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Friday
November 6, 1992

Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, and Albuquerque, NM, see announcement on the inside cover of this issue.

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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

ALBUQUERQUE, NM

WHEN: December 8, at 9:00 am
WHERE: University of New Mexico
Continuing Education Bldg., Room I
1634 University Blvd., NE
Albuquerque, NM
RESERVATIONS: Julie Stone
505-768-3532

WASHINGTON, DC

WHEN: November 30, at 9:00 am
WHERE: Office of the Federal Register
Seventh Floor Conference Room
800 North Capitol Street, NW, Washington, DC
RESERVATIONS: 202-523-4534

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 16

Restriction on Importation of Meat From Australia and New Zealand

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule adjusts the quantitative restrictions on meat imports from Australia and New Zealand. This adjustment increases the permissible level of meat imports from Australia and New Zealand to reflect changes in the estimated meat imports from other supplying countries. Such an increase was provided for in voluntary restraint agreements with Australia and New Zealand.

EFFECTIVE DATE: November 5, 1992.

FOR FURTHER INFORMATION CONTACT: Gerald W. Harvey, (202) 720–8031, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, USDA, room 6616 South Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and Executive Order 11539, as amended, the Office of the United States Trade Representative has negotiated agreements with the Governments of Australia and New Zealand whereby those countries have voluntarily agreed to limit the quantity of certain meats imported into the United States during calendar year 1992. Those agreements provided that, if it is subsequently estimated by the United States that the amount of meat imported from other supplying countries is expected to be less than the projected total used in negotiating the maximum level of imports contained in those agreements, then the United States will promptly increase the total level of permissible imports from Australia, and New Zealand by the estimated amount of the shortfall from other supplying countries. Such a shortfall is now expected to occur. Accordingly, this final rule increases the permissible level of imports from Australia and New Zealand to reflect the reallocation of that shortfall to Australia and New Zealand.

The concurrence of the Secretary of State and the United States Trade Representative has been obtained for the issuance of these regulations.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, this regulation falls within the foreign affairs exception of Executive Order 12291 and the provisions of 5 U.S.C. 553 with respect to proposed rulemaking. Further, the provisions of the Regulatory Flexibility Act do not apply to this rule since the proposed rulemaking provisions of 5 U.S.C. 553 do not apply.

List of Subjects in 7 CFR Part 16

Meat and Meat Products, Imports.

Accordingly, subpart A of part 16 of title 7 of the Code of Federal Regulations is amended as follows:

PART 16—LIMITATIONS ON IMPORTS OF MEAT

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

Authority: 19 U.S.C. 2253 Note, 7 U.S.C. 1854, and E.O. 11539 (35 FR 10733), as amended by E.O. 12188 (45 FR 989).

2. Section 16.5 is revised as follows:

§ 16.5 Quantitive restrictions.

(a) *Imports from Australia.* During calendar year 1992, no more than 749.46 million pounds of meat exported from Australia in the form in which it would fall within the definition of meat in Harmonized Tariff Schedule of the United States subheadings 0201.10.00, 0201.20.40, 0201.20.60, 0201.30.40, 0201.30.60, 0202.10.00, 0202.20.40, 0202.20.60, 0202.30.40, 0202.30.60, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40, and 0204.50.00, may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from Australia to the United States.

(b) *Imports from New Zealand.* During calendar year 1992, no more than 454.54 million pounds of meat exported from New Zealand in the form in which it would fall within the definition of meat in Harmonized Tariff Schedule of the United States subheadings 0201.10.00, 0201.20.40, 0201.20.60, 0201.30.40, 0201.30.60, 0202.10.00, 0202.20.40, 0202.20.60, 0202.30.40, 0202.30.60, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, 0204.43.40, and 0204.50.00, may be entered or withdrawn from warehouse for consumption in the United States, whether shipped directly or indirectly from New Zealand to the United States.

Issued at Washington, DC, this 2nd day of November, 1992.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 92–28943 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–10–M

Agricultural Marketing Service

7 CFR Parts 948 and 980

[Docket No. FV–92–068FR]

Colorado Potatoes and Potatoes Imported Into the United States; Change to the Import Size Requirements and Conforming Change to the Colorado Potato Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service is adopting without modification, as a final rule, the provisions of an interim final rule which exempts red-skinned round type potatoes meeting U.S. No. 1 or better grade requirements that are imported in containers containing 3 pounds or less during the months of July through September from minimum size requirements. This action is required under section 8e of the Agricultural Marketing Agreement Act of 1937. This action also removes from the Colorado potato handling regulations provisions regarding potato import regulations. This action benefits potato importers and consumers.

EFFECTIVE DATE: December 7, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis West, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Northwest Marketing Field Office, 1220 S.W. Third Avenue, Room 369, Portland, Oregon 97204; telephone (503) 326–2724, or Patricia A. Petrella, Marketing Specialist, F&V, AMS, USDA, Room 2526–S, P.O. Box 96456, Washington, D.C. 20090–6456; telephone: (202) 205–2830.

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

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

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

Import regulations issued under the Act are based on regulations established under Federal marketing orders for fresh fruits, vegetables, and specialty crops. Thus, import regulations should also have small entity orientation and impact both small and large business entities in a manner comparable to rules issued under such marketing orders.

Small agricultural producers have been defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less then $500,000, and small agricultural service firms, including importers, are defined as those whose annual receipts are less than $3,500,000.

Currently, there are about 30 importers of all types of potatoes. The majority of potato importers may be classified as small entities.

The revision to the import regulation (section 980.1) has been initiated by the Department because section 8e of the Act requires imported potatoes to meet the same or comparable requirements as those established under a domestic marketing order. The Act also provides that when two or more marketing orders covering the same commodity are concurrently in effect, imports will be subject to the requirements established for the commodity grown in the area with which the imported commodity is in most direct competition. Currently, section 980.1 of the import regulations provides that during the months of July and August the grade, size, quality, and maturity requirements pursuant to the Washington potato marketing order (7 CFR Part 946) shall apply to all imported red-skinned round types of potatoes. A recent review of shipment data indicates that the Washington potato industry, rather than the Colorado potato industry, is typically the dominant shipper of potatoes during the month of September. Thus, the grade, size, quality and maturity requirements pursuant to the Washington potato marketing order shall apply to all imported red-skinned, round types of potatoes from July through September. The requirements under the Colorado potato marketing order will apply during the months of October through the following June.

Under the Washington potato marketing order, the revisions allow handlers to pack any type or size of potato in containers containing a net weight of 3 pounds or less, if the potatoes are U.S. No. 1 grade or better. Thus, the import regulations are revised to allow importers to import any size of red-skinned round type potatoes in containers containing a net weight of 3 pounds or less during the months of July through September. Also, these potatoes must be U.S. No. 1 grade or better. U.S. No. 1 grade consists of potatoes which are similar in varietal characteristics, firm, fairly clean, fairly well-shaped, and free from damage.

In addition, paragraph (h) of section 948.386 is removed from the handling regulations for Colorado potatoes. That paragraph contains the same information that is contained in section 980.1 of the import regulations. Because the same information applicable to imported potatoes is contained in the import regulations, paragraph (h) in the Colorado potato regulations is removed to eliminate duplication and prevent confusion.

This size requirement exemption brings the import regulations into conformity with the requirements applied under the Washington potato marketing order (7 CFR Part 946).

The interim final rule [57 FR 30380, July 9, 1992] provided that interested persons could file written comments through August 10, 1992. No comments were received.

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

After consideration of all relevant matter presented, it is found that the revisions to the import regulations will tend to effectuate the declared policy of the Act.

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

List of Subjects

7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

7 CFR Part 980

Food grades and standards, Imports, Marketing agreements, Onions, Potatoes, Tomatoes.

For the reasons set forth in the preamble, 7 CFR Parts 948 and 980 are amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

1. The authority citation for 7 CFR Part 948 continues to read as follows:

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

2. Accordingly, the interim final rule amending section 948.386, which was published at 57 FR 30380 on July 9, 1992, is adopted as a final rule without change.

PART 980—VEGETABLES; IMPORT REGULATIONS

3. The authority citation for 7 CFR Part 980 continues to read as follows:

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

4. Accordingly, the interim final rule amending § 980.1, which was published at 57 FR 30380 on July 9, 1992, is adopted as a final rule without change.

Dated: October 30, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–26944 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 989

[Docket No. FV–92–056FR]

Raisins Produced From Grapes Grown in California

Monitoring of Raisins Produced From Grapes Grown Outside the State of California and Received by Handlers Inside the State; Continuation of Existing Monitoring System

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture is adopting without modification, as a final rule, the provisions of an interim final rule which continued indefinitely a surveillance system for monitoring raisins produced from grapes grown outside the State of California and received by handlers inside the state. This action was unanimously recommended by the Raisin Administrative Committee (Committee), which is responsible for local administration of the marketing order. The monitoring system provides information to help ensure that all non-California raisins are properly identified and are not being included in any programs implemented under the marketing order regulating the handling of raisins produced from grapes grown in California.

EFFECTIVE DATE: December 7, 1992.

FOR FURTHER INFORMATION CONTACT: Richard Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, or Richard Lower, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2020.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

This Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(a) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

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

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

There are approximately 5,000 producers in the regulated area and approximately 23 handlers of raisins who are subject to regulation under the raisin marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and a minority of handlers of California raisins may be classified as small entities.

The raisin production area in the United States has historically been limited to the central San Joaquin Valley of California. In recent years, limited tonnage of raisins has also been produced from grapes grown in Southern California. All such raisins are currently regulated under the Federal raisin marketing order, which covers raisins produced from grapes grown within the production area of the State of California.

In 1989, the Committee learned that some California raisin handlers were receiving raisins produced from grapes grown in Arizona and Mexico. Since these raisins were produced outside of California, they were not regulated under the order. The Committee was concerned that such non-California raisins could be utilized in programs established under the marketing order for California raisins.

As a result, a temporary system, which expired on July 31, 1992, was established during the 1990–91 and 1991–92 crop years (August 1 through July 31) to monitor raisins produced from grapes grown outside the State of California and received by handlers within the state [55 FR 28019, July 9, 1990; 7 CFR 989.157 and 989.173]. All non-California raisins received by handlers over the last two crop years were required to be identified, stored separately, reported to the Committee, and kept under surveillance until such raisins were disposed of by the handlers.

The data collected since the inception of the program indicates that 2,082 tons of non-California raisins were received by California raisin handlers during the 1990–91 crop year. Data for the completed 1991–92 crop year shows that 1,893 tons of non-California raisins were received by California raisin handlers inside the state through June 1992. The movement of non-California raisins into the production area is expected to continue. While the tonnage listed above comprises less than one percent of the total annual California raisin production, the Committee feels that the temporary monitoring rule has provided

the necessary means to ensure that non-California raisins are properly identified and are not being included in marketing order programs and that the system should be continued without interruption to prevent program abuses.

An Export Replacement Incentive Program is authorized under the order to promote the sale of California raisins in export markets. Under the program, handlers who ship free tonnage California raisins to approved foreign countries may receive prescribed amounts of reserve pool California raisins at a reduced price. Free tonnage raisins are raisins which may be shipped immediately to any market. Reserve raisins are held by handlers in a reserve pool for the account of the Committee. The Committee is concerned that handlers could ship non-California raisins rather than free tonnage California raisins under this export program. Only California raisins should be used in such programs established under the order.

This action, as with the temporary system, requires non-California raisins to be observed and marked with a Committee-furnished RAC control card by a USDA (Federal) inspector once they are received on handler's premises. The handler is required to notify the inspection service in writing at least one business day in advance of the time such handler plans to begin receiving non-California raisins, unless a shorter time period is acceptable to the inspection service. Handlers are not permitted to unload non-California raisins unless a federal inspector is present to observe the unloading. If an inspector is not available, the raisins may be unloaded if the handler has a written statement from the inspection service that an inspector is not available at that time. When an inspector becomes available, such raisins are properly marked and identified. Handlers are required to store these marked non-California raisins separate and apart from California raisins. Storage of such raisins are deemed "separate and apart" if the containers are properly marked as non-California raisins and placed so as to be readily and clearly identified. The inspection service observes the processing and disposition of such non-California raisins. Non-California raisins are not required to meet outgoing inspection standards established under the order for California raisins. In addition, handlers receiving non-California raisins are required to pay the fees assessed by the inspection service to identify and maintain surveillance of such raisins. Fees are charged by the inspection service (7 CFR 52.42).

Authority for continuing this identification and surveillance system is provided in § 989.36(1) of the order. That section, which describes the Committee's specific duties, gives the Committee authority to establish, with the approval of the Secretary, rules and regulations necessary to administer its duties, as well as the provisions of the California raisin order.

This action requires California raisin handlers to continue to file two existing reports with the Committee. The first report, filed on a monthly basis, requires handlers to report the receipt of non-California raisins. This helps the Committee determine the extent to which non-California raisins are being received by handlers. With each report, handlers are required to submit a copy of the door receipt, weight certificate, or such other document as required by the Committee.

The second report indicates the disposition of non-California raisins and is filed by the handler with the Committee on or before the eighth day of each month. This helps the Committee monitor the disposition of non-California raisins.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), the information collection requirements that are being continued by this action have been approved by the Office of Management and Budget (OMB) and assigned OMB control No. 0581–0083.

The interim final rule was published in the **Federal Register** with an effective date of August 1, 1992 (57 FR 34206, August 4, 1992). That rule provided a 30-day comment period which ended September 3, 1992. No comments were received.

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

After consideration of the information and recommendations submitted by the Committee and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

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

§ 989.157 [Amended]

§ 989.173 [Amended]

2. Accordingly, the interim final rule amending the provisions of §§ 989.157 and 989.173, published in the **Federal Register** (57 FR 34206, August 4, 1992), is adopted as a final rule without change.

Note: These sections will be published in the annual Code of Federal Regulations.

Dated: October 30, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–26945 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–57–AD; Amendment 39–8410; AD 92–24–05]

Airworthiness Directives; Boeing Model 737–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737–300 series airplanes, that currently requires a one-time inspection for chafing and leaks on the variable stator vane (VSV) control system fuel manifold, and repair or replacement of chafed components; and inspections for correct orientation of certain fifth/ninth stage pneumatic duct coupling clamps, and relocation of components, if necessary. This amendment requires that these inspections be performed at repetitive intervals and provides an optional terminating modification for the repetitive inspections. This amendment is prompted by a recent re-evaluation of the available service information and the actions required by the existing AD. The actions specified by this AD are intended to prevent fuel leakage, which can create a potential fire hazard and lead to subsequent engine shutdown.

DATES: Effective December 11, 1992.

The incorporation by reference of certain publications listed in the regulations was approved previously by the Director of the Federal Register as of October 7, 1991 (56 FR 47671, September 20, 1991).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Stephen S. Bray, Aerospace Engineer, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2681; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 91–20–03, Amendment 39–8037 (56 FR 47671, September 20, 1991), which is applicable to certain Boeing Model 737–300 series airplanes, was published in the **Federal Register** on July 8, 1992 (57 FR 30176). The action proposed to require repetitive inspections for chafing and leaks on the variable stator vane (VSV) control system fuel manifold, and repair or replacement of chafed components; repetitive inspections for correct orientation of the three fifth/ninth stage pneumatic duct coupling clamps, and relocation of components, if necessary; and an optional terminating modification for the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the proposed rule.

Another commenter notes a discrepancy between the Discussion section of the proposal and the service bulletin referenced in the proposal. The Discussion section of the proposal states that "three fifth/ninth stage pneumatic duct coupling clamps" must be inspected for correct orientation; however, the referenced service bulletin illustrates only two clamp locations. The FAA acknowledges the discrepancy. After further review of the location of the third clamp, the FAA has determined that the third clamp does not need to be inspected for correct orientation.

One commenter requests that the applicability of proposed paragraph (b), which is applicable to Groups 1 and 2 airplanes, be deleted from the final rule because proposed paragraph (a), which is applicable to airplanes listed in Boeing Alert Service Bulletin 737–71A1208, dated December 10, 1987, includes all Groups 1 and 2 airplanes. The FAA does not concur. Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989, [referenced in paragraph (b) of the proposal] includes additional airplanes in the effectivity listing, which were added since the issuance of the original issue of the service bulletin [referenced in paragraph (a) of the proposal]. The FAA has determined that it is necessary to include these additional airplanes to ensure that they, too, will be inspected.

This same commenter also requests that the applicability of proposed paragraph (e) be deleted from the final rule because it is identical to the applicability in AD 91–20–03. The FAA acknowledges that the applicability of paragraph (e) needs to be revised, but not deleted. Paragraph (e) of the final rule has been revised to be applicable to all airplanes listed in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989.

Paragraphs (a), (b), (c), (d), and (e) of the final rule have been revised to clarify that procedures for accomplishing the repair, replacement, and relocation requirements are contained in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989.

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

There are approximately 455 Model 737–300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 264 airplanes of U.S. registry will be affected by this AD, that it will take approximately 17 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $246,840, or $935 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8037 (56 FR 47671, September 20, 1991), and by adding a new airworthiness directive (AD), amendment 39–8410, to read as follows:

92–24–05. Boeing: Amendment 39–8410. Docket 92–NM–57–AD. Supersedes AD 91–20–03, Amendment 39–8037.

Applicability: Model 737–300 series airplanes; as listed in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage, which can create a potential fire hazard and lead to subsequent engine shutdown, accomplish the following:

(a) For airplanes listed in Boeing Alert Service Bulletin 737–71A1208, dated December 10, 1987: Within the next 30 days after May 27, 1988 (the effective date of AD 88–11–01, Amendment 39–5918), inspect the variable stator vane (VSV) fuel manifold for chafing and leaks, and check orientation of the fifth/ninth stage pneumatic duct coupling clamps, in accordance with that service bulletin. Prior to further flight, repair or replace chafed components and relocate components, as necessary, in accordance with the service bulletin.

(b) For Groups 1 and 2 airplanes listed in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989, that are not subject to paragraph (a) of this AD: Within the next 60 days after October 7, 1991 (the effective date of AD 91–20–03, Amendment 39–8037), inspect the VSV fuel manifold for chafing and leaks, and check the orientation of the fifth/ninth stage pneumatic duct coupling clamps, in accordance with that service bulletin. Prior to further flight, repair or replace chafed components and relocate components, as necessary, in accordance with the service bulletin.

(c) For Groups 1 and 2 airplanes listed in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989: Within the next 60 days after the effective date of this AD, and thereafter at each engine change, inspect the VSV fuel manifold for chafing and leaks, and check orientation of the fifth/ninth stage pneumatic duct coupling clamps, in accordance with that service bulletin. Prior to further flight, repair or replace chafed components and relocate components, as necessary, in accordance with the service bulletin.

(d) For Group 3 airplanes listed in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989: At each engine change after the effective date of this AD, inspect the VSV fuel manifold for chafing and leaks, and check orientation of the fifth/ninth stage pneumatic duct coupling clamps, in accordance with that service bulletin. Prior to further flight, repair or replace chafed components and relocate components, as necessary, in accordance with the service bulletin.

(e) For all airplanes listed in Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989: Within 60 days after the effective date of this AD, inspect the fuel supply line for interference of the left fan cowl hold open rod with a fuel supply tube and/or lower clamp; in accordance with that service bulletin. Prior to further flight, repair or replace chafed components and relocate components, as necessary, in accordance with the service bulletin.

(f) Installation of index keyed pneumatic ducts, in accordance with Boeing Alert Service Bulletin 737–71A1208, Revision 2, dated March 23, 1989, constitutes terminating action for the repetitive inspections required by paragraphs (c) and (d) of this AD.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The inspections and repairs shall be done in accordance with Boeing Alert Service Bulletins 737–71A1208, dated December 10, 1987; and Revision 2, dated March 23, 1989. This incorporation by reference was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of October 7, 1991 (56 FR 47671, September 20, 1991). Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on December 11, 1992.

Issued in Renton, Washington, on October 27, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–26937 Filed 11–5–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27004; Amdt. No. 1514]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATE: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference approved by the Director of the **Federal Register** on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every two weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers

of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) established, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on October 9, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 u.t.c. on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
9/23/92	MO	Columbia	Columbia Regional	FDC 2/5720	VOR/DME RWY 20 AMDT 2...
9/28/92	IL	Springfield	Capital	FDC 2/5803	Radar-1 AMDT 7...
9/29/92	IA	Des Moines	Des Moines Intl	FDC 2/5848	ILS RWY 31R AMDT 18....
9/29/92	IA	Sioux City	Sioux Gateway	FDC 2/5849	HI-TACAN or VOR/DME RWY 13 AMDT 2...
9/30/92	IA	Waterloo	Waterloo Muni	FDC 2/5876	NDB RWY 12 AMDT 9...
10/2/92	MO	Jefferson City	Jefferson City Meml	FDC 2/5916	LOC BC RWY 12 AMDT 6...

NFDC Transmittal Letter Attachment

Des Moines

Des Moines Intl
Iowa
ILS RWY 31R AMDT 18...
Effective: 09/29/92

FDC 2/5848/DSM/ FI/P Des Moines Intl, Des Moines, IA. ILS RWY 31R AMDT 18...Add note... ADF or radar required. This becomes ILS RWY 31R AMDT 18A.

Sioux City

Sioux Gateway
Iowa
HI-TACAN OR VOR/DME RWY 13 AMDT 2...
Effective: 09/29/92

FDC 2/5849/SUX/ FI/P Sioux Gateway, Sioux City, IA. HI-TACAN or VOR/DME RWY 13 AMDT 2...S–13 VIS CAT E 1 3/4. This becomes HI-TACAN or VOR/DME RWY 13 AMDT 2A.

Waterloo

Waterloo Muni
Iowa
NDB RWY 12 AMDT 9...
Effective: 09/30/92

FDC 2/5876/ALO/ FI/P Waterloo Muni, Waterloo, IA. NDB RWY 12 AMDT 9...ALTN MIN... NA. This is NDB RWY 12 AMDT 9A.

Springfield

Capital
Illinois
Radar–1 AMDT 7...
Effective: 09/28/92

FDC 2/5803/SPI/ FI/P Capital, Springfield, IL. Radar-1 AMDT 7...Change all references of RWY 12 to RWY 13. Change all references of RWY 30 to RWY 31. This is Radar-1 AMDT 7A.

Columbia

Columbia Regional
Missouri
VOR/DME RWY 20 AMDT 2..
Effective: 09/23/92

FDC 2/5720/COU/ FI/P Columbia Regional, Columbia, MO. VOR/DME RWY 20 AMDT 2...Increase hold in lieu of PT ALT to 2600, Chg missed APCH instructions... Climb to 1400 then climbing LT to 2600 VIA COU VOR/DME R–013 to GRMPY/5.7 DME and hold. This becomes VOR/DME RWY 20 AMDT 2A.

Jefferson City

Jefferson City Meml
Missouri
LOC BC RWY 12 AMDT 6...
Effective: 10/02/92

FDC 2/5916/JEF/ FI/P Jefferson City Meml, Jefferson City, MO. LOC BC RWY 12 AMDT 6... Terminal routes COU VOR/DME to NOAH LOM(BCM) delete (NOPT). This becomes LOC BC RWY 12 AMDT 6A.

[FR Doc. 92–26981 Filed 11–5–92; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27003; Amdt. No. 1513]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective*: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC on October 9, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective December 10, 1992*

Birmingham, AL—Birmingham, ILS RWY 5, Amdt. 40
Kotzebue, AK—Ralph Wien Memorial, VOR/DME 2 RWY 26, Orig.
Nome, AK—Nome, VOR RWY 27, Orig.
Nome, AK—Nome, VOR-A Orig., Cancelled
Nome, AK—Nome, NDB RWY 27, Orig.
Nome, AK—Nome, NDB-B, Orig., Cancelled
Valdez, AK—Valdez, LDA/DME-C, Amdt. 3
Tucson, AZ—Ryan Field, NDB/DME RWY 6, Orig.
Jonesboro, AR—Jonesboro Muni, VOR RWY 23, Amdt. 8
San Jose, CA—San Jose Intl, VOR/DME RNAV RWY 30L, Orig.
Georgetown, DE—Sussex County, VOR RWY 4, Amdt. 4
Georgetown, DE—Sussex County, VOR RWY 22, Amdt. 5
Georgetown, DE—Sussex County, VOR/DME RNAV RWY 22, Amdt. 3
Middletown, DE—Summit Airpark, VOR-B, Amdt. 1
Middletown, DE—Summit Airpark, NDB-A, Amdt. 6
Middletown, DE—Summit Airpark, VOR/DME RNAV RWY 35, Amdt. 3
Crestview, FL—Bob Sikes, VOR-A, Amdt. 10
Crestview, FL—Bob Sikes, LOC RWY 17, Amdt. 2
Crestview, FL—Bob Sikes, NDB RWY 17, Amdt. 2
Grand Rapids, MN—Grand Rapids/Itasca Cogordon Newstrom Fld, VOR RWY 34, Amdt. 9
Grand Rapids, MN—Grand Rapids/Itasca Cogordon Newstrom Fld, NDB RWY 34, Amdt. 6
Grand Rapids, MN—Grand Rapids/Itasca Cogordon Newstrom Fld, ILS RWY 34, Orig.
Alamogordo, NM—Alamogordo-White Sands Regional, VOR RWY 3, Orig.
Alamogordo, NM—Alamogordo-White Sands Regional, NDB RWY 3, Amdt. 3
Clovis, NM—Clovis Muni, VOR RWY 22, Amdt. 3
Clovis, NM—Clovis Muni, LOC RWY 4, Amdt. 2
Clovis, NM—Clovis Muni, NDB RWY 4, Amdt. 3
Linden, NJ—Linden, NDB-A Amdt. 2, Cancelled
Linden, NJ—Linden, NDB-B Amdt. 4, Cancelled
Bellefontaine, OH—Belafontaine Muni, NDB RWY 22, Amdt. 6
Bellefontaine, OH—Belafontaine Muni, VOR/DME RNAV RWY 22, Amdt. 5
Celina, OH—Lakefield, NDB RWY 8, Amdt. 3
Celina, OH—Lakefield, VOR/DME RNAV RWY 26, Amdt. 5
Kenton, OH—Hardin County, VOR-A, Amdt. 3
London, OH—Madison County, NDB RWY 8, Amdt. 6
Marysville, OH—Union County, NDB RWY 27, Amdt. 4
Piqua, OH—Piqua, VOR RWY 26, Amdt. 5
Piqua, OH—Piqua, VOR/DME RNAV RWY 26, Amdt. 6
Sidney, OH—Sidney Muni, VOR RWY 22, Amdt. 11
Sidney, OH—Sidney Muni, VOR/DME RNAV RWY 28, Amdt. 4
Springfield, OH—Springfield-Beckley Muni, NDB RWY 24, Amdt. 15
Springfield, OH—Springfield-Beckley Muni, VOR RWY 6, Amdt. 9
Springfield, OH—Springfield-Beckley Muni, VOR RWY 24, Amdt. 9
Springfield, OH—Springfield-Beckley Muni, ILS 1 RWY 24, Amdt. 3
Duncan, OK—Halliburton Field, LOC BC RWY 17, Amdt. 3, Cancelled
Sallisaw, OK—Sallisaw Muni, NDB-A, Orig.
Crossville, TN—Crossville Memorial, VOR/DME-A, Amdt. 8
Crossville, TN—Crossville Memorial, ILS RWY 26, Amdt. 9
Austin, TX—Robert Mueller Muni, VOR/DME RWY 31L, Orig.
Nacogdoches, TX—A.L. Mangham Jr. Regional, LOC RWY 36, Orig.
Stratford, TX—Stratford Fld, VOR/DME-A, Amdt. 4
Weatherford, TX—Parker County, VOR RWY 35, Amdt. 1

** * * Effective November 12, 1992*

Upland, CA—Cable, VOR RWY 6, Amdt. 7
Chicago (West Chicago), IL—Du Page, ILS RWY 1L, Amdt. 1
New Lenox, IL—Lenox-Howell, VOR-A, Orig.
Albia, IA—Albia Muni, VOR/DME-A, Amdt. 3
Sanford, ME—Sanford Muni, ILS RWY 7, Amdt. 1
Holland, MI—Tulip City, VOR-A, Amdt. 10
Holland, MI—Tulip City, VOR/DME RNAV RWY 8, Amdt. 2
Holland, MI—Tulip City, VOR/DME RNAV RWY 26, Amdt. 5
Springfield, MO—Springfield Regional, VOR RWY 20, Amdt. 17
Princeton (Rocky Hill), NJ—Princeton, VOR/DME RNAV RWY 10, Amdt. 3
New York, NY—La Guardia Airport, VOR/DME-H, Orig.
Monticello, NY—Sullivan County Int'l, VOR/DME RWY 33, Amdt. 3
Monticello, NY—Sullivan County Int'l, NDB RWY 15, Amdt. 6
Monticello, NY—Sullivan County Int'l, ILS RWY 15, Amdt. 5
Dayton, OH—James M Cox Dayton Intl, NDB RWY 6R, Amdt. 7
Dayton, OH—James M Cox Dayton Intl, ILS RWY 6L, Amdt. 5
Dayton, OH—James M Cox Dayton Intl, RADAR-1, Amdt. 8
Dayton, OH—James M Cox Dayton Intl, VOR/DME RNAV RWY 6R, Amdt. 8
Port Clinton, OH—Carl R Keller Field, VOR/DME-A, Amdt. 6
Port Clinton, OH—Carl R Keller Field, NDB RWY 27, Amdt. 10
Wapakoneta, OH—Neil Armstrong, LOC RWY 26, Orig.
Beaver Falls, PA—Beaver County, VOR RWY 28, Amdt. 9
Downingtown, PA—Bob Shannon Memorial Field, VOR-A, Amdt. 3
Factoryville, PA—Seamans Field, VOR-A, Amdt. 1
Hazleton, PA—Hazleton Muni, LOC RWY 28, Amdt. 5
Summerville, SC—Dorchester County, NDB RWY 5, Orig.
Mitchell, SD—Mitchell Muni, VOR RWY 12, Amdt. 9
Mitchell, SD—Mitchell Muni, VOR RWY 30, Amdt. 3
Mitchell, SD—Mitchell Muni, ILS/DME RWY 30, Amdt. 1
Newport, VT—Newport State, NDB-A, Amdt. 2
Rutland, VT—Rutland State, LDA RWY 19, Amdt. 6
Melfa, VA—Accomack County, NDB RWY 3, Amdt. 7
Morgantown, WV—Morgantown Muni-Walter L. Bill Hart Field, VOR-A, Amdt. 11

** * * Effective October 7, 1992*

Indianapolis, IN—Indianapolis Metropolitan, VOR RWY 33, Amdt. 8
Indianapolis, IN—Indianapolis Metropolitan, NDB RWY 15, Amdt. 1

** * * Effective September 23, 1992*

McMinnville, OR—McMinnville Muni, ILS RWY 22, Amdt. 3.

[FR Doc. 92-26980 Filed 11-5-92; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 27021; Amdt. No. 1515]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flights operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examiniation—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms § 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the Terps criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less then 30 days.

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches, Weather.

Issued in Washington, DC, on October 23, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME,

MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective February 4, 1993*

Port Lavaca, TX—Calhoun County, VOR/DME–A, Amdt. 3
Port Lavaca, TX—Calhoun County, NDB RWY 14, Amdt. 3

** * * Effective December 10, 1992*

Santa Monica, CA—Santa Monica Muni, VOR–A, Amdt. 9
Jacksonville, FL—Craig Muni, RADAR–1, Orig.
Jacksonville, FL—Craig Muni, RADAR–1, Amdt. 4, Cancelled
Lawrenceville, GA—Gwinnett County-Briscoe Field, LOC RWY 25, Orig.
Lawrenceville, GA—Gwinnett County-Briscoe Field, NDB RWY 25, Amdt. 1, Cancelled
Lawrenceville, GA—Gwinnett County-Briscoe Field, NDB RWY 25, Orig.
Chatham, MA—Chatham Muni, VOR–A, Amdt. 9 Cancelled
Hyannis, MA—Barnstable Muni-Boardman/Polando Field, VOR RWY 24, Amdt. 9, Cancelled
Traverse City, MI—Cherry Capital, VOR or TACAN–A, Amdt. 20
Traverse City, MI—Cherry Capital, NDB RWY 28, Amdt. 10
Traverse City, MI—Cherry Capital, ILS RWY 28, Amdt. 12
Teterboro, NJ—Teterboro, VOR/DME RWY 24, Amdt. 4
Bowling Green, OH—Wood County, VOR/DME RNAV RWY 27, Orig.
Dayton, OH—James M. Cox-Dayton Int'l., ILS RWY 18, Amdt. 8
Dayton, OH—James M. Cox-Dayton Int'l., ILS RWY 24L, Amdt. 8
Dayton, OH—James M. Cox-Dayton Int'l., ILS RWY 24R, Amdt. 6
Lima, OH—Lima Allen County, VOR RWY 27, Amdt. 14
Lima, OH—Lima Allen County, NDB RWY 9, Amdt. 2
Lima, OH—Lima Allen County, ILS RWY 27, Amdt. 2
Urbana, OH—Grimes Field, VOR–A, Amdt. 5
Wapakoneta, OH—Neil Armstrong, VOR–A, Amdt. 6
Wapakoneta, OH—Neil Armstrong, LOC RWY 26, Amdt. 1
Wapakoneta, OH—Neil Armstrong, VOR/DME RNAV RWY 26, Amdt. 4
Fairview, OK—Fairview Muni, NDB RWY 17, Amdt. 2
Portland, TN—Portland Muni, VOR/DME RWY 19, Amdt. 2
Alpine, TX—Alpine-Casparis Municipal, NDB RWY 19, Amdt. 4
Atlanta, TX—Atlanta Muni, NDB RWY 4, Amdt. 1
Dallas, TX—Addison, VOR–A, Amdt. 3, Cancelled
Dallas, TX—Addison, VOR–DME RNAV RWY 33, Amdt. 2, Cancelled
Dallas, TX—Dallas Love Field, VOR–DME RWY 13R, Amdt. 6, Cancelled
Dallas, TX—Redbird, VOR RWY 17, Amdt. 5, Cancelled
Dallas, TX—Redbird, VOR RWY 31, Amdt. 11
Dallas, TX—Redbird, NDB RWY 35, Amdt. 8
Dallas, TX—Redbird, ILS RWY 31, Amdt. 6
Dallas-Fort Worth, TX—Dallas/Fort Worth International, NDB RWY 17R, Amdt. 6
Dallas-Fort Worth, TX—Dallas/Fort Worth International, NDB RWY 35R, Amdt. 7
Dallas-Fort Worth, TX—Dallas/Fort Worth International, Converging ILS RWY 13R, Amdt. 3
Dallas-Fort Worth, TX—Dallas/Fort Worth International, ILS RWY 13R, Amdt. 3
Richmond, VA—Richmond Intl (Byrd Field), VOR RWY 20, Amdt. 6, Cancelled
Richmond, VA—Richmond Intl (Byrd Field), ILS RWY 16, Amdt. 7
Richmond, VA—Richmond Intl (Byrd Field), RADAR–1 Amdt. 10
Richmond, VA—Richmond Intl (Byrd Field), VOR/DME RNAV RWY 20, Amdt. 5
Bellingham, WA—Bellingham Intl, NDB–B, Amdt. 2, Cancelled
Bellingham, WA—Bellingham Intl, NDB RWY 16, Orig.
Bellingham, WA—Bellingham Intl, ILS RWY 16, Amdt. 3

** * * Effective November 12, 1992*

Newton, IA—Newton Muni, ILS RWY 32, Orig.
Newton, IA—Newton Muni, VOR RWY 32, Amdt. 8
Newton, IA—Newton Muni, VOR RWY 14, Amdt. 8
Nacogdoches, TX—A.L. Mangham Jr. Regional, LOC RWY 36, Orig.

** * * Effective October 20, 1992*

Cartersville, GA—Cartersville, LOC RWY 19, Amdt. 1
Cartersville, GA—Cartersville, NDB RWY 19, Amdt. 3

** * * Effective October 15, 1992*

San Francisco, CA—San Francisco Intl, LDA/DME RWY 28R, Amdt. 2
Kaunakakia, HI—Molokai, VOR or TACAN–A, Amdt. 15.

[FR Doc. 92–26978 Filed 11–5–92; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 27022; Amdt. No. 1516]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the US Standard for Terminal Instrument Approach Procedures (TERPs). Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Standard instrument approaches. Weather.

Issued in Washington, DC on October 23, 1992.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. App. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
06/19/92	ME	Greenville	Greenville Muni	2/3466	NDB RWY 14 AMDT 3...
06/19/92	ME	Greenville	Greenville Seaplane Base	2/3464	NDB-A AMDT 3...
10/09/92	AK	Galena	Galena	2/6334	HI-ILS/DME RWY 25 ORIG...
10/09/92	WV	Lewisburg	Greenbrier Valley	2/6050	ILS RWY 4 AMDT 7...
10/13/92	KS	Hutchinson	Hutchinson Muni	2/6098	NDB RWY 13 AMDT 14...
10/14/92	KS	Great Bend	Great Bend Muni	2/6123	NDB-A AMDT 4...
10/14/92	KS	Great Bend	Great Bend Municipal	2/6124	NDB RWY 35 AMDT 1...
10/14/92	KS	Great Bend	Great Bend Municipal	2/6125	LOC RWY 35 AMDT 3...
10/15/92	IA	Fairfield	Fairfield Muni	2/6169	NDB RWY 36 AMDT 7...
10/15/92	IA	Fairfield	Fairfield Muni	2/6170	VOR/DME RNAV RWY 18 AMDT 1...
10/15/92	IA	Fairfield	Fairfield Muni	2/6180	VOR/DME RNAV RWY 36 AMDT 1...
10/15/92	IA	Ottumwa	Ottumwa Industrial	2/6176	VOR RWY 31 AMDT 14...
10/15/92	IA	Ottumwa	Ottumwa Industrial	2/6177	VOR/DME RWY 13 AMDT 6...
10/15/92	IA	Ottumwa	Ottumwa Industrial	2/6178	LOC/DME BC RWY 13 AMDT 2...
10/15/92	IA	Ottumwa	Ottumwa Industrial	2/6179	ILS RWY 31 AMDT 4...
10/15/92	IA	Washington	Washington Muni	2/6167	VOR/DME RNAV RWY 31 AMDT 3...
10/15/92	IA	Washington	Washington Muni	2/6175	NDB RWY 31 ORIG...
10/15/92	WV	Lewisburg	Greenbrier Valley	2/6197	NDB RWY 4 AMDT 4...
10/16/92	IA	Washington	Washington Muni	2/6192	VOR/DME-A AMDT 3...

NFDC TRANSMITTAL LETTER—Continued

Effective	State	City	Airport	FDC No.	SIAP
10/16/92	IL	Rockford	Greater Rockford	2/6214	RADAR-1 AMDT 6...
10/16/92	MI	Battle Creek	W.K. Kellogg	2/6164	ILS RWY 23 AMDT 17...
10/20/92	AK	St. Marys	St. Marys	2/6263	LOC/DME RWY 16 AMDT 1...
10/20/92	AK	St. Marys	St. Marys	2/6264	NDB/DME RWY 16 AMDT 1...
10/20/92	AK	St. Marys	St. Marys	2/6265	NDB RWY 16 ORIG...
10/20/92	AK	St. Marys	St. Marys	2/6266	NDB RWY 34 ORIG...
10/20/92	NH	Nashua	Boire Field	2/6270	ILS RWY 14 AMDT 4...
10/20/92	RI	North Kingstown	Quonset State	2/6293	ILS RWY 16 AMDT 4...
10/21/92	AR	Monticello	Monticello Muni	2/6305	VOR-A AMDT 4...
10/21/92	MN	Eveleth	Eveleth-Virginia Muni	2/6301	VOR RWY 27 AMDT 10...
10/21/92	MN	Eveleth	Eveleth-Virginia Muni	2/6302	VOR/DME-A ORIG...
10/21/92	MN	Eveleth	Eveleth-Virginia Muni	2/6303	VOR/DME RNAV RWY 27 AMDT 1A...
10/22/92	AK	Bethel	Bethel	2/6329	ILS DME RWY 18 AMDT 4...
10/22/92	AK	Cordova	Merle K. (Mudhole) Smith	2/6327	ILS/DME RWY 27 AMDT 8...

NFDC Transmittal Letter Attachment

St. Marys

St. Marys
Alaska
LOC/DME RWY 16 AMDT 1...
Effective: 10/20/92
FDC 2/6263/KSM/ FI/P ST. MARYS, ST. MARYS, AK. LOC/DME RWY 16 AMDT 1...CHG ALT NOTE... IF LCL ALSTG NOT RECEIVED PROC NA. THIS IS LOC/DME RWY 16 AMDT 1A.

St. Marys

St. Marys
Alaska
NDB/DME RWY 16 AMDT 1...
Effective: 10/20/92
FDC 2/6264/KSM/ FI/P ST. MARYS, ST. MARYS, AK. NDB/DME RWY 16 AMDT 1... CHG ALT NOTE... IF LCL ALSTG NOT RECEIVED PROC NA. THIS IS NDB/DME RWY 16 AMDT 1A.

St. Marys

St. Marys
Alaska
NDB RWY 16 ORIG...
Effective: 10/20/92
FDC 2/6265/KSM/ FI/P ST. MARYS, ST. MARYS, AK. NDB RWY 16 ORIG... CHG ALT NOTE... IF LCL ALSTG NOT RECEIVED PROC NA. THIS IS NDB RWY 16 ORIG-A.

St. Marys

St. Marys
Alaska
NDB RWY 34 ORIG...
Effective: 10/20/92
FDC 2/6266/KSM/ FI/P ST. MARYS, ST. MARYS, AK. NDB RWY 34 ORIG... CHG ALT NOTE... IF LCL ALSTG NOT RECEIVED PROC NA. THIS IS NDB RWY 34 ORIG-A.

Cordova

Merle K. (Mudhole) Smith
Alaska
ILS/DME RWY 27 AMDT 8...
Effective: 10/22/92
FDC 2/6327/CDV/ FI/P MERLE K. (MUDHOLE) SMITH, CORDOVA, AK. ILS/DME RWY 27 AMDT 8... DLT... 1.8 DME FIX FROM PROFILE VIEW. THIS BECOMES ILS/DME RWY 27 AMDT 8A.

Bethel

Bethel
Alaska
ILS DME RWY 18 AMDT 4...
Effective: 10/22/92
FDC 2/6329/BET/ FI/P BETHEL, BETHEL, AK. ILS DME RWY 18 AMDT 4... DLT... FAF TO MAP DTSC AND TIME TABLE. THIS BECOMES ILS/DME RWY 18 AMDT 4A.

Galena

Galena
Alaska
HI-ILS/DME RWY 25 ORIG...
Effective: 10/09/92
FDC 2/6334/GAL/ FI/P GALENA, GALENA, AK. HI-ILS/DME RWY 25 ORIG... DLT... FAF TO MAP DSTC; TIME/DSTC TABLE. THIS BECOMES HI-ILS/DME RWY 25 ORIG-A.

Monticello

Monticello Muni
Arkansas
VOR-A AMDT 4...
Effective: 10/21/92
FDC 2/6305/M76/ FI/P MONTICELLO MUNI, MONTICELLO, AR. VOR-A AMDT 4... MSA FROM MON VORTAC 1800. THIS BECOMES VOR-A AMDT 4A.

Washington

Washington Muni
Iowa
VOR/DME RNAV RWY 31 AMDT 3...
Effective: 10/15/92
FDC 2/6167/AWG/ FI/P WASHINGTON MUNI, WASHINGTON, IA. VOR/DME RNAV RWY 31 AMDT 3... DLT NOTE... PROC NA AT NIGHT. THIS IS VOR/DME RNAV RWY 31 AMDT 3A.

Fairfield

Fairfield Muni
Iowa
NDB RWY 36 AMDT 7...
Effective: 10/15/92
FDC 2/6169/FFL/ FI/P FAIRFIELD MUNI, FAIRFIELD, IA. NDB RWY 36 AMDT 7... MSA FFL 3000. THIS IS NDB RWY 36 AMDT 7A.

Fairfield

Fairfield Muni
Iowa
VOR/DME RNAV RWY 18 AMDT 1...
Effective: 10/15/92
FDC 2/6170/FFL/ FI/P FAIRFIELD MUNI, FAIRFIELD, IA. VOR/DME RNAV RWY 18 AMDT 1... TRML RTE OTM RUBIO WP MIN ALT 3000, MIN ALT AT RUBIO WP, AND HOLDING AT RUBIO WP... 3000. MIN ALT AT FAF (5NM FROM MAP WP) 2500. THIS IS VOR/DME RNAV RWY 18 AMDT 1A.

Washington

Washington Muni
Iowa
NDB RWY 31 ORIG...
Effective: 10/15/92
FDC 2/6175/AWG/ FI/P WASHINGTON MUNI, WASHINGTON, IA. NDB RWY 31 ORIG... DLT NOTE... PROC NA AT NIGHT. THIS IS NDB RWY 31 ORIG-A.

Ottumwa

Ottumwa Industrial
Iowa
VOR RWY 31 AMDT 14...
Effective: 10/15/92
FDC 2/6176/OTM/ FI/P OTTUMWA INDUSTRIAL, OTTUMWA, IA. VOR RWY 31 AMDT 14...MSA OTM 3000. THIS IS VOR RWY 31 AMDT 14A.

Ottumwa

Ottumwa Industrial
Iowa
VOR/DME RWY 13 AMDT 6...
Effective: 10/15/92
FDC 2/6177/OTM/ FI/P OTTUMWA INDUSTRIAL, OTTUMWA, IA. VOR/DME RWY 13 AMDT 6...MSA OTM 3000. DLT NOTE...AIR CARRIER ..THRU.. CONDITIONS NA. THIS IS VOR/DME RWY 13 AMDT 6A.

Ottumwa

Ottumwa Industrial
Iowa
LOC/DME BC RWY 13 AMDT 2...
Effective: 10/15/92
FDC 2/6178/OTM/ FI/P OTTUMWA INDUSTRIAL, OTTUMWA, IA. LOC/DME BC RWY 13 AMDT 2...MSA OTM 3000. DLT NOTE... AIR CARRIER ..THRU.. CONDITIONS NA. THIS IS LOC/DME RWY 13 AMDT 2A.

Ottumwa

Ottumwa Industrial

Iowa
ILS RWY 31 AMDT 4...
Effective: 10/15/92
FDC 2/6179/OTM/ FI/P OTTUMWA INDUSTRIAL, OTTUMWA, IA. ILS RWY 31 AMDT 4...MSA OTM 3000. THIS IS ILS RWY 31 AMDT 4A.

Fairfield

Fairfield Muni
Iowa
VOR/DME RNAV RWY 36 AMDT 1...
Effective: 10/15/92
FDC 2/6180/FFL/ FI/P FAIRFIELD MUNI, FAIRFIELD, IA. VOR/DME RNAV RWY 36 AMDT 1...MISSED APCH...CLIMB TO 3000 DIRECT RUBIO WP AND HOLD. THIS IS VOR/DME RNAV RWY 36 AMDT 1A.

Washington

Washington Muni
Iowa
VOR/DME–A AMDT 3...
Effective: 10/16/92
FDC 2/6192/AWG/ FI/P WASHINGTON MUNI, WASHINGTON, IA. VOR/DME–A AMDT 3...TRML RTE... 26 DME ARC IOW R–223 CCW TO R–186 MIN ALT 3000; MSA IOW 3300; DLT NOTE... PROC NA AT NIGHT. THIS BECOMES VOR/DME–A AMDT 3A.

