CAG-90.
Docket Nos. CP89-638-005 and 007, CNG Transmission Corporation
- CAG-91.
Docket No. CP92-166-000, Algonquin LNG, Inc. and Algonquin Gas Transmission Company
- CAG-92.
Docket No. CP91-1616-000, ANR Pipeline Company
- Docket No. CP91-1634-000, Great Lakes Gas Transmission Limited Partnership
- CAG-93.
Omitted
- CAG-94.
Docket No. CP92-216-000, Peoples Natural Gas Company, Division of UtiliCorp United Inc. v. Natural Gas Pipeline Company of America
- CAG-95.
Docket No. CP92-322-000, National Fuel Gas Supply Corporation v. Tennessee Gas Pipeline Company
- CAG-96.
Docket No. RM92-13-000, Revisions to Regulations Governing NGPA Section 311 Construction and the Replacement of Facilities
- CAG-97.
Docket No. RP91-166-010, Northwest Pipeline Corporation
- CAG-98.
Docket Nos. RP92-53-001 and 002, Kern River Gas Transmission Company
- CAG-99.
Docket No. CP91-2394-002, Questar Pipeline Company
- CAG-100.
Docket No. CI90-58-003, New England Power Company and The Narragansett Electric Company
- Docket No. CI91-33-003, JMC Fuel Services, Inc.
- Docket No. CI91-35-003, Connecticut Natural Gas Corporation
- Docket No. CI91-52-003, Providence Gas Company and Prov Energy Investments, Ltd.
- Docket No. CI91-28-003, Northern Minnesota Utilities
- Docket No. CI91-75-003, Peoples Natural Gas Company, Division of UtiliCorp United, Inc.
- Docket No. CI91-78-003, Gulf States Pipeline Corporation
- Docket No. CI91-79-003, Transok, Inc.
- Docket No. CI91-85-003, Commonwealth Gas Company
- Docket Nos. CI91-94-002 and 003, New York State Electric & Gas Corporation
- Docket Nos. CI91-97-002 and 003, Niagara Mohawk Power Corporation
- Docket Nos. CI91-104-002 and 003, New Jersey Natural Gas Company
- Docket Nos. CI92-1-002 and 003, Washington Natural Gas Company
- Docket Nos. CI89-461-002 and 003, Quantum Chemical Corporation
- Docket Nos. CI91-88-002 and 003, Doswell Limited Partnership
- Docket Nos. CI91-93-002 and 003, Lockport Energy Associates, L.P.
- Docket Nos. CI91-101-002 and 003, North Jersey Energy Associates
- Docket Nos. CI91-102-002 and 003, North Energy Associates
- Docket Nos. CI91-103-002 and 003, Ocean State Power II
- Docket No. CI91-106-003, Honda of America Mfg., Inc.
- Docket Nos. CI91-126-002 and 003, Manville Corporation, *et al.*
- Docket Nos. CI91-128-002 and 003, Cogen Energy Technology, L.P.
- Docket No. CI91-123-002, Omega Pipeline Company
- Docket No. CI91-5-002, Westar Marketing Company
- Docket No. CI92-6-002, HPL Gas Company
- Hydro Agenda**
- H-1.
Reserved
- Electric Agenda**
- E-1.
Docket No. ER91-569-001, Entergy Services, Inc. Order on rehearing regarding power and transmission rates.
- E-2.
Omitted
- Miscellaneous Agenda**
- M-1.
Docket No. RM91-12-000, Administrative Dispute Resolution. Notice of Proposed Rulemaking.
- Oil and Gas Agenda**
- I. Pipeline Rate Matters**
- PR-1.
Omitted
- II. Restructuring Matters**
- RS-1.
(A)
Docket No. RM91-11-002, Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation Under part 284 of the Commission's Regulations
- Docket No. RM87-34-068, Regulation of Natural Gas Pipelines after Partial Wellhead Decontrol. Rehearing of Order No. 636.
- (B)
Docket No. CP88-433-005, El Paso Natural Gas Company
- Docket Nos. RP89-48-018, CP89-1126-003, RP89-222-007, RP89-254-006, CP88-133-005 and CP89-886-004, Transwestern Pipeline Company
- Docket No. TA91-1-86-002, Pacific Gas Transmission Company
- Docket No. CP91-2466-001, Windward Energy & Marketing Company v. Pacific Gas Transmission Company and Pacific Gas & Electric Company. Order on requests for rehearing and clarification of order dealing with buy/sell transactions.
- (C)
Docket No. CP90-134-003, Algonquin Gas Transmission Company
- Docket No. RP88-45-022, Arkla Energy Resources
- Docket No. CP86-311-010, CNG Transmission Corporation
- Docket No. RP86-186-001, *et al.*, Columbia Gas Transmission Corporation
- Docket No. CP90-1292-004, East Tennessee Natural Gas Company
- Docket No. RP89-50-022, Florida gas Transmission Company
- Docket No. CP90-406-006, High Island Offshore System
- Docket No. CP89-2047-007, Kern River Gas Transmission
- Docket No. CP89-174-002, Midwestern Gas Transmission Company
- Docket No. CP89-1-015, Mojave Pipeline Corporation
- Docket No. CP89-1580-004, Northwest Pipeline Corporation
- Docket No. CP90-187-004, Oklahoma-Arkansas Pipeline Company
- Docket No. RP89-73-010, Pelican Interstate Gas System
- Docket No. CP88-136-031, Texas Eastern Transmission Corporation
- Docket No. CP88-686-008, Texas Gas Transmission Corporation
- Docket No. CP88-328-010, Transcontinental Gas Pipeline Corporation
- Docket No. RP91-197-003, United Gas Pipeline Company
- Docket No. CP90-1874-005, U-T Offshore System
- Docket No. CP90-272-001, Viking Gas Transmission Company
- Docket No. CP90-706-004, Wyoming Interstate Company, Ltd. Order on requests for rehearing and clarification of order requiring modifications of pre-

Order No. 636 capacity brokering programs.

- (D) Docket No. CP89-2107-002, Arkla Energy Resources, Inc.
Docket No. CP90-2275-002, ANR Pipeline Company
Docket Nos. CP88-312-007 and 015, Natural Gas Pipeline Company of America.
Order on requests for rehearing of order dismissing pending ISS applications.

- (E) Docket No. CP88-137-007, ANR Pipeline Company
Docket No. CP89-1554-008, Colorado Interstate Gas Company
Docket No. CP88-651-008, Northwest Pipeline Corporation
Docket No. CP89-1627-002, Williams National Gas Company
Docket No. CP90-186-009, Texas Eastern Transmission Corporation
Docket No. CP88-314-003, Natural Gas Pipeline Company of America
Docket No. CP91-1252-007, Questar Pipeline Corporation
Docket No. CP92-462-001, Panhandle Eastern Pipe Line Company. Order on requests for rehearing of order announcing the Commission's intention to terminate individual company blanket storage certificates.

- (F) Docket No. RM92-9-000, Regulations Governing Blanket Marketer Sales Certificate. Notice of Proposed Rulemaking.

RS-2.

- (A) Docket Nos. RS92-11-000, RP88-67-000, *et al.*, TA90-1-17-000, TA91-1-17-000, 001, 002, 003, 004, 005, TA92-1-17-000, 001, 002, 003, 004, RP92-171-000, TF91-3-17-000, 001, TF91-4-17-001, TF91-5-17-000, TQ91-3-17-000, 001, TQ91-4-17-000, TQ92-1-17-000, 001, 002, TF92-1-17-000, TF92-2-17-000, TQ92-3-17-000, TQ92-4-17-000, TQ92-5-17-000, RP85-177-088, 093, RP89-255-002, 003, RP90-119-003, 005, CP88-136-024, CP90-2154-000 and 001, Texas Eastern Transmission Corporation
Docket Nos. RP90-15-000 and 001, Equitrans, Inc. v. Texas Eastern Transmission Corporation. Order on compliance filing, requests for consolidation and motions to intervene.

- (B) Docket No. RS92-11-000, Texas Eastern Transmission Corporation. Order on compliance filing.

RS-3.

- Docket Nos. RS92-1-000, RP89-161-021, RP89-172-000, CP90-2275-000 and CP91-687-000, ANR Pipeline Company. Order on settlement proposal.

III. Pipeline Certificate Matters

PC-1.

- Docket No. CP90-1391-001, Arcadian Corporation v. Southern Natural Gas Company. Order on rehearing of order denying requests for direct service.

Dated: July 23, 1992.

Lois D. Cashell,
Secretary.

[FR Doc. 92-17940 Filed 7-24-92; 3:36 pm]

BILLING CODE 6717-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, August 3, 1992.

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 24, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 92-17937 Filed 7-24-92; 3:23 pm]

BILLING CODE 6210-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10 a.m., Thursday, July 30, 1992.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open and Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: In open session, the Commission will consider and act upon the following:

1. *LJ's Coal Corporation*, Docket No. VA 90-47 (Issues include whether the judge erred in concluding that LJ's did not violate 30 C.F.R. § 49.6(b).)

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).)

In Closed session, the Commission will consider and act upon the following:

3. *ASARCO, INC.*, Docket No. SE 88-82-RM, etc. (Issues include whether the judge erred in requiring the Secretary of Labor to disclose to ASARCO all or part of five documents that the Secretary contends are protected by the informant's privilege.)

It was determined by a unanimous vote of the Commissioners that the third item be held in closed session. Any person attending the open portion of 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: July 23, 1992.

[FR Doc. 92-17936 Filed 7-24-92; 8:45 am]

BILLING CODE 6735-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of July 27, August 3, 10, and 17, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of July 27

Wednesday, July 29

9:30 a.m.

Periodic Briefing on EEO Program (Public Meeting) (Contact: William Kerr, 301-492-4665)

11:00 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

1:00 p.m.

Briefing on National Research Council Report: Nuclear Power—Technical and Institutional Options for the Future (Public Meeting)

3:00 p.m.

Discussion of Litigative and Related Matters (Closed—Ex. 9B and 10)

Thursday, July 30

2:00 p.m.

Briefing on Status of Staff Efforts to Resolve Thermo-Lag Fire Barrier Issues (Public Meeting)

Friday, July 31

8:30 a.m.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

10:00 a.m.

Periodic Meeting with Advisory Committee on Medical Uses of Isotopes (Public Meeting) (Contact: Larry Camper, 301-504-3417)

Week of August 3—Tentative

Tuesday, August 4

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 10—Tentative

Wednesday, August 12

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of August 17—Tentative

Tuesday, August 18

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: July 23, 1992.

Andrew L. Bates,

Office of the Secretary.

[FR Doc. 92-17927 Filed 7-24-92; 2:36 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register

Vol. 57, No. 145

Tuesday, July 28, 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.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List Proposed Additions

Correction

In notice document 92-16264 beginning on page 30726 in the issue of Friday, July 10, 1992, between **SUMMARY** and **ADDRESSES**, insert "**COMMENTS MUST BE RECEIVED ON OR BEFORE: August 10, 1992**".

BILLING CODE 1505-01-D

GENERAL ACCOUNTING OFFICE

4 CFR Parts 22 and 30

Procedures for Decisions on Appropriated Fund Expenditures Which Are of Mutual Concern to Agencies and Labor Organizations, Claims, General

Correction

In rule document 92-16384 appearing on page 31272 in the issue of Tuesday, July 14, 1992, make the following corrections:

1. On page 31272, in the second column, in the first full paragraph, in the last line, "3720" should read "3702".

§ 30.1 [Corrected]

2. On the same page, in the third column, in § 30.1(b), in the last line, "7212(a)" should read "7121(a)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket PS-102; Amdt. No. 7]

RIN 2137-AC

Control of Drug Use in NATural gas, Liquefied Natural Gas, and Hazardous Liquid Pipeline Operations

Correction

In rule document 92-16360 beginning on page 31279 in the issue of Tuesday, July 14, 1992, in the third column, in the **SUMMARY**, in the last line, "January 21, 1995" should read "January 2, 1995".

BILLING CODE 1505-01-D

federal register

**Tuesday
July 28, 1992**

Part II

**Department of
Transportation**

Federal Transit Administration

49 CFR Part 665

**Bus Testing Program; Reinstatement and
Modification of Interim Final Rulemaking**

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 665

[Docket No. 89-B]

RIN 2132-AA30

Bus Testing Program; Reinstatement and Modification of Interim Final Rulemaking**AGENCY:** Federal Transit Administration, DOT.**ACTION:** Interim final rule.

SUMMARY: On August 23, 1989, the Federal Transit Administration (FTA) published an interim final rule for its bus testing facility program. Although the FTA initially stated that these rules would be in effect only until September 30, 1990, the FTA subsequently extended the deadline until July 1, 1991. FTA extended the date indefinitely on September 13, 1991. However, since this extension was made after July 1, 1991, the rule must be reinstated by republishing it in toto. In addition to republishing the interim final rule, the FTA has included several changes to the interim final rule which are explained fully in the preamble.

DATES: Effective Date: This part is effective October 1, 1989, except for section 665.11(e)(3), which is effective November 8, 1990. Specific further amendments published in today's *Federal Register* (§§ 665.5, 665.11 (c), (d), (e) (4), (5), and (f), and 665.29 (c), and (d)) become effective August 27, 1992.

Comment Due Date: Comments must be submitted by September 28, 1992.

FOR FURTHER INFORMATION CONTACT: For technical issues, Steven A. Barsony, Director, Office of Engineering Evaluations, Office of Technical Assistance and Safety, (202) 366-0090; for legal issues, Richard Wong, Office of the Chief Counsel, (202) 366-1936. The test facility can be reached by contacting Bohdan Kulakowski, Director, Bus Research and Testing Program, Pennsylvania Transportation Institute, Penn State, Research Office Park, University Park, PA 16802, (814) 863-1893.

ADDRESSES: For comments, Federal Transit Administration, Department of Transportation, Office of the Chief Counsel, Docket No. 89-B, 400 Seventh Street SW., room 9316, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:**I. Background**

On May 25, 1989, the FTA published a notice of proposed rulemaking (NPRM)

to implement section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA). Section 317 directs the Secretary of the Department of Transportation (DOT) (as delegated to the FTA) to establish a bus testing facility at Altoona, Pennsylvania, and provides that no funds obligated by the FTA after September 30, 1989, under the Federal Transit Act, as amended (FT Act), may be used to purchase a "new bus model" unless a bus of such model has been tested at the facility.

To ensure that bus testing procedures were in place before the statutory deadline of October 1, 1989, the agency indicated in the NPRM that it would issue interim guidance in advance of the agency's final rule. The guidance was provided in the interim final rule issued on August 23, 1989 (54 FR 35158). Comments on the interim procedures were due on November 23, 1989. However, due to the complex nature of the issues involved, a specific request on behalf of the industry by the American Public Transit Association, and the FTA's belief that it should give commenters maximum opportunity to comment, the comment period was extended for 90 days.

The agency's NPRM was expansive, proposing that all vehicles used in mass transit after April 2, 1987 (the effective date of STURAA) be subject to testing at the facility. In addition, the agency specifically requested comment on a range of issues.

The August 23, 1989, interim final rule narrowed the scope of the proposed rule somewhat, and provided that only certain larger-sized buses would be subject to the bus testing procedures. The interim final rule also stated that the agency, after appropriate notice and as conditions warranted, might expand the scope of vehicles to be tested at the facility during the interim period. The FTA stated in the interim final rule that it would remain in effect only until September 30, 1990. The agency's intention was to publish final requirements for all of the issues raised in the NPRM by that time.

On October 9, 1990, however, the FTA published modifications to the interim final rule (55 FR 41174). These modifications expanded the scope of buses that are required to be tested, amended some definitions, and extended the effective date of the interim final rule until July 1, 1991.

On September 13, 1991, the FTA eliminated the termination date from the interim final rule to make its effectiveness permanent (56 FR 46572). Since this was after the July 1, 1991, termination date, the Office of the Federal Register's procedures require

that the agency reinstate the rule. Today's republication accomplishes this. The need for reinstatement does not in any way alter the regulations requirements or suspend their effectiveness on FTA's recipients.

In addition to this, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102-240) has amended section 317 of the STURAA in two significant ways. First, it requires additional tests to be performed for emissions and fuel economy. Second, it specifically adds alternative fuel buses to those required to be tested. This rulemaking does not include changes in response to these statutory mandates. Subsequent rulemakings will address these changes.

In addition, the ISTEA authorizes the FTA to pay 80 percent of the costs of bus testing. This new funding ratio has been implemented and was announced in a *Federal Register* notice published on March 13, 1992 (57 FR 8954).

II. OVERVIEW OF MODIFICATIONS

Consistent with the FTA's intention articulated in the NPRM, the FTA is amending its interim final rule to do several things. In general, two additional categories of buses are required to be tested, partial testing is permitted under specified circumstances, and several definitions have been added or modified consistent with these changes. A detailed description of each of these changes follows.

A. Authority

The Authority statements in the interim final rule has been revised to reflect the statutory name change to the Urban Mass Transportation Act of 1964, as amended by Section 3003 of the ISTEA. The agency's authorizing legislation is now the Federal Transit Act. The substantive citation remains the same.

B. New Categories of Covered Vehicles (§ 665.11)

As first published, the bus testing interim final rule covered only heavy duty large buses, heavy duty small buses, and purpose-built medium duty buses. The FTA expanded these categories in the second interim final rule by including all medium duty buses, including those that are body-on-chassis type designs.

The FTA had proposed in the NPRM to cover all types of buses, including vans. The agency decided to phase in the implementation of the rule for the various categories proposed to coincide with the readiness of the testing facility to test vehicle types. The facility is now

able to test the last categories of vehicles that the FTA had proposed—vans and other small vehicles.

Today's interim final rule adds two categories of small vehicles. The first category includes vehicles with a minimum service life of five years or 150,000 miles. Such vehicles are usually light duty mid-sized buses that are approximately 25–35 feet in length. The second category includes vehicles that have a minimum service life of four years or 100,000 miles. Such vehicles are usually light duty small buses, cutaways or modified vans approximately 16–28 feet in length.

The FTA has determined that two such categories are needed instead of one for all small vehicles, because there are sufficient distinct service life characteristics to necessitate subdividing. These characteristics most appropriately require treating 5-year useful life and 4-year useful life vehicles separately.

It is important to note several things about these two new categories. First, the FTA has now completed all the categories that it has intended to cover under the bus testing procedures since the publication of the NPRM.

Second, unmodified vans are not included in this regulation. The FTA has determined that unmodified, mass produced vans do not require testing under these procedures because the manufacturers themselves test them sufficiently to meet the goals of the statutory requirement. "Mass produced van or chassis," is defined in § 665.5 to mean "a van or chassis that has or is projected to have an annual production rate of 20,000 or more units."

Accordingly, unmodified, mass produced vans are not required to be tested according to these procedures before an FTA recipient may use FTA funds to purchase them.

The FTA defines "modified van" in § 665.5 to mean "a mass produced van that is being modified to have a major structural change or addition such as a raised roof, extension to the chassis, or a significant replacement of a vehicle body section, by a party other than the original van manufacturer." The FTA requests comments on this decision and specifically whether changes to a mass produced van by the original manufacturer should require a van to be tested. Furthermore, the FTA asks commenters to address the issue whether the annual production rate in the definition of "mass produced van or chassis" should be increased or decreased.

Third, the FTA has revised the descriptions of each of the existing categories of vehicles to be consistent

with the form used for the two new categories. Instead of listing the type of bus by size, the categories now list the service life, in both years and miles, first, with an example of that type of bus second. Thus, the first category in § 665.11(b)(1) used to read "Heavy duty large buses, approximately 35–40 foot, as well as articulated buses, with a minimum service life or [sic] 12 years or 500,000 miles." Now this material will be in § 665.11(e)(1) and will read, "Minimum service life of 12 years or 500,000 miles typified by heavy duty large buses, as well as articulated buses." This represents no change in the substance of the rule, but merely describes the categories in a more useful and helpful manner.

C. Partial Testing (§ 665.11)

The FTA is also adding to the interim final rule the concept of partial testing. This is found in §§ 665.11 which permits a bus to be less than fully tested in certain circumstances. Consistent with this change, § 665.11(b) now explicitly requires full testing only when a new bus model has not been tested previously at the Altoona Bus Research and Testing Center.

The intention of adding partial testing is to reduce the cost of bus testing for those bus models that already have undergone full bus testing at the Altoona facility. In general, § 665.11(d) of today's interim final rule requires that in such circumstances only those tests which affect specific components or parts of the vehicle and may produce significantly different data from previous tests must be performed. Section 665.5 defines "partial testing" as "the performance of those bus tests which may yield significantly different data from that obtained in previous bus testing conducted at the bus testing facility." It is important to note that partial testing only applies if a vehicle has been tested already at the Altoona facility. Testing at a site other than Altoona does not entitle it to these partial testing procedures.

The determination of which tests would be required to be done will be made by the FTA on a case-by-case basis. Such decisions will depend on the change made to the bus model and an evaluation for each bus test procedure of the potential of such change to impact significantly the data previously obtained at the Bus Testing Center. Requests should be sent to the Office of Technical Assistance and Safety, FTA, 400 Seventh Street SW., Washington, DC 20590.

Sections 665.11 (c) and (f) cover the application of partial testing in two specific situations. Section 665.11(c)

addresses the issue of testing vehicles on mass produced chassis. As discussed above, a mass produced chassis is one that has or is projected to have an annual production rate of 20,000 or more units. According to today's interim final rule, if such a chassis has been tested previously in Altoona, and now is used on a new model not previously tested, then partial testing is all that is required. Requests still will be considered on a case-by-case basis by the FTA.

The FTA has determined that partial testing is appropriate in this situation because a single full testing of a model with a mass produced chassis provides sufficient test data on the chassis to evaluate the performance of this chassis in most other vehicles for the purposes of this regulation. In addition, manufacturers of mass produced chassis undertake a thorough testing program, which generally is more stringent than that called for under this part. This does not mean, however, that some change in configuration, which affects vehicle handling, stability or structural integrity, would not trigger testing of the entire bus model at the testing facility.

A second application of partial testing in the interim final rule is found in § 665.11(f). This section addresses the concern of which, if any, tests must be performed on a vehicle model which has been tested in one category, but is later purchased to meet the specifications of a different category. Such a situation arises, for example, when a bus has been tested as a seven-year bus, but is accepted in a different procurement as meeting the specifications of a 12-year bus. The FTA has received many letters describing similar situations like this and the letters conclude with the question, "Does the bus have to be retested?"

New § 665.11(f) now clearly states that, while tests performed in a higher service life category need not be repeated when a bus is used in lower service applications, the use of a bus model in a service life application higher than it has previously been tested will require additional testing. The rationale for this is obvious, since tests for lower service life applications are not as stringent as for higher applications, e.g., the durability tests are shorter. The rule does not specify which tests must be repeated. Consistent with the concept of partial testing, the determination of which tests to repeat will be made on a case-by-case basis.

D. Definitions (§ 665.5)

In addition to the several new definitions discussed above, additional definitions are different in today's

interim final rule. The first three reflect the change in the agency's name (to FTA from UMTA) and its authorizing legislation (to the Federal Transit Act from the Urban Mass Transportation Act of 1964). These include, in the definition of "recipient" a reference to the receipt of financial assistance under the FT Act; in the definition of "Administrator" reference to the FTA, not UMTA; and third, the definition of "UMT Act" has been replaced by a definition of the FT Act.

Fourth, the FTA is modifying the definition of "major change in components." As modified by the October 9, 1990, interim final rule, the definition of this term meant "a change in a vehicle's engine, axle, transmission, suspension or steering components." Since the regulation recognizes that the requirements for testing need to vary if the vehicle is built on a mass produced chassis, the definition of "major change in components" has been expanded to account for these vehicles.

For vehicles not manufactured on a mass produced chassis, the definition reads as it did under the October 9, 1990, interim final rule. The October 9, 1990, interim rule contained examples of what would be included in this definition, and we repeat these examples today.

Within the context of these definitions, the following examples of "major changes" are provided; changes such as these would require a vehicle to be tested at the facility.

1. Examples of a major change in configuration include, but are not limited to:

- a. Replacement of metal structural elements with new materials, such as composites or wood.
- b. Fabrication of structural elements in a substantially different manner, such as two piece mullion instead of a single one.
- c. Relocation of the wheelchair lift from the back of the bus to the front (or vice versa).
- d. Changing the width (96 inches to 102 inches) or length (35 foot to 40 foot) of the bus (or vice versa).
- e. Change in vehicle weight distribution that changes the center of gravity, e.g., raising the roof or adding extra weight on the roof.
- f. A bus made from a different shell material, e.g., a change from aluminum to a composite material.
- g. A bus with a major change in floor height, e.g., a new low floor bus.

2. Examples of a major change in engine include, but are not limited to:

- a. An engine design that has not been used in transit service.

b. Powerplant configuration change such as a change from a "T" Drive to an angle drive (or vice versa).

3. Examples of a major configuration in transmission include, but are not limited to:

- a. A transmission design that has not been used in transit service.
- b. Change from "V" drive to in-line (or vice versa).
- c. Engine/transmission combination that results in a major change in the torque delivered to the rear drive axle.
4. Examples of a major change in axle include, but are not limited to:
 - a. Change in total drive train plus rear axle to provide for major torque change at drive wheels.
 - b. Major redesign of rear drive axle.
 - c. Change from a two-axle design to a three-axle design (or vice versa).
 - d. Change in location of bus drive axle, or going from a rear to front drive (or vice versa).

5. Examples of a major change in suspension include, but are not limited to:

- a. Change in front suspension from solid axle to independent suspension (or vice versa).
- b. Change from standard axle suspension system to "A" frame or "H" frame at rear.
- c. Major change in distance between air bags in support system.
- d. Addition or deletion of radius rods and sway bars, or changing from solid radius rod to hydraulic and spring action bars.
- e. Addition or removal of the bus kneeling system.

6. Examples of major change in steering include, but are not limited to:

- a. Addition or deletion of power assist steering system.
- b. Major change in the number of turns of steering wheel from lock-to-lock. (55 FR 41175)

However, for vehicles produced on a mass produced chassis, a major change in components is limited to, "a change in the vehicle's chassis from one major design to another." A major change in chassis design is a change in frame structure, material or configuration, or a change in chassis suspension type.

The reason for this is because for vehicles built on mass produced chassis, the chassis is appropriately treated as a single component, rather than as an assembly of components. In addition, since sufficient manufacturer's test data exists for the chassis, additional testing is unnecessary.

E. Other Changes

The FTA has made changes to §§ 665.29 (c) and (d). Previously, the rule prohibited the manufacturer of the

vehicle from providing any maintenance or repair to a vehicle being tested. The facility operator provided all maintenance and repair.

The experience gained in over two years of operation indicates that while this approach is still sound, a modification is required. There are instances when it would have been more effective and efficient for the manufacturer to perform the maintenance and repair. Consequently, the FTA has revised these provisions to require the manufacturer to provide maintenance or repairs when the operator of the facility determines that the manufacturer is the best party to do so. The rule requires that the operator make the determination that the manufacturer perform the work, and permits the operator to supervise the work.

III. Additional Information

The FTA wishes to stress that, pursuant to § 665.7(b), it is the grantee's responsibility to assess whether a vehicle is a new bus model requiring testing under this part. In making this decision, the grantee should obtain from the manufacturer all the data it determines is needed. Such data may include: (1) The date the proposed bus model was first introduced into mass transportation service; (2) The date, if applicable, when the model was tested at the Altoona facility; (3) What, if any changes, in configuration and/or components are being made in the proposed model from a model that has been tested; and (4) Whether such changes are major within the context of this part. In making a determination of whether the changes are major, grantees and manufacturers may contact the FTA in writing for guidance and assistance.

Finally, the FTA plans to publish its final rule on bus testing in the future. That rulemaking will address all issues raised by comments to the NPRM to each of the three interim final rules that the FTA has published.

IV. Regulatory Analyses and Certifications

A. Executive Order 12291

This action has been reviewed under Executive Order 12291, and the FTA has determined that this is not a major rule. As promulgated, this rule will not result in an annual effect on the economy of \$100 million or more, nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovations or

the ability of United States-based enterprises in domestic or export markets.