Rockford

Greater Rockford
Illinois
RADAR–1 AMDT 6...
Effective: 10/16/92
FDC 2/6214/RFD/ FI/P GREATER ROCKFORD, ROCKFORD, IL. RADAR–1 AMDT 6...CHANGE ALL REFERENCES OF RWY 24 TO RWY 25; CHANGE ALL REFERENCES OF RWY 06 TO RWY 07. THIS IS RADAR–1 AMDT 6A.

Hutchinson

Hutchinson Muni
Kansas
NDB RWY 13 AMDT 14...
Effective: 10/13/92
FDC 2/6098/HUT/ FI/P HUTCHINSON MUNI, HUTCHINSON, KS. NDB RWY 13 AMDT 14...CIRCLING VIS CAT C 2, D 2 1/4; WITICHA MID–CONTINENT ALSTG... CAT C 2 1/2, d 2 3/4. THIS BECOMES NDB RWY 13 AMDT 14A.

Great Bend

Great Bend Muni
Kansas
NDB–A AMDT 4...
Effective: 10/14/92
FDC 2/6123/GBD/ FI/P GREAT BEND MUNI, GREAT BEND, KS. NDB–A AMDT 4...DLT NOTE... IF LCL... THRU... PROC NA. THIS BECOMES NDB–A AMDT 4A.

Great Bend

Great Bend Municipal
Kansas
NDB RWY 35 AMDT 1...
Effective: 10/14/92
FDC 2/6124/GBD/ FI/P GREAT BEND MUNICIPAL, GREAT BEND, KS. NDB RWY 35 AMDT 1...DLT NOTE... IF LCL ... THRU ... PROC NA. THIS BECOMES NDB RWY 35 AMDT 1A.

Great Bend

Great Bend Municipal
Kansas
LOC RWY 35 AMDT 3...
Effective: 10/14/92
FDC 2/6125/GBD/ FI/P GREAT BEND MUNICIPAL, GREAT BEND, KS. LOC RWY 35 AMDT 3...DLT NOTE... IF LCL ... THRU ... PROC NA. THIS BECOMES LOC RWY 35 AMDT 3A.

Greenville

Greenville Seaplane Base
Maine
NDB–A AMDT 3...
Effective: 06/19/92
FDC 2/3464/52B/ FI/P GREENVILLE SEAPLANE BASE, GREENVILLE, ME. NDB–A AMDT 3...TERMINAL ROUTE AUGUSTA VORTAC TO SQUAW NDB–MINIMUM ALTITUDE 6000 FEET. REASON... MINIMUM RECEPTION ALTITUDE. THIS BECOMES NDB–A AMDT 3A.

Greenville

Greenville Muni
Maine
NDB RWY 14 AMDT 3...
Effective: 06/19/92
FDC 2/3466/3B1/ FI/P GREENVILLE MUNI, GREENVILLE, ME. NDB RWY 14 ADMT 3... TERMINAL ROUTE AUGUSTA VORTAC TO SQUAW NDB—MINIMUM ALTITUDE 6000 FEET. REASON... MINIMUM RECEPTION ALTITUDE. THIS BECOMES NDB RWY 14 AMDT 3A.

Battle Creek

W.K. Kellogg
Michigan
ILS RWY 23 AMDT 17...
Effective: 10/16/92
FDC 2/6164/BTL/ FI/P W. K. KELLOGG, BATTLE CREEK, MI. ILS RWY 23 AMDT 17...S–ILS–23 DH 1150/HAT 221 ALL CATS. ADD NOTES... ILS UNUSABLE FROM MM INBOUND. DH INCREASED TO 1179 FOR INOP MM. MISSED APPROACH POINT... ILS...AT THE DH. LOC...3.2 NM AFTER BATOL LOM/INT BTL 4.4 DME. DISTANCE FAF TO MAP...3.19 NM AND FAF TO THLD...3.73 NM. THIS IS ILS RWY 23 AMDT 17A.

Eveleth

Eveleth-Virginia Muni

Minnestoa
VOR RWY 27 AMDT 10...
Effective: 10/21/92
FDC 2/6301/EVM/ FI/P EVELETH-VIRGINIA MUNI, EVELETH, MN. VOR RWY 27 AMDT 10...DELETE NOTE... IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE HIBBING ALTIMETER SETTING AND INCREASE ALL MDA'S 60 FEET. THIS IS VOR RWY 27 AMDT 10A.

Eveleth

Eveleth-Virginia Muni

Minnesota
VOR/DME–A ORIG...
Effective: 10/21/92
FDC 2/6302/EVM/ FI/P EVELETH-VIRGINIA MUNI, EVELETH, MN. VOR/DME–A ORIG...DELETE NOTE... IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE HIBBING ALTIMETER SETTING. THIS IS VOR/DME–A ORIG A.

Eveleth

Eveleth-Virginia Muni
Minnesota
VOR/DME RNAV RWY 27 AMDT 1A...
Effective: 10/21/92
FDC 2/6303/EVM/ FI/P EVELETH-VIRGINIA MUNI, EVELETH, MN. VOR/DME RNAV RWY 27 ADMT 1A...DELETE NOTE... IF LOCAL ALTIMETER SETTING NOT RECEIVED, USE HIBBING ALTIMETER SETTING AND INCREASE ALL MDA'S 60 FEET. THIS IS VOR/DME RNAV RWY 27 AMDT 1B.

Nashua

Boire Field
New Hampshire
ILS RWY 14 AMDT 4...
Effective: 10/20/92
FDC 2/6270/ASH/ FI/P BOIRE FIELD, NASHUA, NH. ILS RWY 14 AMDT 4...CHANGE NOTE ON GLIDESLOPE INTERCEPT ALTITUDE FROM "2500 WHEN AUTHORIZED BY ATC", TO "2000 WHEN AUTHORIZED BY ATC". THIS IS ILS RWY 14 AMDT 4A.

North Kingstown

Quonset State
Rhode Island
ILS RWY 16 AMDT 4...
Effective: 10/20/92
FDC 2/6293/OQU/ FI/P QUONSET STATE, NORTH KINGSTOWN, RI. ILS RWY 16 AMDT 4...CHANGE MIN ALT BEYEL INT/I–OQU 3.0 DME 540 FEET TO 500 FEET. WHEN USING PROVIDENCE ALTSG ALT 540 FEET. THIS IS ILS RWY 16 AMDT 4A.

Lewisburg

Greenbrier Valley
West Virginia
ILS RWY 4 AMDT 7...
Effective: 10/09/92
FDC 2/6050/LWB/ FI/P GREENBRIER VALLEY, LEWISBURG, WV. ILS RWY 4 AMDT 7...ADD NOTE... CATS A/B/C S–LOC–4 VIS INCREASED ¼ MILE FOR INOP MALSR; RONAKE VA ALSTG MINS... CATS A/B S–LOC–4 VIS INCREASED ¼ MILE FOR INOP MALSR. THIS BECOMES ILS RWY 4 AMDT 7A.

Lewisburg

Greenbrier Valley
West Virginia
NDB RWY 4 AMDT 4...
Effective: 10/15/92
FDC 2/6197/LWB/ FI/P GREENBRIER VALLEY, LEWISBURG, WV. NDB RWY 4 AMDT 4...ADD NOTE... INOP TABLE DOES NOT APPLY TO S–4 CATS C AND D; RONAKE VA ALSTG MINS... INOP TABLE DOES NOT APPLY S–4 CATS B/C/D. THIS BECOMES NDB RWY 4 AMDT 4A.

[FR Doc. 92–26892 Filed 11–5–92; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. 92-11]

RIN 2125-AC89

National Standards for Traffic Control Devices; Manual on Uniform Traffic Control Devices; Revision of Stop and Yield Sign Standards at Highway-Rail Grade Crossings

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Final amendment to the Manual on Uniform Traffic Control Devices (MUTCD); request for comments.

SUMMARY: This document contains notice of an amendment to the MUTCD. The MUTCD is incorporated by reference in 23 CFR Part 655, subpart F, and is recognized as the national standard for traffic control devices on all roads open to public travel. The current national standards for traffic control devices are contained in the 1988 edition of the MUTCD. The purpose of this amendment is to implement section 1077 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) which requires the Secretary of Transportation, within ninety days of the enactment of the ISTEA, to revise the MUTCD to authorize States and local governments, at their discretion, to install stop or yield signs at any highway-rail grade crossing without automatic traffic control devices with two or more trains operating across the highway-rail grade crossing per day.

DATES: The final rule is effective November 6, 1992. Comments on the final amendment must be received on or before January 5, 1993. Incorporation by reference of the publications listed in the regulations is approved by the Director of the **Federal Register** as of November 6, 1992.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 92-11, Federal Highway Administration, room 4232, HCC-10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m., e.t., Monday through Friday except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Rudolph M. Umbs, Office of Highway Safety, (202) 366-0411, or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366-0780, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The MUTCD is approved by the FHWA as the National Standard for all streets and highways open to public travel. The MUTCD is available for inspection and copying as prescribed in 49 CFR part 7, appendix D. It may be purchased for $22.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 050-001-00308-2. Each amendment is assigned an identification number which indicates, by Roman numeral, the primary organizational part of the MUTCD affected and, by Arabic numeral, the order in which the request was received (e.g. Request VIII-9).

On January 24, 1990, the FHWA issued a final rule (55 FR 2373) amending the MUTCD to permit a highway agency to use short-term pavement markings until the earliest date when it is practical and possible to install pavement markings that meet full MUTCD standards. The document containing the text changes for that amendment to the MUTCD has been titled "1988 MUTCD Revision 1," dated January 17, 1990. It is available from the Federal Highway Administration, Office of Highway Safety, HHS-31, 400 Seventh Street SW., Washington, DC 20590. Everyone currently appearing on the FHWA **Federal Register** mailing list will automatically be sent a copy.

The amendment in this rulemaking, Request VIII-32(C) Stop or Yield Signs at Highway-Rail Grade Crossings, is necessary to implement the requirements of Section 1077 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), "Public L. 102-240, 105 Stat. 1914," which requires that the Secretary of Transportation, within ninety days of the enactment of the ISTEA, revise the MUTCD to authorize States and local governments, at their discretion, to install stop or yield signs at any highway-rail grade crossing that has two or more trains per day and is without automatic traffic control devices. Since this amendment is being adopted as a result of Congressional mandate, without having been presented to the public in a notice of proposed rulemaking or other forum, a sixty-day period is provided for public comment. Comments submitted will be considered for future amendments to the affected section of the MUTCD.

The document containing the text changes for this amendment to the MUTCD has been titled "1988 MUTCD Revision 2," dated March 17, 1992. It is available from the Federal Highway Administration, Office of Highway Safety, HHS-31, 400 Seventh Street SW., Washington, DC 20590. Everyone currently appearing on the FHWA **Federal Register** mailing list will automatically be sent a copy.

Discussion of Amendment

Currently in the MUTCD, the use of STOP signs is limited to those highway-rail grade crossings selected after need is established by a detailed traffic engineering study, while YIELD signs are not accepted as an appropriate traffic control device at highway-rail grade crossings. The current MUTCD section 2B-4 defines STOP signs as "signs * * * intended for use where traffic is required to stop," and section 2B-7 states that YIELD signs "assign[ ] right[s]-of-way to traffic on certain approaches to an intersection." An "intersection" is defined in section 1-133 of the Uniform Vehicle Code (Revised-1987), which has been incorporated into the MUTCD, as an "area within which vehicles traveling upon different highways [which join one another] may come in conflict." Thus, since highway-rail crossings are not considered intersections, and YIELD signs may be used only at intersections, YIELD signs are not accepted for use where a highway crosses a railroad.

To implement Section 1077 of the ISTEA which requires the Secretary of Transportation to revise the MUTCD to authorize States and local governments, at their discretion, to install stop or yield signs at any highway-rail grade crossing without automatic traffic control devices with two or more trains operating across the highway-rail grade crossing per day, the MUTCD is revised as follows: Section 8B-9 STOP Signs at Grade Crossings (R1-1, W3-1) is retitled as STOP or YIELD Signs at Grade Crossings (R1-1, W3-1, R1-2, W3-2).

This amendment allows State or local jurisdictions to install STOP or YIELD signs at any highway-rail grade crossing without automatic traffic control devices that has two or more trains operating across it per day.

For uniformity, the placement of these signs at a crossing shall conform to current MUTCD requirements for location of STOP and YIELD signs. In addition, when STOP or YIELD signs are used at crossings, STOP AHEAD or YIELD AHEAD advance warning signs shall be installed.

Rulemaking Analyses and Notice

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

This provision is required to implement the requirements of section 1077 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

The FHWA generally provides an opportunity for comment when promulgating a rule if the opportunity for comment is likely to result in useful information, if the rule is significant pursuant to Department of Transportation policy or likely to be controversial, or if otherwise in the public interest. In this case, the FHWA believes that circumstances warrant the issuance of this rule immediately without notice and an opportunity for prior public comment. This document merely implements the mandate of section 1077 of the ISTEA that directs the Secretary of Transportation to revise the MUTCD, within 90 days of enactment, to grant States and local governments the discretionary authority to install stop or yield signs at any highway-rail grade crossing without automatic traffic control devices with two or more trains operating across the highway-rail grade crossing per day. This change to the MUTCD imposes no additional burden upon the States. It simply grants them the discretionary authority, under certain circumstances, to install stop or yield signs at highway-rail grade crossings.

Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because such action would not alter the FHWA's obligation to carry out its statutory mandate under the ISTEA. Additionally, the FHWA finds that prior notice and opportunity for comment pursuant to the Administrative Procedure Act is unnecessary because the FHWA is merely implementing section 1077 without imposing additional requirements on any person. Therefore, the FHWA finds good cause under 5 U.S.C. 553(b) to make this amendment effective without prior notice and opportunity for comment. Furthermore, for these same reasons and because this action merely grants flexibility to the States, the FHWA finds good cause under 5 U.S.C. 553(d) to make this amendment effective upon publication. The FHWA, however, is providing the opportunity to comment after the effective date, and will consider the comments submitted for future amendments to the affected section of the MUTCD.

The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this notice.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. Based upon this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. The need to further evaluate economic consequences will be reviewed on the basis of the comments submitted in response to this rule.

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 the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The MUTCD is incorporated by reference in 23 CFR part 655, subpart F which requires that changes to the National Standards issued by the FHWA shall be adopted by the States or other Federal agencies within 2 years of issuance. This amendment is in keeping with the Secretary of Transportation's authority under 23 U.S.C. 109(d) and 315 to promulgate uniform guidelines to promote the safe and efficient utilization of the highways.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The FHWA 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.

Regulatory Identification Number

A regulatory identification 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 on 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 in 23 CFR Part 655

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Signs, Traffic regulations.

The FHWA hereby amends chapter I of title 23, Code of Federal Regulations, part 655, subpart F as set forth below.

PART 655—TRAFFIC OPERATIONS

1. The authority citation for part 655 continues to read as follows:

Authority: 23 U.S.C. 101(a), 104, 105, 109(d), 114(a), 135, 217, 307, 315, and 402(a); 23 CFR 1.32 and 1204.4; and 49 CFR 1.48(b).

§ 655.601 [Amended]

2. In § 655.601, paragraph (a) is revised to read as follows:

§ 655.601 Purpose.

* * * * *

(a) Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), FHWA, 1988, including Revision No. 1 dated January 17, 1990, and Revision No. 2 dated March 17, 1992. This publication is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is on file at the Office of the Federal Register in Washington, DC. The 1988 MUTCD may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 and has Stock No. 050–001–00308–2. The amendments to the MUTCD, titled "1988 MUTCD Revision 1," dated January 17, 1990, and "1988 MUTCD Revision 2," dated March 17, 1992, are available from the Federal Highway Administration, Office of Highway Safety, HHS–31, 400 Seventh Street SW., Washington, DC 20590. These documents are available for inspection and copying as prescribed in 49 CFR part 7, appendix D.

* * * * *

Issued on: October 29, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92-26966 Filed 11-5-92; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8445]

RIN 1545-AQ15

Information Returns of Brokers

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations under section 6045 of the Internal Revenue Code of 1986 relating to information returns of brokers. The regulations affect brokers effecting certain spot or forward sales of agricultural commodities and provide them with guidance needed to comply with the law.

DATES: The regulations are effective January 1, 1993. A transition rule is provided for sales effected before January 1, 1993.

FOR FURTHER INFORMATION CONTACT: John P. Moriarty, (202) 622-4950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains an amendment to the Income Tax Regulations under section 6045 relating to an exception from the reporting requirements for certain sales of agricultural commodities. Section 6045(a) provides that all persons who conduct business as a broker shall file such information returns as may be required by regulation. Section 6045(c)(1) defines the term "broker" to include a dealer, a barter exchange, or any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

On March 3, 1983, the Service published in the Federal Register (48 FR 10304) regulations requiring reporting by brokers of sales of securities or commodities effected by them in the ordinary course of their business. These regulations generally define a broker to be a person that, in the ordinary course of business during the calendar year, stands ready to effect (as agent or principal) sales to be made by others. A commodity includes any type of personal property, or an interest therein, the trading of futures contracts in which has been approved by the Commodity Futures Trading Commission ("CFTC").

On January 5, 1984, the Service published in the Federal Register (49 FR 646) proposed amendments to the regulations under section 6045 to clarify the definition of a commodity. A number of comments responding to that notice of proposed rulemaking suggested exemptions from the reporting requirement for sales of agricultural commodities. On February 19, 1991, the Service published Announcement 91-20, 1991-7 I.R.B. 31, providing that for 1990 and prior years reporting is not required under section 6045 for spot and forward sales of agricultural commodities and sales of negotiable commodity certificates issued by the Commodity Credit Corporation ("CCC Certificates"). The announcement did not provide an exception to the information reporting requirements for interests in agricultural commodities, such as regulated futures contracts or forward contracts. The rules of Announcement 91-20 were extended to sales made in 1991 by Announcement 91-177, 1991-48 I.R.B. 87.

On March 6, 1992, the Service published in the Federal Register (57 FR 8098) proposed amendments to the regulations under section 6045 relating to information returns of brokers. These amendments were proposed to clarify the information reporting requirements for brokers effecting sales of agricultural commodities.

Many comments responding to the notice of proposed rulemaking were received, and a public hearing was held on April 21, 1992. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision. The preamble to the proposed regulations describes those provisions common to both the proposed and final regulations.

Public Comments

The proposed regulations generally provide an exception to the reporting requirements of section 6045 for the spot or forward sale of an agricultural commodity if the customer certifies that the customer produced the commodity and the broker does not know that any information in the certificate is incorrect. This certification requirement was intended to ensure that only ordinary income transactions involving physical agricultural commodities would be excepted from information reporting.

Many commentators indicated that there is no significant investment in, or trading of, physical agricultural commodities by persons who are not part of the ordinary chain for distributing commodities from producers to end-users. In the case of agricultural commodities (unlike other commodities), the futures markets appear to be the only significant investor markets because of the costs of storage and transportation and certain risks involved in owning physical agricultural commodities. As a result, for income tax purposes a person making a spot or forward sale of agricultural commodities typically does not report the result of that sale separately but instead combines that result with the results of other transactions. In addition, commentators generally indicated that the certification requirements of the proposed regulations would be burdensome because of the information that would need to be collected and the records that would need to be maintained.

Accordingly, the Service has determined that the information reporting requirements of section 6045 generally should not apply to spot or forward sales of agricultural commodities regardless of whether the seller produced the commodities being sold. Under the final regulations, however, sales of agricultural commodities pursuant to regulated futures contracts and sales of derivative interests in agricultural commodities are not excepted from reporting. Sales involving a warehouse receipt issued by a designated warehouse often are associated with investments in the futures markets. Accordingly, the final regulations provide that these sales are not excepted from reporting. Consistent with CFTC regulations, a designated warehouse is defined as a warehouse, depository, or other similar entity, designated by a commodity exchange, in which or out of which a particular type of agricultural commodity is deliverable in satisfaction of a regulated futures contract.

The final regulations adopt without substantive change the exception from the section 6045 reporting requirements for sales of Commodity Credit Corporation certificates.

The regulations will apply to sales effected on or after January 1, 1993. A transition rule, which extends the rules of Announcement 91-20, is provided for sales effected before January 1, 1993.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative

Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is John P. Moriarty of the Office of Assistant Chief Counsel (Income Tax and Accounting), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects

26 CFR 1.6031–1 through 1.6060–1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as set forth below:

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

Paragraph 1. The authority citation for part 1 is amended by adding the following authority citation:

Authority: 26 U.S.C. 7805 * * * Section 1.6045–1 also issued under 26 U.S.C. 6045 * * *

Par. 2. Section 1.6045–1 is amended by revising paragraph (c)(3) and adding paragraph (c)(7) to read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

* * * * *

(c) * * *

(3) *Exceptions.* The exceptions set forth in paragraph (c)(3) of § 5f.6045–1 of this chapter apply to sales effected on or after May 29, 1984. For an exception for certain sales of agricultural commodities and certificates issued by the Commodity Credit Corporation after January 1, 1993, see paragraph (c)(7) of this section. With respect to sales effected before May 29, 1984, the exceptions provided in § 1.6045–1(c)(3) (as contained in the CFR edition revised as of April 1, 1984) apply.

* * * * *

(7) *Exception for certain sales of agricultural commodities and commodity certificates*—(i) *Agricultural commodities.* No return of information is required under section 6045 for a spot or forward sale of an agricultural commodity. This paragraph (c)(7)(i) does not except from reporting sales of agricultural commodities pursuant to regulated futures contracts, sales of derivative interests in agricultural commodities, or sales described in paragraph (c)(7)(iii) of this section.

(ii) *Commodity Credit Corporation certificates.* Except as otherwise provided in a revenue ruling or revenue procedure, no return of information is required under section 6045 with respect to a sale of a commodity certificate issued by the Commodity Credit Corporation under 7 CFR 1470.4 (1990).

(iii) *Sales involving designated warehouses.* Paragraph (c)(7)(i) of this section does not apply to any sale involving a warehouse receipt for an agricultural commodity issued by a designated warehouse for an agricultural commodity of the type for which the warehouse is a designated warehouse.

(iv) *Definitions.* For purposes of this paragraph (c)(7):

(A) *Agricultural commodity.* An "agricultural commodity" includes, but is not limited to, a commodity within the meaning of paragraph (a)(5) of this section that is a grain, feed, livestock, meat, oil seed, timber, or fiber.

(B) *Spot sale.* A spot sale is a sale that results in the substantially contemporaneous delivery of a commodity.

(C) *Forward sale.* A forward sale is a sale pursuant to a forward contract within the meaning of paragraph (a)(7) of this section.

(D) *Designated warehouse.* A designated warehouse is a warehouse, depository, or other similar entity, designated by a commodity exchange under 7 CFR 1.43 (1992), in which or out of which a particular type of agricultural commodity is deliverable in satisfaction of a regulated futures contract.

(v) *Effective dates.* Paragraph (c)(7) of this section applies to sales effected on or after January 1, 1993. For sales effected before January 1, 1993, the following transactions are excepted from the information reporting requirements of section 6045:

(A) Spot or forward sales of agricultural products or commodities (but not sales of interests in agricultural products or commodities, such as sales of regulated futures contracts or forward contracts), effected by any person regardless of whether that person takes title to the agricultural products or commodities; and

(B) Sales of negotiable commodity certificates issued by the Commodity Credit Corporation.

* * * * *

Approved: September 25, 1992.

Shirley D. Peterson,

Commissioner of Internal Revenue.

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 92–26675 Filed 11–5–92; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 1 and 301

[T.D. 8446]

RIN 1545–AP57

Abatements, Credits, and Refunds; Special Rules for an Insolvent Financial Institution That is or was a Member of a Consolidated Group

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing for the payment of certain income tax refunds to a statutory or court-appointed fiduciary of an insolvent financial institution that was a member of a consolidated group in the year to which the refund claim or application for tentative carryback adjustment relates. These regulations reflect changes to the Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988.

DATES: These regulations are effective January 30, 1992, and apply to refunds and tentative carryback adjustments paid after December 30, 1991.

FOR FURTHER INFORMATION CONTACT: Rose L. Williams, (202) 622–7550 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1991, temporary and proposed regulations under section 6402(i) of the Internal Revenue Code of 1986 (Code) were filed. See T.D. 8387, 56 FR 67487 [1992–6 I.R.B. 4], and CO–98–88, 56 FR 67553 [1992–6 I.R.B. 12]. An explanation of the proposed and temporary regulations was provided in the preamble to the temporary regulations.

Written comments on the proposed regulations were received, and a public hearing was held on March 24, 1992. After consideration of the written comments and the statements made at the public hearing, the proposed regulations are modified and adopted by this Treasury Decision. No comments

were received regarding the expansion of these regulations to insolvent corporations not included in the regulations.

Comments on Specific Provisions

1. Timing of Notice to the Common Parent

Under the regulations, the fiduciary must send copies of any filings with the Internal Revenue Service (Form 56–F, loss year return, claim for refund, or otherwise) to the common parent before filing with the Service. See § 301.6402–7T(d)(2), (e)(1)(v), and (e)(3)(iv). One comment suggested that the fiduciary be required to send the copies of any filings to the common parent within a specified time period, and that the Service be required to notify the common parent of a refund payment before it is paid to the fiduciary.

This suggestion is not adopted because the filing requirements under the regulations adequately protect the interests of the common parent by requiring the fiduciary to provide the common parent with copies of all documents before they are filed with the Service. In any event, the regulations do not determine ownership of refunds and payment of a refund does not foreclose the common parent from pursuing its claims.

2. Non-Form 56–F Notice to the Common Parent

To satisfy its notice requirements, the fiduciary generally must file a Form 56–F, Notice Concerning Fiduciary Relationship of Financial Institution, with the Service. However, the Service may accept notice in any other manner. Section 301.6402–7T(d)(2)(i) requires the fiduciary to send a copy of the Form 56–F notice to the common parent, but it does not require the fiduciary to send a copy of any other form of notice to the common parent.

In response to a comment, the regulations have been modified to require the fiduciary to notify the common parent in all cases.

3. Filing Requirements of the Fiduciary

a. Duplicate filings. Section 301.6402–7T(e) permits the fiduciary to file a loss year consolidated return and a claim for refund even though the common parent may make similar filings. Several comments suggested that the common parent, as the sole agent of a consolidated group, be the only person permitted to make filings on behalf of a consolidated group. It was further suggested that the Service would then provide the fiduciary with a copy of any filings made by the common parent and would mediate any disputes between the common parent and the fiduciary.

This suggestion is not adopted because the procedures could result in lengthy delays in the refund process and the fiduciary would have no relief if the common parent fails to make any filings.

b. Loss year return. Section 301.6402–7T(e) permits the fiduciary to file a loss year consolidated return whether or not the fiduciary is also filing a claim for refund. Because section 6402(i) provides only for the payment of a refund to the fiduciary, the final regulations provide that the fiduciary may file a loss year return only in conjunction with the filing of a claim for refund.

4. Election to Waive Carryback

Section 301.6402–7T(e)(5) provides that an election under section 172(b)(3) of the Code to forego the entire carryback period for a consolidated net operating loss is not effective with respect to the portion of the loss attributable to a financial institution and permits the fiduciary to make a separate election on behalf of the institution. One comment suggested that each member be permitted to make a separate election under section 172(b)(3) with respect to the portion of the consolidated net operating loss attributable to the member.

The suggestion is being considered as part of recently proposed revisions to the consolidated return rules for losses. See CO–78–90, 56 FR 4228 [1991–1 C.B. 757].

5. Absorption of Net Operating Losses

a. Excess loss accounts. Section 301.6402–7T(g)(2)(iii) gives losses of the insolvent financial institution priority over losses of other members of the consolidated group arising in taxable years ending on the same date. However, the priority of absorption is otherwise subject to the general rules of section 172 and § 1.1502–21(b), as well as limitations under the Code and regulations (e.g., section 382).

Comments argued that the priority of institution losses is inequitable if it causes an excess loss account in the stock of the institution that would not have resulted without the priority. Insolvency of a financial institution may be a disposition event under § 1.1502–19(b) that results in the excess loss account being included in consolidated taxable income. The comments argue that, because the group does not benefit from the institution's losses (because the refund is paid to the fiduciary), the excess loss account should not be included in consolidated taxable income.

A principal purpose of excess loss accounts is to recapture the group's use of a subsidiary's losses to the extent they exceed the group's investment in the subsidiary's stock. The Treasury Department and the Service believe that an excess loss account resulting from the absorption of a subsidiary's losses is necessary, regardless of which member benefits from the losses, to reflect single entity treatment of the group by preventing the losses from being duplicated in the subsidiary stock.

The regulations do not determine ownership of the refund and therefore the equities are unaffected. The common parent may seek to recover all or part of the refund under principles of state law. See, e.g., *In re Bob Richards Chrysler-Plymouth Corp.*, 473 F.2d 262 (9th Cir. 1973), *cert. denied*, 412 U.S. 919 (1973); *Jump* v. *Manchester Life & Casualty Management Corp.*, 438 F. Supp. 185 (E.D. Mo. 1977), *aff'd*, 579 F.2d 449 (8th Cir. 1978); *United States* v. *Bass Financial Corp.*, No. 83 C 706 (N.D. Ill. April 20, 1984).

b. Separate return limitation year principles. Comments suggested that an institution's refund be limited to the tax relating to the institution's income in the carryback year (determined under separate return limitation year principles). The comments argued that the income history of each member of a consolidated group is a valuable attribute that should not be eliminated by the institution's losses if the refund is to be paid to the fiduciary.

Section 6402(i) of the Code authorizes payment of refunds to a fiduciary to the extent the Secretary determines the refund is attributable to losses or credits of an insolvent corporation. The legislative history indicates that access to the refund should be consistent with the purposes of the consolidated return provisions.

A guiding principle under the regulations is that an institution remains a member of the loss year group after it is placed in receivership. Therefore, its income or loss continues to be taken into account in determining the consolidated net operating loss for the loss year pursuant to § 1.1502–11. Only after calculating the loss year group's consolidated net operating loss is the institution permitted to carry its allocable portion back for purposes of generating a refund. It would be inconsistent with this treatment of the loss year, and consolidated return principles generally, if the income and losses of members were not also combined in the carryback year.

6. Insolvent Financial Institution Subgroup

Under § 301.6402–7T(h)(2), an insolvent financial institution subgroup includes members of the loss year group that bear the same relationship to the institution as the members of a group bear to their common parent under section 1504(a)(1). One comment suggested limiting the definition to members of the loss year group that are insolvent financial institutions involved in the same receivership proceeding. In most cases, if an institution is placed in receivership, its subsidiaries are also controlled by the fiduciary.

The suggestion is not adopted because the regulations reasonably reflect the receivership proceedings and the income or loss attributable to the institution.

7. Effective Date

The temporary regulations apply to refunds and tentative carryback adjustments paid after December 30, 1991. One comment argued that the effective date was retroactive and was unfair to common parents who filed claims for refund before December 31, 1991 that had not yet been paid. The suggestion is not adopted. As discussed above, § 301.6402–7T does not determine the ownership of a refund.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required.

It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations and, therefore, an initial Regulatory Flexibility Analysis is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, the temporary regulations and cross-referencing notice of proposed rulemaking were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Rose L. Williams, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service. Other personnel of the Service and the Treasury Department participated in their development.

List of Subjects

26 CFR 1.1502–21 through 1.1502–100

Income taxes.

26 CFR part 301

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

Adoption of Amendments to the Regulations

Accordingly, CFR parts 1 and 301 are amended as follows:

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

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

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

Par. 2. Section 1.1502–21(g) is revised to read as follows:

§ 1.1502–21 Consolidated net operating loss deduction.

* * * * *

(g) *Groups that include insolvent financial institutions.* For rules applicable to relinquishing the entire carryback period with respect to losses attributable to insolvent financial institutions, see § 301.6402–7 of this chapter.

Par. 3. Section 1.1502–77 (e) is revised to read as follows:

§ 1.1502–77 Common parent agent for subsidiaries.

* * * * *

(e) *Cross-references*—(1) *Alternative agents.* For rules relating to alternative agents of the group, see § 1.1502–77.

(2) *Groups that include insolvent financial institutions.* For further rules applicable to groups that include insolvent financial institutions, see § 301.6402–7 of this chapter.

Par. 4. Section 1.1502–78 (b)(3) is revised to read as follows:

§ 1.1502–78 Tentative carryback adjustments.

* * * * *

(b) * * *

(3) *Groups that include insolvent financial institutions.* For further rules applicable to groups that include insolvent financial institutions, see § 301.6402–7 of this chapter.

* * * * *

Par. 5. Section 1.6411–4 is revised to read as follows:

§ 1.6411–4 Consolidated groups.

For further rules applicable to consolidated groups, see § 1.1502–78. For further rules applicable to consolidated groups that include insolvent financial institutions, see § 301.6402–7 of this chapter.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 6. The authority citation for part 301 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * § 301.6402–7 also issued under 26 U.S.C. 6402 (i) and 6411 (c) * * *

Par. 7. Section 301.6402–7T is redesignated as § 301.6402–7 and is amended as follows:

1. The section heading is revised as set forth below.

2. Paragraph (d)(2)(i) is revised as set forth below.

3. The first sentence of paragraph (e)(1) is revised as set forth below.

4. A new second sentence is added to paragraph (e)(3) as set forth below.

§ 301.6402–7 Claims for refund and applications for tentative carryback adjustments involving consolidated groups that include insolvent financial institutions.

* * * * *

(d)* * *

(2)* * *

(i) *Form 56-F.* The fiduciary must send a copy of the form 56–F filed with the Internal Revenue Service Center or any other notice provided to the Service under paragraph (d) (1) of this section to the common parent of the loss year group (if any) and the common parent of all carryback year groups (if different from the loss year group).

* * * * *

(e) * * *

(1) * * * If the fiduciary accepts a claim for refund filed by the common parent, the fiduciary may claim a refund under this section by filing a copy of the common parent's claim for refund. * * *

* * * * *

(3) * * * A loss year return can only be filed by the fiduciary in conjunction

with the filing of a claim for refund under paragraph (e)(1). * * *

* * * * *

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: September 29, 1992.

Alan J. Wilensky,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 92-26676 Filed 11-5-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 911172-2021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Apportionment of reserve; request for comments.

SUMMARY: NMFS announces that amounts of the operational reserve are apportioned to the following target fishery categories: Pacific ocean perch and "other rockfish" in the Bering Sea/Bogoslof subarea (BS); shortraker/rougheye rockfish species group in the Aleutian Island subarea (AI); and Atka mackerel, "other species," and rock sole in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to adjust current specifications of the total allowable catch (TAC) to account for actual amounts that have been harvested. The intent of this action is to carry out objectives of the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP).

DATES: Effective 12 noon, Alaska local time (A.l.t.) November 5, 1992, through 12 midnight, A.l.t., December 31, 1992. Comments must be received by November 20, 1992.

ADDRESSES: Comments should be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska 99802-1668, or be delivered to 9109 Mendenhall Mall Road, Federal Building Annex, Suite 6, Juneau, Alaska.

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

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

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 675.20(b)(1)(i), that the initial TAC specified for several target fishery categories need to be supplemented from the non-specific reserve in order to carry out objectives of the FMP. These apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species or "other species" category.

NMFS apportions the following amounts from the reserve to these target fishery categories:

531 metric tons (mt) to Pacific ocean perch and 60 mt to "other rockfish" in the BS;

183 mt to the shortraker/rougheye species group in the AI; and,

4,000 mt to Atka mackerel, 10,200 mt to "other species" category, and 6,000 mt to rock sole in the BSAI.

These apportionments from the reserve result in revised TACs as follows:

3,540 mt for Pacific ocean perch and 400 mt for "other rockfish" in the BS;

1,220 mt for the shortraker/rougheye species group in the AI; and,

47,000 mt for Atka mackerel, 27,200 mt for the "other species" category, and 40,000 mt for rock sole in the BSAI.

Classification

This action is taken under 50 CFR 675.20 and is in compliance with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this notice is impracticable, unnecessary, and contrary to the public interest. Without the apportionment of Pacific ocean perch, U.S. groundfish fishermen would have to delay the directed fishery for Pacific ocean perch in the BS, resulting in needless economic waste. The remainder of apportionments from reserve to target species categories have no consequences other than to account for amounts of groundfish that have already been harvested. Under § 675.20(b)(2), interested persons are invited to submit written comments on this apportionment to the above address until November 20, 1992.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: October 30, 1992.

David S. Crestin,

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

[FR Doc. 92-26984 Filed 11-5-92; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 216
Friday, November 6, 1992

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 340

[Docket No. 92-156-1]

Genetically Engineered Organisms and Products; Notification Procedures for the Introduction of Certain Regulated Articles; and Petition for Nonregulated Status

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations pertaining to the introduction of certain genetically engineered organisms and products to provide for a notification process for the introduction of certain transgenic plants with which the Animal and Plant Health Inspection Service has had considerable experience. The introduction of certain regulated articles under notification may be allowed provided that the introduction is in accordance with the provisions of this proposal.

This document also proposes to amend the regulations to provide for a petition process allowing for a determination that certain transgenic plants are no longer considered regulated articles. The proposed amendments would provide a procedure for filing a petition for determination of nonregulated status for those organisms which do not present a plant pest risk and therefore should no longer be regulated articles.

These actions would relieve unnecessary restrictions on the introduction of regulated articles based on experience. The effect of these actions is to provide standardized procedures for notification of the introduction of regulated articles in accordance with proposed performance standards and the petition requirements to release regulated articles from regulation.

DATES: Consideration will be given only to comments received on or before January 5, 1993.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92-156-1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: A. Notification procedure and performance standards: Dr. Catherine M. Joyce, Biotechnologist, BBEP, APHIS, USDA, room 845, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8761. B. Petition for nonregulated status: Dr. Frank Y. Tang, Biotechnologist, BBEP, APHIS, USDA, room 851, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7601.

SUPPLEMENTARY INFORMATION:

Background

Title 7, Code of Federal Regulations, part 340 (hereinafter the regulations), regulates the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are derived from known plant pests (regulated articles). The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article and for obtaining a limited permit for the importation or interstate movement of a regulated article. Such permits are required before a regulated article can be introduced in the United States.

In the preamble to the final regulations published on June 16, 1987 (52 FR 22892-22915) the Animal and Plant Health Inspection Service (APHIS) stated its intention to modify or amend the regulations to ensure flexibility and to remove restrictions when warranted. APHIS previously demonstrated its commitment to amend the regulations by instituting exemptions for the movement of certain microorganisms (*Escherichia coli* strain K-12, sterile strains of *Saccharomyces cerevisiae*, or asporogenic strains of *Bacillus subtilis*) that contain plant pest sequences (53 FR 12910-12913, April 20, 1988), and plants such as *Arabidopsis thaliana* under specified conditions (55 FR 53275-53276, December 28, 1990).

This proposed rule is consistent with the overall Federal policy for the regulation of the products of biotechnology. The proposed rule would reduce regulatory constraints on certain introductions to achieve the Federal policy goal of oversight commensurate with the risk (Office of Science and Technology Policy's biotechnology oversight policy document (February 27, 1992; 57 FR 6753-6762); the President's regulatory review initiative of January 28, 1992; and the Department's request for comments (February 25, 1992; 57 FR 6483-6484)). The proposed rule would also achieve the Federal policy goal of performance-based regulatory principles as outlined in the President's Council on Competitiveness "Report on National Biotechnology Policy" (February 1991).

The implementation of a notification system based on eligibility requirements with certain performance standards and a petition procedure for release from regulation would provide regulatory relief for the agricultural biotechnology research community and yet provide adequate oversight to assure the public of the safe development of new products. We discuss the Notification Procedures in part A and the Petition Procedures in part B below.

A. Notification Procedure for the Introduction of Regulated Articles Under the Proposed Performance Standards

In light of increased experience and scientific expertise with the products of biotechnology, we are proposing to amend the regulations to establish a notification procedure that would allow the introduction of certain regulated articles without a requirement for a permit. The notification procedure would be allowed for the introduction of most genetically modified plants that are considered regulated articles, provided that the introduction is conducted in accordance with specified eligibility requirements and performance standards.

Currently, the regulations require that introductions of regulated articles must be done under permit from APHIS. In order to obtain a permit for a field test, a person must submit to APHIS a description of the regulated article to be field tested and a description of the

experimental protocol for the field test, including safeguards to limit the dissemination of the introduced organism into the environment. Similarly, applications for a permit for interstate movement or importation must contain a description of the regulated article and a description of the containment protocols to be used during shipping and at the destination facility. The applications for permits are evaluated on a case-by-case basis. Each permit request is issued or denied on the basis of the potential for any direct or indirect plant pest risk and on the potential for a significant impact on the environment.

Since the APHIS permitting process for regulated articles (7 CFR part 340) was established in 1987, we have gained considerable experience. We have issued over 300 permits for field tests and over 1000 permits for movement. One result of this experience has been the determination that introductions of many regulated articles can be conducted with little or no plant pest or environmental risk, provided that certain criteria and performance standards are met. We are now proposing to delineate those standards and to establish a notification system whereby introductions of certain regulated articles that are conducted in compliance with these standards would not require a permit from APHIS.

In order to establish the notification procedure, a new § 340.3 entitled "Notification for the introduction of certain regulated articles" would be added to the regulations, and subsequent sections of the regulations would be redesignated accordingly. Additionally, § 340.0, which currently states that a permit is required for the introduction of a regulated article, would be amended to include the alternative of the notification procedure. The new § 340.3 would include the following:

(a) General.

(b) Regulated articles eligible for introduction under the notification procedure.

(c) Performance standards for introductions under the notification procedure.

(d) Procedural requirements for notifying APHIS.

(e) Administrative action in response to notification. Paragraph (a) simply states that certain regulated articles may be introduced in compliance with the notification procedure of new § 340.3, and that all other introductions must be in compliance with permitting procedure (newly redesignated § 340.4). Paragraphs (b) through (e) are set forth below with explanation.

Paragraph (b) is as follows:

(b) *Regulated articles eligible for introduction under the notification procedure.* A regulated article is eligible for introduction under the notification procedure if it meets either the six requirements of paragraph (b)(1) of this section or the general criteria of paragraph (b)(2) of this section.

(1) The regulated article is:

(i) One of the following plant species: corn (*Zea mays* L.), cotton (*Gossypium hirsutum* L.), potato (*Solanum tuberosum* L.), soybean (*Glycine max* [L.] Merr.), tobacco (*Nicotiana tabacum* L.), tomato (*Lycopersicon esculentum* L.), or any additional plant species that BBEP has determined may be safely introduced in accordance with the performance standards set forth in paragraph (c) of this section.

(ii) The introduced genetic material is "stably integrated" in the plant genome, as defined in § 340.1.

(iii) The introduced genetic material is well characterized and does not contain genes whose expression in the regulated article results in plant disease.

(iv) The introduced genetic material does not cause the production of:

(A) An infectious entity or

(B) Result in constituents that are new to the plant and are toxic to nontarget organisms.

(v) The introduced genetic material does not pose a significant risk of the creation of any new plant virus.

(vi) The plant has not been modified to contain functionally intact genes derived from human or animal pathogens.

(2) A regulated article is also eligible for introduction under the notification procedures if, after prior consultation with the Director of BBEP, an appropriate State regulatory official, or an appropriate Institutional Biosafety Committee (IBC), the researcher has determined that the introduction of the regulated article is unlikely to pose a greater risk as a plant pest in the test environment than the unmodified plant from which it was derived based on:

(i) The characteristics of the modified plant, and

(ii) The confinement measures to be used in the field test.

The Director of BBEP will provide guidance on factors to be considered during the consultation process, including the applicability of the eligibility criteria set forth above in § 340.3(b)(1) (ii)–(vi).

The first criterion for eligibility under the notification procedure in paragraph (1) would be that the regulated article is one of the listed plant species. There is a large body of experience from the field testing of crop plant species under good agricultural practices. Plant breeders have a long history of safe field testing and introduction of many genetically modified crops.

Additionally, we have had the most experience with evaluating field tests for these six listed crops, with percentages of total permits issued as follows: Corn (19%), cotton (10%), potato (20%), soybean (18%), tobacco (5%), or tomato (13%), with a cumulative total of 85%. Because of extensive experience of field testing of agricultural crop plants and with the six crops listed above, the Agency was able to develop performance standards for the introduction of most regulated articles of these plant species.

The second criterion in paragraph (1) for eligibility for the notification procedure would be that the introduced genetic material is stably integrated in the plant genome. The term "stably integrated" is defined in § 340.1 of the regulations as follows: "The cloned genetic material is contiguous with elements of the recipient genome and is replicated exclusively by mechanisms used by recipient genomic DNA." We are aware that introduced genetic material that is intended to be integrated into the plant genome may show a limited degree of instability due to the site of insertion or other factors. Regulated articles with such genetic instability are still intended to be included under the notification procedure. However, such genetic instability would not include regulated articles that have been modified to result in the extrachromosomal maintenance of the genetic material; examples would include plants modified to contain novel genetic material maintained on plasmids or on viral vectors that can replicate extrachromosomally. Nor would it include regulated articles that have been modified to contain novel genetic material maintained on transposons. We believe that the introduction of such regulated articles should continue to be evaluated on a case-by-case basis under the permitting procedure.

Criteria (iii) and (iv) would require that the regulated article has not been modified to result in plant disease or to produce an infectious entity. We consider these to be sound and prudent requirements to ensure that field trials under the notification procedure will not result in plant disease or the introduction or dissemination of infectious entities. For example, criterion (iii) would ensure that if the plant pathogenic bacterium, *Argobacterium tumefaciens*, were used as a vector agent for plant transformation, it was disarmed. Criterion (iv) would ensure that the plants have not been modified to produce a plant virus, an animal virus, a viral satellite RNA molecule, or any other infectious entity. The term "well characterized", in criterion (iii), refers to data that the researcher should have regarding the introduced genetic

material. It may include nucleotide sequence data, the function of the encoded product, functional analysis of the genetic material, a restriction endonuclease map of the genetic material, or Southern and northern analysis of the genetic material when integrated into the plant genome. In addition, criterion (iv) would require that the plants do not pose a plant pest risk by requiring that they have not been modified to produce compounds toxic to nontarget organisms. For example, if a modified plant is rendered to be toxic to beneficial insects such as honeybees, the notification procedure for introduction would not be used.

Criterion (v) would avoid the creation of any new viruses by allowing only certain types of plant viral DNA sequences in plants introduced under the notification procedure. What is meant by any new virus is those viruses that would not be probable to occur in nature as a result of natural mixed virus infections of nonmodified plants. The rationale for this criterion is that APHIS has considerable experience with the introduction of regulated articles containing such sequences. Additionally, this standard is intended to preclude the use of exotic, nonendemic, and nonprevalent viruses as challenge inocula in evaluations of plant virus resistance. Furthermore, this precludes the transmission of viruses by insect vectors that would not normally come in contact with a virus encapsidated by an exotic, nonendemic, or nonprevalent coat protein derived from a virus that does not normally infect the recipient plant. This also precludes transmission to nonmodified plants that are usually not infected by these exotic, nonendemic, or nonprevalent viruses. For example, plants may contain plant viral sense and antisense coat protein genes, which are derived from plant viruses that are endemic and widely prevalent in the area of the United States where the introduction will occur, and that naturally infect plants of the same species. Another type of plant viral sequence that the regulated articles may contain are well characterized noncoding DNA regulatory sequences such as the 35S promoter of cauliflower mosaic virus. APHIS has had significant experience with the introduction of regulated articles containing such sequences, and we believe that they do not present a risk of the introduction and dissemination of a plant pest.