B. Regulatory Evaluation

This regulation is significant under the Department Regulatory Policies and Procedures because of the potential high level of public interest. A final regulatory evaluation will be prepared before the final rule is issued. These interim procedures will assist the agency in its continuing effort to collect specific cost data on the program.

The agency docketed a preliminary regulatory evaluation when it published the NPRM. Subsequently, it docketed an Addendum outlining the data available at the time the first interim final rule was published on August 23, 1989. In connection with today's interim final rule, the agency has docketed additional material which, in part, analyzes the impact on small entities pursuant to the Regulatory Flexibility Act. A more complete discussion of this analysis is contained in Section C, below. The FTA will issue a final regulatory analysis at the time the final rule is issued.

C. Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Public Law 96-354, the FTA has stated in the previous interim final rules that this rule may have a significant economic impact on a substantial number of small entities within the meaning of the Act. As a result of the change made in this interim final rule by permitting partial testing, especially as it applies to vehicles built on mass produced chassis, and by exempting unmodified mass produced vans, the agency now believes that this rule will not have a significant economic impact on small entities. The material added to the preliminary regulatory evaluation discusses this determination in detail.

In addition, the FTA has determined that the economic impact of this rule on these entities will not be significant because under the ISTEA the FTA will pay for 80 percent of the cost of the testing. This significant reduction in the actual financial expense that small manufacturers will have to bear adds further support to the determination that the economic impact will not be significant.

D. Paperwork Reduction Act

The collection of information requirements in this rule are subject to the Paperwork Reduction Act (44 U.S.C. chapter 35). Section 317 of the STURRA specifically requires the establishment of the facility. The paperwork requirements contained in this rule have

been submitted to the Office of Management and Budget and have received approval [OMB No. 2132-0550].

E. Federalism—Executive Order 12612

The FTA has reviewed this rule in light of the Federalism considerations set forth in Executive Order 12612. That Executive Order requires each Federal agency to address the impact of its regulation on State and local governments. Although this rule will have definite Federalism implications, because it will impose additional requirements on States, local governments, and public transit operators receiving Federal financial assistance from the FTA, this rulemaking is required by statute. The FTA considered the Federalism implications of this rulemaking during its development, and has designed it to provide recipients with as much flexibility as possible under the law. The FTA does not expect that this rule will have a substantial direct effect on the relationship between the Federal Government and the States or the distribution of power and responsibilities among the various levels of government.

In addition, the FTA has considered the Federalism implications of this rulemaking on public transit operators which are quasi-governmental or instrumentalities of States and local government, and the FTA does not expect that this rule will have a substantial direct effect on the relationship between those public operators and the governmental entities with which they are associated. Accordingly, the FTA has determined that the preparation of a Federalism Assessment under Executive Order 12612 is not warranted.

Lists of Subjects in 49 CFR Part 665

Vehicle testing, Grant programs—transportation, Mass transportation.

Accordingly, for the reasons described in the Preamble, 49 CFR part 665 is added as set forth below:

PART 665—BUS TESTING

Subpart A—General

- Sec.
665.1 Purpose.
665.3 Scope.
665.5 Definitions.
665.7 Grantee certification of compliance.

Subpart B—Bus Testing Procedures

- 665.11 Testing requirements.
665.13 Test report and manufacturer certification.

Subpart C—Operations

- 665.21 Scheduling.

- 665.23 Fees.
665.25 Transportation of vehicles.
665.27 Procedures during testing.

Appendix A to Part 665—Tests To Be Performed at the Bus Testing Facility

Authority: 49 U.S.C. App. 1601 et seq., 1608(h); 49 CFR 1.51.

Subpart A—General

§ 665.1 Purpose.

An applicant for Federal financial assistance under the Federal Transit Act for the purchase or lease of buses with funds obligated by the FTA after September 30, 1989, must certify to the FTA that any new bus model acquired with such assistance has been tested in accordance with this part. This part contains the information necessary for a recipient to ensure compliance with this provision.

§ 665.3 Scope.

(a) This part applies to a recipient of Federal financial assistance under sections 3, 9, 16(b)(2), or 18 of the FT Act, and, except as provided in subsections (b), (c), and (d) is effective October 1, 1989;

(b) The provisions of section 665.11(e)(3) are effective November 8, 1990;

(c) The provisions in sections 665.11 (c), (d), and (f) concerning partial testing are effective August 27, 1992; and

(d) The provisions in §§ 665.11 (e) (4) and (5) of this part concerning the last two categories of buses which must be tested, apply to advertisements for bids or requests for proposals for buses issued on or after August 27, 1992.

§ 665.5 Definitions.

As used in this part—

Administrator means the Administrator of the Federal Transit Administration or designee.

Bus means a rubber-tired automotive vehicle used for the provision of mass transportation service by or for a recipient.

Bus model means a bus design or variation of a bus design usually designated by the manufacturer by a specific name and/or model number.

Bus testing facility means a testing facility established by renovation of a facility constructed with Federal assistance at Altoona, Pennsylvania, under section 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and includes proving ground facilities operated in connection with the facility.

FT Act means the Federal Transit Act, as amended (49 U.S.C. app. 1601 et seq.).

Major change in chassis design means, for vehicles manufactured on a mass produced chassis, a change in frame structure, material or configuration, or a change in chassis suspension type.

Major change in components means:

- (1) For those vehicles that are not manufactured on a mass produced chassis, a change in a vehicle's engine, axle, transmission, suspension, or steering components;
- (2) For those that are manufactured on a mass produced chassis, a change in the vehicle's chassis from one major design to another.

Major change in configuration means a change which may have a significant impact on vehicle handling and stability, or structural integrity.

Mass produced van or chassis means a van or chassis that has or is projected to have an annual production rate of 20,000 or more units.

Mass transportation service means the operation of a vehicle which provides general or special service to the public on a regular and continuing basis.

Modified van means a mass produced van that is being modified to have a major structural change or addition, such as a raised roof, extension to the chassis, or a significant replacement of a vehicle body section, by a party other than the original van manufacturer.

New bus model means a bus model which—

- (1) Has not been used in mass transit service in the United States before October 1, 1988; or
- (2) Has been used in such service but which after September 30, 1988, is being produced with a major change in configuration or components.

Partial testing means the performance of those bus tests which may yield significantly different data from that obtained in previous bus testing conducted at the bus testing facility.

Recipient means an entity which receives funds under sections 3, 9, 16(b)(2), or 18 of the FT Act, either directly from FTA or through a State administering agency.

Test report means the final document prepared by the operator of the bus testing facility stating the results of the tests performed on each bus.

§ 665.7 Grantee certification of compliance.

(a) In each application to the FTA for the purchase or lease of buses, a recipient shall certify that any new bus model, or any bus model with a major change in configuration or components, to be acquired or leased with funds obligated by the FTA after September

30, 1989, will be tested at the bus testing facility, and a test report provided before final acceptance of the first vehicle by the recipient.

(b) It is the responsibility of the recipient in dealing with a manufacturer, to determine whether a vehicle to be acquired is subject to these procedures.

Subpart B—Bus Testing Procedures

§ 665.11 Testing requirements.

(a) A new bus model to be tested at the bus testing facility shall—

- (1) Be a single model;
- (2) Meet all applicable Federal Motor Vehicle Safety Standards, as defined by the National Highway Traffic Safety Administration in part 571 of this title;
- (3) Be substantially fabricated and assembled by techniques and tooling that will be used in production of subsequent buses of that model.

(b) If the new bus model had not been previously tested at the bus testing facility, then the new bus model shall undergo the full tests requirements for maintainability, reliability, safety, performance, structural integrity, fuel economy, and noise;

(c) If the new bus model had not been previously tested at the bus testing facility and is being produced on a mass produced chassis that has been previously tested on another bus model at the bus testing facility, then the new bus model may undergo partial testing requirements;

(d) If the new bus model had been previously tested at the bus testing facility, then the new bus model may undergo partial testing requirements.

(e) The following vehicle types shall be tested:

- (1) Minimum service life of 12 years or 500,000 miles—typified by heavy duty large buses, approximately 35–40 foot, as well as articulated buses.
- (2) Minimum service life of ten years or 350,000 miles—typified by heavy duty small buses, approximately 30 foot.
- (3) Minimum service life of seven years or 200,000 miles—typified by medium duty mid-size buses, approximately 25–35 foot.
- (4) Minimum service life of five years or 150,000 miles—typified by light duty mid-size buses, approximately 25–35 foot.
- (5) Minimum service life of four years or 100,000 miles—typified by light duty small buses, cutaways, and modified vans, approximately 16–28 foot.

(f) Tests performed in a higher service life category (*i.e.*, longer service life) need not be repeated when the same bus model is used in lesser service life applications. However, the use of a bus model in a service life application higher

than it has been tested for may make the bus subject to the bus testing requirements.

(g) The operator of the facility shall develop a test plan for the testing of vehicles at the facility, which generally follows the guidelines set forth in appendix A of this part.

§ 665.13 Test report and manufacturer certification.

(a) Upon completion of testing, the operator of the facility shall provide a test report to the entity that submitted the bus for testing.

(b) (1) A manufacturer of a new bus model or a bus produced with a major change in component or configuration shall provide a copy of the test report to a recipient during the point in the procurement process specified by the recipient.

(2) A manufacturer who releases a report under paragraph (b)(1) of this section also shall provide notice to the operator of the facility that the report is available to the public.

(c) If a bus model subject to a test report has a change that is not a major change under this part, the manufacturer shall advise the recipient during the procurement process and shall include description of the change and its basis for concluding that it is not a major change.

(d) A test report shall be available publicly once the owner of the report makes it available during the recipient's procurement process. The operator of the facility will have available for distribution copies of all the publicly available reports.

(e) The test report is the only information or documentation that will be made available publicly in connection with any bus model tested at the facility.

Subpart C—Operations

§ 665.21 Scheduling.

(a) A manufacturer may schedule a vehicle for testing by contacting Penn State's Transportation Institute (PSTI) at the following address: The Pennsylvania State University, Pennsylvania Transportation Institute, Research Building B, University Park, PA 16802, (814) 863-1889.

(b) Upon contacting PSTI, the manufacturer will be provided the following:

- (1) A draft contract for the testing;
- (2) A fee schedule; and
- (3) The draft test procedures that will be conducted on the vehicle.

(c) PSTI will provide final test procedures to be conducted on the vehicle at the time of contract execution.

(d) PSTI will process vehicles for testing in the order in which the contracts are signed.

§ 665.23 Fees.

(a) Fees charged by the operator are according to a schedule approved by the FTA, which include different fees for partial testing.

(b) Fees will be prorated for a vehicle withdrawn from the facility before the completion of testing.

§ 665.25 Transportation of vehicle.

A manufacturer is responsible for transporting its vehicle to and from the facility at the beginning and completion of the testing.

§ 665.27 Procedures during testing.

(a) The facility operator shall perform all testing, consistent with established procedures at the facility and with the test procedures provided to the manufacturer at the time of contract execution.

(b) The manufacturer of a bus being tested may terminate the test program at any time before the completion of testing, and shall be charged a fee for the tests performed.

(c) The operator shall perform all maintenance and repairs on the test vehicle, consistent with manufacturers specifications, unless the operator determines that the nature of the maintenance or repair is best performed by the manufacturer under the operator's supervision.

(d) The manufacturer may observe all tests. The manufacturer may not provide maintenance or service unless requested to do so by the operator.

Appendix A to Part 665—Tests To Be Performed at the Bus Testing Facility

The seven tests to be performed on each vehicle are required by STURAA and are based in part on tests described in the FTA report "First Article Transit Bus Test Plan", which is mentioned in the legislative history of section 317. When appropriate, SAE test procedures and other procedures accepted by the transit industry will be used. The seven tests are described in general terms in the following paragraphs.

1. Maintainability

The maintainability test includes bus servicing, preventive maintenance, inspection, and repair. It also will include the removal and reinstallation of the engine and drive train components that would be expected to require replacement during the bus' normal life cycle. Much of the maintainability data will be obtained during the bus durability test at the proving ground. Up to twenty-five percent of the bus life will be simulated and there will be servicing,

preventive maintenance, and repair actions. These actions will be done by test facility staff, although manufacturers will be allowed to maintain a representative on site during the testing. Test facility staff may require a manufacturer to provide vehicle servicing or repair, under the supervision of the facility staff. Since the operator will not become familiar with the detailed design of all new bus models that are tested, tests to determine the time and skill required to remove and reinstall an engine, a transmission, or other major propulsion system components may require advice from the bus manufacturer. All routine and corrective maintenance will be carried out by the test operator in accordance with the manufacturer's specifications.

The maintainability test report will include the frequency, personnel hours, and replacement parts or supplies required for each action during the test. The accessibility of selected components and other observations that could be important to a bus user will be included in the report.

2. Reliability

The question of reliability will be addressed by recording all bus breakdowns during testing. It is recognized that with one test bus it is not feasible to conduct statistical reliability tests. It is anticipated that bus operation on the durability course should reveal the problems that would otherwise not be detected until much later during scheduled transit service. The bus failures, repair time, and the actions required to get the bus back into operation will be recorded in the report.

3. Safety

The safety test will consist of a handling and stability test. The handling and stability test is an obstacle avoidance or double-lane change test that will be performed at the proving ground. The double-lane change course will be different for each type of bus and the speed could be different for each type of bus. Coach speed will be held constant throughout a given test run. Individual test runs will be made at increasing speeds up to 45 mph or until the coach can no longer be operated safely over the course, whichever speed is lower. Both left-and-right-hand lane changes will be tested.

4. Performance

The performance test will be performed on the proving ground and will measure acceleration and gradeability with the test vehicle operated at seated load weight. Top speed also will be measured if it can be done safely on the track. The test will be performed using a fifth wheel or equivalent and associated instrumentation. The bus will be accelerated at full throttle from standstill to maximum safe speed on the track. The report will include a table of time required to accelerate to each 10 mph increment of speed and when possible, the top speed. The gradeability capabilities will be calculated both from the test data and a test from a dead stop on a minimum of a 15 percent grade.