Criterion (vi) would require that the plants have not been modified to contain functionally intact genes from human or animal pathogens. The Agency believes that plants modified to contain such human or animal pathogen genes should only be introduced after a thorough review by the Agency.

We are aware that many additional plant species that are regulated articles could be safely introduced with appropriate confinement measures, when there has been careful consideration of the characteristics of the modified plant. Therefore, the rule provides that such introductions may be allowed under the notification procedure provided that the Director of BBEP, an appropriate State regulatory official, or an appropriate Institutional Biosafety Committee (IBC) has been consulted by the researcher prior to the introduction to ascertain that the characteristics and confinement measures will provide that the regulated article is unlikely to pose a greater risk as a plant pest than a similar field test of the unmodified plant from which it was derived. The Director of BBEP will provide guidance on factors to be considered during the consultation process, including the applicability of the eligibility criteria set forth in § 340.3(b)(1) (ii)–(vi). The Agency solicits comment on whether a regulated article that does not necessarily meet each of the eligibility criteria may nonetheless be safely introduced under the notification procedure based on the performance standards or additional confinement measures.

During the past five years, there has been close collaboration between Federal and State officials, as well as the IBCs at colleges and universities in the review and conduct of hundreds of field trials in the United States. This close working relationship has led to the shared recognition of general principles for evaluating field trials, and a growing body of experience held in common among those partners. It is in recognition of this shared experience that the proposed requirements for notification in § 340.3(b)(2) include State officials and IBCs as appropriate reviewers for eligibility status.

This approach provides flexibility for extending the notification procedure to additional plant species without requiring an immediate, but not yet feasible, evaluation of the possible application of the performance standards to a large number of plant species. Of course, all introductions under the notification procedure, including those that are reviewed by State officials or IBCs, would require compliance with the provisions of § 340.3.

This proposed rule also includes definitions for State officials and IBC's that would be appropriate for reviewing proposed introductions under the notification procedure. Appropriate IBCs have been defined as a committee at a university, college, or federally funded organization that was established to implement the National Institutes of Health safety guidelines for organisms produced through biotechnology, consistent with section IV–B–2 of those guidelines (51 FR 16962, May 7, 1986). The appropriate State regulatory officials have been defined as the State officials with responsibilities for plant health, generally officials within a State's department of agriculture, or any other State officials with duly designated authority.

Paragraph (c) is as follows:

(c) *Performance standards for introductions under the notification procedure.* The following performance standards must be met for any introductions under the notification procedure.

(1) If the plants or plant materials are shipped, they must be shipped in such a way that the viable plant material is unlikely to be disseminated while in transit. The destination facilities shall provide for adequate containment of the regulated article(s).

(2) When the introduction is an environmental release, the regulated article plants must be planted in such a way that they are not inadvertently mixed with non-regulated plant materials which are not part of the environmental release.

(3) The plants and plant parts must be maintained in such a way that the identity of all material is known while it is in use, and the plant parts must be contained or devitalized when no longer in use.

(4) There must be no viable vector agent associated with the regulated article.

(5) When there is a significant probability that gene movement via pollen of the regulated article will result in viable progeny persisting in the environment, such movement must be minimized.

(6) Upon termination of the field test, no viable material shall remain which is likely to volunteer in subsequent seasons, or volunteers shall be managed to prevent persistence in the environment.

The proposed rule includes the performance standards in paragraph (c) to prevent inadvertent introductions into the environment of regulated articles that may pose a plant pest risk. Any risk posed by the introduction into the environment of a regulated article under the notification procedures is likely to be comparable to the risks posed by plants developed through more traditional plant breeding techniques. Over the years, plant breeders have developed standard agricultural practices to address these risks, and the Agency believes that such practices will be adequate to address any risk from plants introduced under this rule.

However, because some researchers doing field tests of genetically engineered organisms may not be familiar with the standard good agricultural practices followed by plant breeders, the Agency has sought to enumerate them in this rule as performance standards. We invite comment specifically on the performance standards as to whether they approximate standard good agricultural practice as practiced by researchers and plant breeders in field trials for the introduction of new plant material.

The first standard could be met, for example, by shipping the regulated article in a container that meets the requirements of 7 CFR § 340.6(b) (1) through (3). Standards (2) and (3) address biological containment during and following a field test, and could be met, for example, by returning all material to a contained facility or by destroying the material when no longer in use by incorporation into the soil, exposure to the elements, composting, or other physical or chemical means that would ensure devitalization of the material. Subsequent to the completion of the field test, the site could be monitored for the emergence of volunteer plants, which would then be destroyed. Standard (4) ensures that there will be no unintended introduction of a plant pest microorganism when a biological vector agent such as *Agrobacterium tumefaciens* is used in the development of the regulated article. The rationale for the fifth standard is based upon the fact that plants pass their genes on to successive generations via the transfer of pollen to sexually compatible recipients. Providing that the field test meets the provisions of this section, this standard (5) would not prohibit conducting controlled genetic crosses as part of a field test or controlled experiments to assess pollen dispersal.

Paragraph (d) is as follows:

(d) Procedural requirements for notifying APHIS. The following procedures shall be followed for any introductions under the notification procedure.

(1) Notification should be directed to Director, BBEP c/o Deputy Director, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

(2) The notification shall include the following:

(i) Name, title, address, telephone number, and signature of the responsible person;

(ii) Information necessary to identify the regulated article(s).

(iii) The names and locations of the origination and destination facilities for movement or the field site location for the environmental release;

(iv) The date and, in the case of environmental release, the expected duration of the introduction (release).

(v) A statement that certifies that introduction of the regulated article will be in accordance with the provisions of this section.

(3) Notification must be postmarked, or delivered to a commercial express carrier on the day of or prior to the day of introduction. Alternatively, notification may be delivered to the Biotechnology Permits office on the day of or prior to the day of introduction, including by telephone facsimile.

(4) Field test reports must be submitted to the Deputy Director within 12 months after the start of the field test, and every 12 months thereafter for the duration of the field test. Field test reports shall include accurate observations regarding any deleterious effects on plants, nontarget organisms, or the environment.

(5) The Director, BBEP, shall be notified upon termination or an unexpected disruption of the field test.

(6) Access shall be allowed for APHIS and State plant regulatory officials to contained facilities and/or the field test site and any records necessary to evaluate compliance with the provisions of paragraphs (b) and (c) of this section.

Requirements (1) through (3) would provide that APHIS will receive timely notification of the introduction and that the notification will contain sufficient information to determine that the regulated article is eligible for the notification procedure. Requirement (4) ensures that APHIS is informed of the progress of the field tests and that any information about deleterious effects on plants, nontarget organisms, or the environment is reported in a timely fashion. The reporting of such information is important for the purpose of enabling Agency scientists to determine whether continuation of the field test presents a plant pest risk. Requirement (5) also ensures that the Agency is informed of the progress of the field trial and of any unexpected disruptions of the field trial (e.g., those resulting from severe weather conditions). Requirement (6) addresses the appropriateness of retaining authority for inspections by APHIS and State plant regulatory officials or other duly designated State officials to ensure compliance with the notification provisions. During the five year of field tests conducted under the permitting procedure, we have conducted inspections and found an extremely high level of compliance with permit conditions.

Paragraph (e) would be as follows:

(e) Administrative action in response to notification.

(1) The Director, BBEP, will notify the appropriate State regulatory officials where the introductions are to take place.

(2) The Director, BBEP, will acknowledge receipt of notification.

In the current permitting procedure for introduction, State officials are advised of permit applications for introductions in their State, and comments from State officials are requested. Action (1) in this subsection provides that this important exchange of information with State officials continues under the notification procedure. Action (2) in this subsection provides that APHIS will acknowledge receipt of notification to the responsible person. We anticipate that most people will want to receive confirmation that notification was received by the Agency.

B. Petition for Determination of Nonregulated Status

Current APHIS regulations provide for a petition to amend the list of regulated articles in § 340.2. The regulations provide a petition process to add or remove an organism from the list of organisms which are or contain plant pests. APHIS has recently received two petitions requesting that the Agency certify certain data, obtained from field trials which APHIS had permitted, regarding the lack of plant pest risk of a particular genetically engineered plant and that the Agency make a determination as to the regulatory status of such plant. In response to these petitions, APHIS published notices of proposed interpretive rulemaking in the **Federal Register** (See 57 FR 31170, July 14, 1992; 57 FR 40632, September 4, 1992) with a request for public comment regarding determination of the regulatory status of the organisms that were the subject of these petitions. For each petition, APHIS prepared an interpretive ruling based upon a review of the data submitted by the petitioners, comments received from the public in response to the notice of interpretive rulemaking, and information that APHIS has in its own files. The APHIS interpretive rule for the first of these petitions, along with the determination document, was published in the **Federal Register** on October 19, 1992. APHIS stated in the determination document that it was preparing a proposal to amend 7 CFR part 340 to "formalize" the petition process. The petition process described below is intended to provide a procedure for seeking a determination that an article is not regulated under 7 CFR part 340.

Section 340.6(c) proposes data and information requirements in support of a petition for release from regulation. The

data and information are necessary in order for APHIS to determine that the regulated article that is the subject of the petition does not present a plant pest risk. This is not to imply a zero risk standard, but rather the regulated article is unlikely to pose a greater plant pest risk than the unmodified plant from which it was derived. The biology of the nonmodified recipient organism serves as a basis with which to compare the final product (regulated article). Relevant experimental data and publications should support claims made about the nonmodified recipient and the regulated article. The identification of the source of the regulated article, the transformation system, the inserted genetic material and its products are essential for a determination that the regulated article does not present a plant pest risk.

Of paramount importance in determining that no plant disease, injury, or damage to plants or plant products will result from an introduction of the regulated article is a detailed description of the observed biological and chemical properties of the regulated article as compared to those of the unmodified recipient organism. The required information should allow APHIS to determine that the regulated article or its progeny presents no new plant pest properties, i.e., properties substantially different from those observed for the nonmodified recipient organism when used in traditional breeding programs.

Section 340.6(d) describes APHIS' administrative procedures for preparing a determination and notification of the petitioner within 120 days of receipt of a completed petition.

Section 340.6(e) provides a procedure for appeal of a petition decision by the Director, BBEP.

APHIS believes that for regulated articles, field testing may be required to verify that they exhibit the expected biological properties, and to demonstrate that although derived using components from plant pests, they do not possess plant pest characteristics. However, an organism is no longer subject to the permitting requirements of 7 CFR part 340, when it is demonstrated not to present a plant pest risk. APHIS is proposing to amend § 340.6 by allowing for a "petition for Determination of Nonregulated Status" under part 340. We are also proposing to add definitions for "APHIS" and Director, BBEP.

Executive Order 12291 and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and has been determined not to be a "major rule." Based on information compiled by the Department, it has been determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The effect of this proposed rule would (1) provide for a notification procedure for the introduction of regulated articles in accordance with proposed performance standards, and (2) formalize a petition procedure for a determination that an article is not regulated under part 340. Currently, the regulations do not provide for such a petition procedure. The proposed notification procedure for the introduction of a regulated article would be used in place of a permit application when the field test, interstate movement, or importation would be performed in accordance with the eligibility requirements and performance standards proposed in this document. The proposed petition procedure is based on comments received by APHIS. The notification procedure should result in a savings of time and expense that would ordinarily be associated with the preparation of a permit application and would eliminate the delay associated with permit application review. Eighty-five percent of current field tests could be conducted under the notification procedure, with the result that the current 120-day waiting period for a release permit would be eliminated. The majority of movement that is currently conducted under permit could also be conducted under the notification procedure, with the result that the current 60-day waiting period for movement would be eliminated.

It is expected that the proposed notification and petition procedures would affect several hundred research scientists, some of whom may be operating small businesses that would be deemed small "entities" under the Regulatory Flexibility Act. When the final rule was issued in 1987 it was estimated that the initial cost associated with submission of a permit application was $5,000. However, APHIS has subsequently learned that the cost of preparing a permit application has dropped significantly (by as much as 90%) once an applicant has made more than one permit submission to APHIS. We have estimated that the notification procedure should reduce by 95% the cost associated with permit preparation. Thus, each person utilizing the notification procedure in lieu of a permit should immediately realize an initial savings of at least $4750 for a person who is preparing a permit application for the first time. However, this savings would be less than $4750 when the cost of preparing a permit application is less than $5000.

APHIS believes that the initial cost of preparing a notification should not be significant since the type of information called for in a notification would be basic data that a researcher or company would have already collected. The cost of preparing a notification will further decrease as persons become more familiar with the preparation of notification letters. APHIS further believes that there should be no additional cost associated with the collection of data required for a petition for non-regulated status. The Agency believes that the data required in a petition is the data a company or researcher would routinely collect to assess development potential of a new variety. APHIS acknowledges that there may be some slight additional cost associated with the actual preparation of the petition. APHIS believes that this cost would be minimal.

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would preempt any State or local laws, regulations, or policies that are inconsistent with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the regulations under this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the information collection provisions that are included in the proposed rule will be submitted for approval to the Office of Management and Budget (OMB). Written comments concerning

any information collection provisions should be submitted to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. A duplicate copy of such comments should be submitted to: (1) Chief, Regulatory Analysis and Development Staff, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 and (2) Clearance Officer, ORIM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Regulatory Reform: Less Burdensome or More Efficient Alternatives

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome, and are easy for the public to understand, use, or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads, and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with law.

The Department has developed and reviewed the regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this notice.

List of Subjects in 7 CFR Part 340

Administrative practice and procedure, Biotechnology, Genetic engineering, Imports, Packaging and containers, Plant diseases and plant pests, Transportation.

Accordingly, we are proposing to amend 7 CFR part 340 as follows:

PART 340—INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING WHICH ARE PLANT PESTS OR WHICH THERE IS REASON TO BELIEVE ARE PLANT PESTS

1. The authority citation for 7 CFR part 340 would continue to read as follows:

Authority: 7 U.S.C. 150aa–150jj, 151–167, 1622n; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 340.0, paragraph (a) would be revised to read as follows:

§ 340.0 Restrictions on the introduction of regulated articles.

(a) No person shall introduce any regulated article unless the Director, BBEP, is:

(1) Notified of the introduction in accordance with § 340.3, or such introduction is authorized by permit in accordance with § 340.4, or such introduction is conditionally exempt from permit requirements under § 340.2(b); and

(2) Such introduction is in conformity with all other applicable restrictions in this part.[1]

* * * * *

3. In § 340.1, the following definitions would be added in alphabetical order to read as follows:

§ 340.1 Definitions.

* * * * *

Animal and Plant Health Inspection Service (APHIS). An agency of the United States Department of Agriculture.

* * * * *

Director, BBEP. The Director, or designee of the Director, of the Biotechnology, Biologics, and Environmental Protection (BBEP) division of the Animal and Plant Health Inspection Service.

* * * * *

Institutional Biosafety Committee (IBC). A committee at a university, college, or federally funded organization that was established to implement the National Institutes of Health safety guidelines for organisms produced through biotechnology, as consistent with Section IV–B–2 of those guidelines (51 FR 16962, May 7, 1986).

* * * * *

State regulatory official. State official with responsibilities for plant health, or any other duly designated State official, in the State where the introduction is to take place.

* * * * *

§§ 340.3–340.7 [Redesignated as §§ 340.4, 340.5, 340.7–340.9]

4. Sections 340.3, 340.4, 340.5, 340.6, 340.7 would be redesignated §§ 340.4, 340.5, 340.7, 340.8, 340.9 respectively; and new §§ 340.3 and 340.6 would be added to read as follows:

§ 340.3 Notification for the introduction of certain regulated articles.

(a) *General.* Certain regulated articles may be introduced without a requirement for a permit, provided that the introduction is in compliance with the requirements of this section. Any other introductions of regulated articles require a permit under § 340.4, with the exception of introductions that are conditionally exempt from permit requirements under § 340.2(b).

(b) *Regulated articles eligible for introduction under the notification procedure.* A regulated article is eligible for introduction under the notification procedure if it meets either the six requirements of paragraph (b)(1) of this section or the general criteria of paragraph (b)(2) of this section.

(1) The regulated article is:

(i) One of the following plant species:
corn (*Zea mays* L.);
cotton (*Gossypium hirsutum* L.);
potato (*Solanum tuberosum* L.);
soybean (*Glycine max* [L.] Merr.);
tobacco (*Nicotiana tabacum* L.);
tomato (*Lycopersicon esculentum* L.);
or

any additional plant species that BBEP determines may be safely introduced in accordance with the performance standards set forth in paragraph (c) of this section.

(ii) The introduced genetic material is "stably integrated" in the plant genome, as defined in § 340.1.

(iii) The introduced genetic material is well characterized and does not contain genes whose expression in the regulated article results in plant disease.

(iv) The introduced genetic material does not cause the production of:

(A) An infectious entity or

(B) Result in constituents that are new to the plant and toxic to nontarget organisms.

[1] Part 340 regulates the introduction of organisms developed using genetic sequences from known plant pests. The introduction into the United States of such articles may be subject to other regulations promulgated under the Federal Plant Pest Act (7 U.S.C. 150aa *et seq.*), the Plant Quarantine Act (7 U.S.C. 151 *et seq.*) and the Federal Noxious Weed Act (7 U.S.C. 2801 *et seq.*) and found in 7 CFR parts 319, 321, 330, and 360. For example under regulations promulgated in 7 CFR "Subpart-Nursery Stock" (7 CFR 319.37) a permit is required for the importation of certain classes of nursery stock whether genetically engineered or not. Thus, a person should consult those regulations prior to the importation of any nursery stock.

(v) The introduced genetic material does not pose a significant risk of the creation of any new plant virus.

(vi) The plant has not been modified to contain functionally intact genes derived from human or animal pathogens.

(2) A regulated article is also eligible for introduction under the notification procedures if, after prior consultation with the Director of BBEP, an appropriate State regulatory official, or an appropriate Institutional Biosafety Committee (IBC), the researcher has determined that the introduction of the regulated article is unlikely to pose a greater risk as a plant pest in the test environment than the unmodified plant from which it was derived based on:

(i) The characteristics of the modified plant, and

(ii) The confinement measures to be used in the field test.

The Director of BBEP will provide guidance on factors to be considered during the consultation process, including the applicability of the eligibility criteria set forth in § 340.3(b)(1) (ii)–(vi).

(c) *Performance standards for introductions under the notification procedure.* The following performance standards must be met for any introductions under the notification procedure.

(1) If the plants or plant materials are shipped, they must be shipped in such a way that the viable plant material is unlikely to be disseminated while in transit. The destination facilities shall provide for adequate containment of the regulated article(s).

(2) When the introduction is an environmental release, the regulated article plants must be planted in such a way that they are not inadvertently mixed with non-regulated plant materials which are not part of the environmental release.

(3) The plants and plant parts must be maintained in such a way that the identity of all material is known while it is in use, and the plant parts must be contained or devitalized when no longer in use.

(4) There must be no viable vector agent associated with the regulated article.

(5) When there is a significant probability that gene movement via pollen of the regulated article will result in viable progeny persisting in the environment, such movement must be minimized.

(6) Upon termination of the field test, no viable material shall remain which is likely to volunteer in subsequent seasons, or volunteers shall be managed to prevent persistence in the environment.

(d) *Procedural requirements for notifying APHIS.* The following procedures shall be followed for any introductions under the notification procedure:

(1) Notification should be directed to Director, BBEP, c/o Deputy Director, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782.

(2) The notification shall include the following:

(i) Name, title, address, telephone number, and signature of the responsible person;

(ii) Information necessary to identify the regulated article(s);

(iii) The names and locations of the origination and destination facilities for movement or the field site location for the environmental release;

(iv) The date and, in the case of environmental release, the expected duration of the introduction (release); and

(v) A statement that certifies that introduction of the regulated article will be in accordance with the provisions of this section.

(3) Notification must be postmarked, or delivered to a commercial express carrier on the day of or prior to the day of introduction. Alternatively, notification may be delivered to the Biotechnology Permits office on the day of or prior to the day of introduction, including by telephone facsimile.

(4) Field test reports must be submitted to the Director, BBEP, within 12 months after the start of the field test, and every 12 months thereafter for the duration of the field test. Field test reports shall include accurate observations regarding any deleterious effects on plants, nontarget organisms, or the environment.

(5) The Director, BBEP, shall be notified upon termination or an unexpected disruption of the field test.

(6) Access shall be allowed for APHIS and State plant regulatory officials to contained facilities and/or the field test site and any records necessary to evaluate compliance with the provisions of paragraphs (b) and (c) of this section.

(e) *Administrative action in response to notification.*

(1) The Director, BBEP, will notify the appropriate State plant regulatory officials, or other duly designated State officials, where the introductions are to take place.

(2) The Director, BBEP, will acknowledge receipt of notification.

§ 340.6 Petition for determination of nonregulated status.

(a) *General.* Any person may submit to the Director, Biotechnology, Biologics, and Environmental Protection (BBEP), a petition to seek a determination that an article should not be regulated under this part. A petitioner may supplement, amend, or withdraw a petition in writing without prior approval of the Director, BBEP, and without affecting resubmission at any time until the Director, BBEP, rules on the petition. A petition for determination of nonregulated status shall be submitted in accordance with the procedure and format specified in this section.

(b) *Submission procedures and format.* A person shall submit two copies of a petition to the Director, BBEP, c/o the Deputy Director, Biotechnology Coordination and Technical Assistance, BBEP, APHIS, USDA, 6505 Belcrest Road, Federal Building, Hyattsville, MD 20782. The petition shall be dated and structured as follows:

Petition for Determination of Nonregulated Status

The undersigned submits this petition under 7 CFR 340.6 to request that the Director, BBEP, make a determination that the article should not be regulated under 7 CFR part 340.

(Signature) _____

A. Statement of Grounds

A person must present a full statement explaining the factual grounds why the organism should not be regulated under 7 CFR part 340. The petitioner shall include copies of scientific literature, copies of unpublished studies, or data from tests performed upon which to base a determination. The petition shall include all information set forth in paragraph (c) of 7 CFR 340.6. If there are portions of the petition deemed to contain trade secret or confidential business information (CBI), each page of the petition containing such information should be marked "CBI Copy". In addition, those portions of the petition which are deemed "CBI" shall be so designated. The second copy shall have all such CBI deleted and shall have marked on each page where the CBI was deleted: "CBI Deleted." if a petition does not contain CBI, the first page of both copies shall be marked; "No CBI."

A person shall also include information known to the petitioner which would be unfavorable to a petition. If a person is not aware of any unfavorable information, the petition should state, "Unfavorable information: NONE."

B. Certification

The undersigned certifies, that to the best knowledge and belief of the undersigned, this petition includes all information and views on which to base a determination, and that it includes relevant data and information

known to the petitioner which are unfavorable to the petition.

(Signature)_____

(Name of Petitioner)_____

(Mailing Address)_____

(Telephone Number)_____

(c) *Required data and information.* The petition shall include the following information:

(1) Description of the biology of the nonmodified recipient organism.

(2) Relevant experimental data and publications.

(3) A detailed description of the genotype of the article. Include all scientific, common, or trade names, and all designations necessary to identify: The donor organism(s), the nature of the transformation system (vector or vector agent(s)), the inserted genetic material and its product(s), and the article. Include country and locality where the donor, the recipient, and the vector organisms and the articles are collected, developed, and produced.

(4) A detailed description of the phenotype of the article. Describe known and potential differences from the unmodified recipient organism that would substantiate that the regulated article is unlikely to pose a greater plant pest risk than the unmodified organism from which it was derived, including but not limited to: plant pest risk characteristics, disease and pest susceptibilities, expression of the gene product, new enzymes, or changes to plant metabolism, weediness of the regulated article, impact on the weediness of any other plant with which it can interbreed, agricultural or cultivation practices, effects of the regulated article on nontarget organisms, indirect plant pest effects on other agricultural products, transfer of genetic information to organisms with which it cannot interbreed, and any other information which the Director believes to be relevant to a determination.

(d) *Administrative action on a petition.* (1) A petition for determination of nonregulated status under this part which meets the requirements of paragraph (b) and (c) of this section will be filed by the Director, BBEP, stamped with the date of filing, and assigned a petition number. The petition number shall identify the file established for all submissions relating to the petition. The BBEP will promptly notify the petitioner in writing of the filing and the assigned petition number. If a petition does not meet the requirements specified in this section, the petitioner shall be sent a notice indicating how the petition is deficient.

(2) After the filing of a petition, APHIS shall publish a notice in the **Federal Register**. Any interested person may submit to the Director, BBEP, written comments, regarding the filed petition, which shall become part of the petition file.

(3) The Director, BBEP, shall, based upon available information, furnish a response to each petitioner within 120 days of receipt of a completed petition. The response will either:

(i) Approve the petition in whole or in part; or

(ii) Deny the petition. The petitioner shall be notified in writing of the Director's decision. The decision shall be placed in the public petition file in the offices of BBEP and notice of availability published in the **Federal Register**.

(e) *Denial of a petition; appeal.* (1) The Director's written notification of denial of a petition shall briefly set forth the reason for such denial. The written notification shall be sent by certified mail. Any person whose petition has been denied may appeal the determination in writing to the Administrator within 10 days from receipt of the written notification of denial.

(2) The appeal shall state all of the facts and reasons upon which the person relies, including any new information, to show that the petition was wrongfully denied. The Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision as promptly as circumstances allow. An informal hearing may be held by the Administrator if there is a dispute of a material fact. Rules of Practice concerning such a hearing will be adopted by the Administrator.

Done in Washington, DC, this 30th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-26918 Filed 11-5-92; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 907

[Docket No. FV-92-907-5]

Navel Oranges Grown in Arizona and Designated Part of California; Proposed Weekly Volume Regulations

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Proposed rule; correction.

SUMMARY: This action amends a proposed rule which invites comments on the quantities of fresh California-Arizona navel oranges that may be shipped weekly to domestic markets.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, (202) 720-5127.

SUPPLEMENTARY INFORMATION: This action amends a proposed rule which appeared in the **Federal Register** (57 FR 48340, October 23, 1992). The meeting time and location on page 48343, item 3, are changed to read as follows:

3. Committee Meeting Date: November 10, 1992, Time: 9:30 a.m., Location: Visalia Elks Lodge, 3100 West Main, Visalia, California 93291.

The meeting times on pages 48344 and 48345, items 4 through 10, are changed to read as follows: Time: 9:30 a.m.

Dated: November 4, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92-27119 Filed 11-5-92; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1755

Review and Revision of Architectural Services Contract—Telephone

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration (REA) is considering possible revisions that may be desirable in the form and content of REA contract Form 165 "Architectural Services Contract—Telephone". Several years have passed since this document was last revised and changes in common contract language have occurred. Revising the document at this time will allow contracts to be more consistent with common practice. Suggestions are invited on the document.

DATES: Comments must be received by REA or carry a postmark or equivalent by December 7, 1992.

ADDRESSES: Written comments should be addressed to Donald M. Van Bellinger, Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Electrification Administration, room 2835-S, 14th & Independence Avenue, SW., Washington, DC 20250-1500. REA requires a signed original and three copies of all comments (7 CFR 1700.30(e)). All comments received will

be made available for public inspection at room 2835–S (address as above) during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard J. Peterson, Assistant Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Electrification Administration, room 2835–S, at the above address. Telephone: (202) 720–8663.

SUPPLEMENTARY INFORMATION: The Architectural Services Contract—Telephone is used by borrowers of REA funds to secure the services of an architectural firm for design and for supervision of construction of buildings. The present version of the contract form has not been revised since 1969. REA is inviting suggestions for revision of the contract form. Copies of the present version of the contract form are available from Richard J. Peterson, Assistant Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Electrification Administration, room 2835–S, 14th & Independence Avenue, SW., Washington, DC 20250–1500. Telephone: (202) 720–8663.

Authority: 7 U.S.C. 901 et seq., 7 U.S.C. 1921 et seq.

James B. Huff, Sr.,

Administrator.

[FR Doc. 92–26806 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–15–M

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7 CFR Part 1755

Review and Revision of Postloan Engineering Service Contract—Telephone System Design and Construction

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration (REA) is considering possible revisions that may be desirable in the form and content of REA contract Form 217 "Postloan Engineering Service Contract—Telephone System Design and Construction". Several years have passed since this document was last revised and changes in common contract language have occurred. Revising the document at this time will allow contracts to be more consistent with common practice. Suggestions are invited on the document.

DATES: Comments must be received by REA or carry a postmark or equivalent by December 7, 1992.

ADDRESSES: Written comments should be addressed to Donald M. Van Bellinger, Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Electrification Administration, room 2835–S, 14th & Independence Avenue, SW., Washington, DC 20250–1500. REA requires a signed original and three copies of all comments (7 CFR 1700.30(e)). All comments received will be made available for public inspection at room 2835–S (address as above) during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Richard J. Peterson, Assistant Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Electrification Administration, room 2835–S, at the above address. Telephone (202) 720–8663.

SUPPLEMENTARY INFORMATION: The Postloan Engineering Service Contract—Telephone System Design and Construction is used by borrowers of REA funds to secure the services of an engineering firm for design and for supervision of construction of telecommunications facilities. The present version of the contract form has not been revised since July, 1981. REA is inviting suggestions for revision of the contract form. Copies of the present version of the contract form are available from Richard J. Peterson, Assistant Director, Telecommunications Standards Division, U.S. Department of Agriculture, Rural Electrification Administration, room 2835–S, 14th & Independence Avenue, SW., Washington, DC 20250–1500. Telephone (202) 720–8663.

Authority: 7 U.S.C. 901 *et seq.*, 7 U.S.C. 1921 *et seq.*

James B. Huff, Sr.,

Administrator.

[FR Doc. 92–26805 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration 5214 CFR Part 39

[Docket No. 92–NM–174–AD]

Airworthiness Directives; Garrett Model GTCP85 Series Auxiliary Power Units

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Garrett Model GTCP85 series auxiliary power units (APU). This proposal would require removing the existing turbine wheel shroud and installing one constructed of Hastelloy S material. This proposal is prompted by an incident in which the one-piece cast turbine wheel separated and subsequently impacted the turbine wheel shroud, fragmenting the shroud. The actions specified by the proposed AD are intended to prevent turbine shroud fragments from exiting the APU and puncturing the APU compartment, which could lead to reduced fire protection capability of the APU compartment.

DATES: Comments must be received by January 4, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–174–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Garrett Airlines Services Division, Technical Publications, Department 65–70, P.O. Box 52170, Phoenix, Arizona 85072–2170. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, ANM–140L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5245; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the

proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-174-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-174-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

There has been an incident in which the one-piece cast turbine wheel on a Garrett Model GTCP85 series auxiliary power unit (APU) separated and subsequently impacted the turbine wheel shroud, fragmenting the shroud into four segments. Two of these shroud fragments exited the APU. In this instance, the shroud was constructed of Inconel 718 material, and a containment augmentation ring had been installed in accordance with AD 87-24-11, Amendment 39-5781, (52 FR 45163, November 25, 1987). Inconel 718 material experiences a reduction in ultimate strength with long-time exposure to the higher temperatures in the operating range of the APU. Failure of the containment capability of the turbine shroud, if not corrected, could cause turbine shroud fragments to exit the APU and puncture the APU compartment, which could lead to reduced fire protection capability of the APU compartment.

The FAA has reviewed and approved Garrett Service Bulletin GTCP85-49-5700, dated July 20, 1987; Revision 1, dated October 6, 1988; and Revision 2, dated August 31, 1989. These service bulletins describe procedures for installing in the APU a turbine wheel shroud constructed of Hastelloy "S" material. Turbine shrouds made from Hastelloy "S" have increased containment capability that is superior to shrouds made of Inconel 718.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removing the turbine wheel shroud made of Inconel 718 material and installing one constructed of Hastelloy "S" material. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 1,050 Garrett Model GTCP85 series APU's of the affected design in the worldwide fleet. The FAA estimates that 350 Garrett Model GTCP85 series APU's of the affected design are installed on airplanes of U.S. registry and would be affected by this proposed AD. It would take approximately 105 work hours per APU to accomplish the proposed actions, and the average labor rate is $55 per work hour. Required parts would cost approximately $5,240 per APU. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,855,250, or $11,015 per APU. (Generally, there is one APU installed on each airplane.) This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Garrett Auxiliary Power Division: Docket 92-NM-174-AD.

Applicability: Garrett Model GTCP85 series Auxiliary Power Units, equipped with one-piece cast turbine wheels, part numbers 968095-X, 3604604-X, 3606982-1, or 3842072-1,-2,-3; as installed in, but not limited to, British Aerospace Model BAC1-11 series airplanes, Boeing Model 707 series airplanes, Boeing Model 727 series airplanes, Boeing Model 737 series airplanes, Lockheed Model L-1011 series airplanes, Lockheed Model L-100 series airplanes, Lockheed Model L382 series airplanes, McDonnell Douglas Model DC-8-70 series airplanes, McDonnell Douglas Model DC-9 series airplanes, and McDonnell Douglas Model MD-88 airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent turbine shroud fragments from exiting the APU and puncturing the APU compartment, which could lead to reduced fire protection capability of the APU compartment, accomplish the following:

(a) For in-flight operable Garrett Model GTCP85 series Auxiliary Power Units (APU): Within 24 months after the effective date of this AD, remove the turbine wheel shrouds constructed of Inconel 718 material and install a shroud constructed of Hastelloy "S" material, part number 3611904-1, in accordance with Garrett Service Bulletin GTCP85-49-5700, dated July 20, 1987; Revision 1, dated October 6, 1988; or Revision 2, dated August 31, 1989.

(b) For on-ground-only operable Garrett Model GTCP85 series APU's: Within 36 months after the effective date of this AD, remove the turbine wheel shroud constructed of Inconel 718 material and install a shroud constructed of Hastelloy "S" material, part number 3611904-1, in accordance with Garrett Service Bulletin GTCP85-49-5700, dated July 20, 1987; Revision 1, dated October 6, 1988; or Revision 2, dated August 31, 1989.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance

Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 30, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-26968 Filed 11-5-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[FI-36-92]

RIN 1545-AR05

Arbitrage Restrictions on Tax-Exempt Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations on the arbitrage restrictions applicable to tax-exempt bonds issued by States and local governments. Changes to the applicable law were made by the Tax Reform Act of 1986, the Technical and Miscellaneous Revenue Act of 1988, the Revenue Reconciliation Act of 1989, and the Revenue Reconciliation Act of 1990. These regulations affect issuers of tax-exempt bonds and provide guidance for complying with the arbitrage restrictions.

DATES: Written comments, requests to speak at the public hearing, and outlines of oral comments must be received by January 15, 1993. A notice of public hearing will be published in the near future in the **Federal Register**.

ADDRESSES: Send comments, requests to appear at the public hearing, and outlines of comments to be presented, to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (FI-36-92), room 5528, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Scott R. Lilienthal, William P. Cejudo, or Nancy M. Lashnits at 202-622-3980 (not a toll-free number). Concerning the public hearing, Carol Savage of the Regulations Unit, 202-622-7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information requirement contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information requirement should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collection of information requirement is contained in §§ 1.148-2(b)(2), 1.148-3(g), 1.148-4(h)(ii), 1.148-7(f)(2), 1.148-7(i)(2), 1.148-7(j), 1.148-7(k), 1.148-7( ), 1.148-7(n)(1), and 1.148-11(b) of this regulation. The information is required to verify that an issuer of tax-exempt bonds is properly complying with the arbitrage restrictions. The taxpayers affected are States and political subdivisions that issue bonds, entities that issue bonds on behalf of States or political subdivisions, and substantial beneficiaries of bonds issued by such entities.

These estimates are an approximation of the average time expected to be necessary for a collection of information. They are based on such information as is available to the Internal Revenue Service. Individual recordkeepers may require greater or less time, depending on their particular circumstances. Estimated total annual recordkeeping burden: 40,500 hours. The estimated annual burden per recordkeeper varies from 12 hours to 15 hours, depending on individual circumstances, with an estimated average of 13.5 hours.

Estimated number of recordkeepers: 3000.

BACKGROUND

Explanation of Provisions

I. Background of Regulations

Section 148 provides rules concerning the use of proceeds of State and local bonds to acquire higher yielding investments. Section 148(a) provides generally that interest on a State or local bond is tax-exempt only if the issuer invests bond proceeds at a yield that is not materially higher than the yield on the bond issue. Section 148(f) provides that interest on a State or local bond is tax-exempt only if the issuer rebates to the Federal government certain arbitrage earnings derived from investing gross proceeds at a yield exceeding the yield on the bond issue.

Longstanding regulations relating to the arbitrage yield restriction rules are in §§ 1.103-13 through 1.103-15. On May 18, 1992, final regulations under section 148 were published at §§ 1.148-0 through 1.148-11. At that time, the Internal Revenue Service and the Treasury Department announced a commitment to further simplify and clarify the regulations under section 148 by revising the arbitrage regulations and finalizing these rewritten regulations by June 1993. To evidence this commitment, the May 1992 final regulations expire by their terms on June 30, 1993.

This document proposes to amend the Income Tax Regulations (26 CFR part 1) by replacing the yield restriction and rebate regulations currently provided in §§ 1.103-13 through 1.103-15 and §§ 1.148-0 through 1.148-11 with coordinated, simplified regulations. This document also proposes to amend certain related regulations on advance refunding limitations in § 1.149-1(d), definitions in § 1.150-1, and reimbursement bonds in § 1.103-18. These existing regulations are referred to collectively as the "existing regulations." In this process, consideration was given to the public comments received with respect to the existing regulations and, to the extent time permitted, recently received comments containing recommendations to simplify the existing regulations.

II. Description of Proposed Regulations

A. In General

The proposed regulations substantially revise the arbitrage regulations on tax-exempt bonds to simplify those rules and to reduce administrative burdens to the greatest extent possible. The proposed regulations provide greater coordination of the rules on yield restriction and rebate, more unified definitions, general anti-abuse rules in lieu of numerous special rules, clarifications of ambiguous areas, and new guidance on many previously-reserved topics.

No inferences should be drawn from the proposed regulations regarding the application of the corresponding provisions of the existing regulations. For example, the inclusion of an example of a transaction involving an abusive device or the inclusion of a rule to deal with a particular transaction does not mean that the transaction is

not an artifice or device or an abusive device under the existing regulations.

B. Section 1.148–1 Definitions for Arbitrage Purposes

1. In General

The existing regulations contain many overlapping definitions for arbitrage yield restriction and rebate purposes. The proposed regulations generally provide unified definitions for these purposes. Selected definitions are discussed below.

2. Bona Fide Debt Service Fund

The proposed regulations clarify that amounts in a bona fide debt service fund may include bond proceeds.

3. Guaranteed Investment Contract

The proposed regulations provide a specific definition of guaranteed investment contract that focuses on a negotiated payment schedule and agreements to supply investments in the future (e.g., forward supply contracts).

4. Investment-type Property

The existing regulations do not define investment-type property. The proposed regulations provide a definition of investment-type property that focuses on passive production of income. For prepayments, the definition focuses on the motivation associated with the investment element of the prepayment.

5. Plain Par Bonds and Plain Par Investments

The proposed regulations provide new definitions for plain par bonds and plain par investments. These bonds and investments generally have standard features and de minimis amounts of original issue discount or premium. Importantly, these bonds and investments may be valued by reference to their outstanding principal amounts for various purposes.

6. Various Types of Proceeds

The proposed regulations provide unified definitions for the various categories of proceeds. These include definitions of sale proceeds, investment proceeds, and transferred proceeds, which together constitute proceeds. Proceeds plus replacement proceeds are gross proceeds. Net sale proceeds correspond to spendable proceeds under the existing regulations.

7. Reasonable Expectations

Certain arbitrage restrictions are applied based upon the issuer's reasonable expectations. The existing regulations contain separate definitions of reasonable expectations for different purposes. The proposed regulations provide a unified definition of reasonable expectations for purposes of the arbitrage restrictions, together with specific provisions applying the reasonable expectations standard for certain purposes. The definition generally imposes a prudent person standard and provides guidance for applying the standard in a conduit financing.

8. Replacement Proceeds

The arbitrage yield restriction and rebate rules apply both to proceeds received from the sale of bonds and to amounts replaced by such proceeds. The existing regulations generally do not define replacement proceeds. The proposed regulations provide that replacement proceeds include, but are not limited to, sinking funds, amounts that are pledged as security for an issue, working capital replacement funds, and amounts that are replaced because of their nexus to a governmental purpose of the issue. Generally, this definition reflects the scope of the replacement principle that has developed in published rulings and legislative history. Thus, the finalization of the proposed regulations will not result in the need to modify the published revenue rulings on replacement.

9. Refunding Escrow

The proposed regulations clarify that funds are not part of the same refunding escrow unless the escrow is established as part of a single transaction or a series of related transactions.

C. Section 1.148–2 General Arbitrage Yield Restriction Rules

1. Reasonable Expectations and Intentional Acts

Under section 148(a), bonds are generally taxable arbitrage bonds if, as of the issue date, the issuer reasonably expects to invest the proceeds in higher yielding investments. The existing regulations generally permit an issuer to establish its reasonable expectations about factual matters with a written certification, unless that issuer has been disqualified. The proposed regulations permit an issuer to certify its expectations. As a prerequisite to the use of such a certification, the proposed regulations provide new rules designed to provide more complete disclosure of facts and material tax issues. The certification is evidence of an issuer's expectations, but does not establish any conclusions or presumptions about those expectations. The proposed regulations also eliminate the disqualification provision.

In addition, bonds generally are taxable arbitrage bonds if the issuer intentionally uses proceeds to purchase higher yielding investments. The proposed regulations provide guidance on this intentional acts standard. This guidance is consistent with Rev. Rul. 80–91, 1980–1 C.B. 29, Rev. Rul. 80–92, 1980–1 C.B. 31, and Rev. Rul. 80–188, 1980–2 C.B. 47, and carries forward the codification of the intentional acts limitation enacted as part of the Tax Reform Act of 1986.

2. Materially Higher Yielding Investments

The existing regulations generally provide that the yield on an investment is materially higher than the yield on an issue if it exceeds the yield on the issue by more than one-eighth of one percentage point. The proposed regulations retain this general rule, and eliminate or combine certain special definitions of materially higher.

3. Temporary Periods

Under section 148(c), proceeds may be invested at a materially higher yield during a reasonable temporary period until needed for the purpose of the issue without causing the bonds of the issue to be arbitrage bonds. The proposed regulations continue the general three-year temporary period for proceeds used for capital projects in modified form. In lieu of the existing special temporary period for short-term tax and revenue anticipation notes, the proposed regulations provide a simplified 13-month temporary period for proceeds used for working capital expenditures.

4. Reasonably Required Reserve or Replacement Funds

Amounts in a reasonably required reserve or replacement fund are generally not subject to yield restriction. The proposed regulations modify the provisions in the existing regulations dealing with reasonably required reserve or replacement funds in order to reflect changes in the law. The proposed regulations also provide an additional size limitation on amounts that may qualify as part of a reasonably required reserve or replacement fund. This limitation is based on the amount of annual debt service on the issue.

D. Section 1.148–3 General Arbitrage Rebate Rules

1. Computation of Rebate Amount

The proposed regulations generally retain the future value method used in the existing regulations for the computation of rebate, but simplify its mechanics. The proposed regulations

streamline the definitions of "payments" and "receipts" by eliminating subsidiary definitions. The proposed regulations eliminate the largely-reserved concept of "imputed receipts." The proposed regulations also simplify the rules on late payments and other failures to comply with the rebate requirement.

2. Recovery of Overpayment of Rebate

The proposed regulations expand the circumstances under which an issuer may recover an overpayment of rebate. Under the proposed regulations, any overpayment may generally be recovered upon proof satisfactory to the Commissioner. The proposed regulations do not provide for the payment of interest on overpayment. Specific legislative authorization may be required to pay such interest.

E. Section 1.148–4 Yield on a Bond Issue

1. One-Time Yield Computation for a Fixed Yield Issue

The existing regulations contain detailed rules on computing yield on fixed yield issues, including rules that require that yield be recomputed after the issue date in certain events based on the "early retirement value" of the redeemed bonds. The proposed regulations generally eliminate the requirement that yield on a fixed yield issue be recalculated, except in narrow circumstances involving hedging transactions. Special rules, however, require that certain reasonably expected redemptions be taken into account in this one-time yield computation. For example, for bonds that have very early redemption rights, significant premium, or so-called "stepped coupons," optional redemption rights are assumed to be exercised for this purpose.

2. Computing Yield on a Variable Yield Issue

The existing regulations provide that, for arbitrage rebate purposes, yield on a variable yield issue is computed separately for prescribed computation periods. The proposed regulations retain and expand this methodology to apply for both arbitrage yield restriction and rebate purposes.

3. Value of Bonds

Under both the existing regulations and the proposed regulations, bonds must be valued at certain times in order to compute yield on the issue and for certain other purposes. For example, bonds generally must be valued as of the end of each computation period in order to compute yield on a variable yield issue. The proposed regulations simplify the computation of yield on an issue and the value of bonds by permitting issuers to value certain common types of bonds, referred to as "plain par bonds," at their outstanding stated principal amounts plus accrued unpaid interest. For valuing bonds other than plain par bonds, the proposed regulations generally retain the present value method used in the existing regulations.

4. Qualified Guarantees

Under the existing regulations and the proposed regulations, issuers may take into account certain fees for credit enhancement, such as bond insurance and letters of credit (referred to as "qualified guarantees") in computing yield on an issue. The proposed regulations simplify the rules on qualified guarantees by reducing restrictions on eligible providers and eliminating many subsidiary restrictions. The proposed regulations replace certain mechanical fee allocation rules with more general rules on allocating qualified guarantee fees that focus on proportionate credit risk.

5. Hedging Transactions

The existing regulations reserve guidance on the treatment of hedging transactions associated with tax-exempt bond issues for arbitrage purposes. The proposed regulations permit issuers to take certain hedging transactions into account for purposes of computing yield on the issue. The proposed regulations provide that, in order to take a hedge into account, the terms of the hedge must closely, but not perfectly, correspond with the terms of the issue and the hedge must be adequately identified. The Commissioner may identify other hedging transactions that must be taken into account.

F. Section 1.148–5 Yield and Valuation of Investments

1. Yield on an Investment Generally

The proposed regulations generally provide that, for arbitrage yield restriction purposes, yield on investments must be computed in a manner consistent with the computation of yield on the related bond issue. For example, the yield on purpose investments that are allocated to an issue must be computed using the same redemption assumptions used to compute the yield on the issue itself. The proposed regulations retain the rule in the existing regulations that requires issuers to compute yield on investments of a single class separately.

2. Administrative Costs of Investments

The existing regulations generally prohibit administrative costs of nonpurpose investments from being taken into account in computing yield on those investments and rebate on the issue. A special exception under the existing regulations permits certain administrative costs associated with specified commingled funds and mutual funds to be taken into account. The proposed regulations permit reasonable administrative costs on all nonpurpose investments to be taken into account in computing yield on the investments and rebate on the issue. The proposed regulations generally provide that whether administrative costs are reasonable is based on all of the facts and circumstances, including whether the costs are comparable to costs that would be charged for the same investment if purchased with amounts other than tax-exempt bond proceeds.

3. Yield Reduction Payments to the United States

The arbitrage yield restriction and rebate rules generally have the same objective of minimizing arbitrage incentives, but under the existing regulations often apply in an uncoordinated and overlapping manner. Issuers may, of course, avoid rebate by yield restricting the gross proceeds of an issue. The proposed regulations provide significant further integration of the arbitrage yield restriction and rebate provisions by permitting certain payments, including certain rebate payments, to be made to the United States to reduce the yield on investments for yield restriction purposes.