5. Structural Integrity

Two different structural integrity tests will be performed. Structural strength and distortion tests will be performed at the testing facility in Altoona and structural

durability tests will be performed at the proving ground.

a. Structural Strength and Distortion Tests

(1) The structural strength and distortion tests will be conducted and will be different for each type of bus. For example, a shakedown of the bus structure will be conducted by loading and unloading the bus no more than three times with a distributed load equal to 2.5 times gross load. The bus then will be loaded with a distributed load to gross vehicle weight. (Gross vehicle weight is a curb weight plus gross load.) Increase in floor deflection will be measured as the bus weight is increased from curb weight to gross vehicle weight. Then the bus will be loaded with a distributed load equal to 2.5 times gross load. The bus then will be unloaded and inspected for any permanent deformation on the floor or coach structure.

(2) The bus will be loaded to gross vehicle weight, with one wheel on top of a 6-inch-high curb and then in a 6-inch-deep pot hole. This test will be repeated for all four wheels. The test will verify: (a) Normal operation of the steering mechanism and (b) Operability of all passenger doors, passenger escape mechanisms, windows, and service doors. In addition, a water leak test will be conducted.

(3) Using a load-equalizing towing sling, a static tension load equal to 1.2 times the bus curb weight will be applied to the bus towing fixtures (front and rear). The load will be removed and the two eyes and adjoining structure will be inspected for damages or permanent deformations.

(4) The bus at curb weight will be towed with a heavy wrecker truck for several miles after which it will be inspected for structural damage or permanent deformation.

(5) With the bus at curb weight probable damages due to tire deflating and jacking will be tested.

(6) With the bus at curb weight possible damages or deformation associated with lifting the bus on a two post hoist system or supporting it on jack stands will be assessed.

b. Structural Durability.

The structural durability test also will be different for each type of bus, but all tests will be performed on the durability course at the proving ground, simulating up to twenty-five percent of the vehicle's normal service life. During the test there will be inspections of the bus structure and the mileage and identification of possible structural anomalies.

6. Fuel Economy

This test will be run to determine the fuel economy in miles per gallon or equivalent of the new bus models. The test will be run at seated load weight on a duty cycle that simulates transit service for the type of vehicle being tested. The fuel measurement devices under consideration include volumetric, gravimetric, flow and pressure.

This fuel economy test bears no relation to the calculations done by the Environmental Protection Agency (EPA) to determine fuel economy levels for the Corporate Average Fuel Economy Program. However, the test will provide data which can be used by recipients in their purchase decisions.

7. Noise

There will be two noise tests: a. Interior noise and vibration; and b. Exterior noise. It is recognized that different levels of noise are expected and acceptable with different types of vehicles and different test procedures might be required.

Issued on: July 20, 1992.

Brian W. Clymer,
Administrator.

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**Tuesday
July 28, 1992**

Part III

Department of Labor

Office of Labor-Management Standards

29 CFR Part 470

**Obligations of Federal Contractors and
Subcontractors; Notice of Employee
Rights Concerning Payment of Union
Dues or Fees; Notice and Proposed Rule**

DEPARTMENT OF LABOR

Office of Labor-Management Standards

RIN 1294-AA06

Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees**AGENCY:** Office of Labor-Management Standards, Department of Labor.**ACTION:** Interim procedural notice.

The Office of Labor-Management Standards (OLMS) is issuing this interim procedural notice to assist federal contractors and subcontractors in meeting their obligations under Executive Order 12800 (57 FR 12985, April 14, 1992) during the period between the May 13, 1992 effective date of the Order and the date OLMS issues a final rule implementing the Order. A proposed rule to implement the Order also is being published elsewhere in this separate part of the *Federal Register*.

This interim procedural notice is intended to provide guidance to employers who, on or after May 13, 1992, enter into a federal contract (except small purchase contracts governed by part 13 of the Federal Acquisition Regulation (48 CFR part 13)), or an amendment, renegotiation or renewal of such a contract, and to all employers holding subcontracts or purchase orders entered into in connection with such a contract. During this interim period, a way that such employers may fulfill their posting obligations under the Order is by replicating the text of the

Employee Notice which is set forth below on paper no smaller than 20" by 24" using type that is at least as easily visible and readable as 48 point Korinna type (with the caption in type that is at least as easily visible and readable as 72 point Korinna boldface caps) and posting it in conspicuous places in and about their plants and offices, including all places where notices to employees are customarily posted. Following is the text of the required Notice:

Notice to Employees

Under federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact either a Regional Office of the National Labor Relations Board or:

National Labor Relations Board, Division of Information, 1717 Pennsylvania Avenue, NW., Washington, DC 20570

The last sentence of the Notice, however, shall be omitted in notices posted in the plants or offices of carriers

subject to the Railway Labor Act, as amended (45 U.S.C. 151 *et seq.*).

Executive Order 12800 also requires federal contractors and subcontractors to include a clause in federally connected subcontracts and purchase orders requiring subcontractors and vendors to post the notice also. See the interim rule published by the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration on May 12, 1992 (57 FR 20373), effective May 13, 1992, so amending the Federal Acquisition Regulation.

Procedures Under Executive Order 12291

OLMS has determined that this interim procedural notice (1) is not a "major rule" under Executive Order 12291 in that it will not have an annual effect on the economy of \$100 million or more; will not cause a major increase in costs or prices; or have an adverse effect on competition in the marketplace; and (2) will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act. Therefore, an impact or flexibility analysis under Executive Order 12291 is not required.

Signed at Washington, DC, this 17th day of July 1992.

Marshall J. Breger,

Acting Assistant Secretary for Labor-Management Standards.

[FR Doc. 92-17553 Filed 7-27-92; 8:45 am]

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DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Part 470

RIN 1294-AA06

Obligations of Federal Contractors and Subcontractors; Notice of Employee Rights Concerning Payment of Union Dues or Fees

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Labor-Management Standards (OLMS) is proposing this rule to implement Executive Order 12800, which was signed by President Bush on April 13, 1992 and published in the Federal Register on April 14, 1992. Executive Order 12800 requires government contractors and subcontractors to post notices informing their employees that under federal law, they cannot be required to join a union or maintain membership in a union to retain their jobs, and employees who choose not to be union members may object to the use of their compulsory union dues and fees, collected pursuant to a lawful union-security agreement, for activities other than collective bargaining, contract administration, and grievance adjustment, and may be entitled to a refund and an appropriate reduction in future payments. This proposed regulation, in accordance with Executive Order 12800, requires that, where applicable, each government contracting agency include certain provisions of the Order in its government contracts, and that covered government contractors and subcontractors include these provisions in their nonexempt subcontracts and purchase orders.

DATES: Interested parties may submit written comments on this proposal. To be assured of consideration, all comments must be submitted by August 27, 1992.

ADDRESSES: Written comments should be submitted to Marshall J. Breger, Acting Assistant Secretary for Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., room S2203, Washington, DC 20210

FOR FURTHER INFORMATION CONTACT: Marshall J. Breger, Acting Assistant Secretary for Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., room S2203, Washington, DC 20210, telephone (202) 523-9674.

SUPPLEMENTARY INFORMATION:

Background

The United States Supreme Court ruled in 1988 that the National Labor Relations Act (NLRA) prohibits a union, over the objections of bargaining unit employees who have chosen not to be full union members, from expending fees and dues collected from those employees on activities not germane to the union's representational purposes, i.e., collective bargaining, contract administration, and grievance handling. *Communications Workers of America v. Beck*, 487 U.S. 735.

Beck, although not the first case in which the Supreme Court has imposed restrictions on expenditures of objecting nonmembers' dues, is significant because it applies to the large portion of the private sector that is covered by the National Labor Relations Act, 29 U.S.C. 151 *et seq.* In reaching its decision in Beck, the Court relied heavily upon earlier rulings pertaining to a provision of the Railway Labor Act (RLA) that the Court found to be in all material respects identical to the NLRA provisions at issue in Beck, 487 U.S. at 744. These earlier decisions held that the RLA does not permit union expenditure of compulsory dues and fees in support of political causes objected to by nonmember employees, *International Association of Machinists v. Street*, 367 U.S. 740 (1961), but permits only the charging of expenses "germane to collective bargaining," *Railway Clerks v. Allen*, 373 U.S. 113, 122 (1963), and "necessarily or reasonably incurred for the purpose of performing the duties of an exclusive representative of the employees in dealing with the employer on labor-management issues." *Ellis v. Railway Clerks*, 466 U.S. 435, 448 (1984). The Court noted that the nearly identical language of the RLA and the NLRA provisions " * * * reflects the fact that in both Congress authorized compulsory unionism only to the extent necessary to ensure that those who enjoy union-negotiated benefits contribute to their costs." Beck, 487 U.S. at 746.

The Supreme Court has also addressed the constitutionality and scope of union-security provisions in public sector employment, *see, e.g., Lehnert v. Farris Faculty Association*, 111 S. Ct. 1950, (1991); *Abood v. Detroit Board of Education*, 431 U.S. 209 (1977) and has there found rights and restrictions correspondent to those in the private sector.

[C]hargeable activities must: (1) Be "germane" to collective-bargaining activity; (2) be justified by the government's vital policy interest in labor peace and avoiding

"free riders"; and (3) not significantly add to the burdening of free speech that is inherent in the allowance of an agency or union shop.

Lehnert, 111 S. Ct. at 1959.

The principal aim of Executive Order 12800, (57 FR 12985, April 14, 1992; 57 FR 13413, April 16, 1992), and this proposed rule is to provide employees, labor organizations and contracting employers with information concerning the rights of employees and thereby to promote harmonious relations in the workplace for purposes of ensuring the economical and efficient administration and completion of Government contracts.

The proposed regulation will be a new part 470 and will contain three Subparts. Each is discussed below.

Subpart A—Preliminary Matters

This Subpart contains definitions, the Employee Notice clause, and exemptions. Definitions pertaining to federal contractor and subcontractor status generally are patterned after the Department's Office of Federal Contract Compliance Programs (OFCCP) regulations at 41 CFR part 60-1.

The Employee Notice provided in § 470.2(a)(1) of this proposal is drawn directly from the text of Executive Order 12800. OLMS seeks comments on whether a poster containing the Notice should be printed by the Department and supplied to covered contractors, or whether contractors should be required, or permitted, to prepare the posting themselves. If the rule were to provide for contractor preparation, a contractor would fulfill its posting obligations under the Order by replicating the text of the Employee Notice given in proposed § 470.2(a)(1) on paper no smaller than 20" by 24" using type that is at least as easily visible and readable as 48 point Korinna type (with the caption in type that is at least as easily visible and readable as 72 point Korinna boldface caps) and posting it consistent with the requirements of the Order.

To clarify contractor posting obligations during the period between the May 13, 1992 effective date of the Order and the date OLMS issues this proposed rule in final form, OLMS also is publishing elsewhere in this separate part of the Federal Register an interim procedural notice. That notice advises covered contractors to replicate the Employee Notice in the size and form noted above, and post it in conspicuous places in and about their plants and offices, including all places where notices to employees are customarily posted.

Executive Order 12800 also requires federal contractors and subcontractors to include a clause in federally

connected subcontracts and purchase orders, thus requiring subcontractors and vendors to post the notice also. That clause appears in section 2(a) (1)-(3) of the Order, and § 470.2(a) (1)-(3) of this proposal. To implement this requirement, on May 12, 1992, the Department of Defense, the General Services Administration and the National Aeronautics and Space Administration jointly issued an interim rule with request for comment (57 FR 20373) so amending the Federal Acquisition Regulation, effective May 13, 1992 (48 CFR subpart 22.15, and 52.22-18).

As a result of the exemptions in proposed §§ 470.3 and 470.4, the Order's requirements would apply to employers of 15 or more persons holding federal contracts and subcontracts of \$25,000 or more. Such contractors and subcontractors, with some exceptions would be required to post the required Notice at their establishments and/or construction work sites involved in work under federal contracts. The 15 employee threshold is consistent with that under Title VII of the Civil Rights Act of 1964, as amended, and the eventual threshold under Title I of the Americans with Disabilities Act. The \$25,000 contract threshold is consistent with the Order's section 2 exclusion of small purchase contracts governed by part 13 of the Federal Acquisition Regulation (48 CFR 13.000-13.507).

Subpart B—General Enforcement; Compliance Review and Complaint Procedures

The enforcement procedures in this Subpart rely on the Department's regulations at 29 CFR part 18 governing administrative hearings before Administrative Law Judges, and, in particular, on the provisions for expedited hearings at 29 CFR 18.57. The post-hearing procedures for imposing sanctions or penalties are drawn from section 6 of the Order.

Subpart C—Ancillary Matters

This Subpart addresses miscellaneous matters drawn either directly from the Order (e.g., the Secretary's authority to delegate functions under section 9 of the Order), or from OFCCP regulations (e.g., the protections in 41 CFR 60-1.32 against intimidation and interference).

Regulatory Procedures

The Department of Labor has determined that this proposed rule is not a "major rule" under Executive Order 12291 in that it will not have an annual effect on the economy of \$100 million dollars or more; cause a major increase in costs or prices; or have an adverse

effect on competition in the marketplace. Therefore, no regulatory impact analysis is required.

The Department certifies that this proposed rule will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

Recordkeeping

The proposed rule does not contain any information collection or recordkeeping requirements as defined in the Paperwork Reduction Act of 1980. (44 U.S.C. 3501 *et seq.*)

List of Subjects in 29 CFR Part 470

Administrative practice and procedure, Government contracts, Labor unions.

Accordingly, OLMS proposes to amend 29 CFR chapter IV as set forth below.

Signed at Washington, D.C., this 17th day of July 1992.

Marshall J. Breger,

Acting Assistant Secretary for Labor-Management Standards.

A new subchapter C, consisting of part 470, is added to 29 CFR chapter IV to read as follows:

SUBCHAPTER C—EXECUTIVE ORDER 12800, NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

PART 470—OBLIGATIONS OF FEDERAL CONTRACTORS AND SUBCONTRACTORS; NOTICE OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES

Subpart A—Preliminary Matters

- Sec.
- 470.1 Definitions.
 - 470.2 Employee notice clause.
 - 470.3 Contract exemptions.
 - 470.4 Contractor exemptions.

Subpart B—General Enforcement; Compliance Review and Complaint Procedures

- 470.10 Compliance reviews.
- 470.11 Complaints.
- 470.12 Processing when violation found.
- 470.13 Enforcement proceedings.
- 470.14 Sanctions and penalties.
- 470.15 Hearing required.
- 470.16 Reinstatement of ineligible prime contractors or subcontractors.

Subpart C—Ancillary Matters

- 470.20 Rulings and interpretations.
- 470.21 Delegation of authority by the Secretary.
- 470.22 Intimidation and interference.
- 470.23 General.

Authority: Executive Order 12800 (57 FR 12985, April 14, 1992; 57 FR 13413, April 16, 1992).

Subpart A—Preliminary Matters

§ 470.1 Definitions.

(a) *Assistant Secretary* means the Assistant Secretary of Labor for Labor-Management Standards.

(b) *Collective bargaining agreement (CBA)*, for purposes of this part, means an agreement between a government contractor and a labor organization which represents some or all of the contractor's employees concerning such matters as grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(c) *Construction* as used in paragraphs (d) and (j) of this section, means the construction, rehabilitation, alteration, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other on-site functions incidental to the actual construction.

(d) *Construction work site* means the general physical location of any building, highway, or other change or improvement to real property which is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair and any temporary location or facility at which a contractor or subcontractor meets a demand or performs a function relating to the contract or subcontract.

(e) *Contract* means, unless otherwise indicated, any government contract or subcontract.

(f) *Contracting agency* means any department, agency, establishment or instrumentality in the executive branch of the government, including any wholly owned government corporation, which enters into contracts.

(g) *Contractor* means, unless otherwise indicated, a prime contractor or subcontractor, at any tier.

(h) *Department* means the U.S. Department of Labor.

(i) *Government* means the government of the United States of America.

(j) *Government contract* means any agreement or modification thereof between any contracting agency and any person for the furnishing of supplies or services or for the use of real or personal property, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: Utility, construction, transportation, research, insurance, and fund depository. The term "Government contract" does not include agreements in which the parties stand in the relationship of employer

and employee, and federally assisted contracts.

(k) *Labor organization* means any organization of any kind, any agency, or employee representation committee, group, association, or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment.

(l) *Modification* means any alteration in the terms and conditions of a contract, including amendments, renegotiations and renewals.

(m) *Order or Executive Order* means Executive Order 12800 dated April 13, 1992 (57 FR 12985, April 14, 1992; 57 FR 13413, April 16, 1992).

(n) *Person*, as used in paragraphs (j), (o), (r) and (s) of this section, means any natural person, corporation, partnership or joint venture, unincorporated association, state or local government, and any agency, instrumentality, or subdivision of such a government.

(o) *Prime contractor* means any person holding a contract with a contracting agency, and, for the purposes of Subpart B of this Part, "General Enforcement; Compliance Review and Complaint Procedures" includes any person who has held a contract subject to the Order.

(p) *Rules, regulations, and relevant orders of the Secretary of Labor*, as used in § 470.2(a)(2) means rules, regulations, and relevant orders of the Assistant Secretary for Labor-Management Standards, or his or her designee, issued pursuant to the Order.

(q) *Secretary* means the Secretary of Labor, U.S. Department of Labor or his or her designee.

(r) *Subcontract* means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

(s) *Subcontractor* means any person holding a subcontract and, for the purpose of subpart B of this part, "General Enforcement; Compliance Review and Complaint Procedures," any person who has held a subcontract subject to the Order.

(t) *Union* means a labor organization as defined in paragraph (k) of this section.

(i) *Union-security agreement* means an agreement entered into between a contractor and a labor organization which requires certain employees of the contractor to pay uniform periodic dues and initiation fees to that labor organization.

(v) *United States*, as used in this part, shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

§ 470.2 Employee notice clause.

(a) *Government Contracts*. Except in contracts exempted in accordance with § 470.3, all government contracting agencies shall, to the extent consistent with law, include the provisions contained in section 2 of the Order in every government contract, other than collective bargaining agreements as defined in 5 U.S.C. 7103(a)(8) and small purchase contracts governed by Part 13 of the Federal Acquisition Regulation (48 CFR part 13), entered into, amended, renegotiated, or renewed on or after May 13, 1992.

Required Contract Provisions

(1) During the term of this contract, the contractor agrees to post a notice, of such size and in such form as the Secretary of Labor may prescribe, in conspicuous places in and about its plants and offices, including all places where notices to employees are customarily posted. The notice shall include the following information (except that the last sentence shall not be included in notices posted in the plants or offices of carriers subject to the Railway Labor Act, as amended (45 U.S.C. 151-188)).

Notice to Employees

Under federal law, employees cannot be required to join a union or maintain membership in a union in order to retain their jobs. Under certain conditions, the law permits a union and an employer to enter into a union-security agreement requiring employees to pay uniform periodic dues and initiation fees. However, employees who are not union members can object to the use of their payments for certain purposes and can only be required to pay their share of union costs relating to collective bargaining, contract administration, and grievance adjustment.

If you believe that you have been required to pay dues or fees used in part to support activities not related to collective bargaining, contract administration, or grievance adjustment, you may be entitled to a refund and to an appropriate reduction in future payments.

For further information concerning your rights, you may wish to contact either a

Regional Office of the National Labor Relations Board or:

National Labor Relations Board, Division of Information, 1717 Pennsylvania Avenue, NW., Washington, DC 20570

(2) The contractor will comply with all provisions of Executive Order 12800 of April 13, 1992, and related rules, regulations, and orders of the Secretary of Labor.

(3) In the event that the contractor does not comply with any of the requirements set forth in paragraphs (1) or (2) above, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in or adopted pursuant to Executive Order 12800 of April 13, 1992, or by rule, regulation, or order of the Secretary of Labor, or as are otherwise provided by law.

(4) The contractor will include the provisions of paragraphs (1) through (3) in every subcontract or purchase order entered into in connection with this contract unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order No. 12800 of April 13, 1992, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any such subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance. Provided, however, that if the contractor becomes involved in litigation with a subcontractor or vendor, or is threatened with such involvement, as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) *Subcontracts*. Each prime contractor or subcontractor shall include the clause in paragraph (a) of this section in each of its nonexempt subcontracts.

(c) *Inclusion by reference*. The clause in paragraph (a) of this section may be included by reference in all government contracts, subcontracts and purchase orders.

(d) *Incorporation by operation of the Order*. By operation of the Order, the clause in paragraph (a) of this section shall be considered to be a part of every contract and subcontract required by the Order and the regulations in this Part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(e) *Adaptation of language*. The Assistant Secretary may make such changes in the contractual provisions of the Order as may be necessary to reflect Acts of Congress, clarifications in the law by the courts, or otherwise to fully and accurately inform employees of their rights under the Order.

(f) *Employee notice format.* The employee notice posting shall replicate the text of the Employee Notice in § 470.2(a)(1) on paper no smaller than 20" by 24" using type that is at least as easily visible as 48 point Korinna type with the caption in type that is at least as easily visible and readable as 72 point Korinna boldface caps.

§ 470.3 Contract exemptions.

(a) *Transactions of less than \$25,000.* The requirements of this part do not apply to contracts and subcontracts of less than \$25,000, other than contracts and subcontracts with depositories of federal funds in any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes. *Provided, that—*

(1) No agency, contractor or subcontractor shall procure supplies or services in a manner so as to avoid applicability of the Order and the regulations in this Part; and

(2) Where a contractor has contracts or subcontracts with the government in any 12-month period which have an aggregate total value (or reasonably can be expected to have an aggregate total value) of \$25,000 or more, the less than \$25,000 exemption does not apply, and the contracts are subject to the Order and the regulations in this Part.

(b) *Specific contracts.* The Assistant Secretary may exempt an agency or any person from requiring the inclusion of any or all of the Employee Notice clause in any specific contract or subcontract when the Assistant Secretary deems that special circumstances in the national interest so require. Requests for exemption must be in writing and directed to the Assistant Secretary for Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

(c) *Withdrawal of exemption.* When any contract or subcontract is of a class exempted under this section, the Assistant Secretary may withdraw the exemption for a specific contract or subcontract or groups of contracts or subcontracts when in the Assistant Secretary's judgment such action is necessary or appropriate to achieve the purposes of the Order.

§ 470.4 Contractor exemptions.

(a) *Number of employees.* The requirement to post the Employee Notice given in § 470.2(a)(1) (hereafter, posting requirement) does not apply to contractors and subcontractors that employ fewer than 15 persons.

(b) *Union representation.* The posting requirement does not apply to contractor establishments or

construction work sites where there are no employees of the contractor represented by a union.

(c) *State law.* The posting requirement does not apply to contractor establishments or construction work sites where state law forbids enforcement of union-security agreements.

(d) *Non-federal work.* The posting requirement does not apply to facilities of a contractor, subcontractor or vendor that are in all respects separate and distinct from activities related to the performance of the contract: *Provided,* That such exemption will not interfere with or impede the effectuation of the purposes of the Order.

(e) *Work outside the United States.* The posting requirement does not apply to work performed outside the United States that does not involve the recruitment or employment of workers within the United States.

Subpart B—General Enforcement; Compliance Review and Complaint Procedures

§ 470.10 Compliance reviews.

(a) An on site review may be conducted by the Department to determine a contractor's or subcontractor's compliance with the requirements of this part. Such a review may be limited to compliance with this Part or may be included in an on site compliance review conducted under other laws, executive orders and/or regulations enforced by the Department.

(b) During such a review, a determination will be made whether:

(1) The Employee Notice is posted in conspicuous places in and about each of the contractor's establishments and/or construction work sites not exempted by § 470.4, including all places where notices to employees are customarily posted; and

(2) The provisions of the Employee Notice clause are included in nonexempt subcontracts and purchase orders.

(c) The results of the review will be documented in the review record which will include findings regarding the contractor's compliance with the requirements of the Order and this Part and, as applicable, conciliation efforts made, corrective action taken and/or enforcement recommended.

§ 470.11 Complaints.

(a) *Filing complaints.* Complaints may be filed by an employee of a covered contractor or subcontractor alleging that the contractor or subcontractor has failed to post the Employee Notice as required by the Order and this part; and/or has failed to include the

Employee Notice clause in nonexempt subcontracts or purchase orders. Complaints may be filed with the Office of Labor-Management Standards (OLMS), 200 Constitution Avenue, NW., Washington, DC 20210, or with any OLMS area or district office.

(b) *Contents of complaints.* The complaint must be in writing, and shall include the name, address, and telephone number of the complainant, the name and address of the contractor or subcontractor alleged to have violated the Order, an identification of the alleged violation and the establishment or construction work site where it is alleged to have occurred, and any other pertinent information which will assist in the investigation and resolution of the complaint. The complaint shall be signed by the complainant.

(c) *Referrals.* The Department will refer complaints alleging use of union dues or fees for purposes unrelated to a collective bargaining agreement and/or seeking a refund or future adjustment of such dues or fees, to the National Labor Relations Board or other appropriate agency.

(d) *Complaint investigations.* In investigating complaints filed with the Department of Labor pursuant to paragraph (a) of this section, the Department will evaluate the allegations of the complaint and develop a case record including findings regarding the contractor's compliance with the requirements of the Order and this part and, as applicable, conciliation efforts made, corrective action taken, and/or enforcement recommended.

§ 470.12 Processing when violation found.

(a) If any Department of Labor complaint investigation or compliance review indicates a violation of the Order or this part, reasonable efforts shall be made to secure compliance through conciliation.

(b) Before the contractor can be found to be in compliance with the Order or this part, it must correct the violation (e.g., by posting the required notices, by notifying nonexempt subcontractors and vendors of the inclusion of the Employee Notice clause in their subcontract or purchase order by operation of the Order) and must make a commitment, in writing, not to repeat the violation.

(c) If a violation cannot be resolved by informal means, the Assistant Secretary may proceed in accordance with § 470.13.

(d) For reasonable cause shown, the Assistant Secretary may reconsider or cause to be reconsidered any matter on

his/her own motion or pursuant to a request.

§ 470.13 Enforcement proceedings.

(a) *General.* (1) Violations of the Order may result in administrative proceedings to enforce the Order. Violations may be found based upon, *inter alia*, any of the following:

(i) The results of a compliance review;

(ii) The results of a complaint investigation;

(iii) A contractor's refusal to allow an on site review or investigation to be conducted;

(iv) A contractor's refusal to supply records or other information as required by the Order and the regulations in this part.

(2) If a determination is made that the Order or the regulations in this part have been violated, and the violation has not been corrected through conciliation, the Assistant Secretary may refer the matter to the Solicitor of Labor for institution of administrative enforcement proceedings.

(b) *Administrative enforcement proceedings.* (1) Administrative enforcement proceedings shall be conducted under the control and supervision of the Solicitor of Labor, under the hearing procedures set forth in 29 CFR Part 18, Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges.

(2) Unless otherwise provided by the Office of the Solicitor in its complaint, all hearings shall be conducted in accordance with the rules for expedited proceedings at 29 CFR 18.42.

(3) The administrative law judge shall certify his or her recommended decision issued pursuant to 29 CFR 18.57 to the Assistant Secretary. The decision shall be served on all parties and amici.

(4) Within 10 days (25 days in the event that the proceeding is not expedited) after receipt of the administrative law judge's recommended decision, either party may file exceptions to the decision. Exceptions may be responded to by the other parties within 7 days (25 days if the proceeding is not expedited) after receipt. All exceptions and responses shall be filed with the Assistant Secretary.

(5) After the expiration of time for filing exceptions, the Assistant Secretary shall issue a final Administrative order. In an expedited proceeding, unless the Assistant Secretary issues a final Administrative order within 30 days after the expiration of time for filing exceptions, the administrative law judge's recommended decision shall become the

final Administrative order. If the Assistant Secretary determines that the contractor has violated the Order or the regulations in this part, the final Administrative order may enjoin the violations, require the contractor to provide appropriate remedies and, subject to the procedures in § 470.14, impose appropriate sanctions.

§ 470.14 Sanctions and penalties.

(a) Consistent with section 8 of the Order, each contracting department and agency shall cooperate with the Assistant Secretary and provide such information and assistance as the Assistant Secretary may require in the performance of the Assistant Secretary's functions under the Order and regulations in this part.

(b) Before imposing the sanctions described in paragraph (e) of this section, the Assistant Secretary shall consult with affected agencies, and provide the heads of those agencies the opportunity to respond and provide written objections.

(c) If the contracting agency provides written objections, those objections shall include a complete statement of reasons for the objections, among which reasons shall be a finding that, as applicable, the completion of the contract, or further contracts or extensions or modifications of existing contracts, is essential to the agency's mission.