The proposed regulations permit these yield reduction payments only in specific prescribed circumstances. The scope of this rule is intended to permit payments in most circumstances in which yield restriction creates administrative difficulties. For example, this rule applies to an issue to finance a construction project in which the issuer qualifies for an initial temporary period but is unable to spend all of the proceeds within the period due to construction delays. Similarly, this rule applies to specified variable yield issues for which no simple methodology exists for yield restriction.

4. Value of Investments

The existing regulations generally permit an issuer to value investments using either fair market value or, in certain circumstances, present value. The proposed regulations simplify and consolidate the valuation rules for

investments. The proposed regulations permit issuers to value certain common types of investments, referred to as "plain par investments," at their outstanding principal amount, plus any accrued but unpaid interest. Under the proposed regulations, fixed rate investments may generally be valued at present value, and any investment may be valued at fair market value.

Certain investments must be valued at fair market value when first allocated to an issue or cease to be allocated to an issue upon a deemed purchase or deemed disposition. In recognition of the administrative difficulties of determining the fair market value of investments in various circumstances, the proposed regulations reduce the circumstances in which investments are required to be valued at fair market value. Investments allocated pursuant to the transferred proceeds rules or the universal cap need not be valued at fair market value.

The proposed regulations eliminate the rules from the existing regulations on "imputed receipts." The proposed regulations generally require, however, that all investments be purchased and sold at fair market value in arm's length transactions. The proposed regulations modify the existing requirements on establishing fair market value for guaranteed investment contracts and change these rules to a safe harbor.

The proposed regulations do not include any specific rules for determining whether open market refunding escrows are acquired at fair market value. The Service believes that the general fair market value standard is sufficient. Comments are requested, however, on whether specific rules should be provided for this purpose.

G. Section 1.148–6 General Allocation and Accounting Rules

1. Reasonable, Consistently Applied Accounting Methods

Unless a special rule applies, the proposed regulations, like the existing regulations, permit an issuer to use any reasonable, consistently applied accounting method to account for investments and expenditures of bond proceeds for arbitrage purposes.

2. Universal Cap on Value of Nonpurpose Investments

The proposed regulations generally retain the universal cap that limits the amount of gross proceeds allocable to a bond issue and the rule limiting amounts to being proceeds of only one issue. The proposed regulations clarify the application of the universal cap to situations involving multiple generations of refundings.

3. Allocation of Gross Proceeds to Expenditures

The proposed regulations modify and clarify various existing special expenditure rules on working capital expenditures, grants, and related party payments. For working capital expenditures, the proposed regulations retain the existing rule that imposes a general "bond-proceeds-spent-last" accounting method, with exceptions for certain specified types of expenditures. To make this rule more workable for issuers, however, the proposed regulations include expanded and clarified exceptions to the "bond-proceeds-spent-last" expenditure assumption, including a general de minimis exception that is extended to cover administrative costs and up to 3 years' interest on the bond issue, a new exception for expenditures for certain extraordinary items, and a general exception for refundings. The proposed regulations also change the existing limitation on the size of a permitted working capital reserve to a safe harbor.

For grants, the proposed regulations modify the existing rules to provide that, as a general rule, a grant to an unrelated party is an expenditure.

The proposed regulations also specifically provide that a payment to a related party does not result in an expenditure.

4. Investments Held by a Commingled Fund

The existing regulations impose certain mark-to-market requirements for commingled funds with longer-term investment portfolios. After further consideration, the Service has determined that, for an "external" commingled fund, the existence of an arm's-length relationship between an issuer and the administrator reduces the concern with investment gain or loss manipulation. Accordingly, the proposed regulations limit the application of the mark-to-market rule to "internal" commingled funds and those external commingled funds in which the issuer and any related party own a substantial beneficial interest. The proposed regulations also increase from 1 year to 18 months the minimum weighted average maturity of investments that will cause a commingled fund to become subject to the mark-to-market rule.

H. Section 1.148–7 Spending Exceptions to the Arbitrage Rebate Requirement

1. In General

The spending exceptions provide exceptions to rebate if certain specified amounts of proceeds are spent for the governmental purposes of the issue within designated periods of time from the issue date. The proposed regulations continue the existing rules on the 6-month spending exception and the 2-year construction issue spending exception with modifications. As described below, the proposed regulations add a new regulatory 18-month spending exception to relieve administrative compliance burdens.

2. New 18-Month Spending Exception

Section 148 provides statutory 6-month and 2-year spending exceptions to rebate. The 6-month exception generally provides that an issue is exempt from rebate if the gross proceeds of the issue are expended for the governmental purposes of the issue within 6 months of the issue date. The 2-year exception generally provides that rebate does not apply to the available construction proceeds of a construction issue if those proceeds are spent for the governmental purposes of the issue within 2 years of the issue date in accordance with a specified spending schedule. Issuers have expressed concern that the 6-month spending exception is too short and the 2-year spending exception too complex and narrow to accommodate many traditional, non-arbitrage motivated transactions.

To address these concerns, the proposed regulations provide a new 18-month spending exception that is broadly applicable and requires prompt expenditure of bond proceeds under a prescribed, approximately level spending schedule. This 18-month spending exception should enable many issuers to avoid the rebate requirement in situations where there are no significant arbitrage incentives.

This new spending exception is intended to implement legislative intent to provide administratively workable regulations in this area. Section 148(i) and the relevant legislative history to the rebate requirement provide broad regulatory authority, including authority to create appropriate safe harbor exceptions to the rebate requirement based on prompt expenditures of bond proceeds.

3. 2-Year Construction Spending Exception

Definition of construction issues. The existing regulations provide that an issue is a construction issue eligible for the 2-year exception if 75 percent of the available construction proceeds are actually used for construction expenditures. Under the existing regulations, an issuer may make various elections and be eligible to base this determination on its reasonable expectations as of the issue date rather than on actual facts. To reduce complexity, the proposed regulations reverse these elections. Thus, under the proposed regulations, qualification as a construction issue, the determination of the amount of available construction proceeds, and certain other determinations (but not compliance with the spending schedule) are based on the issuer's reasonable expectations as of the issue date (unless the issuer elects to use actual facts).

Reasonable retainage. Under the 2-year spending exception, an issuer does not fail to satisfy the exception if it spends at least 95 percent of the available construction proceeds within 2 years and the unspent amount is for "reasonable retainage." The proposed regulations simplify the definition of "reasonable retainage" and generally require only that the amounts be retained for reasonable business purposes relating to the property financed.

4. Pooled Financings

The proposed regulations modify and extend the rules in the existing regulations relating to the application of the spending exceptions to pooled financings. Specifically, the proposed regulations enable issuers of pooled financings to apply each of the spending exceptions on a loan-by-loan basis, so that individual loans may qualify for a spending exception.

5. Special Transferred Proceeds Rules

The existing regulations provide separate transferred proceeds rules for the 6-month and the 2-year spending exceptions. To provide more consistent treatment, the proposed regulations adopt a single transferred proceeds rule for all of the spending exceptions. This rule provides that, for purposes of applying the spending exceptions only, the transferred proceeds rules generally do not apply.

6. De Minimis Rule

Under the existing regulations, if an issuer fails a spending requirement by any amount, the issue does not qualify for the exception. The proposed regulations provide a general de minimis rule that excuses minor failures to meet a spending requirement under one of the spending exceptions, if the issuer exercises due diligence in completing the project financed with the issue.

I. Section 1.148–8 Small Issuer Exception to Arbitrage Rebate Requirement

The existing regulations provide no guidance on the small issuer exception to the arbitrage rebate requirement under section 148(f)(4)(D). The proposed regulations provide limited guidance on certain of these requirements. The small issuer exception only applies to bonds issued by governmental units with general taxing powers. The proposed regulations provide a definition of "general taxing powers." The proposed regulations also clarify that the issue size limitation is measured based on issue price less accrued interest. The proposed regulations provide guidance on the issuer aggregation rules, the definition of "subordinate entity," the treatment of refunding issues, and the application of the exception to pooled financings.

J. Section 1.148–9 Arbitrage Rules for Refunding Issues

1. Transferred Proceeds Allocation Rule

The existing regulations provide a "principal-to-principal" transferred proceeds allocation rule. Under this rule, at the time that proceeds of a refunding issue discharge any of the outstanding principal amount of a prior issue, unspent proceeds of the prior issue become transferred proceeds of the refunding issue. The transfer percentage is based on the ratio of the principal amount of the prior issue discharged with proceeds of the refunding issue to the total principal amount of the refunding issue immediately before the discharge.

The proposed regulations continue the "principal-to-principal" transfer rule of the existing regulations and clarify its application in various respects.

The proposed regulations generally do not include an "operating rule" (as under § 1.103–14(e)(1)) to divide a prior issue into refunded and unrefunded portions for transferred proceeds purposes. The proposed regulations do, however, provide rules to clarify the operation of the transferred proceeds rules where a prior issue is separately refunded by two or more partial refunding issues.

2. Allocations of Mixed Escrows to Investments and Expenditures

Under the existing regulations, a refunding escrow that contains both proceeds of a refunding issue and other amounts (a "mixed escrow") must be allocated to investments and to expenditures for debt service on a prior issue so that expenditures of proceeds do not occur faster than expenditures of the other amounts in the mixed escrow. In part, this rule limits inappropriate longer-term investment of non-proceeds held in a mixed escrow. The existing regulations also contain a related special allocation rule for certain short-term funds.

The proposed regulations modify the mixed escrow rules of the existing regulations in several respects. To simplify the allocations, the proposed regulations apply the rule based on sale proceeds (instead of proceeds) in the mixed escrow. To restrict inappropriate "targeting" of amounts other than proceeds to pay principal of the prior issue so as to minimize transferred proceeds when a prior issue has unspent proceeds, the proposed regulations require that allocations of a mixed escrow in this circumstance be ratable both between expenditures for principal and interest and between expenditures of sale proceeds and other amounts. The proposed regulations, however, also permit amounts that are not sale proceeds to be allocated to investments and expenditures before the payment of any principal of the prior issue from the mixed escrow.

3. Restrictions on Escrow Restructurings

The existing regulations contain a special allocation rule prohibiting certain escrow restructuring transactions (so-called "re-refundings"). The proposed regulations delete this special rule. The definition of replacement proceeds makes clear that these transactions give rise to replacement proceeds and, therefore, are arbitrage bonds under the abusive device rule.

4. Multipurpose Issue Allocations

The existing regulations contain a flexible multipurpose issue allocation rule that permits issues used for separate governmental purposes to be treated as separate issues for prescribed purposes. The proposed regulations limit the application of this rule in determining the transferred proceeds attributable to a refunding escrow allocable to the proceeds of a prior issue that refunded two or more other prior issues. This change is intended to prevent the multipurpose issue rule from

being used to divide economically integrated refunding transactions in an artificial manner to avoid transferred proceeds. This rule does not apply to the refunding of any new money portion of such an issue. The proposed regulations also provide that the multipurpose issue allocation rules may not be used to achieve more favorable results under sections 148 and 149(d) than could be achieved with actual separate issues. These changes have also eliminated the need for the rule in the existing regulations limiting the application of the multipurpose issue rule in certain multi-generational refundings.

The existing regulations contain specific rules for allocating bonds of a multipurpose issue to refunding purposes. In addition to the general reasonableness requirement for allocations, the existing regulations require that the portion of bonds allocated to refunding purposes be determined either on a pro rata basis or based on a comparison of the weighted average maturity of the refunding bonds to the remaining weighted average maturity of the refunded bonds. The proposed regulations replace this weighted average maturity test with a cash flow test. Specifically, the proposed regulations provide that the allocation of bonds to refunding purposes must reflect substantially level savings or a principal and interest payment schedule that proportionately matches the schedule of the refunded bonds.

K. Section 1.148–10 Anti-Abuse Rules

1. General Anti-Abuse Rule

The existing regulations contain numerous narrow, specific anti-abuse rules. In lieu of many of these narrow rules, the proposed regulations provide a broad, general anti-abuse rule that treats bonds as taxable arbitrage bonds if the issuer uses an abusive device to obtain a material financial advantage based on arbitrage. This general anti-abuse rule replaces the general artifice or device rules contained in § 1.103–13(j) and § 1.148–9(g) and numerous specific anti-abuse rules. The application of this general abusive device rule is broader than the existing rules but is also intended to treat as arbitrage bonds all transactions and actions covered by these various existing anti-abuse rules.

The proposed regulations delete the rules in the existing regulations relating to after-arising replacement amounts. Instead, the proposed regulations provide an example illustrating that the use of structures creating debt service "windows" may be an abusive device in certain circumstances.

2. Specific Anti-Abuse Rules

The proposed regulations contain an anti-abuse rule that carries forward the excess proceeds principles in existing § 1.103–15. To prevent an inappropriate burden on the tax-exempt market, the proposed regulations also contain an anti-abuse rule that restricts the issuance of conduit financing issues to finance tax-exempt purpose investments that may be subsequently sold. The proposed regulations contain another anti-abuse rule that permits the Commissioner to recompute rebate or yield or take other actions to clearly reflect the economic substance of an issue.

3. Authority of Commissioner To Prevent Undue Hardship

The proposed regulations grant the Commissioner authority to prescribe by revenue ruling or revenue procedure extensions of regulatory temporary periods, permit larger reserve or replacement funds, and treat transactions as qualified hedges. In addition, the proposed regulations also grant the Commissioner the authority to prescribe the consequences of failures or remedial actions under section 148 in lieu of other consequences, such as taxing the interest received by bondholders.

L. Section 1.149(d)–1 Advance Refunding Limitations

The proposed regulations consolidate the existing rules on advance refunding restrictions under section 149(d). These provisions provide guidance on the extent to which the arbitrage regulations apply for purposes of the advance refunding restrictions.

M. Section 1.149(h)–1 Hedge Bonds

The proposed regulations provide limited guidance on the hedge bond rules under section 149(g). Most significantly, the proposed regulations extend the arbitrage allocation and accounting rules under proposed section 1.148–6 to apply for purposes of section 149(g).

N. Section 1.150–1 General Definitions for Purposes of All Tax-Exempt Bond Rules

The proposed regulations revise certain of the existing definitions and provide several new definitions that apply for all purposes of sections 103 and 141 through 150. Selected definitions are discussed below.

1. Definition of Issue

Various definitions of "issue" apply for purposes of various tax-exempt rules under existing law. For example, § 1.103–13(b)(10) of the existing regulations provides a definition of issue for arbitrage purposes. Rev. Rul. 81–216 provides a different definition of issue for private activity bond purposes. The proposed regulations provide a new definition of issue for tax-exempt bond purposes. Under this definition, obligations are part of the same issue if issued or sold at substantially the same time, sold pursuant to the same plan of financing, and reasonably expected to be paid from the same source of funds, determined without regard to credit enhancement. The proposed regulations provide special rules for the treatment of draw-down loans and commercial paper. Initially, the proposed regulations apply this issue definition for purposes of sections 148, 149(d), and 149(g). Consideration is being given to extending this definition for all purposes of sections 103 and 141 to 150.

2. Refunding Issue

Section 1.148–11(b) of the existing regulations provides a definition of refunding issue for arbitrage purposes. This definition generally focuses on whether two issues have the same true obligor. This definition properly distinguishes between acquisitions and refundings. The proposed regulations, therefore, extend this definition to apply for all purposes of sections 103 and 141 through 150. A special rule has been included to provide certainty in situations in which, in connection with the acquisition of assets, an assumption of the obligations that financed the assets occurs and, within a close period of time, the outstanding obligation is refinanced. Such a transaction is not treated as a refunding.

O. Section 1.150–2 Proceeds of Bonds Used for Reimbursement

1. In General

Section 1.103–18 of the existing regulations provides guidance to determine when the allocation of bond proceeds to reimburse expenditures previously made by an issuer is treated as an expenditure of those bond proceeds. Those rules generally apply only to specified types of tax-exempt bonds. The proposed regulations simplify the rules on reimbursement of past expenditures in a number of respects and delete various detailed rules to reduce administrative burdens. The proposed regulations extend these rules to apply to all tax-exempt bonds. Selected changes are highlighted below.

2. Official Intent Requirement

The existing regulations require an issuer to declare an intention to

reimburse an expenditure before the date the expenditure is paid, unless the expenditure is unforeseeable. The proposed regulations permit an issuer to make the declaration up to 60 days after the date the expenditure is paid and delete the special rule for unforeseeable expenditures.

3. Reimbursement Period Requirement

The existing regulations require an issuer to reimburse past expenditures with bond proceeds no later than 1 year after the later of the date the expenditure is paid or the date the property is placed in service. The proposed regulations extend this 1-year period to 18 months, but provide a new limitation that requires reimbursement to be made not later than 3 years after the date the expenditure is paid.

4. Nature of Reimbursed Expenditure

The existing regulations do not apply to reimbursements for working capital purposes. The proposed regulations provide that an issuer may make reimbursement allocations for certain extraordinary and nonrecurring working capital expenditures.

5. Public Availability Requirement

The proposed regulations delete the requirement under the existing regulations that a declaration of official intent be reasonably available for public inspection.

6. Reasonableness Requirement for Declaring Official Intent

The existing regulations require that a declaration of official intent be consistent with the budgetary and financial circumstances of the issuer. The proposed regulations replace this requirement with a broad anti-abuse rule relating to replacement proceeds, the principal concern of the existing requirement.

7. Special Exceptions

The proposed regulations provide a new de minimis exception for expenditures that do not exceed the lesser of $100,000 or 5 percent of the proceeds of a bond issue. The proposed regulations also provide a small issuer exception. Under this exception, small issuers exempt from the arbitrage rebate requirement under section 148(f)(4)(D) receive an extended reimbursement period of up to 5 years after the date an expenditure is paid.

8. Relationship to Refundings and Anti-Abuse Rules

The proposed regulations clarify the relationship between reimbursements and refundings. In general, once financed with bond proceeds, an expenditure is not analyzed under the reimbursement rules. The proposed regulations provide simplified anti-abuse rules, including a one-year step transaction rule and a rule limiting the use of taxable bonds to avoid the reimbursement restrictions.

P. Simplification and Enforcement

An important part of the simplification of the existing arbitrage regulations involves the elimination of narrow anti-abuse rules targeted to specific abusive transactions. In large measure, the proposed regulations replace these specific rules with more general rules on abusive devices and specific guidance on replacement proceeds.

The complexity of existing regulatory guidance on arbitrage restrictions, however, is in part attributable to statutory and regulatory responses to abuses. Permanent simplification in this area depends on the effectiveness of the proposed regulations, particularly the proposed general anti-abuse rules. Effective enforcement is an important component of this simplification effort. In furtherance of these goals, the Service is actively studying the enforcement procedures developed in the tax-exempt bond area. Related goals are building on increased enforcement in recent years and increasing voluntary compliance. Primary goals are the prompt examination of potentially abusive transactions and prompt published guidance on significant abusive transactions. In addition, this project may lead to legislative or other initiatives to reduce the difficulties currently encountered in examining tax-exempt bond transactions.

Q. State and Local Government Series Obligations

The Treasury Department is considering the revision of the regulations governing United States Treasury Certificates of Indebtedness, Notes, and Bonds of the State and Local Government Series ("SLGS"), with a view to increasing the flexibility of the SLGS program. Changes to the SLGS regulations could include changes in the certification requirements and in the rules relating to the redemption of SLGS before maturity. The Treasury Department requests comments and suggestions on any aspect of the SLGS regulations that will make the program more workable for issuers of State and local government bonds.

Effective Dates

The regulations are proposed to apply to bonds issued after June 30, 1993. Under various transition rules, issuers may apply certain of the proposed rules on earlier dates.

Special Analyses

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

Comments and Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying.

Comment is solicited on all aspects of the proposed regulations. In addition, comment is specifically solicited on the following topics:

(1) Whether there are any other circumstances in which yield restriction causes significant administrative burdens such that payments should be permitted to be made to the United States to reduce yield;

(2) whether other hedging transactions should be covered by the rule on qualified hedges;

(3) whether any other allocation standards are appropriate to allocate the refunding portion of a multipurpose issue for purposes of the arbitrage restrictions;

(4) whether or to what extent the definition of issue should be extended to apply for all tax-exempt bond purposes, and whether there are appropriate circumstances to apply any multipurpose issue allocation or similar rule to limit this definition;

(5) whether the transferred proceeds rules should incorporate an operating rule for partial refundings of single-purpose prior issues;

(6) whether to provide specific rules for establishing that an open market refunding escrow is acquired at fair market value;

(7) whether the definition of replacement proceeds should be specifically extended beyond sections

148 and 149(d) to clarify the application of the "directly or indirectly" language used in sections 103 and 141 through 150;

(8) whether issuers should be permitted to apply the proposed regulations retroactively to all issues subject to the rebate requirement;

(9) whether the safe harbor for guaranteed investment contracts should generally be inapplicable to guaranteed investment contracts allocated to gross proceeds that are yield restricted, unless those gross proceeds are eligible for the special rule for yield reduction payments;

(10) whether the application of the arbitrage regulation definition of refunding issue for all of the limitations on tax-exempt bonds will lead to inconsistent or otherwise improper results.

A notice of public hearing on these proposed regulations will be published in the near future in the **Federal Register.**

Drafting Information

The principal authors of these proposed regulations are Scott R. Lilienthal, William P. Cejudo, Nancy M. Lashnits, Michael G. Bailey, Lon B. Smith, and John J. Cross III of the Office of Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service, and Mitchell H. Rapaport, Office of Tax Legislative Counsel, Department of the Treasury. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.101–1 through 1.150–1T

Bonds, Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

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

Paragraph 1. The authority citation for part 1 is amended by removing the entries for "Sections 1.148–0 through 1.148–9", "Section 1.148–10", and "Section 1.148–11" and adding the following citations to read as follows:

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

Sections 1.148–0 through 1.148–11 also issued under 26 U.S.C. 148(f) and (i) * * *

Section 1.149(g)–1 also issued under 26 U.S.C. 149(g)(5) * * *

§§ 1.103–13 through 1.103–15 and 1.103–18 [Removed]

Par. 2. Sections 1.103–13, 1.103–13T, 1.103–14, 1.103–15, and 1.103–18 are removed.

Par. 3. Section 1.147(b)–1 is added to read as follows:

§ 1.147(b)–1 Bond maturity limitation-treatment of working capital.

Section 147(b) does not apply to proceeds of a private activity bond issue used to finance working capital expenditures.

Par. 4. Sections 1.148–0 through 1.148–11 are revised to read as set forth below and §§ 1.148–12T and 1.148–13T are removed.

§ 1.148–0 Scope and table of contents.

(a) *Overview.* Under section 103(a), interest on certain obligations issued by States and local governments is excludable from the gross income of the owners. Section 148 was enacted to minimize the arbitrage benefits from investing gross proceeds of tax-exempt bonds in higher yielding investments and to remove the arbitrage incentives to burden the market with tax-exempt bonds. To accomplish these purposes, section 148 restricts the investment of bond proceeds in higher yielding investments and requires that certain earnings on higher yielding investments be rebated to the United States. Violation of these provisions causes the bonds in the issue to become "arbitrage bonds," the interest on which is not excludable from the gross income of the owners under section 103(a). In all events, the regulations in §§ 1.148–1 through 1.148–10 apply in a manner consistent with these purposes.

(b) *Scope.* Sections 1.148–1 through 1.148–11 apply generally for purposes of the arbitrage restrictions on State and local bonds under section 148.

(c) *Table of contents.* This paragraph (c) lists the table of contents for §§ 1.148–1 through 1.148–11.

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§ 1.148–1 Definitions and elections.

(a) *In general.* The definitions in this section and the definitions under section 150 apply for purposes of section 148 and §§ 1.148–1 through 1.148–11.

(b) *Certain definitions.* The following definitions apply:

Accounting method means both the overall method used to account for gross proceeds of an issue (e.g., the cash method or a modified accrual method) and the method used to account for or allocate any particular item within that overall accounting method (e.g., accounting for investments, expenditures, allocations to and from different sources, and particular items of the foregoing).

Administrative costs means any costs or expenses paid, directly or indirectly, by or on behalf of the issuer to purchase, carry, sell, or repay an investment, excluding any costs of computing the rebate amount under section 148(f).

Annuity contract means annuity contract as defined in section 72.

Bona fide debt service fund means a fund, which may include proceeds of an issue, that—

(1) Is used primarily to achieve a proper matching of revenues with principal and interest payments within each bond year; and

(2) Is depleted at least once each bond year, except for a reasonable carryover amount not to exceed the greater of one year's earnings on the fund or one-twelfth of annual principal and interest payments.

Bond year means, in reference to an issue, each 1-year period that ends on the day selected by the issuer. The first and last bond years may be short periods. If no day is selected by the issuer before the earlier of the final maturity date of the issue or the date that is 5 years after the issue date, bond years end on the day preceding each anniversary of the issue date and on the final maturity date.

Commingled fund means any fund or account containing both gross proceeds of an issue and amounts in excess of $25,000 that are not gross proceeds of that issue if the amounts in the fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the fund or account. An open-end regulated investment company under section 851, however, is not a commingled fund.

Computation date means each date on which the rebate amount for an issue is computed under § 1.148–3(e).

Computation period means each period not exceeding 5 years for which the rebate amount for an issue and the yield on a variable yield issue is computed. The first computation period begins on the issue date and ends on the first computation date. Each succeeding computation period begins on the date immediately following the computation date and ends on the next computation date.

Consistently applied means applied uniformly to account for the following amounts—

(1) Gross proceeds of an issue together with any other amounts in the same commingled fund; and

(2) Gross proceeds of an issue for each fiscal year or interim fiscal period during which the issue is outstanding.

De minimis amount means—

(1) In reference to original issue discount (as defined in section 1273(a)(1)) or premium on an obligation—

(i) An amount that does not exceed 0.25 percent, multiplied by the product of the stated redemption price at maturity and the number of complete years to final maturity from the issue date; plus

(ii) Any original issue premium that is attributable exclusively to reasonable underwriters' compensation; and

(2) In reference to market discount (as defined in section 1278(a)(2)(A)) or premium on an obligation, an amount that does not exceed 0.25 percent, multiplied by the product of the stated redemption price at maturity and the number of complete years to final maturity from the actual or deemed acquisition date.

Fair market value means fair market value as defined in § 1.148–5(d)(5).

Fixed rate investment means any investment whose yield is fixed and determinable on the issue date.

Fixed yield bond means any bond whose yield is fixed and determinable on the issue date.

Fixed yield issue means any issue if each bond that is part of the issue is a fixed yield bond.

Gross proceeds means any proceeds and replacement proceeds of an issue.

Guaranteed investment contract includes any nonpurpose investment that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, and also includes any agreement to supply investments on two or more future dates (e.g., a forward supply contract).

Investment means any investment property as defined in section 148(b)(2) and any tax-exempt bond that is not investment property under section 148(b)(3).

Investment proceeds means any amounts actually or constructively received from investing proceeds of the issue.

Investment-type property includes any property, other than property described in section 148(b)(2) (A), (B), (C), or (E), that is held primarily as a passive vehicle for the production of income. A prepayment for property or services is investment-type property if a principal purpose of the prepayment is to receive an investment return at a taxable interest rate inherent in the prepayment.

Issue price means, except as otherwise provided, issue price as defined in sections 1273 and 1274. Generally, the issue price of a publicly offered issue is the first price at which a substantial amount of the bonds included in the issue is sold to the public. Ten percent is a substantial amount. The public does not include bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers. The issue price does not change if part of the issue is later sold at a different price. The issue price of bonds that are not substantially identical is determined separately. The issue price of bonds for which a bona fide public offering is made is determined as of the sale date based on reasonable expectations regarding the initial public offering price.

Issuer generally means the entity that actually issues the issue, and, unless the context or a provision clearly requires otherwise, each conduit borrower of the issue. For example, rules imposed on issuers to account for gross proceeds of

an issue apply to a conduit borrower to account for any gross proceeds received under a purpose investment. Provisions regarding filings, liability for the rebate amount, and reasonable expectations apply on to the actual issuer.

Multipurpose issue means an issue the proceeds of which are used for two or more separate governmental purposes determined in accordance with § 1.148–9(h).

Net sale proceeds means sale proceeds, less the portion of those sale proceeds invested in a reasonably required reserve or replacement fund under section 148(d) and as part of a minor portion under section 148(e).

Nonpurpose investment means any investment property as defined in section 148(b)(2) that is not a purpose investment.

Payment means a payment as defined in § 1.148–3(d) for purposes of computing the rebate amount, and a payment as defined in § 1.148–5(b) for purposes of computing the yield on an investment.

Plain par bond means a bond—

(1) Issued with not more than a de minimis amount of original issue discount or premium;

(2) Issued for a price that does not include accrued interest other than pre-issuance accrued interest;

(3) That bears interest from the issue date at a single, stated, fixed rate or that is a variable rate debt instrument under section 1275, in each case with interest unconditionally payable at least annually; and

(4) Having a lowest stated redemption price that is not less than its outstanding stated principal amount.

Plain par investment means an investment that is an obligation—

(1) Issued with not more than a de minimis amount of original issue discount or premium, and if acquired on a date other than the issue date, acquired with not more than a de minimis amount of market discount or premium;

(2) Issued for a price that does not include accrued interest other than pre-issuance accrued interest;

(3) That bears interest from the issue date at a single, stated, fixed rate or that is a variable rate debt instrument under section 1275, in each case with interest unconditionally payable at least annually; and

(4) Having a lowest stated redemption price that is not less than its outstanding stated principal amount.

Pre-issuance accrued interest means amounts representing interest that accrued on an obligation for a period not greater than one year before its issue date but only if those amounts are paid within one year after the issue date.

Proceeds means any sale proceeds, investment proceeds, and transferred proceeds of an issue. Proceeds do not include, however, amounts actually or constructively received with respect to a purpose investment that are properly allocable to the immaterially higher yield under § 1.148–2(d) or 143(g) or to reasonable administrative costs recoverable under § 1.148–5(e).

Program investment means a purpose investment that is part of a governmental program in which—

(1) The program involves the origination or acquisition of purpose investments;

(2) At least 95 percent of the cost of the purpose investments acquired under the program represents loans to a substantial number of persons representing the general public, States or political subdivisions, 502(c)(3) organizations, or any combination of the foregoing;

(3) At least 95 percent of the receipts from the purpose investments are used to pay principal, interest, or redemption prices on issues that financed the program, to pay or reimburse administrative costs of those issues or of the program, or to finance additional purpose investments for the same general purposes of the program;

(4) The program documents prohibit any obligor on a purpose investment financed by the program or any related party to that obligor from purchasing bonds of an issue that finance the program; and

(5) The issuer has not waived the right to treat the investment as a program investment.

Purpose investment means an investment that is acquired to carry out the governmental purpose of an issue.

Qualified guarantee means a qualified guarantee as defined under § 1.148–4(f).

Reasonable expectations or reasonableness. An issuer's expectations or actions are reasonable only if a prudent person in the same circumstances as the issuer would have those same expectations or take those same actions, based on all the objective facts and circumstances. Factors relevant to a determination of reasonableness include the issuer's history of conduct concerning stated expectations made in connection with the issuance of obligations, the level of inquiry by the issuer into factual matters, and the existence of covenants, enforceable by bondholders, that require implementation of specific expectations. For a conduit financing issue, factors relevant to a determination of reasonableness include the reasonable expectations of the conduit borrower, but only if, under the circumstances, it is reasonable and prudent for the issuer to rely on those expectations.

Rebate amount means 100 percent of the amount owed to the United States under section 148(f)(2), as further described in § 1.148–3.

Receipt means a receipt as defined in § 1.148–3(d) for purposes of computing the rebate amount, and a receipt as defined in § 1.148–5(b) for purposes of computing yield on an investment.

Refunding escrow means a fund, or funds that are established as part of a single transaction or a series of related transactions, containing proceeds of a refunding issue and any other amounts to provide for payment of principal or interest on a prior issue.

Sale proceeds means any amounts actually or constructively received from the sale of the issue, including amounts used to pay underwriters' discount or compensation, and accrued interest other than pre-issuance accrued interest.

Stated redemption price means the redemption price of an obligation under the terms of that obligation, including any call premium.

Transferred proceeds means transferred proceeds as defined in § 1.148–9 (or the applicable corresponding provision of prior law).

Unconditionally payable means payable under terms in which late payment or nonpayment results in a significant penalty to the borrower or reasonable remedies to the lender.

Value means value determined under § 1.148–4(e) for a bond, and value determined under § 1.148–5(d) for an investment.

Variable yield bond means any bond that is not a fixed yield bond.

Variable yield issue means any issue that is not a fixed yield issue.

Yield means yield computed under § 1.148–4 for an issue, and yield computed under § 1.148–5 for investment.

(c) *Definition of replacement proceeds*—(1) *In general.* Replacement proceeds include, but are not limited to, sinking funds, pledged funds, working capital replacement funds, and other amounts that have a nexus to the governmental purpose of an issue, and investment earnings on these funds and amounts, to the extent that these funds or amounts are held by or derived from a substantial beneficiary of the issue. A substantial beneficiary of an issue includes the issuer, any related party to the issuer, and, if the issuer is not a state, the state in which the issuer is located, but generally does not include a guarantor under a qualified guarantee.

(2) *Sinking fund.* "Sinking fund" includes a debt service fund, redemption

fund, reserve fund, replacement fund, or any similar fund, to the extent reasonably expected to be used directly or indirectly to pay principal or interest on the issue.

(3) *Pledged fund*—(i) *In general.* A "pledged fund" is any amount that is directly or indirectly pledged by a substantial beneficiary of an issue to pay principal or interest on the issue. A pledge need not be cast in any particular form but, in substance, must provide reasonable assurance that the amount will be available to pay principal or interest on the issue, even if the issuer encounters financial difficulties. A pledge to a guarantor of an issue is an indirect pledge to secure payment of principal or interest on the issue.

(ii) *Negative pledges.* An arrangement gives rise to a pledged fund if a substantial beneficiary agrees to maintain an amount at a particular level, and not grant priority rights with respect to those amounts for purposes other than payment of principal or interest on the issue. An amount is not maintained at a particular level if the amount may be spent without replenishment within six months. The maintenance of an amount in excess of reasonable needs or the placing of significant restrictions on the expenditure of the amount gives rise to priority rights.

(4) *Working capital replacement funds.* Except as otherwise provided, the replacement proceeds of an issue that finances working capital expenditures that are required to be spent under the gross-proceeds-spent-last rule of § 1.148–6(d)(3)(i) are equal to the value of the portion of the issue that financed those expenditures. That portion must be determined under the provisions of § 1.148–9(h). This paragraph (c)(4) does not apply to amounts used for purposes described in § 1.148–6(d)(3)(ii) and (iii). Working capital replacement funds are not created for the portion of the issue that financed those working capital expenditures—

(i) If that portion is not outstanding later than 13 months after the issue date; or

(ii) In any other case, during any fiscal year in which the revenues of the issuer and any related party do not exceed the current expenditures of such entities.

(5) *Other amounts having a nexus to an issue.* Replacement proceeds include amounts that were to be used as a source of financing for a particular government purpose, but which, as a result of the issuance of bonds, will be used for another purpose. For this purpose, the expected use of amounts for the payment of debt service on a date is a governmental purpose. The fact that an issuer would have used other funds to accomplish a governmental purpose if bonds were not issued does not give rise to replacement proceeds unless there is a direct nexus between a portion of the issuer's funds and the governmental purpose of the issue. For example, the issuance of tax-exempt bonds to finance costs for which other funds had been earmarked creates replacement proceeds.

(d) *Elections.* Except as otherwise provided, any required elections must be made in writing, and, once made, may not be revoked without the permission of the Commissioner.

§ 1.148–2 General arbitrage yield restriction rules.

(a) *In general.* Under section 148(a), the direct or indirect investment of the gross proceeds of an issue in higher yielding investments causes the issue to be arbitrage bonds. The investment of proceeds in higher yielding investments, however, during a temporary period described in paragraph (e) of this section, as part of a reasonably required reserve or replacement fund described in paragraph (f) of this section, or as part of a minor portion described in paragraph (g) of this section does not cause the bonds in the issue to be arbitrage bonds.

(b) *Reasonable expectations*—(1) *In general.* Except as provided in paragraph (c) of this section, the determination of whether an issue consists of arbitrage bonds under section 148(a) is based on the issuer's reasonable expectations regarding the amount and use of the gross proceeds of the issue.

(2) *Certification of reasonable expectations.* A responsible officer of the issuer may, in good faith, certify the issuer's expectations as of the issue date. Absent extraordinary circumstances, an issuer may not establish its expectations on facts and circumstances that are not set forth in this certification (or reasonably incorporated by reference therein), although the Commissioner may take such other information into account. The certification is evidence of the issuer's expectations but does not establish conclusions of law or any presumption regarding the reasonableness of the issuer's expectations. If this certification procedure is used, the certification must state the basis for the expectations and contain sufficient detail so that a reader who is not a party to the transaction will be made aware of all the facts and analysis of legal determinations relevant under section 148(a), including a complete discussion of any material tax issues for which there is reasonable possibility of challenge by the Commissioner.

(c) *Intentional acts.* The taking of any deliberate, intentional action by the issuer or person acting on its behalf after the issue date in order to earn arbitrage causes the bonds of the issue to be arbitrage bonds if that action, had it been expected on the issue date, would have caused the bonds to be arbitrage bonds. An intent to violate the requirements of section 148, however, is not necessary for an action to be intentional.

(d) *Materially higher yielding investments*—(1) *In general.* The yield on investments is materially higher than the yield on the issue to which the investments are allocated if the yield on the investments over the term of the issue exceeds the yield on the issue by an amount in excess of the applicable definition of "materially higher" set forth in paragraph (d)(2) of this section. The yield on the issue is determined under § 1.148–4. The yield on investments is determined under § 1.148–5.

(2) *Definitions of materially higher yield*—(i) *General rule for purpose and nonpurpose investments.* For investments that are not otherwise described in this paragraph (d)(2), materially higher means one-eighth of 1 percentage point.

(ii) *Refunding escrows and replacement proceeds.* For investments in a refunding escrow or for investments allocable to replacement proceeds, materially higher means one-thousandth of 1 percentage point.

(iii) *Program investments.* For program investments that are not described in paragraph (d)(2)(iv) of this section, materially higher means 1 and one-half percentage points.

(iv) *Student loans.* For qualified student loans, materially higher means 2 percentage points.

(v) *Tax-exempt purpose and program investments.* For purpose investments and program investments that are tax-exempt bonds, no yield limitation applies.

(3) *Mortgage loans.* Qualified mortgage loans that satisfy the requirements of section 143(g) are treated as meeting the requirements of this paragraph (d).

(e) *Temporary periods*—(1) *In general.* During the temporary periods set forth in this paragraph (e), the proceeds and replacement proceeds of an issue may be invested in higher yielding investments without causing bonds in the issue to be arbitrage bonds. This paragraph (e) does not apply to

refunding issues. For temporary period rules on refunding issues, see § 1.148–9.

(2) *Temporary period for capital projects*—(i) *In general.* The net sale proceeds of an issue that the issuer reasonably expects to allocate to capital expenditures for a project or to related working capital expenditures to which the de minimis rule under § 1.148–6(d)(3)(ii)(A) applies (collectively, a "capital project") qualify for a temporary period of 3 years beginning on the issue date (the "3-year temporary period") if the issuer reasonably expects to satisfy the expenditure test, the time test, and the due diligence test. These rules apply separately to each capital project financed by an issue.

(A) *Expenditure test.* The expenditure test is met if at least 85 percent of the net sale proceeds of the issue are allocated to expenditures on the capital project by the end of the 3-year temporary period.

(B) *Time test.* The time test is met if the issuer incurs within 6 months of the issue date a substantial binding obligation to a third party to expend at least 5 percent of the net sale proceeds of the issue on the capital project. An obligation is not binding if it is subject to contingencies within the issuer's or a related party's control.

(C) *Due diligence test.* The due diligence test is met if completion of the capital project and the allocation of the net sale proceeds of the issue to expenditures proceed with due diligence.

(ii) *5-year temporary period.* In the case of proceeds expected to be allocated to a capital project involving a substantial amount of construction expenditures (as defined in § 1.148–7), a 5-year temporary period applies in lieu of the 3-year temporary period if the issuer otherwise satisfies the requirements of this paragraph (e)(2) and both the issuer and a licensed architect or engineer certify that the longer period is necessary to complete the project.

(3) *Temporary period for working capital expenditures.* The proceeds of an issue that are reasonably expected to be allocated to working capital expenditures within 13 months after the issue date qualify for a temporary period of 13 months beginning on the issue date. Paragraph (e)(2) of this section contains additional temporary period rules for certain working capital expenditures.

(4) *Temporary period for pooled financings*—(i) *In general.* Proceeds of a pooled financing issue reasonably expected to be used to finance purpose investments qualify for a temporary period of 6 months while held by the issuer before being loaned to the conduit borrower. Any otherwise available temporary period for proceeds held by the conduit borrower, however, is reduced by the period of time during which those proceeds were held by the issuer before being loaned. For example, if the proceeds of a pooled financing issue qualify for a 3-year temporary period, and the proceeds are held by the issuer for 6 months before being loaned to the conduit borrower, the proceeds qualify for only an additional 30-month temporary period after being loaned to the conduit borrower. This paragraph (e)(4) does not apply to any qualified mortgage bond or qualified veterans' mortgage bond under section 143.

(ii) *Loan repayments*—(A) *Amount held by the issuer.* The temporary period under this paragraph (e)(4) for proceeds from the sale or repayment of any loan that are reasonably expected to be used to make or finance new loans is 3 months.

(B) *Amounts re-lent to conduit borrowers.* Any temporary period for proceeds held by a conduit borrower under a new loan from amounts described in paragraph (e)(4)(ii)(A) of this section is determined by treating the date the new loan is made as the issue date and by reducing the temporary period by the period the amounts were held by the issuer following the last repayment.

(iii) *Construction issues.* If a pooled financing issue qualifies as a construction issue under § 1.148–7, or if an election is properly made under § 1.148–7(n) to treat a portion of a pooled financing issue as a construction issue, the temporary period under this paragraph (e)(4) for the proceeds of the construction issue is 2 years.

(5) *Temporary period for replacement proceeds*—(i) *In general.* Except as otherwise provided, replacement proceeds qualify for a temporary period of 30 days beginning on the date that the amounts are first treated as replacement proceeds.

(ii) *Temporary period for bona fide debt service funds.* Amounts in a bona fide debt service fund for an issue qualify for a temporary period of 13 months. If only a portion of a fund qualifies as a bona fide debt service fund, only that portion qualifies for this temporary period.

(6) *Temporary period for investment proceeds.* Investment proceeds qualify for a temporary period of 1 year beginning on the date of receipt.

(f) *Reserve or replacement funds*—(1) *General 10 percent limitation on funding with sale proceeds.* An issue consists of arbitrage bonds if sale proceeds of the issue in excess of 10 percent of the stated principal amount of the issue are used to finance any reserve or replacement fund, without regard to whether those sale proceeds are invested in higher yielding investments. If an issue has more than a de minimis amount of original issue discount or premium, the issue price (net of pre-issuance accrued interest) is used to measure the 10-percent limitation in lieu of stated principal amount. This rule does not limit the use of amounts other than sale proceeds of an issue to fund a reserve or replacement fund.

(2) *Exception from yield restriction for reasonably required reserve or replacement funds*—(i) *In general.* The investment of amounts that are part of a reasonably required reserve or replacement fund in higher yielding investments will not cause an issue to consist of arbitrage bonds. A reasonably required reserve or replacement fund may consist of all or a portion of one or more funds, however labelled, derived from one or more sources. Amounts in a reserve or replacement fund in excess of the amount that is reasonably required are not part of a reasonably required reserve or replacement fund.

(ii) *Size limitation.* The amount of gross proceeds of an issue that qualifies as a reasonably required reserve or replacement fund may not exceed an amount equal to the least of 10 percent of the stated principal amount of the issue, the maximum annual principal and interest requirements on the issue, or 125 percent of the average annual principal and interest requirements on the issue. If an issue has more than a de minimis amount of original issue discount or premium, the issue price of the issue (net of pre-issuance accrued interest) is used to measure the 10 percent limitation in lieu of its stated principal amount. For a reserve or replacement fund that secures more than one issue (e.g. a parity reserve fund), the size limitation is measured on an aggregate basis.

(iii) *Valuation of investments.* Investments in a reasonably required reserve or replacement fund may be valued in any reasonable, consistently applied manner that is permitted under § 1.148–5.

(iv) *150 percent debt service limitation on investment in nonpurpose investments for certain private activity bonds.* Section 148(d)(3) contains additional limits on the amount of gross proceeds of an issue of private activity bonds, other than qualified 501(c)(3) bonds, that may be invested in higher yielding nonpurpose investments without causing the bonds to be arbitrage bonds. For purposes of these

rules, "initial temporary period" means the temporary period under paragraphs (e)(2) and (e)(3) of this section.

(3) *Certain parity reserve funds.* The limitation contained in paragraph (f)(1) of this section does not apply to an issue if the master legal document authorizing the issuance of the bonds (e.g., a master indenture) was adopted before August 16, 1986, and that document—

(i) Requires a reserve or replacement fund in excess of 10 percent of the sale proceeds, but not more than maximum annual principal and interest requirements;

(ii) Is not amended after August 31, 1986; and

(iii) Provides that bonds having a parity of security may not be issued by or on behalf of the issuer for the purposes provided under the document without satisfying the reserve fund requirements of the indenture.

(g) *Minor portion.* Under section 148(e), a bond of an issue is not an arbitrage bond solely because of the investment in higher yielding investments of proceeds of the issue in an amount not exceeding the lesser of—

(1) 5 percent of the sale proceeds of the issue; or

(2) $100,000.

(h) *Certain waivers permitted.* On or before the issue date, an issuer may waive the right to invest in higher yielding investments during any temporary period under paragraph (e) of this section, as part of a reasonably required reserve or replacement fund under paragraph (f) of this section, or as part of a minor portion under paragraph (g) of this section.

§ 1.148–3 General arbitrage rebate rules.

(a) *In general.* Section 148(f) requires that certain earnings on nonpurpose investments allocable to the gross proceeds of an issue be paid to the United States to prevent the bonds in the issue from being arbitrage bonds. The arbitrage that must be rebated is based on the difference between the amount actually earned on nonpurpose investments and the amount that would have been earned if those investments had a yield equal to the yield on the issue.

(b) *Definition of rebate amount.* As of any date, the rebate amount for an issue is the excess of the future value, as of that date, of all receipts on nonpurpose investments over the future value, as of that date, of all payments on nonpurpose investments.

(c) *Computation of future value of a payment or receipt.* The future value of a payment or receipt at the end of any period is determined using the constant yield method and equals the value of that payment or receipt when it is paid or received (or treated as paid or received), plus interest assumed to be earned and compounded over the period at a rate equal to the yield on the issue, using the same compounding interval and financial conventions used to compute that yield.

(d) *Payments and receipts*—(1) *Definition of payments.* For purposes of this section, payments are—

(i) Amounts actually or constructively paid to acquire a nonpurpose investment (or treated as paid to a commingled fund);

(ii) For a nonpurpose investment that is first allocated to an issue on a date after it is actually acquired (e.g., an investment that becomes allocable to transferred proceeds or to replacement proceeds), the value of that investment on the date allocated;

(iii) For a nonpurpose investment that was allocated to an issue on the preceding computation date, the value of that investment on the day after the computation date; and

(iv) On the last day of each fifth bond year and on the final maturity date, a computation date credit of $5,000.