(d) The sanctions and penalties described in this section, however, shall not be imposed by the Assistant Secretary so long as the head of the contracting agency continues personally to object to the imposition of such sanctions and penalties.

(e) After the consultation described in this section:

(1) *Existing contracts.* The Assistant Secretary may direct a contracting agency to cancel, terminate, suspend, or cause to be canceled, terminated or suspended, any contract, or any portions thereof, for failure of the contractor to comply with its contractual provisions as required by section 2 of the Order and the regulations in this part. Contracts may be canceled, terminated, or suspended absolutely, or continuance of contracts may be conditioned upon compliance.

(2) *Future contracts.* The Assistant Secretary may provide that one or more contracting agencies shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any noncomplying contractor.

(f) Whenever the Assistant Secretary has exercised his or her authority pursuant to paragraph (e) of this section,

the contracting agency shall report the actions it has taken to the Assistant Secretary within such time as the Assistant Secretary shall specify.

(g) Periodically, the Assistant Secretary shall publish and distribute, or cause to be published and distributed, to all executive agencies a list of the names of contractors that have, in the judgment of the Assistant Secretary, failed to comply with the provisions of the Order and this part, or of related rules, regulations, and orders of the Assistant Secretary, and have been declared ineligible under the Order and the regulations in this part.

§ 470.15 Hearing required.

Neither an order for debarment of any contractor from further government contracts under section 6(b) of the Order nor the inclusion of a contractor on a published list of noncomplying contractors under section 6(c) of the Order shall be carried out without affording the contractor an opportunity for a hearing.

§ 470.16 Reinstatement of ineligible prime contractors or subcontractors.

Any prime contractor or subcontractor declared ineligible for further contracts or subcontracts under the Order may request reinstatement in a letter directed to the Assistant Secretary.

Subpart C—Ancillary Matters

§ 470.20 Rulings and interpretations.

Rulings under or interpretations of the Order or the regulations contained in this part shall be made by the Assistant Secretary or his or her designee.

§ 470.21 Delegation of authority by the Secretary.

Consistent with section 9 of the Order, the Secretary may delegate any function or duty of the Secretary under this Order to any officer in the Department of Labor or to any other officer in the executive branch of the government, with the consent of the head of the department or agency in which that officer serves.

§ 470.22 Intimidation and interference.

The sanctions and penalties contained in § 470.14 may be exercised by the Assistant Secretary against any prime contractor or subcontractor who fails to take all necessary steps to ensure that no person intimidates, threatens, or coerces any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to

the administration of the Order or the regulations in this part.

§ 470.23 General.

Consistent with section 11 of the Order, nothing contained in the Order or this part, or promulgated pursuant to the Order or this part, is intended to confer any substantive or procedural right, benefit, or privilege enforceable at law by a party against the United States, its agencies or instrumentalities, its officers, or its employees, nor to authorize the assessment of any dues or fees by any labor organization.

[FR Doc. 92-17552 Filed 7-27-92; 8:45 am]

BILLING CODE 4510-86-M

federal register

**Tuesday
July 28, 1992**

Part IV

Department of Education

**Office of Educational Research and
Improvement—Library Programs; Notice
Inviting Applications for New Awards for
Fiscal Year 1993**

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement—Library Programs; Invitation To Apply for New Awards for Fiscal Year 1993

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1993.

SUMMARY: The Secretary invites applications for new awards for fiscal year 1993 and announces closing dates for the transmittal of applications under the Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants, Library Career Training Program, Strengthening Research Library Resources Program, College Library Technology and Cooperation Grants Program, Foreign Language Materials Acquisition Program, and Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants.

The invitation for applications for new awards under the Library Literacy Program (CFDA No. 84.167A) is scheduled to be announced in the *Federal Register* at a later date.

These programs support AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by seeking to improve library services, to enhance the skills of

library staff, to increase the quality and availability of library holdings, and other activities. The National Education Goals specifically call for:

- Children to start school ready to learn (Goal 1);
- Students to demonstrate competency in challenging subject matter and to learn to use their minds well (Goal 3); and
- Adult Americans to be literate and to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship (Goal 5).

DATES: The closing dates for transmitting applications under this notice are listed in Section I of this notice.

ADDRESSES: The addresses for obtaining applications for, or further information about, individual programs or competitions are in the respective announcements for those programs contained in Section II of this notice.

To contact any persons named in this announcement, 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: All programs announced in this notice, with

the exception of the Library Services to Indian Tribes and Hawaiian Natives Program, including both Basic Grants and Special Projects Grants, are subject to the requirements of Executive Order 12372, Intergovernmental Review of Federal Programs. Information regarding applicable procedures under this order will be included in the application packages.

Any institution of higher education that wishes to apply for funds under one of the programs authorized by title II of the Higher Education Act (HEA) (20 U.S.C. 1021 *et seq.*) must be an eligible institution under the terms of 20 U.S.C. 1141(a). If you wish to apply to the Department of Education for a determination of institutional eligibility, you may contact: Ms. Lois Moore, U.S. Department of Education, Office of Postsecondary Education, Debt Collection and Management Assistance Service, Division of Eligibility and Certification, 400 Maryland Avenue, SW., room 3522, Washington, DC 20202-5323, (202) 708-4913.

Organization of Notice. This notice contains two sections. Section I includes a chart listing closing dates in chronological order, and other pertinent information about programs covered by this notice. Section II consists of the individual application announcements for each program.

SECTION I.—PROGRAM AND CLOSING DATES FOR LIBRARY PROGRAM

Title of program and CFDA No.	Applications available	Application deadline date	Deadline for intergovernmental review	Tentative award date	Estimated available funds ¹	Estimated range of awards ¹	Estimated avg. size of awards ¹	Estimated number of awards ¹
Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (84.163A).	8/21/92	10/05/92	NA	02/26/93	³ 904,000 ⁴ 603,000	NA	³ \$4,000	225
Library Career Training Program—Fellowship Awards (84.0368).	08/24/92	10/08/92	12/10/92	02/19/93	5,000,000	10,800-129,000	14,800	70
Strengthening Research Library Resources Program (84.091A).	08/10/92	10/09/92 ² 11/20/92	01/15/93	05/14/93	5,000,000	35,000-550,000	165,000	30
College Library Technology and Cooperation Grants Program (84.197A—D).	11/02/92	01/15/93	03/15/93	08/27/93	3,400,000	15,000-300,000	A 65,000 B 180,000 C 100,000 D 125,000	30
Foreign Language Materials Acquisition Program (84.239A).	11/20/92	02/19/93	⁵ 04/23/93	07/15/93	976,000	4,000-125,000	A 73,000 ⁶ B 30,000	31
Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants (84.1638).	02/04/93	04/05/93	NA	08/02/93	904,000	17,000-160,000	62,000	12

¹ The Department is not bound by any estimates in this notice. The estimated available funds reflect fiscal year 1992 appropriation amounts; however, the Administration's budget request for fiscal year 1993 does not include funds for these programs, other than set-asides for Indian Tribes. Applications are being invited to allow sufficient time for evaluation and completion of the grant process before the end of fiscal year 1993 should the Congress appropriate funds for these programs.

² 10/09/92 for eligibility information for institutions needing to establish eligibility (Part I only); 11/20/92 for all project descriptions (Part II).

³ Indian Tribes
⁴ Hawaiian Natives

⁵ This deadline also applies to comments from State Library Administrative agencies.

⁶ By law, (A) up to 30 percent of the funds available may be used to make grants in amounts between \$35,000-\$125,000 (B) of the remaining funds, no grant may exceed \$35,000.

Section II—Application Notices**CFDA No. 84.163A—Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (Library Services and Construction Act, Title IV)**

Purpose of Program: Provides noncompetitive basic grants to eligible Indian tribes and to eligible Hawaiian native organizations to establish or improve public library services for Indian tribes and Hawaiian natives.

Eligible Applicants: (a) Indian Tribes recognized by the Secretary of the Interior to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians; (b) Alaskan Native villages or regional or village corporations as defined in or established under the Alaskan Native Claims Settlement Act; however, two or more Alaskan Native villages, regional corporations, or village corporations may not receive basic grant allocations that serve the same population; and (c) Organizations primarily serving and representing Hawaiian natives and recognized by the Governor of Hawaii.

Applicable Regulations: (a) The Basic Grants to Indian Tribes and Hawaiian Natives Program Regulations in 34 CFR part 771; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74 (for grants to Hawaiian native organizations), 75, 77, 79 (for grants to Hawaiian native organizations), 80 (for grants to Indian Tribes), 81, 82, and 85.

For Applications or Information Contact: Beth Fine, Program Officer, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone: (202) 219-1315.

Program Authority: 20 U.S.C. 351 *et seq.*

CFDA No. 84.036B—Library Career Training Program—Fellowships and Institutes (Higher Education Act, Title II, Part B)

Purpose of Program: Provides grants to train persons in librarianship through fellowships, institutes, and traineeships.

Eligible Applicants: Institutions of higher education and library organizations and agencies.

Applicable Regulations: (a) The Library Career Training Program Regulations in 34 CFR part 776; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80 (for public library organizations or agencies), 82, 85, and 86 (for institutions of higher education).

Priorities:

Absolute Priority: Under 34 CFR 75.105(c)(3) and 34 CFR 776.5 the Secretary gives an absolute preference to applications for fellowships that meet one of the following priorities. The Secretary funds under this competition only applications for fellowships that meet one of the following priorities:

Priority 1: To train or retrain library personnel in areas of library specialization where there are currently shortages, such as school media, children's services, young adult services, science reference, and cataloging.

Priority 2: To increase excellence in library education by encouraging study in librarianship and related fields at the doctoral level.

Invitational Priority: Within absolute priority 2 specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priority. However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Applications for fellowships that place particular emphases on the study of library planning, evaluation, and research.

For Applications or Information Contact: Yvonne B. Carter, Program Officer, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone: (202) 219-1315.

Program Authority: 20 U.S.C. 1021, 1032.

CFDA No. 84.091A—Strengthening Research Library Resources Program (Higher Education Act, Title II, Part C)

Purpose of Program: Provides grants to the Nation's major research libraries to maintain and strengthen their collections and make their holdings available to other libraries whose users have need for research materials.

Eligible Applicants: Institutions with major research libraries as defined in 34 CFR 778.2.

Applicable Regulations: (a) The Strengthening Research Library Resources Program Regulations in 34 CFR part 778; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86.

Supplementary Information: The application contains two parts in the Program Narrative section: Part I—Status as a Major Research Library and Part II—Description of the Project. These parts must be submitted separately as follows: Those applicants who need to establish status as a major research library must submit Part I of

the Program Narrative section by 10/9/92; applicants who established status in fiscal year 1989 or later need not submit Part I. All applicants must submit Part II of the Program Narrative section by 11/20/92.

For Applications or Information Contact: Louise Sutherland or Linda Loeb, Program Officers, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone (202) 219-1315.

Program Authority: 20 U.S.C. 1021, 1041.

CFDA No. 84.197A-D—College Library Technology and Cooperation Grants Program (Higher Education Act, Title II, Part D)

Purpose of Program: To encourage resource-sharing projects among the libraries of institutions of higher education through the use of technology and networking, to improve the library and information services provided to them by public and nonprofit private organizations, and to conduct research or demonstration projects to meet special needs in using technology to enhance library and information sciences. There are four categories of awards: (a) Networking; (b) Combination; (c) Services to Institutions; and (d) Research and Demonstration.

Eligible Applicants: The following are eligible to receive awards under this program:

(a) For Networking Grants, institutions of higher education.

(b) For Combination Grants, combinations of institutions of higher education.

(c) For Services to Institutions Grants, public or nonprofit private organizations (other than institutions of higher education) that provide library and information services to institutions of higher education on a formal cooperative basis.

(d) For Research and Demonstration Grants, institutions of higher education.

Applicable Regulations: (a) The College Library Technology and Cooperation Grants Program Regulations in 34 CFR part 779; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85 and 86.

For Applications or Information Contact: Neal Kaske, Program Officer, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone (202) 219-1315.

Program Authority: 20 U.S.C. 1021, 1047.

CFDA No. 84.239A—Foreign Language Materials Acquisition Program (Library Services and Construction Act, Title V)

Purpose of Program: This program makes grants to State and local public libraries for the acquisition of foreign language materials. By law, (a) up to 30 percent of the funds available may be used to make grants in amounts between \$35,000 and \$125,000; (b) of the remaining funds, no grant may exceed \$35,000. The law also provides that no recipient may receive more than one grant under this program in the same fiscal year.

Eligible Applicants: State public libraries and local public libraries.

Applicable Regulations: (a) The Foreign Language Materials Acquisition Program Regulations in 34 CFR part 768; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, and 85.

For Applications or Information Contact: Nancy Cavanaugh, Program Officer, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone (202) 219-1315.

Program Authority: 20 U.S.C. 371.

CFDA No. 84.163B—Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants (Library Services and Construction Act, Title IV)

Purpose of Program: This program makes competitive awards to eligible Indian tribes to establish or improve public library services. All available funds for library services to Hawaiian natives are awarded through the Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (CFDA No. 84.163A).

Eligible Applicants: Indian Tribes and Alaskan Native villages or regional or village corporations that have met eligibility requirements for the Library Services to Indian Tribes Program—Basic Grants Program (CFDA No. 84.163A) and received such Basic Grants in the same fiscal year as the year of application.

Priorities: The Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets an invitational priority does not receive competitive or absolute preference over other applications.

Invitational Priority 1: To assess and plan for tribal library needs.

Invitational Priority 2: To train or retrain Indians as library personnel.

Invitational Priority 3: To purchase library materials.

Invitational Priority 4: To conduct special library programs for Indians such as summer reading programs for children, outreach programs for elders, literacy tutoring, and training in computer use.

Applicable Regulations: (a) The Special Projects Grants to Indian Tribes and Hawaiian Natives Program Regulations in 34 CFR part 772; and (b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, 82, and 85.

For Applications or Information Contact: Beth Fine, Program Officer, Library Development Staff, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208-5571. Telephone (202) 219-1315.