(2) *Definition of receipts.* For purposes of this section, receipts are—

(i) Amounts actually or constructively received from a nonpurpose investment (including amounts treated as received from a commingled fund), such as earnings and return of principal;

(ii) For a nonpurpose investment that ceases to be allocated to an issue before its disposition or redemption date (e.g., an investment that becomes allocable to transferred proceeds of another issue or that ceases to be allocable to the issue pursuant to the universal cap under § 1.148–6), the value of that nonpurpose investment on the date it ceases to be so allocated; and

(iii) For a nonpurpose investment that is held on a computation date, the value of that investment on that date.

(3) *Special rules for commingled funds.* Section 1.148–6(e) provides special rules to limit certain of the required determinations of payments and receipts for investments of a commingled fund.

(e) *Rebate computation dates.* The first rebate computation date must occur by the end of the fifth bond year after the issue date. Other computation dates must occur within 5 years of the preceding computation date and on the date that the issue is discharged (the "final computation date"). For an issue retired within 3 years of the issue date, no computation dates are required before the end of 6 months after the issue date or during the period in which the issuer reasonably expects that any of the spending exceptions under § 1.148–7 will apply to the issue.

(f) *Amount of required rebate installment payment*—(1) *Amount of interim rebate payments.* For each required computation date other than the final computation date, a rebate installment payment must be paid in an amount that, when added to the future value of previous rebate payments made for the issue, equals at least 90 percent of the rebate amount as of that date.

(2) *Amount of final rebate payment.* For the final computation date, a final rebate payment must be paid in an amount that, when added to the future value of previous rebate payments made for the issue, equals 100 percent of the rebate amount as of that date.

(3) *Future value of rebate payments.* The future value of a rebate payment is determined under paragraph (c) of this section. This value is computed by taking into account recoveries of overpayments.

(g) *Time and manner of payment.* Each rebate payment must be paid no later than 60 days after the required computation date to which the payment relates. A rebate payment is made when it is filed with the Internal Revenue Service at the place or places designated by the Commissioner. A payment must be accompanied by the form provided by the Commissioner for this purpose.

(h) *Penalty in lieu of loss of tax exemptions*—(1) *In general.* The failure to pay the correct rebate amount when required will cause the bonds of the issue to be arbitrage bonds, unless the Commissioner determines that the failure was not caused by willful neglect and the issuer promptly pays a penalty to the United States. If no bond of the issue is a private activity bond (other than a qualified 501(c)(3) bond), the penalty equals 50 percent of the rebate amount required to be paid, plus interest on the rebate amount that the issuer failed to pay. Otherwise, the penalty equals 100 percent of the rebate amount required to be paid, plus interest on the rebate amount that the issuer failed to pay.

(2) *Interest on underpayments.* Interest accrues at the underpayment rate under section 6621, beginning on the date the correct rebate amount is due and ending on the date 10 days before it is paid.

(3) *Waivers of the penalty.* Waivers of any portion of the penalty will be granted by the Commissioner only in unusual circumstances. If a failure is not caused by willful neglect, however, the penalty is automatically waived if the rebate amount that the issuer failed to pay plus interest is paid within 60 days

after discovery of the failure. This 60-day period ordinarily will not be extended.

(4) *Application to alternative penalty under § 1.148–7.* Paragraphs (h) (1), (2), and (3) of this section apply to failures to pay penalty payments under § 1.148–7 ("alternative penalty amounts") by substituting "alternative penalty amounts" for "rebate amount" and "the last day of each spending period" for "computation date."

(i) *Recovery of overpayment of rebate*—(1) *In general.* An issuer may recover an overpayment for an issue of tax-exempt bonds by establishing to the satisfaction of the Commissioner that the overpayment occurred. An overpayment is the excess of the amount paid to the United States for an issue under section 148 over the sum of the rebate amount required to be paid for the issue as of the most recent computation date and all amounts that are otherwise required to be paid under section 148 as of the date the recovery is requested.

(2) *Limitations on recovery.* (i) An overpayment may be recovered only to the extent that a recovery on the date that it is first requested would not result in an additional rebate amount if that date were treated as a computation date.

(ii) An overpayment of less than $5,000 may not be recovered before the final computation date.

(j) *Example.* The provisions of this section may be illustrated by the following example.

Example. Calculation and payment of rebate. (1) *Facts.* On January 2, 1994, City A issues a fixed yield issue and invests all the sale proceeds of the issue ($49 million). There are no other gross proceeds. The issue has a yield of 7.0000 percent per year compounded semiannually (computed on a 30 day month/360 day year basis). City A receives amounts from the investment and expends them for the governmental purpose of the issue as follows:

Date	Amount
2/1/94	$3,000,000
4/1/94	5,000,000
6/1/94	14,000,000
9/1/94	20,000,000
7/1/95	10,000,000

(2) *First computation date.* (i) City A selects a bond year ending on January 1, and thus the first required computation date is January 1, 1999. The rebate amount as of this date is computed by determining the future value of the receipts and the payments for the investment. The compounding interval is each 6-month (or shorter) period and the 30 day month/360 day year basis is used because these conventions were used to compute yield on the issue. The future value of these amounts, plus the computation date credit, as of January 1, 1999, is:

Date	Receipts (payments)	FV (7.0000 percent)
1/2/94	($49,000,000)	($69,106,131)
2/1/94	3,000,000	4,207,602
4/1/94	5,000,000	6,932,715
6/1/94	14,000,000	19,190,277
9/1/94	20,000,000	26,947,162
7/1/95	10,000,000	12,722,793
1/1/99	(5,000)	(5,000)
Rebate amount (1/01/99)		889,418

(ii) City A pays 90 percent of the rebate amount ($800,476) to the United States on January 1, 1999.

(3) *Second computation date.* (i) On the next computation date, January 1, 2004, the future value of the payments and receipts is:

Date	Receipts (payments)	FV (7.0000 percent)
1/2/94	($49,000,000)	($97,481,022)
2/1/94	3,000,000	5,935,239
4/1/94	5,000,000	9,779,279
6/1/94	14,000,000	27,069,781
9/1/94	20,000,000	38,011,633
7/1/95	10,000,000	17,946,756
1/1/99	(5,000)	(7,053)
1/1/04	(5,000)	(5,000)
Rebate amount (1/01/04)		1,249,613

(ii) As of this computation date, the future value of the payment made on January 1, 1999, is $1,129,150, which equals at least 90 percent of the rebate amount as of this computation date ($1,249,613×0.9), and thus no additional rebate payment is due as of this date.

(4) *Final computation date.* (i) On January 1, 2009, City A redeems all the bonds, and thus this date is the final computation date. The future value of the receipts and payments as of this date is:

Date	Receipts (payments)	FV (7.0000 percent)
1/2/94	($49,000,000)	($137,506,609)
2/1/94	3,000,000	8,372,240
4/1/94	5,000,000	13,794,638
6/1/94	14,000,000	38,184,599
9/1/94	20,000,000	53,619,162
7/1/95	10,000,000	25,315,671
1/1/99	(5,000)	(9,949)
1/1/99	(5,000)	(7,053)
1/1/99	(5,000)	(5,000)
Rebate amount (1/01/09)		1,757,699

(ii) As of this computation date, the future value of the payment made on January 1, 1999, is $1,592,778, and thus an additional rebate payment of $164,921 is due. This payment reflects the future value of the 10 percent unpaid portion, and thus would not be owed had the issuer paid the full rebate amount as of any prior computation date.

§ 1.148–4 **Yield on an issue of bonds.**

(a) *In general.* The yield on an issue of bonds is used to apply investment yield restrictions under section 148(a) and to compute rebate liability under section 148(f). Yield is computed under the constant yield method using consistent compounding intervals of not more than one year. A short first compounding interval and a short last compounding interval may be used. Yield is expressed as an annual percentage rate that is calculated to at least four decimal places (e.g., 5.2525 percent). Other reasonable, consistently applied financial conventions may be used in computing yield, such as the 30 days per month/360 days per year convention.

(b) *Computing yield on a fixed yield issue*—(1) *In general.* The yield on a fixed yield issue is the discount rate that, when used in computing the present value as of the issue date of all unconditionally payable payments of principal, interest, and fees for qualified guarantees to be made on the issue, produces an amount equal to the present value of the aggregate issue price as of the issue date. Yield on a fixed yield issue is computed as of the issue date and, except as otherwise necessary to account properly for qualified hedges under paragraph (h) of this section, is not affected by subsequent events. Yield on a fixed yield bond is computed in the same manner as yield on a fixed yield issue.

(2) *Yield on fixed yield bonds subject to mandatory early redemption*—(i) *In general.* These special rules apply only to a fixed yield issue that contains bonds subject to mandatory early redemption. A bond is subject to mandatory early redemption if it is unconditionally payable in full before its final maturity date. The yield on a fixed yield issue that includes a bond subject to mandatory early redemption is computed by treating that bond as redeemed on its reasonably expected mandatory early redemption date for an amount equal to its value on that date. The value of a bond is determined under paragraph (e) of this section. Reasonable expectations are determined on the issue date.

(ii) *Contingent redemptions.* If a bond must be redeemed prior to final maturity upon the occurrence of a contingency, that contingency is taken into account only if the contingency is reasonably expected to occur. For this purpose, excess proceeds calls for issues for which the requirements of § 1.148–2(e) (2) or (3) are satisfied, calamity calls, and refundings are not taken into account.

(iii) *Substantially identical bonds subject to mandatory early redemption.* If substantially identical bonds of an issue are subject to a mandatory sinking fund redemption requirement requiring specified mandatory redemptions prior to final maturity (or a similar mandatory early redemption requirement), yield on that issue is computed by treating those bonds as redeemed in accordance with the redemption schedule.

(3) *Yield on fixed yield bonds subject to optional early redemption*—(i) *In general.* These special rules apply only to a fixed yield bond subject to optional early redemption that is described in paragraph (b)(3)(ii) of this section. A bond is subject to optional early redemption if the issuer or any conduit borrower has an option or reasonably expects to have an option to redeem the bond before its final maturity date (or earlier expected mandatory redemption date under paragraph (b)(2) of this section). Reasonable expectations about optional redemption dates are determined on the issue date. For this purpose, contingencies regarding optional redemptions are treated in the same manner as contingencies regarding mandatory redemptions under paragraph (b)(2)(ii) of this section. The yield on an issue having any bond described in this paragraph (b)(3) is computed by treating that bond as redeemed on the optional redemption date that would produce the lowest yield on the issue. That bond is treated as redeemed for an amount equal to its stated redemption price on that date.

(ii) *Fixed yield bonds subject to special yield calculation rule.* A fixed yield bond subject to optional redemption is described in this paragraph (b)(3)(ii) only if it—

(A) Is subject to optional redemption within five years of the issue date;

(B) Is issued with more than a de minimis amount of premium; or

(C) Bears interest at increasing interest rates (i.e., "stepped coupon bond").

(iii) *Bonds redeemable from tax assessments and similar amounts.* For optional redemptions of bonds to be made using excess revenues from tax assessments or similar amounts, the reasonably expected optional redemption schedule of the bonds is used to determine yield.

(4) *Examples.* The provisions of this paragraph (b) may be illustrated by the following examples.

Example 1. No early call. (i) *Facts.* On January 1, 1994, City A issues an issue consisting of four identical fixed yield bonds. The stated final maturity date of each bond is January 1, 2004, and no bond is subject to redemption before this date. Interest is payable on January 1 of each year at a rate of 6.0000 percent per year on the outstanding principal amount. The total stated principal amount of the bonds is $20 million. The issue price of the bonds $20,060,000.

(ii) *Computation.* The yield on the issue is computed by treating the bonds as retired at the stated maturity under the general rule of § 1.148–4(b)(1). The yield on the issue is 5.8731 percent per annum compounded semiannually, computed as follows:

Date	Payments	PV (5.8731 percent)
1/1/95	$1,200,000	$1,132,510
1/1/96	1,200,000	1,068,816
1/1/97	1,200,000	1,008,704
1/1/98	1,200,000	951,973
1/1/99	1,200,000	898,433
1/1/00	1,200,000	847,903
1/1/01	1,200,000	800,216
1/1/02	1,200,000	755,210
1/1/03	1,200,000	712,736
1/1/04	21,200,000	11,883,498
		20,060,000

Example 2. Optional early call. (i) *Facts.* The facts are the same as in *Example 1* except that each of the bonds is callable by the issuer at par plus accrued interest after December 31, 1997.

(ii) *Computation.* Because each of the bonds is subject to optional redemption within 5 years after the issue date, each bond is treated as redeemed on the date that would produce the lowest yield for the issue under § 1.148–4(b)(3)(i). The lowest yield on the issue would result from a redemption of all the bonds on January 1, 1998, and equals 5.8287 percent per annum compounded semiannually, computed as follows:

Date	Payments	PV (5.8287 percent)
1/1/95	$1,200,000	$1,132,999
1/1/95	1,200,000	1,069,739
1/1/95	1,200,000	1,010,011
1/1/95	21,200,000	16,847,251
		20,060,000

Example 3. Mandatory calls. (i) *Facts.* The facts are the same as in *Example 1.* Thus, on January 1, 1994, City A issues an issue consisting of four identical fixed yield bonds. The stated final maturity date of each bond is January 1, 2004. Interest is payable on January 1 of each year at a rate of 6.0000 percent per year on the outstanding principal amount. The total stated principal amount of the bonds is $20 million. The issue price of the bonds $20,060,000. In this case, however, the bonds are subject to mandatory sinking fund redemption on January 1 of each year, beginning January 1, 2001. On each sinking fund redemption date, one of the bonds is chosen by lottery and is required to be redeemed at par plus accrued interest.

(ii) *Computation.* Because the bonds are subject to specified redemptions, yield on the issue is computed by treating the bonds as redeemed in accordance with the redemption schedule under § 1.148–4(b)(2)(iii). The yield on the issue is 5.8678 percent per annum compounded semiannually, computed as follows:

Date	Payments	PV (5.8678 percent)
1/1/95	$1,200,000	$1,132,569
1/1/96	1,200,000	1,068,926
1/1/97	1,200,000	1,008,860
1/1/98	1,200,000	952,169
1/1/99	1,200,000	898,664
1/1/00	1,200,000	848,166
1/1/01	6,200,000	4,135,942
1/1/02	5,900,000	3,714,650
1/1/03	5,600,000	3,327,647
1/1/04	5,300,000	2,972,407
		20,060,000

(c) *Computing yield on a variable yield issue*—(1) *In general.* The yield on a variable yield issue is computed separately for each computation period. The yield for each computation period is the discount rate that, when used in computing the present value as of the first day of the computation period of all the payments of principal and interest and fees for qualified guarantees that are attributable to the computation period, produces an amount equal to the present value of the aggregate issue price (or deemed issue price, as determined in paragraph (c)(2)(iv) of this section) as of the first day of the computation period. The yield on a variable yield bond is computed in the same manner as the yield on a variable yield issue. Yields on all fixed yield bonds in a variable yield issue are computed in the same manner as the yield on a fixed yield issue as provided in paragraph (b) of this section.

(2) *Payments on variable yield bonds included in yield for a computation period*—(i) *Payments in general.* The payments on a variable yield bond that are attributable to a computation period include any amounts actually paid during the period for principal on the bond. Payments also include any amounts paid during the current period both for interest accruing on the bond during the current period and for interest accruing during the prior period that was included in the deemed issue price of the bond as accrued unpaid interest at the start of the current period under this paragraph (c)(2). Further, payments include any amounts properly allocable to fees for a qualified guarantee of the bond for the period.

(ii) *Payments at actual redemption.* If a bond is actually redeemed during a computation period, an amount equal to the greater of its value on the redemption date or the actual redemption price is a payment on the actual redemption date.

(iii) *Payments for bonds outstanding at end of computation period.* If a bond is outstanding at the end of a computation period, a payment equal to the bond's value is taken into account on the last day of that period.

(iv) *Issue price for bonds outstanding at beginning of next computation period.* A bond outstanding at the end of a computation period is treated as if it were immediately reissued on the next day for a deemed issue price equal to the value from the day before as determined under paragraph (c)(2)(iii) of this section.

(3) *Example.* The provisions of this paragraph (c) may be illustrated by the following example.

Example. On January 1, 1994, City *A* issues an issue of identical plain par bonds in an aggregate principal amount of $1,000,000. The bonds pay interest at a variable rate on each June 1 throughout the term of the issue. The entire principal amount of the bonds plus accrued, unpaid interest is payable on the final maturity date of December 31, 1999. No bond year is selected. On June 1, 1994, 1995, 1996, 1997, and 1998, interest in the amounts of $30,000, $55,000, $57,000, $56,000, and $45,000 is paid on the bonds. From June 1, 1998, to December 31, 1998, $30,000 of the interest accrues on the bonds. From January 1, 1999, to May 31, 1999, another $35,000 of interest accrues. On June 1, 1999, the issuer actually pays $65,000 of interest. On December 31, 1999, $1,000,000 of principal and $38,000 of accrued interest are paid. The payments for the computation period starting on the issue date and ending on December 31, 1998, include all annual interest payments paid from the issue date to June 1, 1998. Because the issue is outstanding on December 31, 1998, it is treated as redeemed on that date for amount equal to its value ($1,000,000 plus accrued, unpaid interest of $30,000 under paragraph (e)(1) of this section). Thus, $1,030,000 is treated as paid on December 31, 1998. The issue is then treated as reissued on January 1, 1999, for $1,030,000. The payments for the next computation period starting on January 1, 1999, and ending on December 31, 1999, include the interest actually paid on the bonds during that period ($65,000 on June 1, 1999, plus $38,000 paid on December 31, 1999). Because the issue was actually redeemed on December 31, 1999, an amount equal to the greater of its outstanding stated principal amount or its actual redemption price is also treated as paid on December 31, 1999.

(d) *Conversion from variable yield issue to fixed yield issue.* As of the first day on which a variable yield issue would qualify as a fixed yield issue if it were newly issued on that date (a "conversion date"), that issue is treated as if it were reissued as a fixed yield issue on the conversion date. The redemption price of the variable yield issue and the issue price of the fixed yield equal the aggregate values of all the bonds on the conversion date. Thus, for example, for plain par bonds (e.g., tender bonds), the deemed issue price would be the outstanding principal amount, plus accrued unpaid interest. If the conversion date occurs on a date other than a computation date, the issuer may continue to treat the issue as a variable yield issue until the next computation date, at which time it must be treated as converted to a fixed yield issue.

(e) *Value of bonds*—(1) *Plain par bonds.* Except as otherwise provided, the value of a plain par bond is its outstanding stated principal amount, plus accrued unpaid interest. The value of a plain par bond that is actually redeemed or treated as redeemed is the greater of its outstanding stated principal amount or its stated redemption price on the redemption date, plus accrued, unpaid interest.

(2) *Other bonds.* The value of a bond other than a plain par bond on a date is its present value on that date. The present value of a bond is computed under the constant yield method using the yield on the bond as the discount rate, except that for purposes of § 1.148–6(b)(2) (relating to the universal cap), these values may be determined by consistently using the yield on the issue of which the bonds are a part. To determine yield on fixed yield bonds, see paragraph (b)(1) of this section. The rules contained in paragraphs (b)(2) and (b)(3) of this section apply for this purpose. In the case of bonds described in paragraph (b)(2)(iii) of this section, the present value of those bonds on any date is computed using a yield to the final maturity date of those bonds as the discount rate. In determining the present value of a variable yield bond under this paragraph (e)(2), the initial interest rate on the bond on the issue date is used to determine the interest payments on that bond.

(f) *Qualified guarantees*—(1) *In general.* Fees properly allocable to payments for a qualified guarantee for an issue (as determined under paragraph (f)(6) of this section) are treated as additional interest on that issue under section 148. A guarantee is a qualified guarantee if it satisfies each of the requirements of paragraphs (f)(2) through (f)(5) of this section.

(2) *Interest savings.* As of the date the guarantee is obtained, the issuer must reasonably expect that the present value of the fees for the guarantee will be less than the present value of the expected interest savings on the issue as a result of the guarantee. For this purpose, present value is computed using the yield on the issue, determined with regard to guarantee payments, as the discount rate.

(3) *Guarantee in substance.* The arrangement must create a guarantee in substance. The arrangement must impose a secondary liability that unconditionally shifts substantially all of the ultimate credit risk for payment of the principal and interest on the guaranteed bonds. The guarantee may be in any form. The guarantor may not be a co-obligor. Thus, the guarantor must not expect to make any payments other than under a direct-pay letter of credit or similar arrangement for which the guarantor will be reimbursed immediately. The guarantor and any related parties together must not use more than 10 percent of the proceeds of the portion of the issue allocable to the guaranteed bonds.

(4) *Reasonable charge*—(i) *In general.* Fees for a guarantee must not exceed a reasonable, arm's-length charge for the transfer of credit risk. In complying with this requirement, the issuer may not rely on representations of the guarantor.

(ii) *Fees for services other than transfer of credit risk must be separately stated.* A fee for a guarantee must not include any payment for any direct or indirect services other than the transfer of credit risk, unless the compensation for those other services is separately stated, reasonable, and excluded from the guarantee fee. For example, a fee includes payment for services other than transfer of credit risk if—

(A) It includes payment for the cost of underwriting or remarketing bonds or for the cost of insurance for casualty to bond-financed property;

(B) It is refundable upon redemption of the guaranteed bond before the final maturity date and the amount of the refund would exceed the unearned portion of the fee; or

(C) The requirements of § 1.148–2(e)(2) (relating to temporary periods for capital expenditures) are not satisfied, and the guarantor is not reasonably assured that the bonds will be repaid if the project to be financed is not completed.

(5) *Guarantee of purpose investments.* Except for guarantees of qualified mortgage loans and qualified student loans, a guarantee of payments on a purpose investment is a qualified guarantee of the issue if all payments on the purpose investment reasonably coincide with payments on the related bonds by being unconditionally payable no more than 6 months before the corresponding payments on the bonds. This paragraph (f)(5) only applies if the guarantee is, in substance, a guarantee of the bonds allocable to that purpose investment and to no other bonds except for bonds that are equally and ratably

secured by purpose investments of the same conduit borrower.

(6) *Allocation of qualified guarantee payments.* Payments for a qualified guarantee must be allocated to bonds and to computation periods in a manner that properly reflects the proportionate credit risk for which the guarantor is compensated. Proportionate credit risk for bonds that are not substantially identical may be determined using any reasonable, consistently applied method. For example, this risk may be based on the ratio of the total principal and interest paid and to be paid on a guaranteed bond to the total principal and interest paid and to be paid on all bonds of the guaranteed issue. Reasonable letter of credit "set up" fees may be allocated ratably during the initial term of the letter of credit. Upon an early redemption of a variable yield bond, fees otherwise allocable to the period after the redemption are allocated to remaining outstanding bonds of the issue or, if none remain outstanding, to the period before the redemption.

(7) *Refund or reduction of guarantee payments.* If as a result of an investment of proceeds of a refunding issue in a refunding escrow, there will be a reduction in, or refund of, payments for a guarantee ("savings"), the savings must be treated as a reduction in the payments on the refunding issue. The preceding sentence does not apply to the extent that the issuer pays a similar amount on the refunding issue and that amount is not treated as a payment for a qualified guarantee.

(g) *Yield on certain mortgage revenue bonds.* In addition to section 148 and this section, section 143(g)(2)(C)(ii) applies to the computation of yield on an issue of qualified mortgage bonds or qualified veterans' mortgage bonds.

(h) *Qualified hedging transactions*—(1) *In general.* Net payments made or received by an issuer on a qualified hedge (as defined in paragraph (h)(2) of this section) are taken into account to determine the yield on an issue and to determine whether an issue is a fixed yield issue or a variable yield issue. These hedging rules apply solely for purposes of section 148.

(2) *Qualified hedge.* Except as otherwise provided in this paragraph (h), a qualified hedge is a transaction that satisfies the following requirements:

(i) *Hedge.* The transaction is a hedge that modifies the risk of interest rate changes, based on all the facts and circumstances. For example, an interest rate swap generally is a hedge. An option or a contract to enter into a hedge generally is not a hedge until the hedge becomes effective. The portion of an arrangement that is an embedded loan is not a hedge. A series of offsetting hedges entered into at substantially the same time are treated as a single transaction. The hedge must not provide for payments for services other than the modification of interest rate changes, unless the compensation for those other services is separately stated, reasonable, and excluded from the hedge.

(ii) *Identification.* On or before the date the hedge is entered into, the issuer must identify in the bond documents the hedge and related matters, including the issue date of the issue, that date the hedge was entered into, a statement that the hedge is associated with the issue, and a description of the hedge. The description must include the identity of the provider and the material financial terms of the hedge. To satisfy the requirement to describe the hedge, the issuer may include the documentation for the hedge in the records for the issue. The issuer must note the existence of the hedge of any forms filed with the Internal Revenue Service for the issue.

(iii) *Parties to the hedge.* The actual issuer must enter into the hedge with a provider that is not a related party to the issuer.

(iv) *Payments must correspond.* All amounts payable under the hedge must be payable within 5 days of the dates that corresponding interest payments are payable on the issue.

(v) *Terms must correspond.* The terms of the hedge must correspond to the terms of the issue by satisfying at least three of the following requirements:

(A) *Time.* The hedge is entered into within 15 days of the issue date.

(B) *Principal amount.* The notional principal amount of the hedge and the issue price of the issue are the same.

(C) *Interest rate.* The interest rates on the issue and on which amounts payable by the provider under the hedge are based are substantially the same. For example, an objective 30-day tax-exempt variable rate index may be substantially the same as an issuer's individual 30-day interest rate.

(D) *Maturity.* The maturity dates on the hedge and the issue are in substance the same.

(3) *Anti-abuse rules and authority of Commissioner on hedges*—(i) *In general.* A transaction is not a qualified hedge if the Commissioner determines that such characterization creates an inappropriate potential for arbitrage profits or fails to clearly reflect the economic substance of the transaction, based on all the facts and circumstances. Any payments made or received by an issuer as a consequence of an early termination in substance of a qualified hedge are taken into account over the remaining stated term of the hedge on a constant yield basis or any other method that more clearly reflects the economic substance of the payment. An early termination of a qualified hedge causes the yield on the issue to be recomputed under paragraph (c) of this section on the date of the early termination, except if the termination occurs in connection with the early retirement of the issue.

(ii) *Identification by the Commissioner.* The Commissioner may identify and treat a transaction that is not otherwise a qualified hedge as being a qualified hedge to clearly reflect the economic substance of the transaction.

(i) *Conduit financing issues.* The yield on an issue that would be a purpose investment (absent section 148(b)(3)(A)) is equal to the yield on the conduit financing issue that financed that purpose investment.

§ 1.148–5 Yield and valuation of investments.

(a) *In general.* This section provides rules for computing the yield and value of investments allocated to an issue for various purposes under section 148.

(b) *Yield on an investment*—(1) *In general.* Except as otherwise provided, the yield on an investment allocated to an issue is computed under the constant yield method, using the same compounding interval and financial conventions used to compute the yield on the issue. The yield on an investment allocated to an issue is the discount rate that, when used in computing the present value as of the date the investment is first allocated to the issue of all unconditionally payable receipts from the investment, produces an amount equal to the present value of all unconditionally payable payments for the investment. For this purpose, "payments" means amounts to be actually or constructively paid to acquire the investment, and "receipts" means amounts to be actually or constructively received from the investment, such as earnings and return of principal.

(2) *Yield on a separate class of investments*—(i) *In general.* The yield on each separate class of investments allocable to an issue is computed separately. Thus, in determining the yield on a separate class of investments, the yield on individual investments within the class is blended with the yield on other individual investments within the class, but may not be blended with the yield on investments outside the class.

(ii) *Separate classes of investment.* Investments are part of the same class of investments if they are subject to the same definition of "materially higher" under § 1.148–2(d)(2). Nonpurpose investments and purpose investments, however, are never part of the same class.

(3) *Investments to be held beyond issue's maturity.* In computing the yield on investment that are allocable to an issue and are to be held beyond the reasonably expected redemption date of the issue, those investments are treated as sold for an amount equal to their value on that date.

(4) *Refunding escrows and replacement proceeds treated as a single investment.* In computing the yield on each of the following types of investments, the individual investments of each type are treated as a single investment having a single yield, whether or not held concurrently:

(i) *Proceeds in a refunding escrow.* Investments allocable to proceeds of a refunding issue that are held in a refunding escrow;

(ii) *Yield-restricted replacement proceeds.* Investments allocable to replacement proceeds that may not be invested at a yield that is materially higher than the yield on the issue to which those investments are allocated.

(5) *Consistent redemption assumptions on purpose investments* The yield on purpose investments allocable to an issue is computed using the same redemption assumptions used to compute the yield on the issue.

(6) *Student loan special allowance payments included in yield.* The yield on qualified student loans is computed by including as receipts any special allowance payments ("SAP" payments) made by the Secretary of Education pursuant to section 438 of the Higher Education Act of 1965.

(c) *Yield reduction payments to the United States*—(1) *In general.* In determining the yield on an investment to which this paragraph (c) applies, any amount paid to the United States in accordance with this paragraph (c), including a rebate amount, is treated as a payment for that investment that reduces the yield on that investment.

(2) *Manner of payment.* An amount is paid under this paragraph (c) if it is paid to the United States at the same time and in the same manner as rebate amounts are required to be paid or at such other time or in such manner as the Commissioner may prescribe.

(3) *Applicability of special yield reduction rule*—(i) *In general.* This paragraph (c) applies to the following investments—

(A) Nonpurpose investments allocable to proceeds of an issue that qualified for one of the temporary periods available for capital projects, working capital expenditures, or investment proceeds under paragraphs § 1.148–2(e)(2), (e)(3), or (e)(6) of this section, respectively;

(B) Nonpurpose investments allocable to a variable yield issue during any computation period in which at least 75 percent of the value of the issue is represented by variable yield bonds, unless the issue is an issue of hedge bonds (as defined in section 149(g)(3)(A));

(C) Nonpurpose investments allocable to transferred proceeds of:

(*1*) A current refunding issue to the extent necessary to reduce the yield on those investments to satisfy yield restrictions under section 148(a);

(*2*) An advance refunding issue to the extent that investment of the refunding escrows allocable to the proceeds, other than transferred proceeds, of the refunding issue in zero-yielding nonpurpose investments is insufficient to satisfy yield restrictions under section 148(a); or

(*3*) A refunding issue upon redetermination to the extent provided in § 1.148–9(b)(5);

(D) Program investments allocable to qualified student loans under section 144(b)(1)(A);

(E) Nonpurpose investments allocable to replacement proceeds of an issue that are held in a reserve or replacement fund to the extent that the value of the nonpurpose investments in the fund is not greater than 15 percent of the stated principal amount of the issue, as computed under § 1.148–2(f)(2)(ii), but only if, except for the size of that fund, it otherwise qualifies as a reasonably required reserve or replacement fund; and

(F) Nonpurpose investments allocated to replacement proceeds of a refunded issue as a result of the application of the universal cap to amounts in a refunding escrow.

(ii) *Except to yield reduction rule for advance refunding issues.* Paragraph (c)(1) of this section does not apply to investments allocable to gross proceeds of an advance refunding issue, other than transferred proceeds to which paragraph (c)(3)(i)(C) of this section applies and replacement proceeds to which paragraph (c)(3)(i)(F) of this section applies.

(d) *Value of investments—(1) In general.* For purposes of section 148(a), the value of an investment (including a payment or receipt on the investment) on a date must be determined using one of the following valuation methods:

(i) *Plain par investment—outstanding principal amount.* A plain par investment may be valued on a date at its outstanding stated principal amount, plus any accrued unpaid interest on that date.

(ii) *Fixed rate investment—present value.* A fixed rate investment may be valued on a date at its present value on that date.

(iii) *Any investment—fair market value.* An investment may be valued on a date at its fair market value on that date.

(2) *Mandatory valuation of yield-restricted investments at present value.* Any investment that is allocable to gross proceeds of an issue subject to yield restriction under section 148 must be valued at present value. Thus, for example, an investment allocable to gross proceeds in a refunding escrow after the expiration of the initial temporary period must be valued at present value.

(3) *Mandatory valuation of certain investments at fair market value*—(i) *In general.* Except as provided in paragraphs (d)(2) and (d)(3)(ii) of this section, an investment must be valued at fair market value on the date that it is first allocated to an issue or first ceases to be allocated to an issue as a consequence of a deemed acquisition or deemed disposition. For example, if an issuer deposits existing investments into a sinking fund for an issue, those investments must be valued at fair market value as of the date first deposited into the fund.

(ii) *Exception to fair market value requirement for transferred proceeds allocations and universal cap allocations.* This paragraph (d)(3) does not apply if the investment is allocated to an issue or ceases to be allocated to an issue as a result of the transferred proceeds allocation rule under § 1.148–9(b) or the universal cap rule under § 1.148–6(b)(2).

(4) *Definition of present value of an investment.* Except as otherwise provided, present value of an investment is computed under the constant yield method, using the same compounding interval and financial conventions used to compute the yield on the issue. The present value of an investment on a date is equal to the present value of all unconditionally payable receipts to be received from and payments to be paid for the investment after that date, using the yield on the investment as the discount rate.

(5) *Definition of fair market value*—(i) *In general.* The fair market value of an investment is the price at which a

willing buyer would purchase the investment from a willing seller in a bona fide, arm's-length transaction. Fair market value generally is determined on the date on which a contract to purchase or sell the nonpurpose investment becomes binding (i.e., the trade date rather than the settlement date).

(ii) *Safe harbor for establishing fair market value for certificates of deposit.* This paragraph (d)(5)(ii) applies to a certificate of deposit that has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal. The purchase price of a such a certificate of deposit is treated as its fair market value on the purchase date if the yield on the certificate of deposit is not less than—

(A) The yield on reasonably comparable direct obligations of the United States; and

(B) The highest yield that is published or posted by the provider to be currently available from the provider on reasonably comparable certificates of deposit offered to the public.

(iii) *Safe harbor for establishing fair market value for guaranteed investment contracts.* The purchase price of a guaranteed investment contract is treated as its fair market value on the purchase date if—

(A) The issue makes a bona fide solicitation for a specified guaranteed investment contract and receives at least three bona fide bids from providers that have no material financial interest in the issue;

(B) The issuer purchases the highest-yielding guaranteed investment contract for which a qualifying bid is made (determined without regard to broker's fees);

(C) The yield on the guaranteed investment contract (determined without regard to broker's fees) is not less than the yield then available from the provider on reasonably comparable guaranteed investment contracts, if any, offered to other persons from a source of funds other than gross proceeds of tax-exempt bonds;

(D) The determination of the terms of the guaranteed investment contract takes into account as a significant factor the issuer's reasonably expected drawdown schedule for the funds to be invested, exclusive of debt service funds and reasonably required reserve or replacement refunds;

(E) The terms of the guaranteed investment contract, including collateral security requirements, are reasonable; and

(F) The obligor on the guaranteed investment contract certifies the administrative costs that it is paying to third parties in connection with the guaranteed investment contract.

(e) *Administrative costs of investments*—(1) *In general.* Except as otherwise provided in this paragraph (e), an allocation of gross proceeds of an issue to a payment or a receipt on an investment is not adjusted to take into account any administrative costs. Thus, administrative costs generally do not increase the payments for, or reduce the receipts from, investments.

(2) *Reasonable administrative costs on nonpurpose investments taken into account.* In determining payments and receipts on nonpurpose investments, reasonable direct administrative costs are taken into account. Thus, these costs increase the payments for, or decrease the receipts from, the investments. For this purpose, general overhead costs and similar indirect costs of the issuer are not direct administrative costs. The best evidence of the reasonableness of administrative costs generally is whether the administrative costs are comparable to administrative costs that would be charged for the same investment or a reasonably comparable investment if acquired with a source of funds other than gross proceeds of tax-exempt bonds. For a broker's commission paid on behalf of either an issuer or the provider under a guaranteed investment contract, this paragraph (e)(2) applies to the extent that the commission does not exceed 0.5 percent of the amount invested per year.

(3) *Reasonable administrative costs on purpose investments.* In determining payments and receipts on purpose investments (including program investments), reasonable administrative costs paid by the conduit borrower are not taken into account. Thus, these costs increase the payments for, or decrease the receipts from, the investments. For this purpose, administrative costs include the cost of issuing, carrying, or repaying the issue, and any underwriters' discount. This rule applies even if those payments merely reimburse the issuer. For this purpose, a pro rata portion of each payment made by a conduit borrower may be treated as a reimbursement of reasonable administrative costs, if the present value of those payments does not exceed the present value of the reasonable administrative costs paid by the issuer, using the yield on the issue as the discount rate.

§ 1.148–6 General allocation and accounting rules.

(a) *In general*—(1) *Reasonable accounting methods required.* An issuer may use any reasonable, consistently applied accounting method to account for gross proceeds of an issue.

(2) *Bona fide deviations from accounting method.* An accounting method does not fail to be reasonable and consistently applied solely because a different accounting method is used for a bona fide governmental purpose to account for a particular amount. Bona fide governmental purposes may include special state law restrictions imposed on specific funds or actions to avoid grant forfeitures.

(3) *Failures to comply with the accounting rules.* Generally, an issuer's failure to satisfy the requirements of this section for an issue, other than an inadvertent, insubstantial error, results in the bonds of the issue being arbitrage bonds.

(b) *Allocation of gross proceeds to an issue*—(1) *One-issue rule and general ordering rules.* Except as otherwise provided, amounts are allocable to only one issue at a time as gross proceeds. Except as otherwise provided, if amounts simultaneously are proceeds of one issue and replacement proceeds of another issue, those amounts are allocable to the issue of which they are proceeds. Amounts cease to be allocated to an issue as proceeds only when those amounts are allocated to an expenditure for a governmental purpose, are allocated to transferred proceeds of another issue, or cease to be allocated to that issue at retirement of the issue or under the universal cap of paragraph (b)(2) of this section. Amounts cease to be allocated to an issue as replacement proceeds only when those amounts are allocated to an expenditure for a governmental purpose, are no longer used in a manner that causes those amounts to be replacement proceeds of that issue, or cease to be allocated to that issue because of the retirement of the issue or the application of the universal cap under paragraph (b)(2) of this section. Amounts that cease to be allocated to an issue as gross proceeds are eligible for allocation to another issue. Under § 1.148–10(a), however, the rules in this paragraph (b)(1) do not apply in certain cases involving abusive devices.

(2) *Universal cap on value of nonpurpose investments allocated to an issue*—(i) *In general.* The rules in this paragraph (b)(2) provide an overall limitation on the amount of gross proceeds allocable to an issue. Specifically, except as otherwise provided, amounts that would otherwise be gross proceeds allocable to an issue are allocated (and remain allocated) to the issue only to the extent that the value of the nonpurpose investments

allocable to those gross proceeds does not exceed the value of all outstanding bonds of the issue. For this purpose, gross proceeds allocable to cash, tax-exempt bonds that would be nonpurpose investments (absent section 148(b)(3)(A)), qualified student loans, and qualified mortgage loans are treated as nonpurpose investments. The values of bonds and investments are determined under § 1.148–4(e) and § 1.148–5(d), respectively. The value of all outstanding bonds of the issue is referred to as the "universal cap." Thus, for example, the universal cap for an issue of plain par bonds is equal to the outstanding stated principal amount of those bonds plus accrued interest.

(ii) *Determination and application of the universal cap*—(A) *Determinations in general.* The amount of the universal cap and the value of the nonpurpose investments must be determined as of the first day of each bond year, starting on the second anniversary of the issue date. For refunding and refunded issues, the cap values must also be determined as of each date that, but for this paragraph (b)(2), proceeds of the refunded issue would become transferred proceeds of the refunding issue. Issuers, however, may determine and apply the cap more frequently. All values are determined as of the close of business on each determination date, after giving effect to all payments on bonds and payments for and receipts on investments on that date.

(B) *Application between determination dates.* If nonpurpose investments cease to be allocated to the issue between the dates that the cap is determined, other investments that were previously prevented by the cap from being nonpurpose investments of the issue are immediately allocated to the issue up to the amount of the unused universal cap (determined in a similar manner to amounts in excess of the universal cap under paragraph (b)(2)(iii) of this section except with the order of priority reversed). The unused cap is determined by using the value of the cap as of the last day value was determined.

(iii) *General ordering rule for allocations of amounts in excess of the universal cap*—(A) *In general.* If the value of all nonpurpose investments allocated to the gross proceeds of an issue exceeds the universal cap for that issue on a date when the cap is determined under paragraph (b)(2)(ii) of this section, investments necessary to eliminate that excess cease to be allocated to the issue, in the following order of priority—

(*1*) First, nonpurpose investments allocable to replacement proceeds of the issue; and

(*2*) Second, nonpurpose investments allocable to sale proceeds, investment proceeds, and transferred proceeds.

(B) *Allocations of portions of investments.* Portions of investments to which this paragraph (b)(2)(iii) applies are allocated under either the ratable method of the representative method in the same manner as allocations of portions of investments to transferred proceeds under § 1.148–9(c).

(iv) *Nonpurpose investments in a bona fide debt service fund not counted.* For purposes of this paragraph (b)(2), nonpurpose investments allocated to gross proceeds in a bona fide debt service fund for an issue are disregarded in determining the amount of unused universal cap, and those amounts remain allocated to the issue.

(v) *Exception.* The universal cap need not be applied on any date on which its application would not result in a reduction or reallocation of gross proceeds of an issue.

(c) *Fair market value limit on allocations to nonpurpose investments.* Upon a purchase or sale of a nonpurpose investment, gross proceeds of an issue are not allocated to a payment for that nonpurpose investment in an amount greater than, or to a receipt from that nonpurpose investment in an amount less than, the fair market value of the nonpurpose investment as of the purchase or sale date.

(d) *Allocation of gross proceeds to expenditures*—(1) *Expenditures in general*—(i) *General rule.* Reasonable accounting methods for allocating funds from different sources to expenditures for the same governmental purpose include any of the following methods if consistently applied: A specific tracing method; a gross proceeds spent first method; a first-in, first-out method; or a ratable allocation method.

(ii) *General limitation.* An allocation of gross proceeds of an issue to an expenditure must involve a current outlay of cash for a governmental purpose of the issue. A "current outlay of cash" means an outlay, by check mailed or available funds advanced, that is reasonably expected to occur not later than 5 banking days after the allocation of gross proceeds to the expenditure.

(2) *Expenditures of gross proceeds invested in purpose investments*—(i) *In general.* Gross proceeds of an issue invested in a purpose investment are allocated to an expenditure on the date on which the conduit borrower under the purpose investment allocates the proceeds to an expenditure in accordance with this paragraph (d).

(ii) *Exception for qualified mortgage loans and qualified student loans.* If gross proceeds of an issue are allocated to a purpose investment that is a qualified mortgage loan or a qualified student loan, those gross proceeds are allocated to an expenditure for the governmental purpose of the issue on the date on which the issuer allocates gross proceeds to that purpose investment.

(3) *Expenditures for working capital purposes*—(i) *In general.* Except as otherwise provided in this paragraph (d)(3) or paragraph (d)(4) of this section, gross proceeds of an issue may only be allocated to working capital expenditures as of any date to the extent that those working capital expenditures exceed available amounts (as defined in paragraph (d)(3)(iii) of this section) as of that date (i.e., a "gross proceeds spent last" method).

(ii) *Exceptions*—(A) *General de minimis exception.* Paragraph (d)(3)(i) of this section does not apply to expenditures to pay—

(*1*) Issuance costs and administrative costs of the issue;

(*2*) Fees for qualified guarantees of the issue;

(*3*) Interest on the issue for a period of three years from the issue date;

(*4*) Costs, other than those described in paragraphs (d)(3)(ii)(A) (*1*) through (*3*) of this section, that do not exceed 5 percent of the sale proceeds of an issue and that are directly related to capital expenditures financed by the issue (e.g., initial operating expenses for a new capital project);

(*5*) Rebate or similar amounts; and

(*6*) Principal or interest on an issue paid from unexpected excess original proceeds.

(B) *Exception for extraordinary items.* Paragraph (d)(3)(i) of this section does not apply to expenditures for extraordinary, nonrecurring items that are not customarily payable from current revenues, such as casualty losses or extraordinary legal judgments in amounts in excess of reasonable insurance coverage. If, however, an issuer or a related party maintains a reserve for such items (e.g., a self-insurance fund), gross proceeds within that reserve must be allocated to expenditures only after all other available amounts in that reserve are expended.

(C) *Exception for payment of principal and interest on prior issues.* Paragraph (d)(3)(i) of this section does not apply to expenditures for payment of principal, interest, or redemption prices on a prior issue and, for a crossover refunding issue, interest on that issue.

(D) *Exception for replacement proceeds.* The provisions of this paragraph (d)(3)(ii) do not apply if the allocation merely substitutes proceeds for other amounts that would have been used to make those expenditures in a manner that gives rise to replacement proceeds. For example, if a purported reimbursement allocation of proceeds of a reimbursement bond does not result in an expenditure under § 1.150–2, those proceeds may not be allocated to pay interest on an issue that, absent this allocation, would have been paid from the issuer's current revenues.

(iii) *Definition of available amount*—(A) *In general.* For purposes of this paragraph (d)(3), "available amount" means any amount that is available to an issuer for working capital expenditure purposes of the type financed by an issue. "Available amounts" excludes gross proceeds of the issue but includes cash, investments, and other amounts held in accounts or otherwise by the issuer or a related party if those amounts may be used by the issuer for working capital expenditures of the type being financed by an issue without legislative or judicial action and without a legislative, judicial, or contractual requirement that those amounts be reimbursed.

(B) *Permitted working capital reserve.* A reasonable working capital reserve is treated as unavailable. Any working capital reserve that does not exceed 10 percent of the actual working capital expenditures of the issuer in the fiscal year before the year in which the bonds were issued is reasonable. In determining the working capital expenditures of an issuer for a prior fiscal year, expenses paid out of current revenues may be treated as working capital expenditures.

(C) *Application to statutory safe harbor for tax and revenue anticipation bond expenditures and certain replacement proceeds.* For purposes of section 148(f)(4)(B)(iii)(II) and with respect to working capital replacement funds, "available amount" has the same meaning as in paragraph (d)(3)(iii) of this section, disregarding the otherwise-permitted reasonable working capital reserve.

(4) *Expenditures for grants*—(i) *In general.* Gross proceeds of an issue that are used to make a grant are allocated to an expenditure on the date on which the grant is made.

(ii) *Characterization of repayments of grants.* If any amount of a grant financed by gross proceeds of an issue is repaid to the grantor, the repaid amount is treated as unspent proceeds of the issue as of the repayment date.

(iii) *Definition of grant.* "Grant" means a transfer for a governmental purpose of money or property to a transferee that is not a related party to the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

(5) *Expenditures for reimbursement purposes.* In allocating gross proceeds of issues of reimbursement bonds (as defined in § 1.150–2)) to certain expenditures, § 1.150–2 applies. In allocating gross proceeds to an expenditure to reimburse a previously paid working capital expenditure, paragraph (d)(3) of this section applies. Thus if there are no other available amounts on the date a working capital expenditure is made and there are no other available amounts on the date of the reimbursement of that expenditure, gross proceeds are allocated to the working capital expenditure as of the date of the reimbursement.

(6) *Expenditures of certain commingled investment proceeds of government issues.* For an issue that is not an issue of private activity bonds, other than private activity bonds issued to finance a facility that is required by section 142 to be owned by a governmental unit, investment proceeds of an issue (other than investment proceeds held in a refunding escrow) are treated as allocated to expenditures for a governmental purpose when the amounts are deposited in a commingled fund with substantial tax or other revenues from governmental operations of the issuer and the amounts are reasonably expected to be spent for governmental purposes within 6 months from the date of the commingling. In establishing these reasonable expectations, an issuer may use any reasonable accounting assumption and is not bound by the "gross proceeds-spent-last" assumption generally required for working capital expenditures under paragraph (d)(3) of this section.