Program Authority: 20 U.S.C. 361 *et seq.*

Dated: July 22, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92-17713 Filed 7-27-92; 8:45 am]

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federal register

**Tuesday
July 28, 1992**

Part V

Department of Labor

**Board of Service Contract Appeals;
Establishment; Notice**

DEPARTMENT OF LABOR

[Secretary's Order 3-92]

**Board of Service Contract Appeals;
Establishment**

Dated: July 10, 1992.

Subject: Establishment of the Board of Service Contract Appeals.**1. Purpose**

To establish and describe the composition, authority and responsibilities of the Board of Service Contract Appeals.

2. Authority and Directives Affected

a. Department of Labor regulations at 29 CFR part 8 provide that the Secretary shall establish a Board of Service Contract Appeals which is appointed by and responsible to the Secretary of Labor.

b. This Order supersedes sections 3(a)(6), 3(a)(19) and 3(b)(1) of Secretary's Order 3-90, dated April 4, 1990, which reserved authority for the Deputy Secretary of Labor to perform the functions of the Board of Service Contract Appeals in issuing final agency decisions and all rulings on substantive issues pursuant to the Contract Work Hours and Safety Standards Act and the McNamara-O'Hara Service Contract Act of 1965 (as amended), as provided in 29 CFR part 8, pending the appointment of a duly constituted Board. This Order also supersedes the memorandum from Secretary Martin to the Deputy Secretary, dated November 25, 1991, delegating interim authority to the Deputy Secretary to perform the functions of the Board of Service Contract Appeals.

3. Establishment, Delegation of Authority and Assignment of Responsibility

The Board of Service Contract Appeals, which is hereby established, shall act as the authorized representative of the Secretary of Labor in deciding appeals concerning questions of fact and law, taken in the discretion of the Board, from final decisions of the Administrator, Wage

and Hour Division or authorized representative; and from decisions of Administrative Law Judges (currently issued under Subparts B, D, and E of 29 CFR part 6) arising under the McNamara-O'Hara Service Contract Act and the Contract Work Hours and Safety Standards Act (except matters pertaining to safety) where the contract is also subject to the McNamara-O'Hara Service Contract Act; and on such other matters which may be specifically referred to the Board by the Secretary of Labor. The Board shall not have jurisdiction to pass on the validity of any portion of the Code of Federal Regulations which has been duly promulgated by the Department of Labor and shall observe the provisions thereof, where pertinent, in its decisions. The Board also shall not have jurisdiction to review decisions to deny or grant exemptions, variations, and tolerances and does not have the authority independently to take such actions.

4. Composition

The Board of Service Contract Appeals shall consist of three public members, appointed by the Secretary of Labor, one of whom shall be designated Chair. The Secretary may appoint one or more Alternate or Senior Members, not to exceed the number of such members on the Wage Appeals Board as prescribed in section 3 of Secretary's Order No. 1-91. The Board of Service Contract Appeals shall sit, hear cases, render decisions and perform all other functions only in panels of 3 or fewer members (whether or not including a Senior or Alternate Member) assigned by the Chair. A vacancy in the membership of the Board of Service Contract Appeals shall not impair the authority of the remaining member(s) to exercise all the powers and duties of the Board of Service Contract Appeals.

5. Terms of the Members

a. Of the initial appointments of members of the Board of Service Contract Appeals pursuant to this Order, member terms (whether "Chair," "Member," "Senior Member," or "Alternate Member") shall expire on the

dates of expiration of a corresponding member term of the Wage Appeals Board, as provided in Secretary's Order 1-91. Thereafter, each member shall be appointed for a term not to exceed 2 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

b. Appointment of a member of the Board of Service Contract Appeals shall not affect the authority of the Secretary to remove any member at any time.

6. Voting

Unless the petitioner consents to disposition by a single member, decisions of the Board shall be by majority vote. Where petitioner consents to disposition by a single member, other interested parties shall have an opportunity to oppose such disposition, and such opposition shall be taken into consideration by the Board in determining whether the decision shall be by a single member or majority vote.

7. Location of Board Proceedings

The Board shall hold its proceedings in Washington, DC, unless for good cause the Board orders that proceedings in a particular matter be held in another location.

8. Rules of Practice and Procedure

The Board shall prescribe such rules of practice and procedure as it deems necessary or appropriate for the conduct of its proceedings. The rules which are prescribed in 29 CFR part 8 as of the date of this Order shall govern the proceedings of the Board until changed.

9. Departmental Counsel

The Solicitor of Labor shall provide counsel to represent the Administrator, Wage and Hour Division, or authorized representative, in proceedings before the Board.

10. Effective Date

This Order is effective immediately.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-17802 Filed 7-23-92; 1:59 pm]

BILLING CODE 4510-23-M

federal register

**Tuesday
July 28, 1992**

Part VI

**Department of
Transportation**

**Research and Special Programs
Administration**

**49 CFR Parts 107 and 171
Hazardous Materials Transportation
Registration and Fee Assessment
Program; Clarification of Registration
Provisions; Rule**

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Parts 107 and 171

[Docket HM-208]

Hazardous Materials Transportation
Registration and Fee Assessment
Program; Clarification of Registration
Provisions**AGENCY:** Research and Special Programs
Administration (RSPA), DOT.**ACTION:** Clarification concerning
registration provisions.**SUMMARY:** In this document, RSPA
clarifies regulatory provisions and
corrects errors in an instructional
brochure, concerning registration
requirements of a final rule published
July 9, 1992 in the *Federal Register* under
Docket HM-208.**EFFECTIVE DATE:** The final rule at 57 FR
30620 is effective August 31, 1992. This
document clarifies portions of that rule.**FOR FURTHER INFORMATION CONTACT:**
Joseph S. Nalevanko, Office of
Hazardous Materials Planning and
Analysis (202) 366-4109, or Beth Romo,
Office of Hazardous Materials
Standards (202) 366-4488, Hazardous
Materials Safety, 400 Seventh Street
SW., Washington, DC 20590-0001.**SUPPLEMENTARY INFORMATION:** A final
rule was published July 9, 1992 under
Docket HM-208 (57 FR 30620) to
establish a national registration
program, as mandated by Congress in
the Hazardous Materials Transportation
Uniform Safety Act of 1990 (HMTUSA),
for persons engaged in the offering for
transportation and transportation of
certain categories and quantities of
hazardous materials in intrastate,
interstate, and foreign commerce.
Persons subject to the registration
program are required to annually file a
registration statement with RSPA and
pay an annual fee of \$300, \$250 of which
is to fund a nationwide emergency
response training and planning grant
program for States and local
governments and \$50 of which is to
offset DOT processing costs. An initial
filing deadline of August 31, 1992 was
imposed for filing the registration
statement and paying the fee.Immediately after the final rule was
published, RSPA publicized the
registration program in a number of
ways, including distribution of over
200,000 instructional brochures, entitled
Hazardous Materials Registration
Program—What You Need to Know,
containing a registration statement formas referenced in § 107.608(d). RSPA has
received a large number of inquiries
concerning who must register. In this
notice, RSPA is acknowledging errors in
the instructional brochure and providing
a correction of those errors and a
narrative discussion of who is subject to
the new registration requirements.**Error in the Instructional Brochure**On the second and third panels of the
brochure, paragraphs [E] and [G],
respectively, are in error. In paragraph
[E], the words "a hazardous material or"
should be removed. Paragraph [G]
incorrectly implies that certain large
bulk packagings are not subject to
registration. Paragraph [G] of the
brochure should read as follows:[G] Bulk packagings having capacities
less than 3500 gallons (or 468 cubic feet),
even when 5000 pounds or more of one
hazard class is offered for
transportation or transported (Note: this
exception is in effect until July 1, 1993).**Clarification on Registration Statement
Form—DOT Form F 5800.2**In the "Requirements" section and in
section 5 (Prior Year Survey
Information) of the registration
statement form, in paragraph E, the
words "a hazardous material or" should
be removed. Paragraph E should read:E. Offered or transported in commerce
a shipment of 2,170 kilograms (5,000
pounds) gross weight or more of a class
of hazardous materials for which
placarding of a vehicle, rail car, or
freight container is required.**Applicability Provisions of Paragraphs
(d) and (e) of § 107.601**RSPA has received hundreds of
telephone calls from persons who are
confused about the bulk packaging
exception in paragraph (e) and how it
relates to paragraph (d). The definition
of bulk packaging is found in § 171.8 of
the Hazardous Materials Regulations. A
bulk packaging is defined as a
packaging other than a vessel or a barge
which has no intermediate form of
containment and has:

- (1) A maximum capacity greater than
119 gallons (450 liters) for liquids;
- (2) A maximum net mass greater than
882 pounds (400 kg) for solids; or
- (3) A water capacity greater than 1000
pounds (454 kg) for gases.

It is important to note that paragraphs
(d) and (e) of § 107.601 are separate
provisions. The bulk packaging
exception in paragraph (e) applies only
to the provisions of paragraph (e) and
provides no exception to the bulk
packaging registration requirements in
paragraph (d).Under paragraph (d) of § 107.601, any
hazardous material offered for
transportation or transported in a bulk
packaging having a capacity equal to or
greater than 3500 gallons (or greater
than 468 cubic feet) is subject to
registration requirements, even when
placards are not required.Under paragraph (e) of § 107.601, a
hazardous material in a bulk packaging,
container or tank having a capacity of
less than 3500 gallons (or less than or
equal to 468 cubic feet) is exempted from
the registration requirements until July 1,
1993. Therefore, until July 1, 1993,
paragraph (e) only applies to a shipment
of hazardous materials in non-bulk
packagings which: (1) Has a gross
weight of 5000 pounds or more of one
hazard class; (2) requires placarding;
and (3) is loaded at one facility.**Aggregate Quantities Under § 107.601(e)**If an offeror or transporter loads a
shipment at one facility consisting of
3000 pounds gross weight of one hazard
class and 3000 pounds gross weight of
another hazard class, both hazard
classes require placards. However, this
shipment is not subject to the
§ 107.601(e) registration requirements
because the shipment must be 5000
pounds or more of one hazard class, not
an aggregate quantity of different
hazard classes.If a shipment consisting of 3000
pounds gross weight of one hazard class
is loaded at Facility A and is then
transported to Facility B where another
3000 pounds gross weight of the same
hazard class is loaded, this shipment is
not subject to the registration
requirements. Under § 107.601(e), there
must be a one hazard class offering of
5000 pounds gross weight or more that is
loaded at one facility.**Applicability of the Term "Person"**RSPA has received numerous
inquiries as to how companies having
diverse branches or plant locations must
register. As discussed in the preamble to
the final rule and also as defined under
49 App. U.S.C. 1802, the term "person"
means an individual, firm,
copartnership, corporation, company,
association, joint-stock association,
including any trustee, receiver, assignee,
or similar representative thereof, or
government, Indian tribe, or agency or
instrumentality of any government or
Indian tribe when it offers hazardous
materials for transportation in
commerce or transports hazardous
materials in furtherance of a commercial
enterprise.Each separately incorporated
subsidiary subject to § 107.601 must

register and pay a fee separate from its parent company. However, a parent company may submit separate registration statements on behalf of, and for, each of its subsidiaries subject to the registration program (and itself, if also subject to the registration program) and enclosed one combined registration fee payment.

If branch offices or plant locations of a company are not separately incorporated, the company is required to submit only one registration statement and pay a single fee. However, the registration statement must indicate each state in which a covered activity took place.

Persons Exempted From Registration and Fee Requirements

Agencies of the Federal Government, agencies of States, agencies of political subdivisions of States, employees of such agencies with respect to their official duties, and employees of a "hazmat employer," including owner-operators of motor vehicles under a 30-day or longer lease to registered motor carriers, are excepted from the registration requirements.

A farmer engaging in any of the covered activities must register and pay a fee. However, there has been some

confusion about the applicability of the rule to farmers and other persons offering or transporting hazardous materials weighing more than 5,000 pounds in a "small" bulk packaging, container or tank (i.e., with a capacity less than 3,500 gallons), such as a nurse tank. Until July 1, 1993, a nurse tank (which is limited to 3,000 gallons or less under 49 CFR 173.315(m)) is not subject to registration requirements.

A two-year delay of application is provided to foreign offerors, including foreign subsidiaries of domestic corporations and foreign governments performing an offeror function.

If a person engaged in any of the covered activities between July 1 and August 31, 1992, but does not intend to engage in any of these activities after August 31, 1992, that person is not subject to the registration requirements. Even though the registration year is July 1, 1992 through June 30, 1993, the registration requirements do not go into effect until August 31, 1992. Activities conducted prior to this date do not require registration.

Persons Not Exempted From Registration and Fee Requirements

As mandated by HMTUSA, the registration requirements apply to

intrastate offerors and transporters in all transportation modes. Therefore, even if a company only ships in intrastate commerce and is not subject to the Department's Hazardous Materials Regulations (49 CFR parts 171-180), it is subject to the registration requirements.

Federal contractors are not excepted from the registration and fee program. Likewise, offerors or transporters of hazardous waste are required to register if they are engaged in any activity subject to the registration requirements.

Foreign carriers are required to register by the initial deadline of August 31, 1992. Foreign carriers include Canadian or Mexican motor or rail carriers, foreign airline carriers, and merchant vessel carriers transporting any of the specified hazardous materials in or on U.S. territory (see § 171.8 definition of "United States"), including airspace and territorial seas.