(7) *Payments to related parties.* Any payment of gross proceeds of the issue to a related party of the payor is not an expenditure of those gross proceeds.

(e) *Special rules for commingled funds*—(1) *In general.* An accounting method for gross proceeds of an issue in a commingled fund, other that a bona fide debt service fund, is reasonable only if it satisfies the requirements of paragraphs (e) (2) through (6) of this section in addition to the other requirements of this section.

(2) *Investments held by a commingled fund*—(i) *Required ratable allocations.* Not less frequently than as of the close of each fiscal period, all payments and receipts (including deemed payments and receipts) on investments held by a commingled fund must be allocated (but not necessarily distributed) among the different investors in the fund. This allocation must be based on a consistently applied, reasonable ratable allocation method.

(ii) *Safe harbors for ratable allocation methods.* Reasonable ratable allocation methods include, without limitation, methods that allocate these items in proportion to either—

(A) The average daily balances of the amounts in the commingled fund from different investors during a fiscal period (as described in paragraph (e)(4) of this section); or

(B) The average of the beginning and ending balances of the amounts in the commingled fund from different investors for a fiscal period that does not exceed one month.

(iii) *Definition of investor.* For purposes of this paragraph (e), the term "investor" means each different source of funds invested in a commingled fund. For example, if a city invests gross proceeds of an issue and tax revenues in a commingled fund, it is treated as two different investors.

(3) *Certain expenditures involving a commingled fund.* If a ratable allocation method is used under paragraph (d) of this section to allocate expenditures from the commingled fund, the same ratable allocation method must be used to allocate payments and receipts on investments in the commingled fund under paragraph (e)(2) of this section.

(4) *Fiscal periods.* The fiscal year of a commingled fund is the calendar year unless the fund adopts another fiscal year. A commingled fund may use any consistent fiscal period that does not exceed three months (e.g., a daily, weekly, monthly, or quarterly fiscal period).

(5) *Unrealized gains and losses on investments of an commingled fund*—(i) *Mark-to-market requirement for internal commingled funds with longer-term investment portfolios.* Except as otherwise provided in this paragraph (e), in the case of a commingled fund in which the issuer and any related party own more than 25 percent of the beneficial interests in the fund (an "internal commingled fund"), the fund must treat all its investments as if sold at fair market value either on the last day of the fiscal year or the last day of

each fiscal period. The net gains or losses from these deemed sales of investments must be allocated to all investors of the commingled fund during the period since the last allocation.

(ii) *Exception for internal commingled funds with shorter-term investment portfolios.* If the remaining weighted average maturity of all investments held by a commingled fund during a particular fiscal year does not exceed 18 months, and the investments held by the commingled fund during that fiscal year consist exclusively of obligations, the mark-to-market requirement of paragraph (e)(5)(i) of this section does not apply.

(6) *Allocations of commingled funds serving as common reserve funds or sinking funds*—(i) *Permitted ratable allocation methods.* If a commingled fund serves as a common reserve fund, replacement fund, or sinking fund for two or more issues (a "commingled reserve"), after making reasonable adjustments to account for proceeds allocated under paragraph (b)(1) or (b)(2) of this section, investments held by that commingled fund must be allocated ratably among the issues secured by the commingled fund in accordance with one of the following methods—

(A) The relative values of the bonds of those issues under § 1.148–4(e);

(B) The relative amounts of the remaining maximum annual debt service requirements on the outstanding principal amounts of those issues; or

(C) The relative original stated principal amounts of the outstanding issues.

(ii) *Frequency of allocations.* An issuer must make any allocations required by this paragraph (e)(6) at least every 3 years and on each date that an issue first becomes secured by the commingled reserve. If relative original principal amounts are used to allocate, allocations must also be made on the retirement of any issue secured by the commingled reserve.

(iii) *Exception to mark-to-market requirement for commingled reserve funds and sinking funds.* The mark-to-market requirement of paragraph (e)(5)(i) of this section does not apply to a commingled reserve fund.

§ 1.148–7 Spending exceptions to the rebate requirement.

(a) *Scope of section*—(1) *In general.* This section provides guidance on the spending exceptions to the arbitrage rebate requirement of section 148(f)(2). These exceptions are the 6-month exception in section 148(f)(4)(B) (the "6-month exception"), the 18-month exception under paragraph (d) of this section (the "18-month exception"), and the 2-year construction exception under section 148(f)(4)(C) (the "2-year exception").

(2) *Relationship of spending exceptions.* The 6-month exception, the 18-month exception, and the 2-year exception are independent exceptions to arbitrage rebate. For example, a construction issue may qualify for the 6-month exception or the 18-month exception even though the issuer makes one or more elections under the 2-year exception with respect to the issue.

(3) *Spending exceptions not mandatory.* Use of the spending exceptions is not mandatory. An issuer may apply the arbitrage rebate requirement to an issue that otherwise satisfies a spending exception. If an issuer elects to pay penalty in lieu of rebate under section 148(f)(4)(C)(vii) and paragraph (k) of this section, however, the issuer must apply those penalty provisions.

(b) *Rules applicable for all spending exceptions.* The provisions of this paragraph (b) apply for purposes of applying each of the spending exceptions.

(1) *Special transferred proceeds rules*—(i) *In general.* Solely for purposes of applying the spending exceptions, the provisions of § 1.148–9(b) (relating to transferred proceeds) do not apply.

(ii) *Application to prior issues.* For purposes of applying the spending exceptions to a prior issue only, proceeds of the prior issue that become transferred proceeds of the refunding issue continue to be treated as unspent proceeds of the prior issue. If the prior issue satisfies the requirements of one of the spending exceptions, the proceeds of the prior issue that are excepted from rebate under that spending exception are not subject to rebate either as proceeds of the prior issue or as transferred proceeds of the refunding issue.

(iii) *Application to refunding issues*—(A) *In general.* The only spending exception applicable to refunding issues is the 6-month exception. For purposes of applying the 6-month exception to a refunding issue only, proceeds of the prior issue that become transferred proceeds of the refunding issue generally are not treated as gross proceeds of the refunding issue. Accordingly, those proceeds need not be spent for the refunding issue to qualify for the 6-month exception. If the refunding issue qualifies for that spending exception, those proceeds are subject to rebate unless the prior issue qualified for a spending exception.

(B) *Exception.* Transferred proceeds of a refunding issue that were excluded from the gross proceeds of a prior issue under the special definition of gross proceeds in paragraph (c)(3) of this section, and transferred proceeds that transferred from a prior taxable issue, are generally treated as gross proceeds of the refunding issue. Thus, for the refunding issue to qualify for the 6-month exception, those proceeds must be spent within 6 months of the issue date of the refunding issue, unless those amounts continue to be used in a manner that does not cause those amounts to be gross proceeds under paragraph (c)(3) of this section.

(2) *Application of multipurpose issue rules.* If any portion of an issue is treated as a separate issue allocable to refunding purposes under § 1.148–9(h) (relating to multipurpose issues), for purposes of this section, that portion is treated as a separate issue, except as limited by § 1.148–9(h)(2).

(3) *Expenditures for governmental purposes of the issue.* For purposes of this section, expenditures for the governmental purpose of an issue include payments for interest, but not principal, on the issue, and for principal or interest on another issue of obligations. The preceding sentence does not apply for purposes of the 18-month and 2-year exceptions if those payments cause the issue to be a refunding issue.

(4) *De minimis rule.* Any failure to satisfy the final spending requirement of the 18-month exception or the 2-year exception is disregarded if the issuer exercises due diligence to complete the project financed and the amount of the failure does not exceed the lesser of 3 percent of the issue price of the issue or $100,000.

(5) *Special definition of reasonably required reserve or replacement fund.* For purposes of this section, a reasonably required reserve or replacement fund includes any fund to the extent described in § 1.148–5(c)(3)(i)(E).

(c) *6-month exception*—(1) *General rule.* An issue is treated as meeting the rebate requirement if—

(i) The gross proceeds (as modified by paragraph (c)(3) of this section) of the issue are allocated to expenditures for the governmental purposes of the issue within the 6-month period beginning on the issue date (the "6-month spending period"); and

(ii) The rebate requirement is met for amounts not required to be spent within the 6-month spending period (excluding earnings on a bona fide debt service fund).

(2) *Additional period for certain bonds.* The 6-month spending period is

extended for an additional 6 months in certain circumstances specified under section 148(f)(4)(B)(ii).

(3) *Amounts not included in gross proceeds.* For purposes of paragraph (c)(1)(i) of this section only, gross proceeds do not include amounts—

(i) In a bona fide debt service fund;

(ii) In a reasonably required reserve or replacement fund;

(iii) That, as of the issue date, are not reasonably expected to be gross proceeds but that become gross proceeds after the end of the 6-month spending period; and

(iv) Representing sale or investment proceeds derived from payments under any purpose investment of the issue.

(4) *Series of refundings.* If a primary purpose of a series of refunding issues is to exploit the difference between taxable and tax-exempt interest rates by investing proceeds during the temporary periods in § 1.148–9(d), the 6-month spending period for all of the issues in the series begins on the issue date of the first issue in the series.

(d) *18-month exception*—(1) *General rule.* An issue is treated as meeting the rebate requirement if all of the following requirements are satisfied—

(i) *18-month expenditure schedule met.* The gross proceeds are allocated to expenditures for the governmental purpose of the issue in accordance with the following "18-month expenditure schedule," measured from the issue date—

(A) At least 30 percent are spent within 6 months (the "first spending period");

(B) At least 60 percent are spent within 12 months (the "second spending period"); and

(C) 100 percent are spent within 18 months (the "third spending period").

(ii) *Rebate requirement met for amounts not required to be spent.* The rebate requirement is met for all amounts not required to be spent in accordance with the 18-month expenditure schedule (other than earnings on a bona fide debt service fund).

(iii) *Issue qualifies for initial temporary period.* All of the gross proceeds (as defined in paragraph (d)(3)(i) of this section) of the issue qualify for the initial temporary period under § 1.148–2(e)(2).

(2) *Extension for reasonable retainage.* An issue does not fail to satisfy paragraph (d)(1)(i)(C) of this section as a result of a reasonable retainage if the reasonable retainage is allocated to expenditures within 30 months of the issue date. Reasonable retainage has the meaning under paragraph (h) of this section, as modified to refer to net sale proceeds on the date 18 months after the issue date.

(3) *Gross proceeds*—(i) *Definition of gross proceeds.* For purposes of paragraph (d)(1)(i) of this section only, "gross proceeds" means gross proceeds as defined in paragraph (c)(3) of this section, as modified to refer to "18-month" in paragraph (c)(3)(iii) of this section in lieu of "6-month."

(ii) *Estimated earnings.* For purposes of determining compliance with the first two spending periods under paragraph (d)(1)(i) of this section, the amount of investment proceeds included in gross proceeds of the issue is determined based on the issuer's reasonable expectations on the issue date.

(4) *Application to multipurpose issues.* This paragraph (d) does not apply to an issue any portion of which is treated as meeting the rebate requirement under paragraph (e) of this section (relating to the 2-year exception).

(e) *2-year exception*—(1) *General rule.* A construction issue is treated as meeting the rebate requirement for available construction proceeds if those proceeds are allocated to expenditures for the governmental purposes of the issue in accordance with the following 2-year expenditure schedule, measured from the issue date—

(i) At least 10 percent within 6 months (the "first spending period");

(ii) At least 45 percent within 1 year (the "second spending period");

(iii) At least 75 percent within 18 months (the "third spending period"); and

(iv) 100 percent within 2 years (the "fourth spending period").

(2) *Extension for reasonable retainage.* An issue does not fail to satisfy the expenditure requirement of paragraph (e)(1)(iv) of this section as a result of unspent amounts for reasonable retainage (as defined in paragraph (h) of this section) if those amounts are allocated to expenditures within 3 years of the issue date.

(3) *Definitions.* For purposes of the 2-year spending exception, the following definitions apply:

(i) *Real property* means land and improvements to land, such as buildings or other inherently permanent structures, including interests in real property. For example, real property includes wiring in a building, plumbing systems, central heating or air-conditioning systems, pipes or ducts, elevators, escalators installed in a building, paved parking areas, roads, wharves and docks, bridges, and sewage lines.

(ii) *Tangible personal property* means any tangible property other than real property, including interests in tangible personal property. For example, tangible personal property includes machinery that is not a structural component of a building, subway cars, fire trucks, automobiles, office equipment, testing equipment, and furnishings.

(iii) *Substantially completed.* Contruction may be treated as substantially completed when the issuer abandons construction or when 90 percent of the total costs of the construction reasonably expected, as of that date, to be financed with the available construction proceeds have been allocated to expenditures.

(f) *Construction issue*—(1) *Definition.* "Construction issue" means any issue that is not a refunding issue if—

(i) The issuer reasonably expects, as of the issue date, that at least 75 percent of the available construction proceeds of the issue will be allocated to construction expenditures (as defined in paragraph (g) of this section) for property owned by a governmental unit or a 501(c)(3) organization; and

(ii) Any private activity bonds that are part of the issue are qualified 501(c)(3) bonds or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

(2) *Use of actual facts.* For the provisions of paragraphs (e) through (n) of this section that apply based on the issuer's reasonable expectations, an issuer may elect on or before the issue date to apply all of those provisions based on actual facts.

(3) *Ownership requirement*—(i) *In general.* A governmental unit or 501(c)(3) organization is treated as the owner of property if it would be treated as the owner for Federal income tax purposes. For obligations issued on behalf of a State or local governmental unit, the entity that actually issues the bonds is treated as a governmental unit.

(ii) *Safe harbor for leases and management contracts.* Property leased by a governmental unit or a 501(c)(3) organization is treated as owned by the governmental unit or 501(c)(3) organization if the lessee complies with the requirements of section 142(b)(1)(B). For a bond described in section 142(a)(6), the requirements of section 142(b)(1)(B) apply as modified by section 146(h)(2).

(iii) *Ownership by issuer not required.* The issuer need not own the property financed by a construction issue.

(g) *Construction expenditures*—(1) *Definition.* Except as otherwise provided, "construction expenditures" means expenditures that, on or before the date the property financed by the expenditures is placed in service (as

defined in § 1.103–8(a)(5)), are capitalizable to the cost of real property or constructed personal property (as defined in paragraph (g)(3) of this section). Except as provided in paragraph (g)(2) of this section, construction expenditures do not include expenditures for acquisitions of interests in land or other existing real property.

(2) *Certain acquisitions under turnkey contracts treated as construction expenditures.* Expenditures are not for the acquisition of an interest in existing real property other than land if the contract between the seller and the issuer requires the seller to build or install the property (such as under a "turnkey contract"), but only to the extent that the property has not been built or installed at the time the parties enter into the contract.

(3) *Constructed personal property.* "Constructed personal property" means tangible personal property (or, if acquired pursuant to a single acquisition contract, properties) or specially developed computer software if—

(i) A substantial portion of the property is completed more than 6 months after the earlier of the date construction or rehabilitation commenced and the date the issuer entered into an acquisition contract;

(ii) Based on the reasonable expectations of the issuer, if any, or representations of the person constructing the property, with the exercise of due diligence, completion of construction or rehabilitation (and delivery to the issuer) could not have occurred within that 6-month period; and

(iii) If the issuer itself builds or rehabilitates the property, not more than 75 percent of the portion of the cost of which is capitalizable is attributable to property acquired by the issuer (such as components, raw materials, and other supplies).

(4) *Specially developed computer software.* "Specially developed computer software" means any programs or routines used to cause a computer to perform a desired task or set of tasks, and the documentation required to describe and maintain those programs, provided that the software is specially developed to meet the individual needs of the issuer and the software is functionally related and subordinate to real property or other constructed personal property.

(5) *Examples.* The operation of this paragraph (g) is illustrated by the following examples:

Example 1. Purchase of construction materials. City *A* issues bonds to finance a new office building. *A* uses proceeds of the bonds to purchase materials to be used in constructing the building, such as bricks, pipes, wires, lighting, carpeting, heating equipment, and similar materials. Expenditures by *A* for the construction materials are construction expenditures because those expenditures will be capitalizable to the cost of the building upon completion, even though they are not initially capitalizable to the cost of existing real property. This result would be the same if *A* hires a third-party to perform the construction, unless the office building is partially constructed at the time that *A* contracts to purchase the building.

Example 2. Turnkey contract. City *B* issues bonds to finance a new office building. *B* enters into a turnkey contract with developer *D* under which *D* agrees to provide *B* with a completed building on a specified completion date on land currently owned by *D*. Under the agreement, *D* holds title to the land and building and assumes any risk of loss until the completion date, at which time title to the land and the building will be transferred to *B*. No construction has been performed by the date that *B* and *D* enter into the agreement. All payments by *B* to *D* for construction of the building are construction expenditures because all the payments are properly capitalized to the cost of the building, but payments by *B* to *D* allocable to the acquisition of the land are not construction expenditures.

Example 3. Right-of-way. P, a public agency, issues bonds to finance the acquisition of a right-of-way and the construction of sewage lines through numerous parcels of land. The right-of-way is acquired primarily through *P*'s exercise of its powers of eminent domain. As of the issue date, *P* reasonably expects that it would take approximately 2 years to acquire the entire right-of-way because of the time normally required for condemnation proceedings. No expenditures for the acquisition of the right-of-way are construction expenditures because they are costs incurred to acquire an interest in existing real property.

Example 4. Subway cars. City *C* issues bonds to finance new subway cars. *C* reasonably expects that it will take more than 6 months for the subway cars to be constructed to *C*'s specifications. The subway cars are constructed personal property. Alternatively, if the builder of the subway cars informs *C* that it will only take 3 months to build the subway cars to *C*'s specifications, no payments for the subway cars are construction expenditures.

Example 5. Fractional interest in property. U, a public agency, issues bonds to finance an undivided fractional interest in a newly constructed power-generating facility. *U* contributes its ratable share of the cost of building the new facility to the project manager for the facility. *U*'s contributions are construction expenditures in the same proportion that the total expenditures for the facility qualify as construction expenditures.

Example 6. Park land. City *D* issues bonds to finance the purchase of unimproved land and the cost of subsequent improvements to the land, such as grading and landscaping, necessary to transform it into a park. The costs of the improvements are properly capitalizable to the cost of the land, and therefore, are construction expenditures but expenditures for the acquisition of the land are not.

(h) *Reasonable retainage*—(1) *Definition.* "Reasonable retainage" means an amount retained for reasonable business purposes relating to the property financed with the proceeds of the issue, such as ensuring or promoting compliance with the terms of one of more construction contracts. Examples of reasonable retainage include situations in which—

(i) the retained amount is not yet payable; or

(ii) the issuer reasonably determines that a dispute exists regarding completion or payment.

(2) *Five percent limitation.* Retainage is not reasonable if it exceeds 5 percent of the available construction proceeds as of the end of the fourth spending period.

(i) *Available construction proceeds*—(1) *Definition in general.* "Available construction proceeds" has the meaning used in section 148(f)(4)(C)(vi). For purposes of this definition, earnings include earnings on any tax-exempt bond. Pre-issuance accrued interest and earnings thereon may be disregarded.

(2) *Earnings on a reasonably required reserve or replacement fund.* Earnings on any reasonably required reserve or replacement fund are available construction proceeds only to the extent that those earnings accrue before the earlier the date construction is substantially completed or the date that is 2 years after the issue date. An issuer may elect on or before the issue date to exclude from available construction proceeds the earnings on such a fund. If the election is made, the rebate requirement applies to the excluded amounts from the issue date.

(3) *Reasonable expectations test for future earnings.* For purposes of determining compliance with the spending requirements as of the end of each of the first three spending periods, available construction proceeds include the amount of future earnings that the issuer reasonably expected as of the issue date.

(4) *Issuance costs.* Available construction proceeds do not include gross proceeds used to pay issuance costs financed by an issue, but do include earnings on such proceeds. Thus, expenditure of gross proceeds of an issue for issuance costs do not count toward meeting the spending requirements, but the expenditure of earnings on those proceeds do count toward meeting those requirements.

(5) *One and one-half percent penalty in lieu of arbitrage rebate.* For purposes of the spending requirements of paragraph (e) of this section, available construction proceeds as of the end of any spending period are reduced by the amount of penalty in lieu of arbitrage rebate (under paragraph (k) of this section) that the issuer has paid from available construction proceeds before the last day of the spending period.

(6) *Payments on purpose investments and repayments of grants.* Available construction proceeds do not include—

(i) Sale or investment proceeds derived from payments under any purpose investment of the issue; or

(ii) Repayments of grants (as defined in § 1.148–6(d)(4)) financed by the issue.

(7) *Examples.* The operation of this paragraph (i) is illustrated by the following examples:

Example 1. Treatment of investment earnings. City *F* issues bonds having an issue price of $10,000,000. *F* deposits all of the proceeds of the issue into a construction fund to be used for expenditures other than costs of issuance. *F* estimates on the issue date that, based on reasonably expected expenditures and rates of investment, earnings on the construction fund will be $800,000. As of the issue date and the end of each of the first three spending periods, the amount of available construction proceeds is $10,800,000. To qualify as a construction issue, *F* must reasonably expect on the issue date that at least $8,100,000 (75 percent of $10,800,000) will be used for construction expenditures. In order to meet the 10 percent spending requirement at the end of the first spending period, *F* must spend at least $1,080,000. As of the end of the fourth spending period, *F* has received $1,100,000 in earnings. In order to meet the spending requirement at the end of the fourth spending period, however *F* must spend all of the $11,100,000 of actual available construction proceeds (except for reasonable retainage not exceeding $555,000).

Example 2. Treatment of investment earnings without a reserve fund. City *G* issues bonds having an issue price of $11,200,000. *G* does not elect to exclude earnings on the reserve fund from available construction proceeds. *G* uses $200,000 of proceeds to pay issuance costs and deposits $1,000,000 of proceeds into a reasonably required reserve fund. *G* deposits the remaining $10,000,000 of proceeds into a construction fund to be used for construction expenditures. On the issue date, *G* reasonably expects that, based on the reasonably expected date of substantial completion and rates of investment, total earnings on the construction fund will be $800,000, and total earnings on the reserve fund to the date of substantial completion will be $150,000. *G* reasonably expects that substantial completion will occur during the fourth spending period. As of the issue date, the amount of available construction proceeds is $10,950,000 ($10,000,000 originally deposited into the construction fund plus $800,000 expected earnings on the construction fund and $150,000 expected earnings on the reserve fund). To qualify as a construction issue, *G* must reasonably expect on the issue date that at least $8,212,500 will be used for construction expenditures.

Example 3. Election to exclude earnings on a reserve fund. The facts are the same as *Example 2*, except that *G* elects on the issue date to exclude earnings on the reserve fund from available construction proceeds. The amount of available construction proceeds as of the issue date is $10,800,000.

(j) *Election to treat portion of issue used for construction as separate issue*—(1) *In general.* For purposes of paragraph (e) of this section, if any proceeds of an issue are to be used for construction expenditures, the issuer may elect on or before the issue date to treat the portion of the issue that is not a refunding issue as two, and only two, separate issues, if—

(i) One of the separate issues is a construction issue as defined in paragraph (f) of this section;

(ii) The issuer reasonably expects, as of the issue date, that this construction issue will finance all of the construction expenditures to be financed by the issue; and

(iii) The issuer makes an election to apportion the issue under this paragraph (j)(1) in which it identifies the amount of the issue price of the issue allocable to the construction issue.

(2) *Example.* The operation of this paragraph (j) is illustrated by the following example.

Example. City *D* issues bonds having an issue price of $19,000,000. On the issue date, *D* reasonably expects to use $10,800,000 of bond proceeds (including investment earnings) for construction expenditures for the project being financed. *D* deposits $10,000,000 in a construction fund to be used for construction expenditures and $9,000,000 in an acquisition fund to be used for acquisition of equipment not qualifying as construction expenditures. *D* estimates on the issue date, based on reasonably expected expenditures and rates of investment, that total earnings on the construction fund will be $800,000 and total earnings on the acquisition fund will be $200,000. Because the total construction expenditures to be financed by the issue are expected to be $10,800,000, the maximum available construction proceeds for a construction issue is $14,400,000 ($10,800,000 divided by 0.75). To determine the maximum amount of the issue price allocable to a construction issue, the estimated investment earnings allocable to the construction issue are subtracted. The entire $800,000 of earnings on the construction fund are allocable to the construction issue. Only a portion of the $200,000 of earnings on the acquisition fund, however, are allocable to the construction issue. The total amount of the available construction proceeds that is expected to be used for acquisition is $3,600,000 ($14,400,000−$10,800,000).

The portion of earnings on the acquisition fund that are allocable to the construction issue are $78,261 ($200,000×$3,600,000/$9,200,000). Accordingly, *D* may elect on or before the issue date to treat up to $13,521,739 of the issue price as a construction issue ($14,400,000–$800,000–$78,261). *D*'s election must specify the amount of the issue price treated as a construction issue. The balance of the issue price is treated as a separate nonconstruction issue that is subject to the rebate requirement unless it meets another exception to arbitrage rebate. Because the financing of a construction issue is a separate governmental purpose under § 1.148–9(h), the election causes the issue to be a multipurpose issue under that section.

(K) *One and one-half percent penalty in lieu of arbitrage rebate*—(1) *In general.* Under section 148(f)(4)(C)(vii), an issuer of a construction issue may elect on or before the issue date to pay a penalty (the "1½ percent penalty") to the United States in lieu of the obligation to pay the rebate amount on available construction proceeds upon failure to satisfy the spending requirements of paragraph (e) of this section. The 1½ percent penalty is calculated separately for each spending period, including each semiannual period after the end of the fourth spending period, and is equal to 1.5 percent times the underexpended proceeds as of the end of the spending period. For each spending period, underexpended proceeds equal the amount of available construction proceeds required to be spent by the end of the spending period, less the amount actually allocated to expenditures for the governmental purposes of the issue by that date. The 1½ percent penalty must be paid to the United States no later than 90 days after the end of the spending period to which it relates. The 1½ percent penalty continues to apply at the end of each spending period and each semiannual period thereafter until the earliest of the following:

(i) The termination of the penalty under paragraph (l) of this section;

(ii) The expenditure of all of the available construction proceeds; or

(iii) The last stated final maturity date of bonds that are part of the issue and any bonds that refund those bonds.

(2) *Application to reasonable retainage.* If an issue meets the exception for reasonable retainage except that all retainage is not spent within 3 years of the issue date, the issuer must pay the 1½ percent penalty to the United States for any reasonable retainage that was not so spent as of the close of the 3-year period and each later spending period.

(3) *Coordination with rebate requirement.* The rebate requirement is

treated as met with respect to available construction proceeds for a period if the 1½ percent penalty is paid in accordance with this section.

(l) *Termination of 1½ percent penalty*—(1) *Termination after initial temporary period.* The issuer may terminate the 1½ percent penalty after the initial temporary period if—

(i) Not later than 90 days after the earlier of the end of the initial temporary period or the date construction is substantially completed, the issuer elects to terminate the 1½ percent penalty; provided that solely for this purpose, the initial temporary period may be extended by the issuer to a date ending 5 years after the issue date.

(ii) Within 90 days after the end of the initial temporary period, the issuer pays a penalty equal to 3 percent of the unexpended available construction proceeds determined as of the end of the initial temporary period, multiplied by the number of years (including fractions of years computed to 2 decimal places) in the initial temporary period;

(iii) For the period beginning as of the close of the initial temporary period, the unexpended available construction proceeds are not invested in higher yielding investments; and

(iv) On the earliest date on which the bonds may be called or otherwise redeemed, with or without a call premium, the unexpended available construction proceeds as of that date (not including any amount earned after the date on which notice of the redemption was required to be given) must be used to redeem the bonds. Amounts used to pay any call premium are treated as used to redeem bonds. This redemption requirement may be met by purchases of bonds by the issuer on the open market at prices not exceeding fair market value. A portion of the annual principal payment due on serial bonds of a construction issue may be paid from the unexpended amount, but only in an amount no greater than the amount that bears the same ratio to the annual principal due that the total unexpended amount bears to the issue price of the construction issue.

(2) *Termination before end of initial temporary period.* If the construction to be financed by the construction issue is substantially completed before the end of the initial temporary period, the issuer may elect to terminate the 1½ percent penalty before the end of the initial temporary period if—

(i) Before the close of the initial temporary period and not later than 90 days after the date the construction is substantially completed, the issuer elects to terminate the 1½ percent penalty;

(ii) The election identifies the amount of available construction proceeds that will not be spent for the governmental purposes of the issue; and

(iii) The issuer has met all of the conditions for termination of the 1½ percent penalty described in paragraph (l)(1) of this section, applied as if the initial temporary period ended as of the date the election is made under paragraph (l)(2)(i) of this section. A penalty termination election under paragraph (l)(2)(i) of this section satisfies the penalty termination election requirement of paragraph (l)(1)(i) of this section.

(3) *Application to reasonable retainage.* Solely for purposes of determining whether the conditions for terminating the 1½ percent penalty are met, reasonable retainage may be treated as spent for a governmental purpose of the construction issue. Reasonable retainage that is so treated continues to be subject to the 1½ percent penalty.

(4) *Example.* The operation of this paragraph (l) is illustrated by the following example.

Example. City *I* issues a construction issue having a 20-year maturity and qualifying for a 3-year initial temporary period. The bonds are first subject to optional redemption 10 years after the issue date at a premium of 3 percent. *I* elects, on or before the issue date, to pay the 1½ percent penalty in lieu of arbitrage rebate. At the end of the 3-year temporary period, the project is not substantially completed, and $1,500,000 of available construction proceeds of the issue are unspent. At that time, *I* reasonably expects to need $500,000 to complete the project. *I* may terminate the 1½ percent penalty in lieu of arbitrage rebate with respect to the excess $1,500,000 by electing to terminate within 90 days of the end of the initial temporary period; paying a penalty to the United States of $135,000 (3 percent of $1,500,000 multiplied by 3 years); restricting the yield on the investment of unspent available construction proceeds for 9 years to the first call date; and using the available construction proceeds that have not been allocated to expenditures for the governmental purposes of the issue to redeem bonds on the call date that occurs 10 years after the issue date. If *I* fails to make the termination election, *I* is required to pay the 1½ percent penalty on unspent available construction proceeds every 6 months until the latest maturity date of bonds of the issue (or any bonds of another issue that refund such bonds).

(m) *Payment of penalties.* Each penalty payment under this section must be paid in the manner provided in § 1.148–3(g). See § 1.148–3(h) for rules on failures to pay penalties under this section.

(n) *Pooled financing issue*—(1) *In general.* Except as specifically provided in this paragraph (n), the spending exceptions apply to a pooled financing issue as a whole, rather than to each loan separately. At the election (made on or before the issue date) of the issuer of a pooled financing issue, each of the spending exceptions are applied separately to each loan to a conduit borrower, and the applicable spending requirements for a loan begin on the earlier of the date the loan is made, or the first day following the 1-year period beginning on the issue date of the pooled financing issue. If the issuer of the pooled financing bonds makes this election, the rebate requirement applies to, and none of the spending exceptions are available for, gross proceeds of the pooled financing bonds before the date on which the spending requirements for those proceeds begin under the preceding sentence.

(2) *Spending requirements.* If the issuer makes the election under paragraph (n)(1) of this section and, under the 2-year exemption, does not make the election to pay the 1½ percent penalty, the rebate requirement applies separately to each loan. Under the 2-year exception, if the issuer makes the election to pay the 1½ percent penalty in lieu of arbitrage rebate, the 1½ percent penalty must be paid for each loan in the manner and at the times required by section 148(f)(4)(c)(vii) and paragraph (k) of this section.

(3) *Apportionment of loss.* As issuer of pooled financing bonds that elects to treat a portion of the issue as a construction issue under paragraph (j) of this section is treated as meeting the requirement of paragraph (j)(1)(iii) of this section if:

(i) *Loans within the first year.* For loans made within 1 year after the issue date, the issuer supplements the election described in paragraph (j)(1) of this section by identifying the amount of the loan that is part of the separate construction issue.

(ii) *Loans after the first year.* For loans to be made later than 1 year after the issue date, on or before the first anniversary of the issue date, the issuer supplements the election under paragraph (j)(1) of this section by identifying the amount of unlent available construction proceeds that are part of the separate construction issue.

(4) *Termination of 1½ percent penalty.* The issuer of a pooled financing bond may elect to terminate the 1½ percent penalty for a loan rather than the entire issue. If the issuer so elects, the requirements of paragraph (l) of this section are modified to apply to each loan (as if it were a separate issue), rather than to the entire issue.

(5) *Other elections.* All other elections permitted for the 2-year exception must be made by the issuer with respect to the entire issue.

(6) *Examples.* The operation of this paragraph (n) is illustrated by the following examples:

Example 1. Pooled financing issue for construction. On January 1, 1992, Authority *J* issues bonds. As of the issue date, *J* reasonably expects to use the proceeds of the issue to make loans to City *K* and to County *L*, and to use more than 75 percent of the available construction proceeds of the issue for construction expenditures. *J* does not reasonably expect that more than 75 percent of the available construction proceeds in each loan would be used for construction expenditures. On or before the issue date, *J* elects to apply the spending requirements for each loan beginning on the earlier of the date the loan is made or the first day following the 1-year period beginning on the issue date. On February 1, 1992, *J* loans a portion of the available construction proceeds to *K*. On March 1, 1993, *J* loans the remainder of the available construction proceeds to *L*. For the loan to *K*, the first spending period ends on July 31, 1992, and the available construction proceeds lent to *K* are subject to the rebate requirement for the period prior to the loan (January 1, 1992 through January 31, 1992). For the loan to *L*, the first spending period ends on July 1, 1993, and the available construction proceeds lent to *L* are subject to the rebate requirement for the 1-year period beginning on the issue date. The issue is a construction issue. Each loan is analyzed separately under the spending requirements to determine whether the available construction proceeds allocable to that loan are excepted from the arbitrage rebate requirement.

Example 2. Pooled financing issue partially for construction. The facts are the same as *Example 1* except as stated below. On the issue date, *J* reasonably expects to use 50 percent of the available construction proceeds of the issue for construction expenditures and elects to treat a portion of the issue as a separate construction issue. *J* does not specify the amount of the issue price to be treated as a separate construction issue. For the available construction proceeds lent to *K*, *J*, must specify the amount of the loan that is treated as part of the separate construction issue on or before February 1, 1992. For the remaining available construction proceeds, *J* must specify, on or before January 2, 1993, the amount of those proceeds that are treated as part of the separate construction issue.

§ 1.148–8 Small issuer exception to rebate requirement.

(a) *Scope.* Under section 148(f)(4)(D), bonds issued to finance governmental activities of certain small issuers are treated as meeting the arbitrage rebate requirement of section 148(f)(2) (the "small issuer exception"). This section provides guidance on the small issuer exception.

(b) *General taxing powers.* The small issuer exception generally applies only to bonds issued by governmental units with general taxing powers. A governmental unit has general taxing powers if it has the power to impose taxes of general applicability which, when collected, may be used for the general purposes of the issuer. The taxing power may be limited to a specific type of tax, provided that the applicability of the tax is not limited to a small number of persons. The governmental unit's exercise of its taxing power may be subject to procedural limitations, such as voter approval requirements, but may not be contingent on approval by another governmental unit.

(c) *Size limitation*—(1) *In general.* An issue qualifies for the small issuer exception only if the issuer reasonably expects, as of the issue date, that the aggregate issue price of all tax-exempt bonds (other than private activity bonds) issued by it during that calendar year will not exceed $5,000,000.

(2) *Aggregation rules.* The following aggregation rules apply for purposes of applying the $5,000,000 size limitation under paragraph (c)(1) of this section.

(i) *On-behalf-of issuers.* An issuer and all entities that issue bonds on behalf of that issuer are treated as one issuer.

(ii) *Subordinate entities*—(A) *In general.* All bonds issued by a subordinate entity are also treated as issued by each entity to which it is subordinate. An issuer is subordinate to another governmental entity if it derives its issuing authority from, or is subject to substantial control by, the other entity. An entity is subordinate to another entity (the "senior entity") if the senior entity possesses any of the rights or powers described in § 1.150–1(e)(1) (i) through (iv). For example, control over an issuer's budget is substantial control, but the performance of purely ministerial functions, such as attesting to the legality of a bond issue, is not. An issuer is not subordinate solely because its jurisdiction is located entirely within the jurisdiction of a larger entity.

(B) *Exception for allocations of size limitation.* If an entity properly makes an allocation of a portion of its $5,000,000 size limitation to a subordinate entity (including an on behalf of issuer) under section 148(f)(4)(D)(ii)(III), the portion of bonds issued by the subordinate entity under the allocation is treated as issued only by the allocating entity and not by any other entity to which the issuing entity is subordinate. These allocations are irrevocable and must bear a reasonable relationship to the benefits received by the allocating unit from issues issued by the subordinate entity. The benefits to be considered include the manner in which—

(*1*) Proceeds are to be distributed;

(*2*) The debt service is to be paid;

(*3*) The facility financed is to be owned;

(*4*) The use or output of the facility is to be shared; and

(*5*) Costs of operation and maintenance are to be shared.

(iii) *Avoidance of size limitation.* An entity formed or availed of to avoid the purposes of the $5,000,000 size limitation and all entities that would benefit from the avoidance are treated as one issuer. Situations in which an entity is formed or availed of to avoid the purposes of the $5,000,000 size limitation include those in which the issuer—

(A) Issues bonds which, but for the $5,000,000 size limitation, would have been issued by another entity; and

(B) Does not receive a substantial benefit from the project financed by the bonds.

(3) *Certain refunding bonds not taken into account.* In applying the $5,000,000 size limitation, there is not taken into account any bond of a current refunding issue to the extent that the stated principal amount of the refunding bond does not exceed the portion of the outstanding stated principal amount of the refunded bond paid with proceeds of the refunding bond. For this purpose, "principal amount" means, in reference to a plain par bond, its stated principal amount plus accrued unpaid interest, and in reference to any other bond, its present value.

(d) *Pooled financings*—(1) *Treatment of pool issuer.* If an issuer of a pooled financing is not an ultimate borrower in the financing and the conduit borrowers are governmental units with general taxing powers and not subordinate to the issuer, the pooled financing is not counted towards the $5,000,000 size limitation of the issuer for purposes of applying the small issuer exception to its other issues. The issuer of the pooled financing issue is, however, subject to the rebate requirement for any unloaned gross proceeds.

(2) *Treatment of conduit borrowers.* A loan to a conduit borrower in a pooled financing qualifies for the small issuer exception, regardless of the size of either the pooled financing or of any loan to other conduit borrowers, only if—

(i) The bonds of the pooled financing are not private activity bonds;

(ii) None of the loans to conduit borrowers are private activity bonds; and

(iii) The loan to the conduit borrower meets all the requirements of the small issuer exception.

§ 1.148–9 Arbitrage rules for refunding issues.

(a) *Scope of application.* This section contains special arbitrage rules for refunding issues. These rules apply for all purposes of sections 148 and govern allocations of proceeds, bonds, and investments to determine transferred proceeds, temporary periods, reasonably required reserve or replacement funds, minor portions, and separate issue treatment of certain multipurpose issues.

(b) *Transferred proceeds allocation rule*—(1) *In general.* When proceeds of the refunding issues discharge any of the outstanding principal amount of the prior issue, proceeds of the prior issue become transferred proceeds of the refunding issue and cease to be proceeds of the prior issue. The amount of proceeds of the prior issue that becomes transferred proceeds of the refunding issue is an amount equal to the total proceeds of the prior issue at the time of that discharge multiplied by a fraction—

(i) The numerator of which the principal amount of the prior issue discharged with proceeds of the refunding issue on the date of that discharge; and

(ii) The denominator of which is the total outstanding principal amount of the prior issue immediately before that discharge, but after taking into account any other payments of principal on that date.

(2) *Special definition of principal amount.* For purposes of this section, "principal amount" means, in reference to a plain par bond, its stated principal amount, and in reference to any other bond, its present value.

(3) *Relation of transferred proceeds rule to universal cap rule*—(i) *In general.* Paragraphs (b)(1) and (c) of this section apply to allocate transferred proceeds and corresponding investments to a refunding issue on any date required by those paragraphs before the application of the universal cap rule of § 1.148–6(b)(2) to reallocate any of those amounts. To the extent nonpurpose investment allocable to proceeds of a refunding issue exceed the universal cap for the issue on the date that amounts become transferred proceeds of the refunding issue, those transferred proceeds and corresponding investments are immediately reallocated back to the issue from which they transferred to the extent of the unused universal cap on that prior issue.

(ii) *Example.* The following example illustrates the application of this paragraph of (b)(3):

Example. On January 1, 1995, $1000,000 of nonpurpose investments of proceed of issue *A* become transferred proceeds of issue *B* under § 1.148–9, but the unused portion of issue *B*'s universal cap is $75,000 as of that date. On January 1, 1995, *A* has unused universal cap in excess of $25,000. Thus, $25,000 of nonpurpose investments representing the transferred proceeds are immediately reallocated back to issue *A*. On January 1, 1995, and are proceeds of issue *A*. On the next transfer date under § 1.148–9, the $25,000 receives no priority in determining transferred proceeds as of that date but is treated the same as all other proceeds of issue *A* subject to transfer.

(4) *Limitation on multi-generational transfers.* This paragraph (b)(4) contains limitations on the manner in which proceeds of an issue (the "first generation issue") that is refunded by a refunding issue (the "second generation issue") became transferred proceeds of a refunding issue (the "third generation issue") that refunds the second generation. Proceeds of a first generation issue do not become transferred proceeds of a third generation issue on a date earlier than the date on which those proceeds would have become transferred proceeds of the second generation issue had the third generation issue not been issued. In addition, proceeds of the first generation issue are treated as first becoming transferred proceeds of the second generation issue. The determination of the transferred proceeds of the third generation issue does not affect compliance with the requirements of section 148, including the determination of the amount of arbitrage rebate with respect to the refunding escrow, of the second generation issue.

(5) *Special rule for multiple partial refundings*—(i) *No impact on pre-May 1989 issues.* The subsequent refunding of an issue that had been partially refunded by a refunding issue to which § 1.103–14(e) applied (a "pre-May 1989 issue") does not affect the determination of the transferred proceeds of the pre-May 1989 issue. Thus, the proceeds of the prior issue that were allocable to the refunded portion of that prior issue under § 1.103–14(e)(1)(ii)(C) are not eligible to become transferred proceeds of any subsequent issue to refund that same prior issue.

(ii) *Impact on other issues.* The subsequent refunding of an issue that had been partially refunded by a refunding issue to which § 1.103–14(e) did not apply results in a redetermination of the transferred proceeds of the earlier partial refunding issue to take into account the subsequent partial refunding issue. The transferred proceeds of the issues are determined simultaneously.

If the amount of the proceeds of the prior issue available to become transferred proceeds on a transfer date is less than the sum of the amounts that would become transferred proceeds of each of the partial refunding issues (but for this paragraph (b)(5)), the amount that becomes transferred proceeds of each partial refunding issue is determined ratably based on the ratios of the amounts that would have become transferred proceeds of each partial refunding issues under the applicable regulations without regard to this paragraph (b)(5).

(iii) *Increases or decreases in transferred proceeds penalties.* If the redetermination of the transferred proceeds of a refunding issue under this paragraph (b)(5) results in the yield on a refunding escrow being materially higher than the issue, any excess earnings may be paid to issue, any excess earnings may be paid to the United States under § 1.148–5(c). If such a redetermination results in a savings to the issuer as described in § 1.148–11(b)(2), such amounts must be used in the manner required under § 1.148–11(b)(2).

(c) *Special allocation rules for refunding issues*—(1) *Allocations of investments*—(i) *In general.* Except as otherwise provided in this paragraph (c), investments purchased with sale proceeds or investment proceeds of a refunding issue must be allocated to those proceeds, and investments not purchased with those proceeds may not be allocated to those proceeds (i.e., a "specific tracing method").

(ii) *Allocations to transferred proceeds.* When proceeds of a prior issue become transferred proceeds of a refunding issue, investments of proceeds of the prior issue that are held in a refunding escrow for another issue are allocated to the transferred proceeds under the ratable allocation method described in paragraph (c)(1)(iii) of this section. Investments of proceeds of the prior issue that are not held in a refunding escrow for another issue are allocated to the transferred proceeds by consistent application of either the ratable allocation method described in paragraph (c)(1)(iii) of this section or the representative allocation method described in paragraph (c)(1)(iv) of this section.

(iii) *Ratable allocation method.* Under the ratable allocation method, a ratable portion of each nonpurpose and purpose investment of proceeds of the prior issue

is allocated to transferred proceeds of the refunding issue.

(iv) *Representative allocation method.* Under the representative allocation method, representative portions of the portfolio of nonpurpose investments and the portfolio of purpose investments of proceeds of the prior issue are allocated to transferred proceeds of the refunding issue. Unlike the ratable allocation method, this representative allocation method permits an allocation of particular whole investments. Whether a portion is representative is based on all the facts and circumstances, including, without limitation, whether the current yields, maturities, and current unrealized gains or losses on the particular allocated investments are reasonably comparable to those of the unallocated investments in the aggregate. For this purpose, without limitation, a specific allocation of particular nonpurpose investments to transferred proceeds (e.g., of lower yielding investments) is treated as satisfying the requirements of this paragraph (c)(1)(iv) if those investments are valued at fair market value on the transfer date in determining the payments and receipts on that date. In addition, if a portion of nonpurpose investments is otherwise representative, it is within the issuer's discretion to allocate the portion from whichever source of funds it deems appropriate, such as a reserve fund or a construction fund for a prior issue.

(2) *Allocations of mixed escrows to investments and expenditures for principal and interest on a prior issue*—(i) *In general.* Excluding short-term funds governed by paragraph (c)(2)(ii) of this section, sale proceeds of a refunding issue and other amounts that are not sale proceeds of a refunding issue that are deposited in a refunding escrow (a "mixed escrow") must be allocated to investments and to expenditures for principal or interest on the prior issue so that the expenditures of those sale a proceeds do not occur faster than ratably with expenditures of the other amounts in the mixed escrow. If, however, the prior issue has unspent proceeds, these allocations must be ratable both between expenditures for principal and interest and between expenditures of sale proceeds and other amounts.

(ii) *Certain short-short-term funds*—(A) *Limitation to previously-earmarked expenditure schedule.* If an amount other than sale proceeds of an issue is deposited in a mixed escrow, but before the issue date of the refunding issue that amount had been held in a bona fide debt service fund or a fund to carry out the governmental purpose of the prior issue (e.g., a construction fund), the issuer must allocate that amount to investments that mature and expenditures that occur within six months after the date that, before the issue date of the refunding issue, the amount was reasonably expected to be expended.

(B) *Allocation of non-sale proceeds to earliest expenditures.* Any amounts in a mixed escrow that are not sale proceeds of a refunding issue may be allocated to the investments that mature and expenditures that occur before the payment of any principal of the prior issue from the mixed escrow.

(iii) *Abusive devices.* This paragraph (c)(2) does not prevent the use of gross proceeds of a prior issue that are not deposited in a mixed escrow from being treated as an abusive device under § 1.148–10.

(d) *Temporary periods in refundings*—(1) *In general.* Proceeds of a refunding issue may be invested in higher yielding investments under section 148(c) only during the temporary periods described in paragraph (d)92) of this section. On or before the issue date, an issuer may waive any temporary period in this paragraph (d).