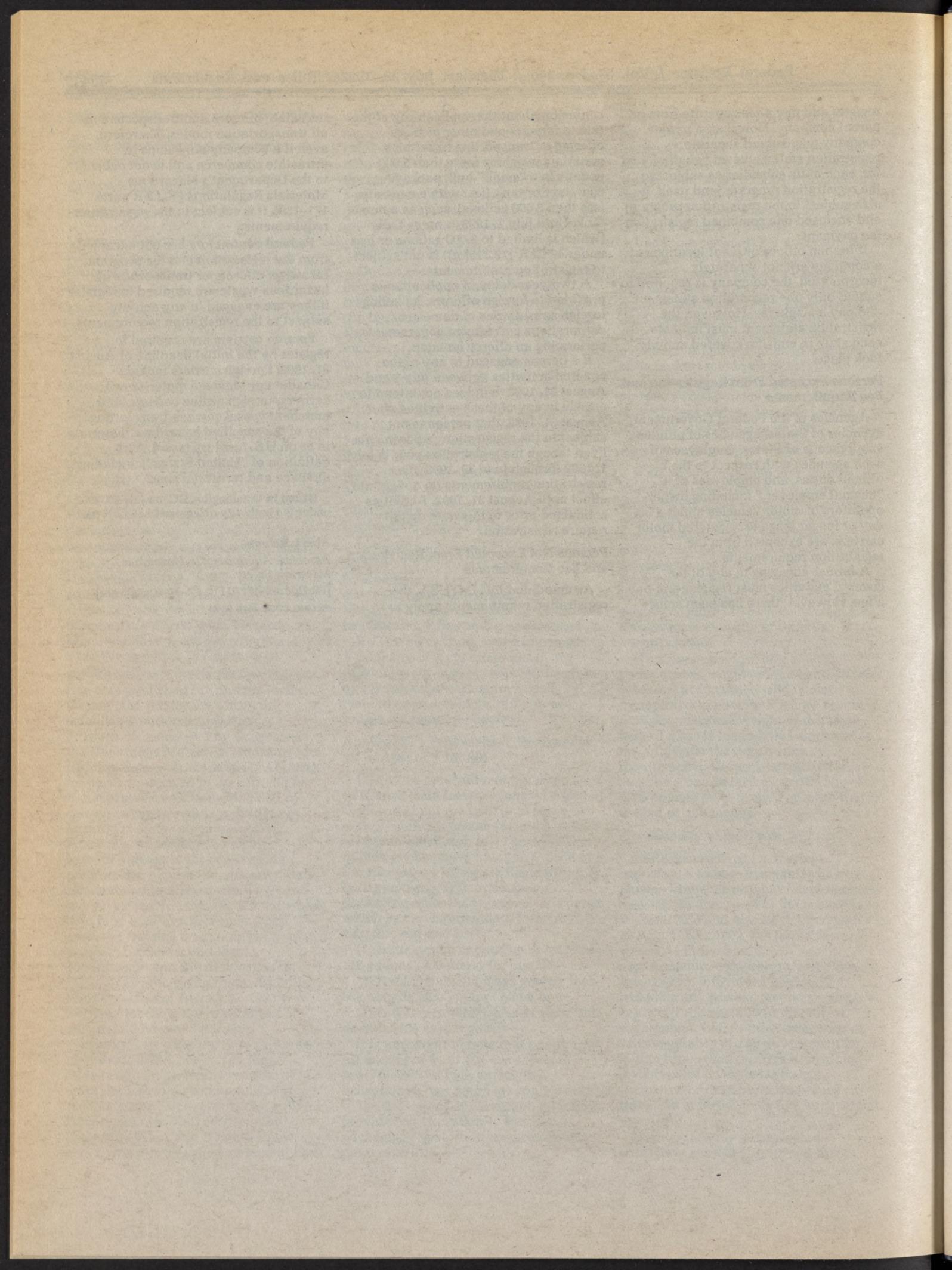
Issued in Washington, DC, on July 23, 1992, under the authority delegated in 49 CFR part 1.

Alan I. Roberts,

Associate Administrator, Hazardous Materials Safety.

[FR Doc. 92-17770 Filed 7-27-92; 8:45 am]

BILLING CODE 4910-60-M



federal register

**Tuesday
July 28, 1992**

Part VII

The President

**Presidential Determination No. 92-35—
Determination on Extending the
Agreement for Cooperation Between the
United States of America and the
Republic of Indonesia Concerning
Peaceful Uses of Nuclear Energy**

**Proclamation 6461—Buffalo Soldiers Day,
1992**

Federal Register

Vol. 57, No. 145

Tuesday, July 28, 1992

Presidential Documents

Title 3—

The President

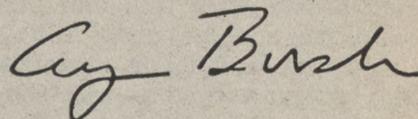
Presidential Determination No. 92-35 of June 30, 1992

Determination on Extending the Agreement for Cooperation Between the United States of America and the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy

Memorandum for the Secretary of State [and] the Secretary of Energy

I have considered the proposed agreement to extend for a period of 10 years the Agreement for Cooperation Between the United States of America and the Republic of Indonesia Concerning Peaceful Uses of Nuclear Energy, signed at Washington June 30, 1980, along with the views, recommendations, and statements of the interested agencies.

I have determined that the performance of the agreement for an additional period of 10 years will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b)), I hereby approve the proposed agreement on extension and authorize its execution.



THE WHITE HOUSE,
Washington, June 30, 1992.

[FR Doc. 92-18009

Filed 7-27-92; 10:17 am]

Billing code 3195-01-M

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Presidential Documents

Proclamation 6461 of July 24, 1992

Buffalo Soldiers Day, 1992

By the President of the United States of America

A Proclamation

On July 28, 1866, recognizing the contributions of the more than 180,000 black Americans who fought to preserve the Union during the Civil War, the United States Congress established six regular Army regiments of black enlisted soldiers. Of those six units, the 9th and 10th Cavalry regiments eventually became two of the most highly decorated units in American military history. Despite suffering the discrimination and the injustice that plagued all black Americans during the days of segregation, the members of the 9th and 10th Cavalry regiments served with pride and distinction. On this occasion, we celebrate their outstanding legacy of service.

Organized at Greenville, Louisiana, and at Fort Leavenworth, Kansas, respectively, the 9th and 10th Cavalry regiments played key roles in the development of the western United States. In addition to protecting settlers as they crossed the frontier via wagon trains and railroads, these skilled horsemen and soldiers assisted in the construction of roads and forts and in the pursuit of cattle thieves and other outlaws. During a battle in 1867 near Fort Hays, Kansas, Cheyenne warriors remarked that the black American soldiers fought as fiercely and with as much strength as buffaloes. Hence, members of the 9th and 10th Cavalries proudly adopted the name "Buffalo Soldiers" as a badge of honor.

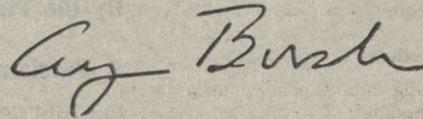
While the Buffalo Soldiers blazed many significant trails in the history of the American frontier, their achievements were not limited to the western United States. Members of the 9th and 10th Cavalry regiments also served in Virginia, Vermont, and New York, and answered the call to duty in places as far-flung as Cuba, Mexico, and the Philippines. They served alongside Theodore Roosevelt and his legendary Rough Riders at San Juan Hill, and they continued to prove their courage and mettle through two world wars and the conflict in Korea. By the time of their integration in 1952, the Buffalo Soldiers had earned well over a dozen Congressional Medals of Honor, as well as numerous campaign and unit citations. From their ranks emerged several famed military leaders, including General Benjamin O. Davis, Sr., Colonel Charles Young, and Lieutenant Henry Flipper, the first black graduate of West Point.

Although they often received the worst food and equipment and labored without the respect and recognition that were their due, the Buffalo Soldiers served proudly and with a standard of bravery and skill worthy of the United States Army. Their achievements in the face of adversity not only helped to open doors for younger black Americans, in the military and in society as a whole, but also set a timeless example for all those who wear our Nation's uniform. Today, we celebrate the great legacy of the Buffalo Soldiers and acknowledge their special place of honor in the history of the United States.

The Congress, by Senate Joint Resolution 92, has designated July 28, 1992, as "Buffalo Soldiers Day" and has requested the President to issue a proclamation in observance of that occasion.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim July 28, 1992, as Buffalo Soldiers Day. I urge all Americans to observe this day with appropriate programs and activities in honor of the black Americans who served our Nation as members of the 9th and 10th Cavalry regiments.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth 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 seven-teenth.



[FR Doc. 92-18016

Filed 7-27-92; 10:37 am]

Billing code 3195-01-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).

S. 1150/P.L. 102-325

Higher Education Amendments of 1992. (July 23, 1992; 106 Stat. 448; 395 pages) Price: \$12.00

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Monday, January 23, 1989
Volume 25—Number 4

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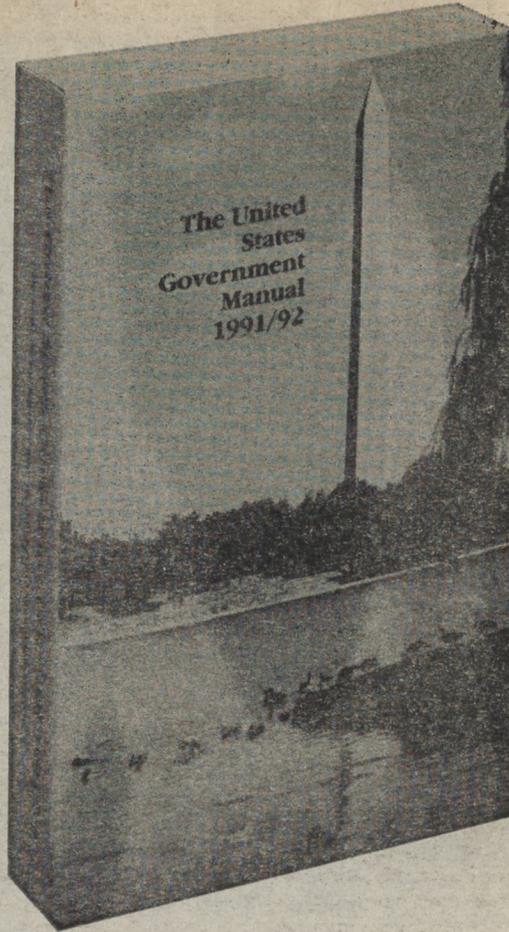
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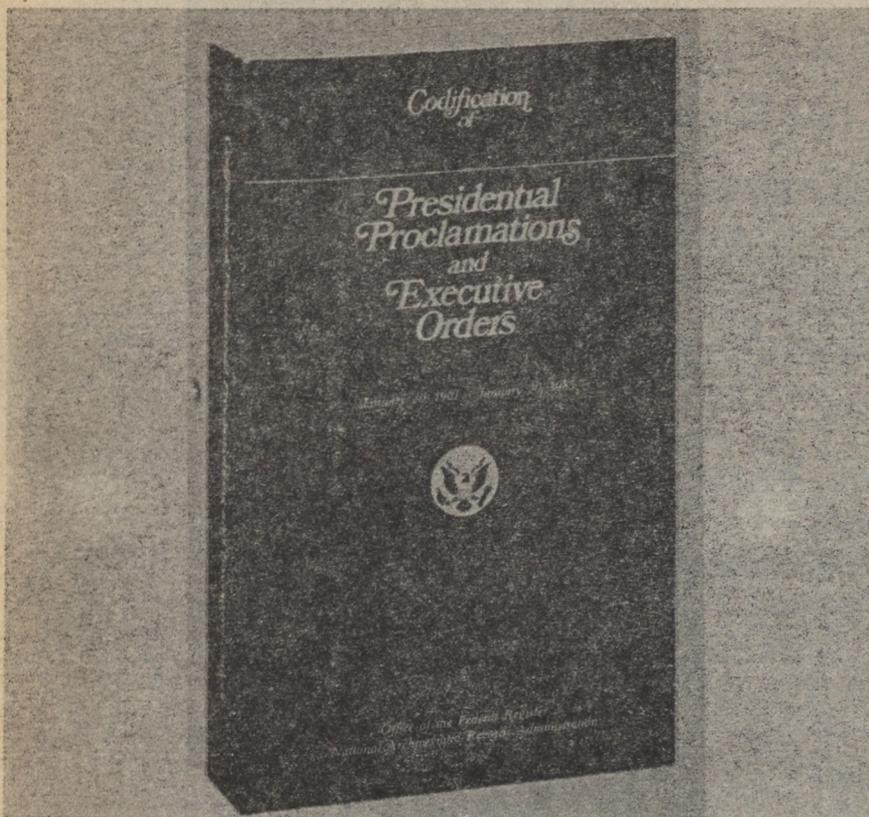
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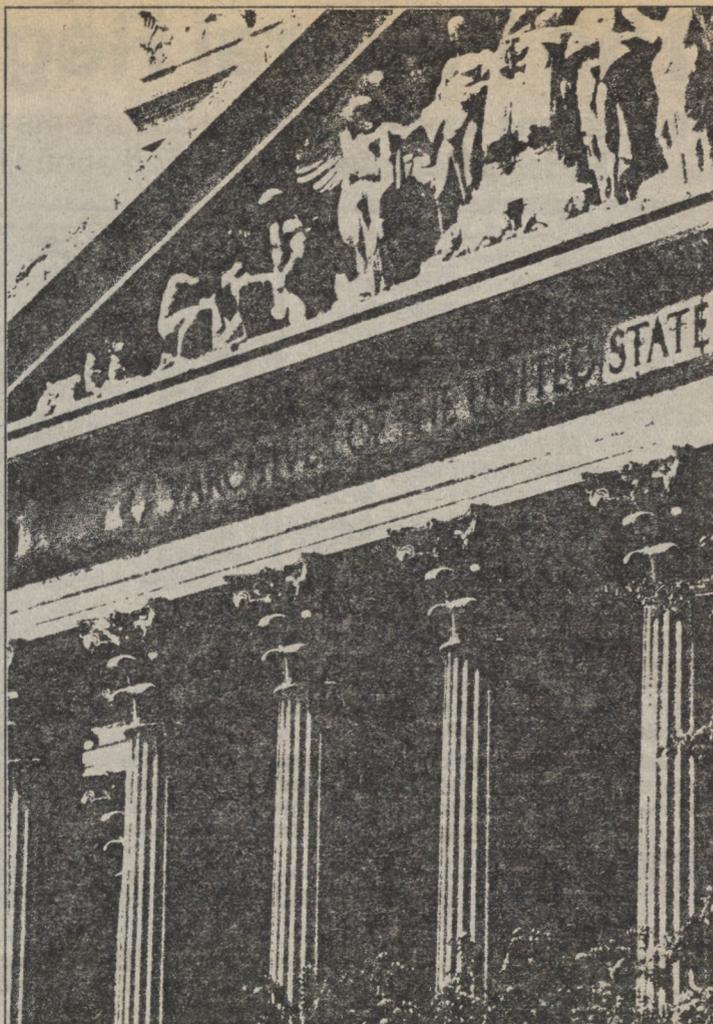
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