(2) *Types of temporary periods in refundings.* The available temporary periods for proceeds of a refunding issue are as follows:

(i) *General temporary period for refunding issues.* Except as otherwise provided in this paragraph (d)(2), the temporary period for proceeds (other than transferred proceeds) of a refunding issue is the period ending 30 days after the issue date of the refunding issue.

(ii) *Temporary periods for current refunding issues*—(A) *In general.* Except as otherwise provided in paragraph (d)(2)(ii)(B) of this section, the temporary period for proceeds (other than transferred proceeds) of a current refunding issue is 90 days.

(B) *Temporary period for short-term current refunding issues.* The temporary period for proceeds (other than transferred proceeds) of a current refunding issue that has an original term to maturity of 270 days or less may not exceed 30 days. The aggregate temporary periods for proceeds (other than transferred proceeds) of all current refunding issues described in the preceding sentence that are part of the same series of refundings is 90 days. An issue is part of a series of refundings if it finances or refinances the same expenditures for a particular governmental purpose as another issue.

(iii) *Temporary periods for transferred proceeds*—(A) *In general.* Except as otherwise provided in paragraph (d)(2)(iii)(B) of this section, each available temporary period for transferred proceeds of a refunding issue begins on the date those amounts become transferred proceeds of the refunding issue and ends on the date that, without regard to the discharge of the prior issue, the available temporary period for those proceeds would have ended had those proceeds remained proceeds of the prior issue.

(B) *Termination of initial temporary period for prior issue in an advance refunding.* The initial temporary period under § 1.148–2(e)(2) and (3) for the proceeds of the portion of a prior issue refunded by an advance refunding issue (including transferred proceeds) terminates on the issue date of the advance refunding issue.

(iv) *Certain investment proceeds.* Except for those investment proceeds of a refunding issue in a refunding escrow or otherwise reasonably expected to be used to pay principal or interest on the prior issue, the temporary period for investment proceeds of a refunding issue is the 1-year period beginning on the date of receipt.

(v) *Certain accrued interest.* Except for those proceeds of the refunding issue held in a refunding escrow or otherwise reasonably expected to be used to pay principal or interest on the prior issue, the temporary period for proceeds of a refunding issue that represent not more than 6 months' pre-issuance accrued interest on the refunding issue is the 1-year period beginning on the issue date.

(vi) *Certain costs of issuance.* Except for those proceeds of a refunding issue held in a refunding escrow or otherwise reasonably expected to be used to pay principal or interest on the prior issue or those proceeds described in paragraph (d)(2)(v) of this section, the temporary period for proceeds of a refunding issue that are to be used to pay issuance costs is the 1-year period beginning on the issue date.

(vii) *Certain amounts in a bona fide debt service fund.* The temporary period for gross proceeds of a refunding issue (other than proceeds) that are in a bona fide debt service fund is 13 months.

(e) *Reasonably required reserve or replacement funds in refundings.* In addition to the requirements of § 1.148–2(f), beginning on the issue date of a refunding issue, a reserve or replacement fund for a refunding issue or prior issue is a reasonably required reserve or replacement fund under section 148(d) that may be invested in higher yielding investments only if the

aggregate amount invested in higher yielding investments under this paragraph (e) for both the refunding issue and the refunded portion of the prior issue does not exceed the size limitation under § 1.148–2(f)(2), measured by reference to the refunding issue only (regardless of whether proceeds of the prior issue have become transferred proceeds of the refunding issue).

(f) *Minor portions in refundings.* Beginning on the issue date of the refunding issue, a minor portion of the sales proceeds of the refunding issue qualifies for investment in higher yielding investments under section 148(e), and a minor portion of the sales proceeds of the refunded portion of the prior issue qualifies for investment in higher yielding investments under either section 148(e) or section 149(d)(3)(v), whichever is applicable.

(g) *Certain waivers permitted.* On or before the issue date, an issuer may waive the right to invest in higher yielding investments during any temporary period, as part of a reasonably required reserve or replacement fund, or as part of a minor portion.

(h) *Multipurpose issue allocations*—(1) *Application of multipurpose issue allocation rules*—The portion of the bonds of a multipurpose issue reasonably allocated to any separate governmental purpose under this paragraph (h) is treated as a separate issue for all purposes of sections 148 except the following:

(i) *Arbitrage yield.* Determining the yield on a multipurpose issue and the yield on investments for purposes of the arbitrage yield restrictions of section 148 and the arbitrage rebate requirement of section 148(f);

(ii) *Rebate amount.* Determining the rebate amount for a multipurpose issue, including subsidiary matters with respect to that determination, such as the computation date credit under § 1.148–3(d)(1), the due date for payments, and the $100,000 bona fide debt service fund exception under section 148(f)(4)(A)(ii);

(iii) *Minor portion.* Determining the "minor portion" of an issue under section 148(e);

(iv) *Reasonably required reserve or replacement fund.* Determining the portion of an issue eligible for investment in higher yielding investments as part of a reasonably required reserve fund under section 148(d); and

(v) *Certain transferred proceeds in a refunding escrow.* For the portion of a prior issue that is a refunding issue that refunded two or more prior issues, determining the transferred proceeds attributable to the refunding escrow allocable to the proceeds of that prior issue.

(2) *Rules on allocations of multipurpose issues*—(i) *In general.* This paragraph (h) applies to allocations of multipurpose issues to the extent that these allocations affect allocations involving the refunding purposes of the issue. Except as otherwise provided in this paragraph (h), proceeds, investments, and bonds of a multipurpose issue may be allocated among the various separate governmental purposes of the issue using any reasonable, consistently applied allocation method. An allocation is not reasonable if it achieves more favorable results under sections 148 and 149(d) than could be achieved with actual separate issues. An allocation under this paragraph (h) may be made at any time, but once made may not be changed. The allocation rules in paragraph (h)(1) of this section also apply to multipurpose issues.

(ii) *Allocations involving certain common costs.* A ratable allocation of common costs (as described in paragraph (h)(3)(ii) of this section) among the separate governmental purposes of the multipurpose issue is generally reasonable. If another allocation method more accurately reflects the extent to which any separate governmental purpose of a multipurpose issue enjoys the economic benefit or bears the economic burden of certain common costs, that allocation method may be used.

(3) *Separate governmental purposes of a multipurpose issue*—(i) *In general.* Separate governmental purposes of a multipurpose issue include refunding a separate prior issue, financing a separate purpose investment, financing a construction issue (as defined in § 1.148–7(f)), and each other clearly discrete governmental purpose reasonably expected to be financed by that issue. The separate governmental purposes of a refunding issue include the separate governmental purposes of the prior issue, if any. Separate governmental purposes may be treated as a single governmental purpose if the proceeds used to finance those purposes are eligible for the same initial temporary period under section 148(c). For example, the use of proceeds of a multipurpose issue to finance separate qualified mortgage loans may be treated as a single purpose. A prior issue is not a multipurpose issue merely by virtue of being refunded in part by a refunding issue.

(ii) *Financing common costs.* Common costs of a multipurpose issue are not separate governmental purposes. Common costs include issuance costs, accrued interest, capitalized interest on the issue, a reserve or replacement fund, and similar costs properly allocable to the separate governmental purposes of the issue.

(iii) *Example.* The following example illustrates the application of this paragraph (h)(3).

Example. On January 1, 1994, Housing Authority of State *A* issues a $10 million issue (the "1994 issue") at an interest rate of 10 percent to finance qualified mortgage loans for owner-occupied residences under section 143. During 1994, *A* originates $5 million in qualified mortgage loans at an interest rate of 10 percent. In 1995, the market interest rates for housing loans falls to 8 percent and *A* is unable to originate further loans from the 1994 issue. On January 1, 1996, *A* issues a $5 million issue (the "1996 issue") at an interest rate of 8 percent to refund partially the 1994 issue. Under paragraph (h) of this section, *A* treats the portion of the 1994 issue used to originate $5 million in loans as a separate issue comprised of that group of purpose investments. *A* allocates those purpose investments representing those loans to that separate unrefunded portion of the issue. In addition, *A* treats the unoriginated portion of the 1994 issue as a separate issue and allocates the nonpurpose investments representing the unoriginated proceeds of the 1994 issue to the refunded portion of the issue. Thus, when proceeds of the 1996 issue are used to pay principal on the refunded portion of the 1994 issue that is treated as a separate issue under paragraph (h) of this section, only the portion of the 1994 issue representing unoriginated loan funds invested in nonpurpose investments transfer to become transferred proceeds of the 1996 issue.

(4) *Allocations of bonds of a multipurpose issue*—(i) *Reasonable allocation of bonds to portions of issue.* Except for appropriate adjustment to properly allocate pre-issuance accrued interest and original issue discount or premium, the portion of the bonds of a multipurpose issue allocated to a separate governmental purpose must have an issue price that bears the same ratio to the aggregate issue price of the multipurpose issue as the portion of the sale proceeds of the multipurpose issue used for that governmental purpose bears to the aggregate sale proceeds of the multipurpose issue.

(ii) *Safe harbor for pro rata allocation method for bonds.* The use of the relative amount of sales proceeds used for each separate purpose to ratably allocate each bond or a ratable number of substantially identical whole bonds is a reasonable method for allocating bonds of a multipurpose issue.

(iii) *Safe harbor for allocations of bonds used to finance separate purpose investments.* An allocation of a portion of the bonds of a multipurpose issue to a particular purpose investment is generally reasonable if that purpose investment has principal and interest payments that reasonably coincide in time and amount to principal and interest payments on the bonds allocated to that purpose investment.

(iv) *Rounding of bond allocations to next whole bond denomination permitted.* An allocation that rounds each resulting fractional bond up or down to the next integral multiple of a permitted denomination of bonds of that issue not in excess of $100,000 does not prevent the allocation from satisfying this paragraph (h)(4).

(v) *Restrictions on allocations of bonds to refunding purposes.* For each portion of a multipurpose issue that is used to refund a separate prior issue, a method of allocating bonds of that issue is reasonable under this paragraph (h) only if, in addition to the requirements of paragraphs (h)(1) and (h)(2) of this section, the portion of the bonds allocated to the refunding of that prior issue:

(A) Results from a pro rata allocation under paragraph (h)(4)(ii) of this section; or

(B) Reflects substantially level savings or a principal and interest payment schedule that proportionately matches the schedule of the refunded portion of the prior issue.

(i) *Determination of refunded portion.* For purposes of terminating the initial temporary period of a prior issue under paragraph (d)(2)(iii)(B) of this section, determining the size of a reasonably required reserve fund under paragraph (e) of this section, and calculating the minor portion under paragraph (f) of this section, the refunded portion of a prior issue is based on a fraction the numerator of which is the principal amount of the prior issue to be paid with proceeds of the refunding issue and the denominator of which is the outstanding principal amount of the prior issue as of the issue date of the refunding issue.

§ 1.148–10 Anti-abuse rules and residual authority of Commissioner.

(a) *General anti-abuse rule.* Bonds of an issue are arbitrage bonds under section 148 if an abusive device is used in connection with the issue. An abusive device is any transaction or series of transactions, accounting method, allocation method, or other action or series of actions not expressly permitted by section 148 that employs a device to obtain a material financial advantage based on exploitation of the difference between taxable and tax-exempt interest rates. Any action involving an issue that would not reasonably be taken if the interest on an issue were not excludable from gross income under section 103(a) or that does not reasonably reflect the economics of the financing is presumed to be an abusive device. Any action that increases the burden on the market for tax-exempt bonds is presumed to be an abusive device. Examples of increased burdens on the market for tax-exempt obligations include selling obligations that would not otherwise be sold, selling more obligations than would otherwise be necessary, and issuing obligations sooner or allowing them to remain outstanding longer than would otherwise be necessary.

(b) *Anti-abuse rules on excess gross proceeds of advance refunding issues*—(1) *In general.* Except as otherwise provided in this paragraph (b), bonds of an advance refunding issue are arbitrage bonds if the issue has excess gross proceeds.

(2) *Definition of excess gross proceeds.* Excess gross proceeds means all gross proceeds of an advance refunding issue that exceed an amount equal to the lesser of $25,000 or 1 percent of sale proceeds of the issue, other than gross proceeds allocable to—

(i) Payment of principal, interest, or call premium on the prior issue;

(ii) Payment of pre-issuance accrued interest on the refunding issue, and interest on the refunding issue that accrues for a period up to the completion date of any capital project for which the prior issue was issued, plus one year;

(iii) A reasonably required reserve or replacement fund for the refunding issue or investment proceeds of such a fund;

(iv) Payment of administrative costs allocable to repaying the prior issue, carrying and repaying the refunding issue, or investments of the refunding issue;

(v) Transferred proceeds allocable to expenditures for the originally intended governmental purpose of the prior issue;

(vi) Interest on purpose investments; and

(vii) Replacement proceeds in a sinking fund for the refunding issue.

(3) *Special treatment of transferred proceeds.* For purposes of this paragraph (b), all unspent proceeds of the prior issue as of the issue date of the refunding issue are treated as transferred proceeds of the advance refunding issue.

(4) *Special rule for crossover refundings.* An advance refunding issue is not an issue of arbitrage bonds under this paragraph (b) if all excess gross proceeds of the refunding issue are used to pay interest that accrues on the refunding issue before the prior issue is discharged, and no gross proceeds of any refunding issue are used to pay interest on the prior issue or to replace funds used directly or indirectly to pay such interest (other than transferred proceeds used for the purposes described in paragraph (b)(2)(ii) of this section or proceeds used to pay principal that is attributable to accrued original issue discount).

(5) *Special rule for gross refundings.* This paragraph (b)(5) applies if an advance refunding issue (the "series B issue") is used together with one or more other advance refunding issues (the "series A issues") in a gross refunding of a prior issue, but only if the use of a gross refunding method is required under bond documents that were effective prior to November 6, 1992. These advance refunding issues are not arbitrage bonds under this paragraph (b) if:

(i) All excess gross proceeds of the series B issue and each series A issue are investment proceeds used to pay principal and interest on the series B issue.

(ii) At least 99 percent of all principal and interest on the series B issue is paid with proceeds of the series B and series A issues or with the earnings on other amounts in the refunding escrow for the prior issue.

(iii) The series B issue is discharged not later than the prior issue.

(iv) As of any date, the amount of gross proceeds of the series B issue allocated to expenditures does not exceed the aggregate amount of expenditures before that date for principal and interest on the series B issue, and administrative costs of carrying and repaying the series B issue, or of investments of the series B issue.

(c) *Restriction on issuance of conduit financing issue to finance tax-exempt purpose investments.* Bonds of a conduit financing issue are arbitrage bonds under this section if proceeds of the conduit financing issue are used to acquire tax-exempt bonds that are purpose investments, unless the interest on those investments is treated as not excludable from gross income under section 103(a) when those investments are owned by any owner subsequent to the issuer of the conduit financing issue.

(d) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. Mortgage sale. In 1982 City issued its revenue issue (the "1982 issue") and lent the proceeds to Developer to finance a low-income housing project under former

section 103(b)(4)(A) of the 1954 Code. In 1994, Developer encounters financial difficulties and negotiates with City to refund the 1982 issue. City issues $10 million in principal amount of its 8 percent bonds (the "1994 issue"). City lends the proceeds of the 1994 issue to Developer. To evidence Developer's obligation to repay that loan, Developer, as obligor, issues a note to City (the "City note"). Bank agrees to provide Developer with a direct-pay letter of credit pursuant to which Bank will make all payments to the trustee for the 1994 issue necessary to meet Developer's obligations under the City note. Developer pays Bank a fee for the issuance of the letter of credit and issues a note to Bank (the "Bank note"). The Bank note is secured by a mortgage on the housing project and is guaranteed by FHA. At the same time or pursuant to a series of related transactions, Bank sells the Bank note to Investor for $9.5 million. Bank invests these monies together with its other funds. In substance, the transaction is a loan by City to Bank, under which Bank enters into a series of transactions that, in effect, result in Bank retaining $9.5 million in amounts treated as proceeds of the 1994 issue. Those amounts are invested in materially higher yielding investments that provide funds sufficient to equal or exceed the Bank's liability under the letter of credit. Alternatively, the letter of credit is investment property in a sinking fund for the 1994 issue provided by Developer, a substantial beneficiary of the financing. Because, in substance, Developer acquires the $10 million principal amount letter of credit for a fair market value purchase price of $9.5 million, the letter of credit is a materially higher yielding investment. Neither result would change if Developer's obligation under the Bank note is contingent on Bank performing its obligation under the letter of credit. Each characterization causes the bonds to be arbitrage bonds.

Example 2. Bonds outstanding longer than necessary for yield-blending device. (i) *Longer bond maturity to create sinking fund.* In 1994, Authority issues an advance refunding issue (the "refunding issue") to refund a 1982 prior issue (the "prior issue"). Under current market conditions, Authority will have to invest the refunding escrow at a yield significantly below the yield on the refunding issue. Authority issues its refunding issue with a longer weighted average maturity than otherwise necessary primarily for the purpose of creating a sinking fund for the refunding issue that will be invested in a guaranteed investment contract. The guaranteed investment contract has a yield that is higher than the yield on the refunding issue. The yield on the refunding escrow blended with the yield on the guaranteed investment contract does not exceed the yield on the issue. The refunding issue uses an abusive device and the bonds of the issue are arbitrage bonds under section 148(a).

(ii) *Refunding of non-callable bonds.* The facts are the same as in *Example 2* except that instead of structuring the refunding issue to enable it to take advantage of sinking fund investments, Authority will also refund other long-term, non-callable bonds in the same refunding issue. There are no savings attributable to the refunding of the non-callable bonds. The Authority invests the portion of the proceeds of the refunding issue allocable to the refunding of the non-callable bonds in the refunding escrow at a yield that is higher than the yield on the prior issue, based on the relatively long escrow period for this portion of the refunding. The Authority invests the other portion of the proceeds of the refunding issue in the refunding escrow at a yield lower than the yield on the refunding issue. The blended yield on all the investments in the refunding escrow for the prior issue does not exceed the yield on the refunding issue. The portion of the refunding issue used to refund the non-callable bonds, however, was not otherwise necessary and was issued primarily to exploit the difference between taxable and tax-exempt rates for that long portion of the refunding escrow to minimize the effect of lower yielding investments in the other portion of the escrow. The refunding issue uses an abusive device and the bonds of the issue are arbitrage bonds.

Example 3. Window refunding. (i) Authority issues its 1994 refunding issue to refund a portion of the principal and interest on its outstanding 1985 issue. The 1994 refunding issue is structured using zero-coupon bonds that pay no interest or principal for the 5-year period following the issue date. The proceeds of the 1994 refunding issue are deposited in a refunding escrow to be used to pay only the interest requirements of the refunded portion of the 1985 issue. Authority enters into a guaranteed investment contract with a financial institution, *G*, under which *G* agrees to provide a guaranteed yield on revenues invested by Authority during the 5-year period following the issue date. The revenues to be invested under this guaranteed investment contract consist of the amounts that Authority otherwise would have used to pay principal and interest on the 1994 refunding issue. The guaranteed investment contract is structured to generate receipts at times and in amounts sufficient to pay the principal and redemption requirements of the refunded portion of the 1985 issue. A principal purpose of these transactions is to avoid transferred proceeds. Authority will continue to invest the unspent proceeds of the 1985 issue that are on deposit in a refunding escrow for its 1982 issue at a yield equal to the yield on the 1985 issue and will not otherwise treat those unspent proceeds as transferred proceeds of the 1994 refunding issue. The 1994 issue is an issue of arbitrage bonds since those bonds involve a transaction or series of transactions that employ a device to obtain a material financial advantage based on arbitrage. Specifically, Authority has artificially structured the 1994 refunding issue to make available for the refunding of the 1985 issue replacement proceeds rather than proceeds so that the unspent proceeds of the 1985 issue will not become transferred proceeds of the 1994 refunding issue.

(ii) The result would be the same in each of the following circumstances:

(A) Authority does not enter into the guaranteed investment contract but instead, as of the issue date of the 1994 refunding issue, reasonably expects that the released revenues will be available for investment until used to pay principal and interest on the 1985 Bonds;

(B) There are no unspent proceeds of the 1985 bonds and Authority invests the released revenues at a yield materially higher than the yield on the 1994 issue; and

(C) Authority uses the proceeds of the 1994 issue for capital projects instead of to refund a portion of the 1985 issue.

(e) *Authority of the Commissioner to prevent abuse and clearly reflect economic substance of a transaction.* Notwithstanding any specific provision contained in §§ 1.148–1 through 1.148–11, the Commissioner may recompute the yield on an issue or on investments, reallocate payments and receipts on investments, recompute the rebate amount on an issue, require a special rebate computation date, or otherwise adjust any item whatsoever bearing upon the investments and expenditures of gross proceeds of an issue in order to clearly reflect the economic substance of the transaction.

(f) *Authority of the Commissioner to prevent undue hardship.* Notwithstanding any specific provision contained in §§ 1.148–1 through 1.148–11, the Commissioner may prescribe extensions of temporary periods, larger reasonably required reserve or replacement funds, or consequences of failures or remedial action under section 148 in lieu of or in addition to other consequences of those failures, or take other necessary or appropriate action under section 148, if the Commissioner finds that undue hardship, reasonable cause, good faith, or other similar circumstances so warrant.

§ 1.148–11 Effective dates.

(a) *In general.* The provisions of § 1.148–1 through § 1.148–11 apply to all issues issued after June 30, 1993.

(b) *Elective early application of certain provisions*—(1) *In general.* At the election of the issuer, the following provisions of §§ 1.148–1 through 1.148.11 apply in the following manner to bonds issued prior to July 1, 1993—

(i) For an issue to which former § 1.148–8T(g) applied, the provisions of these regulations relating to refunding escrows;

(ii) If the provisions of § 1.148–6(e)(6) (relating to commingled reserves) apply to an issue secured by a commingled reserve under paragraph (a) of this section, such provision may be applied to all issues secured by that commingled reserve;

(iii) The provisions of § 1.148–9(b) (4) and (5); and

(iv) The provisions of § 1.148–5(c)(3)(i)(F) (and related provisions) to

satisfy the requirements of section 148 (or section 103(c) of the Internal Revenue Code of 1954) if the application of the universal cap results in amounts in a refunding escrow becoming replacement proceeds of an issue issued prior to July 1, 1993.

(2) *Special limitation.* The provisions of paragraphs (b)(1) (i) and (iii) of this section apply only if the issuer in good faith estimates present value savings associated with the effect of this election on refunding escrows, using any reasonable accounting method, and applies those savings to redeem outstanding tax-exempt bonds of the issue to which this election applies at the earliest possible date on which those bonds may be redeemed or otherwise retired. These savings are not reduced to take into account any administrative costs associated with applying these provisions retroactively.

(c) *Transition rule excepting certain state guarantee funds from the definition of replacement proceeds*—(1) *Certain perpetual trust funds.* A guarantee by a fund created and controlled by a State and established pursuant to its constitution does not cause the amounts in the fund to be pledged funds treated as replacement proceeds if—

(i) Substantially all of the corpus of the fund consists of nonfinancial assets, revenues derived from these assets, gifts, and bequests;

(ii) The corpus of the guarantee fund may be invaded only to support specifically designated essential governmental functions ("designated functions") carried on by political subdivisions with general taxing powers;

(iii) Substantially all of the available income of the fund is required to be applied annually to support designated functions;

(iv) The issue guaranteed consists of general obligations that are not private activity bonds substantially all of the proceeds of which are to be used for designated functions;

(v) The fund satisfied each of the requirements of paragraphs (c)(1)(i) through (c)(1)(iii) of this section on August 16, 1986; and

(vi) The guarantee is not attributable to a deposit to the fund made after May 14, 1989, unless:

(A) The deposit is attributable to the sale or other disposition of fund assets; or

(B) Prior to the deposit, the outstanding amount of the bonds guaranteed by the fund did not exceed 250 percent of the lower of the cost or fair market value of the fund.

(2) *Permanent University Fund.* Replacement proceeds do not include amounts allocable to investments of the fund described in section 648 of Public Law 98–369.

Par. 5. Section 1.149(d)–1 is revised to read as follows:

§ 1.149(d)–1 Limitations on advance refundings.

(a) *General rule.* Under section 149(d) and this section, nothing in section 103(a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond issued as part of an issue described in paragraphs (b), (c), or (d) of this section.

(b) *Certain private activity bonds.* [Reserved]

(c) *Other bonds.* [Reserved]

(d) *Abusive transactions prohibited*—

(1) *In general.* [Reserved]

(2) *Failure to pay required rebate.* Any issue to which section 149(d)(4) and § 1.148–3 apply that fails to meet the requirements of § 1.148–3 is described in this paragraph (d). Section 149(d)(4) and this paragraph (d)(2) apply to any advance refunding issue issued after August 31, 1986.

(3) *Mixed escrows*—(i) *In general.* Any issue any portion of which is a bond that is an advance refunding bond described in section 149(d)(5) is an issue described in section 149(d)(4) if—

(A) Any of the proceeds of the issue are invested in a refunding escrow in which a portion of the proceeds are invested in tax-exempt bonds and a portion of the proceeds are invested in nonpurpose investments;

(B) The yield on the tax-exempt bonds in the refunding escrow exceeds the yield on the bonds;

(C) The yield on all the investments (including investment property and tax-exempt bonds) in the refunding escrow exceeds the yield on the bonds; and

(D) The weighted average maturity of the tax-exempt bonds in the refunding escrow is more than 25 percent greater or less than the weighted average maturity of the nonpurpose investments in the refunding escrow, and the weighted average maturity of nonpurpose investments in the refunding escrow is greater than 60 days.

(ii) *Effective date.* This paragraph (d)(3) applies to any bond issued after May 28, 1991, if any bond issued as part of the issue (of which such bond is a part) is issued to advance refund another bond (within the meaning of section 149(d)(5).

(e) *Unrefunded debt service remains eligible for future advance refunding.* For purposes of section 149(d)(3)(A)(i), any principal or interest on a prior issue that has not been paid or provided for by any advance refunding issue is treated as not having been advance refunded.

(f) *Application of arbitrage regulations*—(1) *Application of multipurpose issue rules.* For purposes of section 149(d)(3)(A) (i), (ii), and (iii), the provisions of the multipurpose issue rule in § 1.148–9(h) apply.

(2) *Mixed escrow rules.* For purposes of section 149(d), the provisions of § 1.148–9(c) (relating to mixed escrows) apply, except that those provisions do not apply for purposes of section 149(d)(2) and (d)(3)(A) (i) and (ii) to amounts that were not gross proceeds of the prior issue as of the issue date of the refunding issue.

(3) *Temporary periods and minor portions.* Section 1.148–9 (d) and (f) contains rules applicable to temporary periods and minor portions.

(4) *Definitions.* Section 1.148–1 applies for purposes of section 149(d).

(g) *Taxable refundings*—(1) *In general.* Except as provided in paragraph (g)(2) of this section, for purposes of section 149(d)(3)(A)(i), an advance refunding issue the interest on which is not excludable from gross income under section 103(a) (i.e., a taxable advance refunding issue) is not taken into account. In addition, for this purpose, an advance refunding of a taxable issue is not taken into account.

(2) *Use to avoid section 149(d)(3)(A)(i).* A taxable issue is taken into account under section 149(d)(3)(A)(i) if it is issued to avoid the limitations of that section. For example, in the case of a refunding of a tax-exempt issue with a taxable advance refunding issue that is, in turn, currently refunded with a tax-exempt issue, that taxable advance refunding issue is taken into account under section 149(d)(3)(A)(i) if the two tax-exempt issues are outstanding concurrently for more than 90 days.

Par. 6. Section 1.149(g)–1 is added to read as follows:

§ 1.149(g)–1 Hedge bonds.

(a) *Certain definitions.* Except as otherwise provided, the definitions set forth in § 1.148–1 apply for purposes of section 149(g). In addition, the following terms have the following meanings:

Reasonable expectations means reasonable expectations as defined in § 1.148–1, as modified to take into account the provisions of section 149(f)(2)(B).

Spendable proceeds means net sale proceeds as defined in § 1.148–1.

(b) *Applicability of arbitrage allocation and accounting rules.* Section

1.148–6 applies for purposes of section 149(g), except that an expenditure that results in the creation of replacement proceeds is not an expenditure for purposes of section 149(g).

(c) *General anti-abuse rules.* The general anti-abuse rule in § 1.148–10(a) applies for purposes of section 149(g). For this purpose, investing to hedge against future interest rate increases is treated as a material financial advantage based on arbitrage.

§ 1.150–1 [Removed]

Par. 7. Section 1.150–0 is removed, § 1.150–1 is revised, and § 1.150–2 is added to read as follows:

§ 1.150–1 Definitions.

(a) *In general.* Except as otherwise provided, the definitions in this section apply for all purposes of sections 103 and 141 through 150.

(b) *Certain general definitions.* The following definitions apply:

Bond means any obligation of a State or political subdivision thereof under section 103(c)(1).

Capital expenditure means any cost of a type that is properly chargeable to capital account (or would be so chargeable with a proper election) under general Federal income tax principles. Whether an expenditure is a capital expenditure is determined at the time the expenditure is paid with respect to the property. Future changes in law do not affect whether an expenditure is a capital expenditure. For example, costs incurred to acquire, contruct, or improve land, buildings, and equipment generally are capital expenditures. Expenditures for items of current operating expense that are not properly chargeable to capital account (so called "working capital items") generally are not capital expenditures.

Conduit borrower means the obligor on a purpose investment (as defined in § 1.148–1). For example, if an issuer invests proceeds in a purpose investment in the form of a loan, lease, installment sale obligation, or similar obligation to another entity and the obligor uses the proceeds to carry out the governmental purpose of the issue, the obligor is a conduit borrower.

Conduit financing issue means an issue the proceeds of which are used to finance at least one purpose investment representing at least one conduit borrower.

Issuance costs has the meaning used in section 147(g). For example, issuance costs include payments for any guarantees, other than for qualified guarantees (as defined in § 1.148–4(f)).

Issue date means, in reference to an issue, the first settlement date for any bond included in the issue, and, in reference to a bond, the settlement date for that bond.

Obligation means any valid evidence of indebtedness under general Federal income tax principles.

Pooled financing issue means an issue the proceeds of which are to be used to finance purpose investments representing conduit loans to two or more conduit borrowers, unless those conduit loans are to be used to finance a single capital project.

Qualified mortgage loan means a mortgage loan with respect to an owner-occupied residence acquired with the proceeds of an obligation described in section 143(a)(1) or 143(b).

Qualified student loan means a student loan acquired with the proceeds of an obligation described in section 144(b)(1).

Related party means, in reference to a governmental unit or a 501(c)(3) organization, any member of the same controlled group, and, in reference to any person that is not a governmental unit or 501(c)(3) organization, a related person (as defined in section 144(a)(3)).

Taxable bond means any obligation the interest on which is not excludable from gross income under section 103.

Tax-exempt bond means any obligation of a State or political subdivision thereof the interest on which is excludable from gross income under section 103(a).

Working capital expenditure means any cost that is not a capital expenditure. Generally, operating expenses are working capital expenditures.

(c) *Definition of issue*—(1) *Application.* The provisions of this paragraph (c) apply for purposes of sections 148, 149(d), and 149(g), except that paragraph (c)(4) of this section applies for all purposes of sections 103 and 141 through 150.

(2) *In general.* Except as otherwise provided in this paragraph (c), two or more bonds are part of the same issue if all of the following factors are present:

(i) *Sold or issued at substantially the same time.* The bonds are sold or issued at substantially the same time, meaning that each of such dates are not more than 15 days apart.

(ii) *Sold pursuant to the same plan of financing.* The bonds are sold pursuant to the same plan of financing. A primary factor bearing on the plan of financing is the governmental purpose for the bonds. For example, bonds to finance a single facility or related facilities generally are part of the same plan of financing. Short-term bonds to finance working capital expenditures and long-term bonds to finance capital projects generally are not part of the same plan of financing.

(iii) *Payable from same source of funds.* The bonds are reasonably expected to be paid from substantially the same source of funds, determined without regard to guarantees as defined in § 1.148–4(f)(3).

(3) *Special rule for taxable bonds.* If an issue of tax-exempt bonds would include taxable bonds, the taxable bonds are treated a part of a separate issue. Generally, the preceding sentence does not apply if the weighted average maturity of the taxable bonds does not reasonably relate to the expected economic life of the property financed by those bonds, determined by taking into account the terms of any of the tax-exempt bonds being issued to finance the same property.

(4) *Special rules for draw-down loans and commercial paper*—(i) *Draw-down loans.* Bonds issued pursuant to a draw-down loan are treated as part of a single issue. The issue date of that issue is the first date on which a draw exceeding the lesser of $50,000 or 5 percent of the issue price occurs.

(ii) *Commercial paper.* Short-term bonds having a maturity of 270 days or less ("commercial paper") issued pursuant to the same commercial paper program may be treated as part of a single issue, the issue date of which is the first date on which an amount exceeding the lesser of $50,000 or 5 percent of the aggregate issue price of the commercial paper in the program is first issued. A commercial paper program is a program to issue commercial paper to finance or refinance the same governmental purpose pursuant to a single master legal document. Commercial paper is not part of the same commercial paper program unless issued during a 6-month period, beginning on the deemed issue date. In addition, commercial paper issued after the end of this 6-month period may be treated as part of the program to the extent issued to refund commercial paper that is part of the program, but only to the extent that—

(A) There is no increase in the principal amount outstanding; and

(B) The weighted average maturity of the issue does not exceed the lesser of 30 years or 120 percent of the weighted average expected economic life of the property financed by the issue.

(5) *Anti-abuse rule.* The Commissioner may treat obligations not otherwise covered by this paragraph (c) as a single issue to clearly reflect the economic substance of a transaction.

(d) *Definition of refunding issue and related definitions*—(1) *General*

definition of refunding issue. "Refunding issue" means an issue of obligations the proceeds of which are used to pay principal, interest, or redemption price on another issue (a "prior issue," as more particularly defined in paragraph (d)(5) of this section) or to finance issuance costs, accrued interest, capitalized interest on the refunding issue, a reserve or replacement fund, or similar costs properly allocable to the issue.

(2) *Exceptions and special rules.* For purposes of paragraph (d)(1) of this section, the following exceptions and special rules apply—

(i) *Payment of certain interest.* An issue is not a refunding issue if the only principal and interest that is paid with proceeds of the issue (determined without regard to the multipurpose issue rules of § 1.148–9(h)) is interest on another issue that—

(A) Accrues on the other issue during a one-year period including the issue date of the issue that finances the interest;

(B) Is a capital expenditure; or

(C) Is a working capital expenditure to which the de minimis rule of § 1.148–6(d)(3)(ii)(A) applies.

(ii) *Certain issues with different obligors*—(A) *In general.* An issue is not a refunding issue to the extent that the obligor (as defined in paragraph (d)(2)(ii)(B) of this section) of one issue is neither the obligor of the other issue nor a related party with respect to the obligor of the other issue.

(B) *Definition of obligor.* The "obligor" of an issue means the actual issuer of the issue, except that the obligor of the portion of an issue properly allocable to an investment in a purpose investment means the conduit borrower under that purpose investment. The obligor of an issue used to finance qualified mortgage loans, qualified student loans, or similar program investments (as defined in § 1.148–1) does not include the ultimate recipient of the loan (e.g., the homeowner, the student).

(iii) *Certain special rules for purpose investments.* For purposes of this paragraph (d), the following special rules apply:

(A) *Refunding of a conduit financing issue by a conduit loan refunding issue.* Except as provided in paragraph (d)(2)(iii)(B) of this section, the use of the proceeds of an issue that is used to refund an obligation that is a purpose investment (a "conduit refunding issue") by the issuer of the conduit financing issue determines whether the conduit refunding issue is a refunding of the conduit financing issue (in addition to a refunding of the obligation that is the purpose investment).

(B) *Recycling of certain payments under purpose investments.* A conduit refunding issue is not a refunding of a conduit financing issue to the extent that the issuer of the conduit financing issue reasonably expects as of the date of receipt of the proceeds of the conduit refunding issue to use those amounts within 3 months of receipt either to acquire a new purpose investment or to pay interest on the conduit financing issue. Any new purpose investment is treated as made from the proceeds of the conduit financing issue.

(C) *Application to tax-exempt loans.* For purposes of this paragraph (d), obligations that would be purpose investments (absent section 148(b)(3)(A)) are treated as purpose investments.

(iv) *Substance of transaction controls.* In the absence of other applicable controlling rules under this paragraph (d), the determination of whether an issue is a refunding issue is based on the substance of the transaction in light of all the facts and circumstances.

(v) *Certain integrated transactions in connection with asset acquisition not treated as refunding issues.* If, within six months before or after a person assumes (including taking subject to) obligations of an unrelated party in connection with an asset acquisition, the assumed issue is refinanced, then the assumed issue is not treated as a refunding issue.

(3) *Current refunding issue.* "Current refunding issue" means:

(i) Except as provided in paragraph (d)(3)(ii) of this section, a refunding issue that is issued not more than 90 days before the last expenditure of any proceeds of the refunding issue for the payment of principal or interest on the prior issue; and

(ii) In the case of a refunding issue issued before 1986—

(A) A refunding issue that is issued not more than 180 days before the last expenditure of any proceeds of the refunding issue for the payment of principal or interest on the prior issue; or

(B) A refunding issue if the prior issue had a term of less than 3 years and was sold in anticipation of permanent financing, but only if the aggregate term of all prior issues sold in anticipation of permanent financing was less than 3 years.

(4) *Advance refunding issue.* "Advance refunding issue" means a refunding issue that is not a current refunding issue.

(5) *Prior issue.* "Prior issue" means an issue of obligations all or a portion of the principal, interest, or call premium on which is paid or provided for with proceeds of a refunding issue. A prior issue may be issued before, at the same time as, or after a refunding issue.

(e) *Controlled group* means a group of entities controlled directly or indirectly by the same entity or group of entities within the meaning of paragraphs (e) (1) or (2) of this section.

(1) *Direct control.* The determination of direct control is made on the basis of all the relevant facts and circumstances. However, generally one entity or group of entities (the "controlling entity") controls another entity or group of entities (the "controlled entity") for purposes of this paragraph if the controlling entity possesses simultaneously at least two of the following rights or powers and the rights or powers are discretionary and non-ministerial—

(i) The right or power to remove or cause to be removed without cause a controlling portion of the governing body of the controlled entity;

(ii) The right or power to select, approve of, or disapprove of a controlling portion of the governing body of the controlled entity;

(iii) The right or power to determine the budget of the controlled entity or to require the use of funds or assets of the controlled entity for any purpose of the controlling entity; or

(iv) The right or power to approve, disapprove, or prevent the issuance of debt obligations by the controlled entity (entity determined without regard to section 147(f)).

(2) *Indirect control.* If a controlling entity controls a controlled entity under the test in paragraph (e)(1) of this section, then the controlling entity also controls all entities controlled, directly or indirectly, by the controlled entity or entities.

(3) *Example.* The operation of this paragraph (e) is illustrated by the following example.

Example. State law prohibits authority *A* from issuing bonds unless city *C* approves the issue. *C*, however, is required by state law to approve *A*'s bond issues if the bonds meet certain objective criteria. *C* does not control, directly or indirectly, the establishment of the bond approval criteria. *C* possesses a purely ministerial or non-discretionary right or power with respect to *A*.

§ 1.150–2 Proceeds of bonds used for reimbursement.

(a) *Table of contents.* This table of contents contains a listing of the headings contained in § 1.150–2.

(a) Table of contents.
(b) Scope.
(c) Definitions.
(d) General operating rules for reimbursement expenditures.
(1) Official intent.

(2) Reimbursement period.
(3) Nature of expenditures.
(e) Official intent rules.
(1) Form of official intent.
(2) Project description in official intent.
(3) Reasonableness of official intent.
(f) De minimis exception.
(g) Special rules on refundings.
(1) In general—once financed, not reimbursed.
(2) Certain proceeds of prior issue used for reimbursement treated as unspent.
(h) Anti-abuse rules.
(1) General rule.
(2) One year step transaction rule.
(i) Authority of the Commissioner to prescribe rules.

(b) *Scope.* This section applies to reimbursement bonds (as defined in paragraph (c) of this section) for all purposes of sections 103 and 141 to 150.

(c) *Definitions.* The following definitions apply:

Issuer means the entity that actually issues the reimbursement bond, except that for reimbursement of proceeds provided to a conduit borrower, issuer means the conduit borrower.

Official intent means an issuer's declaration of intent to reimburse an original expenditure with proceeds of an obligation.

Original expenditure means an expenditure for a governmental purpose that is originally paid from a source other than a reimbursement bond.

Reimbursement allocation means an allocation on an issuer's books and records that evidences use of proceeds of a reimbursement bond to reimburse an original expenditure and that relieves the allocated proceeds from any restrictions (other than under federal tax laws) that apply to unspent proceeds. An allocation made within 30 days after the issue date of a reimbursement bond may be treated as made on the issue date.

Reimbursement bond means the portion of an issue allocated to reimburse an original expenditure that was paid before the issue date.

(d) *General operating rules for reimbursement expenditures.* Except as otherwise provided, a reimbursement allocation is treated as an expenditure of proceeds of a reimbursement bond for the governmental purpose of the original expenditure on the date of the reimbursement allocation only if:

(1) *Official intent.* Not later than 60 days after payment of the original expenditure, the issuer adopts an official intent for the original expenditure that satisfies paragraph (e) of this section.

(2) *Reimbursement period.* (i) *In general.* The reimbursement allocation is made not later than 18 months after the later of—

(A) The date the original expenditure is paid; or

(B) The date the project is placed in service (as defined in § 1.103–8(a)(5)), but in no event more than 3 years after the original expenditure is paid.

(ii) *Special rule for small issuers.* In applying paragraph (d)(2)(i) of this section to an issue of a small issuer that satisfies section 148(f)(4)(D)(i) (I) through (IV), the reimbursement period is changed by substituting "3 years" for "18 months" and by disregarding the 3-year limitation.

(3) *Nature of expenditure.* The original expenditure is a capital expenditure, an issuance cost for the reimbursement bonds, or an expenditure described in § 1.148–6(d)(3)(ii)(B) (relating to certain extraordinary working capital items).

(e) *Official intent rules.* An official intent satisfies this paragraph (e) if:

(1) *Form of official intent.* The official intent is made in any reasonable form, including issuer resolution, action of a person or entity authorized or designated to declare official intent on behalf of the issuer, or specific legislative authorization for the issuance of obligations for a particular project.

(2) *Project description in official intent*—(i) *In general.* The official intent generally describes the project for which the original expenditure is paid and states the maximum principal amount of obligations expected to be issued for the project. A project includes any property, project, or program (e.g., "highway capital improvement program," "hospital equipment acquisition," or "school building renovation").

(ii) *Fund accounting.* A project description is sufficient if it identifies, by name and functional purpose, the fund or account from which the original expenditure is paid (e.g., "parks and recreation fund—recreational facility capital improvement program").

(iii) *Reasonable deviations in project description.* Deviations between a project described in an official intent and the actual project financed with reimbursement bonds do not invalidate the official intent if the actual project is reasonably related in function to the described project. For example, "hospital equipment" is a reasonable deviation from "hospital building improvements." In contrast, a "city office building rehabilitation" is not a reasonable deviation from "highway improvements."

(3) *Reasonableness of official intent.* On the date of the declaration, the issuer must have a reasonable expectation (as defined in § 1.148–1(b)) that it will reimburse the original expenditure with proceeds of an obligation. Official intents declared as a matter of course or in amounts substantially in excess of the amounts expected to be necessary for the project (e.g., "blanket declarations") are not reasonable. Similarly, a pattern of failure to reimburse actual original expenditures covered by official intents (other than in extraordinary circumstances) is evidence of unreasonableness. An official intent declared pursuant to satisfy this paragraph (e)(3).

(f) *De minimis exception.* Paragraphs (d)(1) and (d)(2) of this section do not apply to an amount not in excess of the lesser of—

(1) $100,000: or

(2) 5 percent of the proceeds of the issue.

(g) *Special rules on refundings*—(1) *In general—once financed, not reimbursed.* Except as provided in paragraph (g)(2) of this section, paragraph (d) of this section does not apply to an allocation to pay principal or interest on an obligation that financed an original expenditure. Instead, such an allocation is analyzed under rules on refunding issues. See, § 1.148–9.

(2) *Certain proceeds of prior issue used for reimbursement treated as unspent.* In the case of a refunding issue (or series of refunding issues), proceeds of a prior issue purportedly used to reimburse original expenditures are treated as unspent proceeds of the prior issue unless the purported reimbursement was a valid expenditure under applicable law on reimbursement expenditures on the issue date of the prior issue.

(h) *Anti-abuse rules*—(1) *General rule.* A reimbursement allocation is not an expenditure of proceeds of an issue under this section if the allocation employs an abusive device under § 1.148–10 to avoid the arbitrage restrictions.

(2) *One-year step transaction rule*—(i) *Creation of replacement proceeds.* A purported reimbursement allocation is invalid and thus is not an expenditure of proceeds of an issue if, within 1 year after the allocation, funds corresponding to the proceeds of a reimbursement bond for which a reimbursement allocation was made are used in a manner that results in the creation of replacement proceeds (as defined in § 1.148–1) of that issue or another issue. The preceding sentence does not apply to amounts deposited in a bona fide debt service fund (as defined in § 1.148–1).

(ii) *Example.* The provisions of paragraph (h)(2)(i) of this section are illustrated by the following example.

Example. On January 1, 1994, County *A* issues an issue of 7 percent tax-exempt bonds (the "1994 issue") and makes a purported reimbursement allocation to reimburse an original expenditure for specified capital improvements. *A* immediately deposits funds corresponding to the proceeds subject to the reimbursement allocation in n escrow fund to provide for payment of principal and interest on its outstanding 1991 issue of 9 percent tax-exempt bonds (the "prior issue"). The use of amounts corresponding to the proceeds of the reimbursement bonds to create a sinking fund for another issue within 1 year after the purported reimbursement allocation invalidates the reimbursement allocation. The proceeds retain their character as unspent proceeds of the 7 percent issue upon deposit in the escrow fund. Accordingly, the proceeds are subject to the 7 percent yield restriction of the 1994 issue instead of the 9 percent yield restriction of the prior issue.

(i) *Authority of the Commissioner to prescribe rules.* The Commissioner may by revenue ruling or revenue procedure (see § 601.601(d)(2)(ii)(*b*) of this chapter) prescribed rules for the expenditure of proceeds of reimbursement bonds in circumstances that do not otherwise satisfy this section.

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 92–26727 Filed 11–4–92; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 252

[Docket No. R–146]

RIN 2133–AA99

Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in World-Wide Services; Calculation of Maintenance and Repair Subsidy Rates

AGENCY: Maritime Administration, DOT.

ACTION: Proposed rule.

SUMMARY: This rule would modify the methodology for determining and paying operating-differential subsidy (ODS) for maintenance and repair (M&R) expenses, not compensated by insurance, incurred by subsidized operators of bulk cargo vessels that receive ODS for M&R under their ODS contracts. It would eliminate the current requirements for establishing a per diem ODS rate for the payment of M&R expenses that is based on historical costs, and would reinstate a procedure previously set forth in the regulations that requires payment of ODS for M&R expenses actually incurred. The payments are subject to findings by the Maritime Administration (MARAD) that, in accordance with the Merchant Marine Act, 1936, as amended (the Act), the M&R expenses incurred are fair and reasonable, as initially determined by MARAD, subject to audit by the Office of the Inspector General. These amendments are the result of MARAD's review of its regulations pursuant to the President's directive issued January 28, 1992, and are intended to foster economic growth for U.S.-flag vessel operators receiving M&R subsidy by facilitating earlier payment of actual M&R subsidy.

DATES: Comments on the proposed rule must be received on or before December 7, 1992.

ADDRESSES: Send an original and two copies of comments to the Secretary, Maritime Administration, room 7300, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. To expedite review of the comments, the agency requests, but does not require, submission of an additional ten (10) copies. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a stamped, self-addressed envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Arthur B. Sforza, Director, Office of Ship Operating Assistance, Maritime Administration, Washington, DC 20590, Tel. (202) 366–2323.

SUPPLEMENTARY INFORMATION: Section 603(b) of the Act (46 App. U.S.C. 1173(b)) provides, among other things, for the payment of ODS for the fair and reasonable cost to the operator of M&R not compensated by insurance that was incurred in the operation of subsidized U.S.-flag vessels in the foreign commerce of the United States. Section 603(f) (46 App. U.S.C. 1173(f)) provides that ODS for M&R expenses shall be paid at 90 percent of ODS accrued, pending audit of the expenses, whereupon the remaining 10 percent shall be paid. The Act does not contain any specific procedures for determining ODS for M&R expenses, nor does it provide clarification of payment procedures. The language of the Act, however, clearly indicates that ODS for M&R shall be paid for all fair and reasonable expenses actually incurred. The regulations at 46 CFR part 252 were amended in 1986 to incorporate, among other things, a per diem ODS rate system for M&R, using historical costs rather than actual expenses incurred and accrued by the subsidized operators.

Prior to the 1986 amendments, the system for determining and paying ODS for M&R expenses was set forth in the regulations as follows. The difference between U.S. and foreign M&R costs was established as a percentage differential rate (PDR) based on cost estimates received from U.S. and foreign shipbuilding centers for a standard set of repair specifications for a typical bulk cargo vessel in international trade. Because of the time required to accumulate the cost estimates prepared by the various shipbuilding centers, final PDRs for a given year were not completed for approximately 18 months following the close of that year. In the interim, the subsidized operators billed ODS for M&R, based on actual expenses incurred, using the latest PDR incorporated in their ODS contracts at the time. As required by the Act, the subsidized operators billed the ODS monthly, at 90 percent of the M&R subsidy accrued, for voyages completed during the month.

MARAD paid the final 10 percent after: (1) Making a determination that, as required by the Act, the expenses were fair and reasonable; (2) completion of the audit of the expenses; and (3) computation of the ratio of subsidized vs. nonsubsidized days during the subsidized year. The computation of the ratio of subsidized vs. non-subsidized days was required to ensure that only expenses attributable to subsidized periods were allowed for subsidy payment. A subsequent adjustment in payments was made upon determination of the final PDR for M&R applicable to that year, and represented the difference between the final PDR and the PDR initially used to bill ODS for M&R during the year.

When the ODS regulations at 46 CFR part 252 were amended in November 1986, the ODS rates for M&R became effective for calendar year 1988. Under the procedure now in effect, the methodology for calculating the PDR for M&R did not change. However, rather than providing for payment of ODS for actual expenses incurred in the subsidized year, the regulations now require the establishment of a per diem rate based on expenses incurred during an historical period immediately preceding the subsidized year, ranging from 24 to 36 months in length, and including the most recent expenses for drydocking. The expenses actually incurred in the historical period must still be adjudged fair and reasonable by MARAD, as required by the Act, and are audited for MARAD by the Office of the Inspector General, Department of Transportation.

The expenses included in the historical period are divided by the

number of operating days in the period to derive a subsidizable per diem expense. That per diem expense is then escalated to the subsidizable year through use of an index that produces a nominal escalation rate. The latest PDR for M&R calculated is applied to the per diem expense to obtain a final per diem ODS amount. The operators bill the per diem ODS amount monthly at 100 percent, but only for days that the vessels are engaged in subsidized service.

The intent of the M&R regulations as amended in 1986, now in effect, was to eliminate the delay in determining final ODS payment amounts for M&R expenses and also to quantify definitively such amounts so as to provide the subsidized operators with a level of certainty for future planning purposes about the amount of ODS receivable. When the amendment to the regulations was initially published, comments received generally applauded the foregoing goals. However, the comments also reflected a general concern that, as the vessels approached the end of their economic lives, the level of M&R expenses would increase at a rate that would invalidate the use of historical M&R expenses, even when escalated using the index defined in the regulations, particularly for vessels carrying corrosive liquid cargoes.

Several operators viewed this result as being inconsistent with the Act, which requires full reimbursement for fair and reasonable expenses incurred. They requested that the former system for determining ODS for M&R, as previously described, be retained. Ultimately, the subsidized bulk vessel operators accepted the methodology contained in the amended regulations on the assumption that M&R expenses incurred would, in large measure, be recouped over time under a continuing program for payment of ODS.

During recent years, the subsidized bulk vessel operators, recognizing that the prospect for ODS contract renewals was virtually non-existent, have expressed their concerns about the fairness of the current system for determining the M&R component of ODS. In a number of discussions with MARAD staff, several operators have reemphasized their belief that the current system for determining ODS for M&R will work an increasing economic hardship on the subsidized bulk vessel operators as their vessels grow older. Furthermore, the operators are convinced that, with the termination of the ODS program, they will not be fully compensated for the increasing M&R expenses that will incur. These include the significant expenses related to drydockings. The operators view these circumstances as contrary to the intent of the Act and have repeatedly asked for a return to the former system for determining and paying ODS for M&R.

In view of the Administration's stated policy that ODS contracts will not be renewed, the arguments presented by the operators are compelling. Therefore, consistent with the intent of the Act, this rule would eliminate the per diem methodology for determining and paying ODS for M&R and reinstate the previous provisions of the rule that set forth the former system for making such payments, with two changes as described below.

In accomplishing the transition from the current system for determining and paying ODS for M&R, the subsidized bulk vessel operators would remain under the current per diem system until commencement of the next drydocking period following the effective date of this rule. Upon entry of each subsidized vessel into the shipyard, payment under the per diem system would cease for that vessel. Thereafter, the operator would be allowed to bill ODS for M&R expenses actually incurred for the vessel.

Under the former system, initial billings of ODS for M&R were made at 90 percent of ODS accrued, pending completion of the necessary determinations by MARAD, as previously described, and audits of expenses. Rather than requiring initial billings at 90 percent, this rule would provide that initial billings will be at a percentage of ODS as negotiated between MARAD and the operator of each of the subsidized bulk vessels (not to exceed the statutory limit of 90 percent). This change is necessary since examination of the actual operating experience of the subsidized bulk vessel operators shows that, for a number of vessels, the ratio of subsidized vs. nonsubsidized operating days is too low to allow initial billings at 90 percent of ODS. To allow billings at 90 percent in these instances could result in an unwarranted overpayment of ODS.

Also, as previously discussed, the former system for paying ODS for M&R requires an adjustment to the ODS paid to reflect the difference between the PDR initially used to bill ODS for M&R expenses in a given year; i.e. the latest PDR incorporated in the ODS contract, and the final PDR for M&R applicable to that year, as subsequently calculated. The amendments proposed in this rule provide that ODS for M&R expenses shall be billed utilizing the latest PDR calculated by MARAD staff, which shall be considered the final PDR for M&R payment purposes. This will maintain the concept embodied in the per diem system of making final ODS payments for M&R with no subsequent adjustment to reflect a recalculation of the PDR.

Rulemaking Analyses and Notices

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

This rulemaking has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State, or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking does not involve any change in important Departmental policies, and it is considered nonsignificant under DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). Because the economic impact should be minimal, further regulatory evaluation is not necessary.

This rule proposes to amend an existing regulation by modifying requirements of a 1986 amendment that established a per diem ODS rate for the payment of M&R expenses that is based on historical costs. It would reinstate former provisions in the regulations for the payment of ODS on the basis of M&R expenses actually incurred. The 1986 amendments were intended to accelerate final ODS payments for M&R and to definitively quantify such payments. For these reasons, the 1986 amendment was accepted by the subsidized operators notwithstanding their expressed concerns that, as their vessels grew older, the level of M&R expenses for the vessels would increase at a rate that would invalidate the use of historical costs, even when escalated using the index defined in regulations. The impact on vessels that carry corrosive liquid cargoes is particularly disadvantageous. The acceptance of the 1986 amendment by the operators was based on the assumption that under a continuing program for the payment of ODS, they would substantially recoup, over time, M&R expenses that they had incurred. This has not been the case. Since it is now anticipated that no ODS

contracts will be renewed, the proposed rule will ensure payment for M&R expenses actually incurred.

Federalism

MARAD has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient Federalism implications to warrant the preparation of a Federalism assessment.

Regulatory Flexibility Act

MARAD certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

MARAD has considered the environmental impact of this rulemaking and has concluded that there is no impact and that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no new or revised reporting requirements that require approval by the Office of Management and Budget pursuant to provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.). The reporting requirements in section 252.23 have received OMB approval under control numbers 2133–024 and 2133–005.

List of Subjects in 46 CFR Part 252

Grant programs—transportation, Maritime carriers, Reporting and recordkeeping requirements.

Accordingly, MARAD proposes to amend 46 CFR part 252 as follows:

PART 252—[AMENDED]

1. The citation of authority for part 252 would be revised to read as follows:

Authority: 46 App. U.S.C. 1114(b), 1117, 1121, 1171, 1172, 1173, and 1175; 49 CFR 1.66.

§ 252.30 [Amended]

2. Section 252.30 is proposed to be amended as follows:

a. In paragraph (a), by adding to the first sentence of text before the period, the words "except for the ODS rates applicable to maintenance and repair expenses, as described separately in § 252.32".

b. In paragraph (a), by adding in the third sentence, after "ODSA", the parenthetical "(with the exception of ODS rates applicable to maintenance and repair expenses)".

§ 252.32 [Amended]

3. Section 252.32 is proposed to be amended as follows:

a. In paragraph (a), by revising the heading "*Basis for subsidy.*" to read "*Subsidy items.*"; and by removing the entire text of the paragraph after "46 CFR part 272," and adding in its place the words "incurred by the operator during the calendar year.".

b. In paragraph (b), by revising the heading and introductory text to read as set forth below.

c. In paragraph (b)(3), by removing all the sentences after the third sentence and adding in their place the sentence "If such information is unavailable, repairing practices shall be determined on the basis of the industry as a whole.".

d. In paragraph (b)(4), by revising the paragraph heading, to read "*M&R subsidy rate.*".

e. In the table in paragraph (b)(4), by removing in the heading the words "U.S.-FOREIGN COST DIFFERENTIAL, 1985" and adding the words "MAINTENANCE and REPAIR SUBSIDY RATE"; and by removing in the first column the words "U.S.-foreign cost differential" and adding the words "Subsidy rate".

f. By revising paragraph (c) to read as set forth below.

§ 252.32 Maintenance (upkeep) and repairs.

* * * * *

(b) *Subsidy rate.* The subsidy rate for maintenance and repair shall be the U.S.-foreign cost differential determined from price estimates of representative items of maintenance and repair work and by using the repair practices of the foreign-flag competition. See paragraph (b)(4) of this section for an example calculation.

* * * * *

(c) *Data submission requirement.* The operator is required to submit a Subsidy Repair Summary (Form MA–140) quarterly, in accordance with 46 CFR part 272.

4. Section 252.40 is proposed to be amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 252.40 Payment of subsidy.

(a) * * *

(b) *Maintenance and repair subsidy.* In the case of payments for maintenance and repair subsidy only, the subsidized operator shall submit an initial voucher and include for payment in such voucher a percentage of the ODS payable for the period covered by the voucher, which percentage shall be negotiated between MARAD and the subsidized operator, but in no instance shall exceed 90 percent. Upon the completion of MARAD's determinations that the expenses are fair and reasonable, MARAD's computation of the ratio of subsidized vs. nonsubsidized days during the subsidized year, and the Office of the Inspector General's audit of subsidizable expenses, the subsidized operator shall submit a final voucher for an adjustment of the amount of subsidy paid.

Dated: October 27, 1992.

By order of the Maritime Administrator.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 92–26725 Filed 11–5–92; 8:45 am]

BILLING CODE 4910–81–M

Research and Special Programs Administration

49 CFR Parts 190, 191, 192 and 193

[Docket PS–125; Notice 1]

RIN 2137–AC28

Regulatory Review: Administrative Practices, Reporting Pipeline Incidents, Gas Pipeline Standards, and Liquefied Natural Gas Facilities Standards

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change various gas pipeline and liquefied natural gas facility reporting and operating standards to provide clarity, eliminate unnecessary or overly burdensome requirements, and foster economic growth. The proposed changes result from the regulatory review RSPA carried out in response to the President's directive on reducing the burden of government regulation. The proposed changes would reduce costs in the gas and liquefied natural gas pipeline industries without compromising safety.

DATES: RSPA invites interested persons to submit comments by December 7, 1992. Late filed comments will be considered as far as is practicable.

ADDRESSES: Send comments in duplicate to the Dockets Unit, room 8421, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and docketed material will be available for inspection and copying in Room 8419 between 8:30 a.m. and 5 p.m. each business day.

FOR FURTHER INFORMATION CONTACT: J. Willock, (202) 366–2392, regarding the subject matter of this notice, or the Dockets Unit, (202) 366–5046, regarding copies of this notice or other material that is referenced in this notice.

SUPPLEMENTARY INFORMATION:

Background

In a January 28, 1992, memorandum, President Bush wrote to Department and agency heads about the need to reduce the burden of government regulation. The President was concerned that agencies were not doing enough to review and revise existing regulations to eliminate unnecessary and overly burdensome requirements. He recognized that regulations that do not keep pace with new technologies and innovations impose needless costs and impede economic growth.

The President's memorandum called for a 90-day moratorium on issuing certain proposed or final regulations. The President asked agencies to use that period to review their existing regulations to identify those that are not cost-effective and to determine which could be more goal-oriented, could include market mechanisms, and could be clearer to avoid needless litigation. Each agency was asked to propose, as soon as possible, administrative changes to correct any problems discovered during the review.

In response to the President's memorandum, DOT published a notice requesting public comment on the Department's regulatory programs (57 FR 4745; Feb. 7, 1992). Commenters were asked to identify regulations that substantially impede economic growth, may no longer be necessary, are unnecessarily burdensome, impose needless costs or red tape, or overlap or conflict with other DOT or Federal regulations. The deadline for submitting comments was March 2, 1992.

RSPA received comments from eight organizations about the pipeline safety regulations in 49 CFR parts 190, 191 and 193. Comments were from three regulated pipeline companies, three pipeline trade associations, and a state pipeline safety agency. The change proposed for part 192 was inadvertently omitted from another rulemaking (57 FR 39572, August 31, 1992). RSPA has carefully considered all comments in its review of the regulations, and these comments are available in the docket. Some comments will be considered in future rulemakings.

By memorandum of April 29, 1992, the President continued the moratorium on certain proposed and final regulations for four more months. With regard to the review of existing regulations, he requested that agencies publish proposed changes that require public comment as soon as possible.

Proposed Changes to Part 190 Requirements

The following discussion explains the changes RSPA proposes to various standards in part 190:

Section 190.203 Inspections

Section 190.203(c) currently requires that, after an OPS inspection, an operator must respond within 30 days to a "Request for Specific Information." RSPA believes that allowing 30 days for a response from the operator may not always be sufficient time for an operator to assemble the requested information. The proposed rule would extend the time that an operator may provide this information to 45 days. This will permit the operator to provide RSPA more complete information to use in evaluating the results of an inspection. The better preparation of the information should provide a cost savings to the operator by allowing response within the normal course of business and, at times, by showing the operator's compliance with the regulations and avoiding enforcement action.

Section 190.209 Response Options

Section 190.209(c) currently allows, as an option, the submission of a check to compromise a case. RSPA proposes to delete § 190.209(c) because the pipeline safety statutes contemplate assessments of penalties only after findings of violation. RSPA does not routinely resolve cases without such findings. Furthermore, the requirement to submit a check without assurance that it will resolve the case is burdensome to the respondent.

Section 190.211 Hearing

Section 190.211(c) currently provides for a hearing to be conducted in the headquarters of the OPS Region in which the facility is located. The proposed revision would expand the location for an enforcement hearing to include a location agreed upon by all parties. It would also provide for telephone hearings for cases with small amounts at issue. This will result in cost savings to the pipeline operators by providing for enforcement hearings in more convenient locations or by telephone.

Section 190.211(e) currently provides that at the outset of a hearing in response to a notice of probable violation, the material in the case file pertinent to the issues to be determined is presented by the presiding official of the hearing. The respondent may examine and respond to or rebut this material.

RSPA proposes to revise this regulation to provide the respondent the opportunity to review material in the case file pertinent to the issues prior to any hearing. This will result in cost savings to a respondent by providing the respondent a better opportunity to prepare its defense before the hearing. It will also serve to narrow or eliminate issues, minimizing hearing time.

Section 190.215 Petitions for Reconsideration

Section 190.215(d) currently states that the filing of a petition under this section does not stay the effectiveness of the final order. The proposed revision would stay payment of any civil penalty assessed if a petition for reconsideration is filed. This will result in cost savings to the pipeline operator by delaying civil penalty payments until a decision is made on the petition for reconsideration.

Section 190.227 Payment of Penalty

Section 190.227(a) currently states that payment of a civil penalty must be made by certified check or money order payable to the "Department of Transportation." The proposed revision would continue to allow this method for a civil penalty of less than $10,000. Under new § 190.227(b), payment of $10,000 or more would be required to be made by wire transfer through the Federal Reserve Communications System to the account of the U.S. Treasury.

Proposed Changes to Part 191 Requirements

The following discussion explains the changes RSPA proposes to various standards in part 191:

Section 191.1 Scope

Section 191.1(b)(1) currently states that part 191 does not apply to the offshore gathering of gas upstream from the outlet flange of each facility on the Outer Continental Shelf (OCS) where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream. RSPA proposes to delete the phrase "on the Outer Continental Shelf", and to apply the same exception to similar pipelines in state offshore waters.

The current regulations are not clear where the applicability of part 191 begins on offshore gathering lines in state waters. Shell Offshore, Inc.

proposed a similar change in comments to an NPRM proposing to clarify the definition of gathering lines (56 FR 48505; September 25, 1991; Docket PS–122). This change would be consistent with proposed changes to §§ 192.1 and 195.1 in other rulemakings.

This revision will clarify that part 191 does not apply to field production lines; i.e., flow lines in state offshore waters, similar to the present exception on the OCS. Part 191 regulations are currently being applied to some production lines in state offshore waters where such regulations were not intended to apply. The drug testing requirements in part 199 are also being applied to workers on some production platforms in state offshore waters where such regulations were not intended to apply. The proposed revision would make federal and state offshore rules consistent and should reduce operating expenses for the operator.

Section 191.3 Definitions

The definition of Secretary would be amended to eliminate the connotation of gender.

The proposed change would not compromise pipeline safety, because it would not alter the Department's application of the existing part 191 regulations.

Section 191.7 Addressee for Written Reports

In § 191.7, RSPA proposes to remove the expression "Office of Pipeline Safety," from the address for written reports. The proposed change would remove an office title which is no longer reflected in the agency's organizational structure.

Section 191.21 OMB Control Number Assigned to Information Collection

In § 191.21, RSPA proposes to remove the expression "Office of Pipeline Safety" from the first sentence for the same reason stated in § 191.7, above.

Proposed Change to Part 192 Requirements

The following discussion explains the change RSPA proposes to Part 192:

Section 192.513 Test Requirements for Plastic Pipelines

Paragraph (c) requires the test pressure to be at least 150 percent of the maximum operating pressure or 50 p.s.i.g., whichever is greater. However, the maximum test pressure may not be more than three times the design pressure of the pipe. Paragraph (d) requires that the temperature of thermoplastic material may not be more than 100° F. during the test. The Gas Pipeline Technology Committee (GPTC) of AGA proposed revising the last sentence of paragraph (c) to require that the maximum test pressure may not be more than three times the design pressure, for the test temperature as calculated in accordance with § 192.121. Additionally, GPTC proposed modifying paragraph (d) to require that the pipeline shall not be tested at temperatures greater than the temperature at which the long-term hydrostatic strength has been determined for the thermoplastic material.

The proposed revision of paragraph (c) clarifies that the maximum test pressure is limited, at elevated temperatures, by the reduced hydrostatic strength of the thermoplastic material. The proposed revision of paragraph (d) would benefit pipeline operators who during hot summer days have been unable to pressure test newly constructed (not yet backfilled) pipelines, because the temperature of the thermoplastic material exceeded 100° F. The proposal would permit field pressure testing up to the same temperature used to determine hydrostatic design strength in the § 192.121 design formula.

Pipeline safety would not be compromised by adopting these revisions because the proposed changes for the field test temperature are compatible with the strength of thermoplastic materials at elevated temperatures, in accordance with ASTM D 2513 and with the temperatures used to determine "S" in the design pressure formula of § 192.121.

Proposed Changes to Part 193 Requirements

The following discussion explains the changes RSPA proposes to various standards in Part 193:

Section 193.2819 Gas Detection

Under § 193.2819(f), all enclosed buildings located at an LNG plant must be continuously monitored for the presence of flammable gases and vapors. Monitoring must be done by a fixed flammable gas detection system that provides a visible or audible alarm outside the building. Plant operators must provide and maintain the systems in accordance with National Fire Protection Association (NFPA) 59A, Storage and Handling Liquefied Natural Gas.

Currently, operators must install gas detection and alarm systems in enclosed buildings and regardless of whether the building houses a source of flammable fluid, or is connected by piping or conduit to a source of flammable fluid. For example, an enclosed tool shed or security hut that has no flammable fluid or is not connected to a source of flammable liquid must have a permanently installed gas detection and alarm system. RSPA's review concluded that such buildings present a very low risk of fire or explosion, because the probability that flammable gas or vapor would accumulate inside the building from leaks occurring somewhere outside the building is remote. Considering the cost to provide and continuously maintain gas detection and alarm systems, RSPA believes that § 193.2819(f) is not cost effective for such buildings.

Therefore, RSPA proposes to apply § 193.2819(f) only to buildings that house, or are connected to a source of flammable fluid. The proposed rule change would save operators the cost of compliance attributable to operating and maintaining systems already installed in buildings not housing or connected to flammable sources. The change also would save the cost of installing systems in new buildings.

Section 193.2907 Protective Enclosure Construction

Paragraphs (b) (1) through (3) and (c) of this rule dictate specific material and design features of protective enclosures (i.e., fences and walls) that surround certain LNG facilities. For example, fences must be chainlink of at least No. 11 gauge wire, with at least 3 strands of barbed topping angled outward between 30° and 45° from vertical. RSPA's review concluded that such prescriptive requirements are unnecessary and overly burdensome in view of the performance standard under § 193.2907(a) governing the design and construction of protective enclosures. That standard provides that each protective enclosure must have sufficient strength and configuration to obstruct unauthorized access to the facilities enclosed. Repealing the prescriptive requirements and relying solely on the performance standard would foster economic growth by encouraging the use of innovations and enhancements in enclosure technology. Therefore, RSPA proposes to remove paragraphs (b) (1) through (3) and (c) from § 193.2907. In the proposed rule set forth below, existing paragraph (b)(4) appears as paragraph (b).

Rulemaking Analyses

Paperwork Reduction Act

Documentation for the information collection requirements for parts 191 and 193 was submitted to the Office of Management and Budget (OMB) during

the original rulemaking processes. Currently, regulations in part 191 are covered by OMB Control Numbers 2137–0522 and 2137–0578.

Regulations in part 193 are covered by OMB Control Number 2137–0048. Part 190 imposes no paperwork requirements on the pipeline industry. Regulations in part 192 are covered by OMB Control Numbers 2137–0049 and 2137–0583.

This notice proposed no additional information collection requirements. Instead, the notice proposed to relax the information collection or retention and record retention burden on pipeline operators (described above). Accordingly, there is no need to repeat those submissions with this notice of proposed rulemaking.

Executive Order 12291 and DOT Regulatory Policies and Procedures

RSPA has concluded that this proposal is not a major rule under Executive Order 12291 and it is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

A Regulatory Evaluation has been prepared and is available in the Docket. RSPA estimates the proposed changes to existing rules would result in an estimated savings of $1,551,000 per year for the gas pipeline industry, without associated costs and with no adverse affect on safety. As discussed above, these savings would come largely from the elimination of unnecessary requirements.

Regulatory Flexibility Act

RSPA criteria for small companies or entities are those with less than $1,000,000 in revenues and are independently owned and operated. Few of the companies subject to this rulemaking meet these criteria. However, RSPA seeks such impact information in response to this rulemaking. Accordingly, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that this proposal would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Executive Order 12612

RSPA has analyzed the proposed rules under the criteria of Executive Order 12612 (52 FR 41685; October 30, 1987). We find it does not warrant preparation of a Federalism Assessment.

List of Subjects

49 CFR Part 190

Administrative practice and procedure, Penalties, and Pipeline safety.

49 CFR Part 191

Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 192

Natural gas, Pipeline safety, Reporting and recordkeeping requirements.

49 CFR Part 193

Fire prevention, Pipeline safety, Reporting and recordkeeping requirements, and Security measures.

In consideration of the foregoing, RSPA proposes to amend 49 CFR Parts 190, 191, 192, and 193 as follows:

PART 190—[AMENDED]

1. The authority citation for part 190 continues to read as follows:

Authority: 49 App. U.S.C. 1672, 1677, 1679a, 1679b, 1680, 1681, 1804, 2002, 2006, 2007, 2008, 2009, and 2010; 49 CFR 1.53.

2. In § 190.203 paragraph (c) would be revised to read as follows:

§ 190.203 Inspections.

* * * * *

(c) If, after an inspection, the OPS believes that further information is needed to determine appropriate action, OPS may send the owner or operator a "Request for Specific Information" to be answered within 45 days after receipt of the letter.

* * * * *

3. In § 190.209 paragraph (c) would be revised and (d) would be removed to read as follows:

§ 190.209 Response options.

* * * * *

(c) Failure of the respondent to respond in accordance with paragraph (a) of this section constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Director, OPS, without further notice to the respondent, to find facts to be as alleged in the notice of probable violation and to issue a final order under § 190.213.

4. Section 190.211 would be amended by revising paragraphs (b), (c) and (e) to read as follows:

§ 190.211 Hearing.

* * * * *

(b) An attorney from the Office of the Chief Counsel, Research and Special Programs Administration, serves as the presiding official at the hearing.

(c) If the amount of the proposed civil penalty or the cost of proposed corrective action is less than $10,000, the hearing is conducted by telephone conference. Otherwise, the hearing is held in the regional headquarters in which the facility is located or in any location agreed upon by the presiding official, OPS, and the respondent. The parties, by agreement, or the presiding official may vary the form or location of the hearing from that provided in this subsection for the convenience of the parties or for good cause.

* * * * *

(e) Upon request by respondent, and whenever practicable, the material in the case file pertinent to the issues to be determined is provided to the respondent 30 days before the hearing. The respondent may respond to or rebut this material at the hearing.

* * * * *

5. Section 190.215(d) would be revised to read as follows:

§ 190.215 Petitions for reconsideration.

* * * * *

(d) The filing of a petition under this section stays the payment of any civil penalty assessed. However, unless the Director, OPS, otherwise provides, the effectiveness of the order, including any required corrective action, is not otherwise stayed.

* * * * *

6. Section 190.227 would be revised to read as follows:

§ 190.227 Payment of penalty.

(a) Except for payments exceeding $10,000, payment of a civil penalty proposed or assessed under this subpart may be made by certified check or money order payable to the "Department of Transportation" or by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Payments exceeding $10,000 must be made by wire transfer. Payments, or in the case of wire transfers, notice of payment, must be sent to the Chief, General Accounting Branch (M–86.2), Accounting Operations Division, Office of the Secretary, room 2228, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

(b) Payment of a civil penalty assessed in a final order issued under § 190.213 or affirmed in a decision on a petition for reconsideration must be made within 20 days after receipt of the final order or decision. Failure to do so will result in the initiation of collection action, including the accrual of interest

and penalties in accordance with 31 U.S.C. 3717 and 49 CFR part 89.

PART 191—[AMENDED]

1. The authority citation for part 191 continues to read as follows:

Authority: 49 App. U.S.C. 1681(b) and 1808(b); §§ 191.23 and 191.25 also issued under 49 App. U.S.C. 1672(a); and 49 CFR 1.53.

2. In § 191.1, the introductory text of paragraph (b) would be republished and paragraph (b)(1) would be revised to read as follows:

§ 191.1 Scope.

* * * * *

(b) This part does not apply to—

(1) Offshore gathering of gas upstream from the outlet flange of each facility where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream; or

* * * * *

3. In § 191.3, the introductory text would be republished, and the definition of Secretary would be revised as follows:

§ 191.3 Definitions.

As used in this part and the RSPA Forms referenced in this part—

* * * * *

Secretary means the Secretary of Transportation or any person to whom the *Secretary* has delegated authority in the matter concerned.

* * * * *

4. The first sentence of § 191.7 would be revised to read as follows:

§ 191.7 Addressee for written reports.

Each written report required by this part must be made to the Information Resources Manager, Research and Special Programs Administration, U.S. Department of Transportation, room 8417, 400 Seventh Street SW., Washington, DC 20590. * * *.

5. The first sentence of § 191.21 would be revised to read as follows:

§ 191.21 OMB control number assigned to information collection.

This section displays the control number assigned by the Office of Management and Budget (OMB) to the gas pipeline information collection requirements of this part pursuant to the Paperwork Reduction Act of 1980, Public Law 96–511. * * *

PART 192—[AMENDED]

1. The authority citation for part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. Section 192.513 would be amended by revising paragraphs (c) and (d) to read as follows:

§ 192.513 Test requirements for plastic pipelines.

* * * * *

(c) The test pressure must be at least 150 percent of the maximum operating pressure or 50 p.s.i.g. whichever is greater. However, the maximum test pressure may not be more than three times the pressure determined under § 192.121 at a temperature not less than the pipe temperature during the test.

(d) During the test, the temperature of thermoplastic material may not be more than the temperature at which the material's long-term hydrostatic strength has been determined under the listed specification.

PART 193—[AMENDED]

1. The authority citation for part 193 continues to read as follows:

Authority: 49 App. U.S.C. 1671 et seq.; and 49 CFR 1.53.

2. Section 193.2819(f) would be revised to read as follows:

§ 193.2819 Gas detection.

* * * * *

(f) All enclosed buildings that house a flammable fluid or that are connected by piping or conduit to a source of flammable fluid must be continuously monitored for the presence of flammable gases and vapors with a fixed flammable gas detection system that provides a visible or audible alarm outside the enclosed building. The systems must be provided and maintained according to the applicable requirements of ANSI/NFPA 59A.

3. Section 193.2907 would be revised to read as follows:

§ 193.2907 Protective enclosure construction.

(a) Each protective enclosure must have sufficient strength and configuration to obstruct unauthorized access to the facilities enclosed.

(b) Openings in or under protective enclosures must be secured by grates, doors or covers of construction and fastening of sufficient strength such that the integrity of the protective enclosure is not reduced by any opening.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

[FR Doc. 92–26938 Filed 11–5–92; 8:45 am]

BILLING CODE 4910–60–M

Federal Highway Administration

49 CFR Chapter III

[FHWA Docket No. MC–92–33]

Zero-Base Review of the Federal Motor Carrier Safety Regulations; Additional Public Outreach Sessions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public outreach sessions; request for comments; closing of public docket.

SUMMARY: In September 1992, the FHWA successfully completed an initial series of four public outreach sessions in St. Paul, Minnesota; Portland, Oregon; San Antonio, Texas; and Los Angeles, California. Pursuant to the notice published in the **Federal Register** on August 18, 1992 (57 FR 37392), the FHWA announces six additional public outreach sessions to obtain comments and recommendations for improvement of the Federal Motor Carrier Safety Regulations (FMCSRs) as they relate to the commercial motor carrier industry. The outreach sessions are an essential part of FHWA's zero-base regulatory review project. The zero-base review is intended to develop a performance-based regulatory system that will best enhance commercial motor vehicle safety. These sessions will be held to obtain information, views, and opinions from representatives of the motor carrier industry and other interested persons. The FHWA will continue to accept comments on the zero-base program until April 1, 1993. After the comment period has closed and the comments have been analyzed, the FHWA will continue the rulemaking process with the goal of developing a regulatory structure that is more performance-oriented.

DATES: Comments must be received on or before April 1, 1993. The outreach sessions will be held from 9:30 a.m. to 3:30 p.m., local time, on each of the following dates:

Session 5: November 19, 1992
Session 6: December 2, 1992
Session 7: December 7, 1992
Session 8: December 10, 1992
Session 9: December 14, 1992
Session 10: January 28, 1993

ADDRESSES: Submit written, signed comments to FHWA Docket MC–92–33, room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday

through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The outreach sessions will be held at the following locations:

Session 5—Albany, New York, Sheraton Inn Albany Airport, 200 Wolf Road, Albany, New York 12205, Telephone: 518/458–1000.

Session 6—Atlanta, Georgia, Sheraton Atlanta Airport Hotel, 1325 Virginia Avenue, Atlanta, Georgia 30344, Telephone: 404/768–6660.

Session 7—Albuquerque, New Mexico, Ramada Hotel Classic, 6815 Menaul Boulevard, NE., Albuquerque, New Mexico 87110, Telephone: 505/881–0000.

Session 8—Casper, Wyoming, Holiday Inn Casper, 300 West F Street, Casper, Wyoming 82601, Telephone: 307/235–2531.

Session 9—Kansas City, Missouri, Park Place Hotel, 1601 North Universal Avenue, Kansas City, Missouri 64120, Telephone: 816/483–9900 or 800/821–8532.

Session 10—Washington, DC, Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, DC 20008, Telephone: 202/328–2000.

FOR PLANNING PURPOSES AND FURTHER INFORMATION CONTACT: Ms. Paula R. Robinson, telephone (202) 366–2984 or Mr. Robert Redmond, telephone (202) 366–5014, Federal Highway Administration, Office of Motor Carriers, 400 Seventh Street, SW., room 3404, Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays. In advance of each session, all individuals desiring to appear or planning to present information should contact Mr. Stan Hamilton, Office of Motor Carriers, telephone (202) 366–0665.

SUPPLEMENTARY INFORMATION: The Federal Motor Carrier Safety Regulations were enacted under the Motor Carrier Act of 1935, Ch. 498, 49 Stat. 546 (codified as amended at 49 U.S.C. 3102 and 3104). The regulations have been incrementally modified ever since. The authority for the current regulations has been vested in the Department of Transportation since 1966 (49 U.S.C. 1655(e)). All private, exempt commodity, common, and contract motor carriers of property and all for-hire carriers of passengers, as defined in the FMCSRs, are currently subject to these regulations. Additionally, the FHWA has proposed making private motor carriers of passengers subject to certain minimum safety requirements (54 FR 7362; notice of proposed rulemaking (1989)).

The FHWA recently completed a review of the FMCSRs in accordance with the President's January 28, 1992, Memorandum to Heads of Certain Executive Departments and Agencies to identify and eliminate any unnecessary regulatory burdens. Having completed that review, the FHWA believes it is appropriate to reconsider the underlying basis for all safety rules and to identify a performance-oriented regulatory structure that would enhance safety while minimizing the burdens placed on industry.

The FHWA believes the motor carrier industry will benefit from a regulatory structure that is more performance-oriented as opposed to prescriptive. Many of the basic provisions of the FMCSRs have remained unchanged for more than 50 years while others have been amended numerous times. The FHWA believes this has led to a set of regulations which can be difficult to understand and enforce. The FHWA plans to use the comments and recommendations gathered from the successfully completed initial series of four outreach sessions in September and those gathered during these final six sessions as the foundation to develop a comprehensive, unified set of performance-oriented safety requirements designed to ensure maximum safety on the Nation's highways. Discussion at the sessions will focus on identifying "who," "what," and "how" the FHWA should regulate commercial motor carriers and drivers to improve highway safety.

The goals and objectives of the zero-base review project are to: (1) Focus on those areas of enforcement and compliance which are most effective in reducing motor carrier accidents; (2) reduce compliance costs; (3) encourage innovation; (4) clearly and succinctly describe what is required; and (5) facilitate enforcement. The resulting regulatory system would apply to all appropriate segments of the motor carrier industry and would be enforceable by Federal, State and local authorities.

The performance-based regulations would be responsive to the needs of the industry and would enhance the safe operation of commercial motor vehicles.

Concurrent with the outreach effort, the FHWA has opened a public docket, MC–92–33, to allow commenters and interested parties who might be unable to attend the outreach sessions the opportunity to respond to the zero-base effort.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: October 30, 1992.

T.D. Larson,

Administrator.

[FR Doc. 92–26976 Filed 11–5–92; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Proposed Amendments to Appendices to Endangered Species Convention

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of proposed amendments to the appendices.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention or CITES) regulates trade in certain animal and plant species. Appendices I, II, and III to the Convention list those species for which trade is controlled. Any country that is a Party to the Convention may propose amendments to Appendices I and II for consideration by the other Parties through a postal-vote procedure.

The Commonwealth of Australia submitted proposals that would result in the following three changes in the CITES appendices: (1) Exclusion of tissue cultures and flasked-seedling cultures of 11 taxa of orchids in Appendix I from the provisions of the Convention; (2) exclusion of parts and products, except for saw logs, sawn wood, and veneers, of 7 timber species in Appendix II from the CITES controls; and (3) allowing artificially propagated hybrids of Appendix I plant taxa to be traded with a certificate of artificial propagation and indicating that seeds and pollen (including pollinia), cut flowers, tissue cultures, and flasked-seedling cultures of these hybrids are not subject to the provisions of the Convention. These proposals are being considered under the postal-voting procedures provided in article XV of the Convention. The U.S. Fish and Wildlife Service (Service) requests information and comments on these proposals.

DATES: Comments received by November 12, 1992, will be considered for submission to the Convention's Secretariat. Comments received by December 7, 1992, will be considered in deciding whether to object to any one of the proposals, and as to how to vote if any of the proposals are submitted to a vote, and whether to enter reservations if proposals are ultimately adopted.

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority; Mail stop: ARLSQ 725, U.S. Fish and Wildlife Service; Washington, DC 20240. Fax number 703–358–2276. Express and messenger-delivered mail should be

addressed to the Office of Scientific Authority, room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203.

The full text of the proposed amendments and notification from the Convention's Secretariat, as well as materials received, will be available for public inspection by appointment from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at the address given above (telephone 703–358–1708).

SUPPLEMENTARY INFORMATION:

Background

Postal procedures for amending the lists of animal and plant species included in Appendices I and II of the Convention are provided in article XV. Under this article, any Party may propose an amendment to the Secretariat for consideration between the meetings of the Conference of the Parties. Upon receiving the text of the proposed amendment, the Secretariat shall immediately communicate it to the Parties, and as soon as possible thereafter, its own recommendations. Within 60 days of the date on which the Secretariat communicated its recommendations to the Parties, any Party may transmit to the Secretariat any comments and relevant scientific information concerning the proposed amendment. The Secretariat shall then communicate the replies received together with its own recommendations to the Parties as soon as possible. If the Secretariat receives no objection to the proposal within 30 days of communicating these replies and recommendations, the proposal is adopted and enters into effect 90 days later, except for those Parties that enter reservations. If any Party objects within this 30-day period, then the proposal could be adopted only by a two-thirds majority of those Parties casting an affirmative or negative vote, provided that at least one-half of all Parties cast a vote or indicate their abstention within 60 days.

If these proposed amendments are adopted by the Parties, article XV of the Convention will enable any Party to enter a reservation with respect to any amendment during the 90-day period following the date of notification by the Secretariat of its acceptance. Parties that enter reservations will be treated as States that are not Parties to the Convention with respect to trade in the species concerned.

Australia has submitted proposals for consideration under the postal procedures: (1) To annotate *Cattleya skinneri, Cattleya trianae, Didicea cunninghamii, Laelia jongheana, Laelia lobata, Lycaste skinneri* var. *alba* (also referenced as *Lycaste virginalis* var. *alba*), *Paphiopedilum* spp., *Peristeria elata, Phragmipedium* spp., *Renanthera imschootiana,* and *Vanda coerulea* to exclude tissue cultures and flasked-seedling cultures from the provisions of the Convention; (2) to annotate *Araucaria araucana* (except the population in Chile), *Caryocar costaricense, Oreomunnea pterocarpa, Platymiscium pleiostachyum, Swietenia humilis, Guaiacum officinale,* and *Guaiacum sanctum,* so that only saw logs, sawn wood, and veneers are subject to CITES controls; and (3) to revise Section 12 of the interpretation of Appendices I and II by adding to that section (herein copied in full) the language in brackets: "As none of the species or higher taxa of FLORA included in Appendix I is annotated [to the effect that their hybrids shall be treated in accordance with the provisions of Article III of the Convention], this means that artificially propagated hybrids produced from one or more of these species or taxa may be traded with a certificate of artificial propagation, [and that seeds and pollen (including pollinia), cut flowers, tissue cultures and flasked seedling cultures of these hybrids are not subject to the provisions of the Convention.]" The Secretariat sent these proposals, together with its own recommendations, to the Parties on September 15, 1992. Information and comments received by the Service must be sent to the Secretariat by November 14, 1992.

Information in the Proposal and Secretariat Comments

The proposals were prepared in close consultation between the CITES Secretariat and the Chairman of the CITES Plants Committee. The Secretariat therefore strongly supports the proposals from Australia and recommends their adoption. The Service notes that Resolution Conf. 8.17 on flasked orchid seedlings was adopted at the eighth meeting of the Conference of the Parties (COP8) over U.S. objections. However, the United States has adopted the result of Conf. 8.17 on the basis of the rationale given in the U.S. statement at COP8. Thus, the United States agreed with the goal of minimizing obstacles to trade in flasked orchid seedlings and concluded that the proposed exemption did not present any threat to the survival of the species, but based its acceptance on a different legal rationale. The present proposal duplicates the action approved in Resolution Conf. 8.17 for flasked orchid seedlings and extends the exemption to orchid tissue cultures. Unless the Service receives new information relating to this issue, it is not likely to object.

With regard to the proposed annotation on the seven Appendix II timber species, the United States, in submitting its proposal to COP8 to add *Swietenia mahagoni* to Appendix II, proposed excluding certain parts and products but included logs, wood in the rough, sawn wood, veneer sheets, plywood, and from range States, wood processed or worked to the second to final stages of transformation (such as furniture and particle board). Action by the Parties provides protection only to the entire specimen and logs, sawn wood, and veneer, but not to other parts or derivatives (i.e., products). The United States also proposed listing the species *Guaiacum officinale* without an exemption for any parts or derivatives, which was adopted by the Parties.

In its proposal Australia notes that the Parties at COP8 excluded most parts and products of *Pericopsis elata* from CITES controls, except for saw logs, sawn wood, and veneers (the same as for *Swietenia mahagoni*). Furthermore, the proponent seeks to ensure a uniform implementation of the Convention by treating parts and products of Appendix II species that have the same products entering international trade (i.e., timber species) in the same way. The Service recognizes the merits of this recommendation in that it might avoid misinterpretations of the parts and products that are under CITES controls, but in deciding on its final position the Service wants to give further consideration to any possible detrimental effects on these species, e.g., *Guaiacum officinale* and *Guaiacum sanctum,* and to implementation.

Regarding the proposal related to artificially propagated hybrids, the Service considers that what is proposed is already allowed under provisions of the Convention and its resolutions. Therefore, the Service presently does not intent to object to this proposal.

Comments Sought

The Service requests any information or comments that might be useful in developing a response to the Secretariat, in developing the final United States position on the proposed amendments, and on possible reservations. In order to ensure consideration, the Service requests that such information and comments be received on or before the aforementioned date.

The Service will develop a final position as to whether to support or oppose the proposals or to abstain from

voting based on the best available biological and trade information, including information or comments received in response to this notice, as well as any additional comments transmitted by the Secretariat or provided during discussions at the CITES Plants Committee meeting held in Thailand on October 26–28, 1992. The Service is especially interested in information indicating whether any of these proposed amendments pose any threat to the survival of the species.

If these amendments are ultimately adopted by the Parties, the Service at this time proposes not to recommend any reservations. It would do so only if evidence is presented to show that implementation of the amendment would be contrary to the interests or laws of the United States.

This notice was prepared by Dr. Charles W. Dane, Office of Scientific Authority, under authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Dated: November 3, 1992.

Bruce Blanchard,

Acting Director.

[FR Doc. 92–27107 Filed 11–5–92; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 57, No. 216
Friday, November 6, 1992

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

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Intent To Grant Exclusive 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 to Ecogen Incorporated, 2005 Cabot Boulevard West, Langhorne, Pennsylvania, an exclusive license to U.S. Patent Application Serial No. 07/745,796, "Biological Control of Diseases of Harvested Agricultural Commodities Using Strains of the Yeast *Candida sake*," filed August 16, 1991. Notice of Availability for licensing the invention was given in the **Federal Register** on November 14, 1991.

DATES: Comments must be received by January 5, 1993.

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: COMM: 301–504–6786.

SUPPLEMENTARY INFORMATION: The Federal Government's 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 and has entered into a Cooperative Research and Development Agreement with USDA–ARS for the further development of the invention.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, Agricultural Research Service 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.

W. H. Tallent,

Assistant Administrator.

[FR Doc. 92–26946 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Mid-Skull/Upper Bear Timber Sale; Clearwater National Forest, Clearwater County, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will analyze and disclose the environmental impacts of a proposal to harvest and reforest approximately 739 acres of timber, construct approximately 3.7 miles of new road, and reconstruct approximately 3.9 miles of existing road in the Skull Creek drainage, which is a tributary to the North Fork of the Clearwater River. An EIS (Environmental Impact Statement) will be prepared which will document the analysis. This EIS will tier to the Clearwater National Forest Land and Resource Management Plan Final EIS of September, 1987, which provides overall guidance in achieving the desired future condition for the area. The purpose of this proposal is to provide forage on big game winter range, provide wood products to the local economy, and increase growth and disease resistance in mature stands by replacing them with young, vigorous timber stand.

The analysis area is located approximately 50 air miles from Orofino, Idaho. Approximately 700 acres of the analysis area are located in the RARE II Mallard-Larkins Roadless area (#1300) and in various citizens wilderness proposals.

The Mid-Skull/Upper Bear analysis area is located east and north of the confluence of Skull Creek and the North Fork of the Clearwater River. The analysis is comprised of 8,099 contiguous acres of public land administered by the North Fork Ranger District of the Clearwater National Forest. The analysis area is bounded on the north by a ridge between Bear and Bean Creeks, on the south by the North Fork of the Clearwater River, on the west by Skull Creek, and on the east by Indian Henry Ridge.

DATE: Written comments concerning the scope of the analysis should be received by December 21, 1992. The Draft Environmental Impact Statement is expected to be filed with the Environmental Protection Agency in January, 1993. The Final Environmental Impact Statement (EIS) and Record of Decision are expected to be completed in May 1993.

ADDRESSES: Send written comments to Robert E. Littlejohn, Acting District Ranger, North Fork Ranger District, P.O. Box 2139, Orofino, ID 83544.

FOR FURTHER INFORMATION CONTACT: Specific questions about the proposed action, analysis, and EIS should be directed to Jennefer Sundberg, Resource Analyst, or Robert E. Littlejohn, Acting District Ranger, North Fork Ranger District, Clearwater National Forest, (208) 476–3775.

SUPPLEMENTARY INFORMATION: All management activities would be administered by the North Fork Ranger District of the Clearwater National Forest, Clearwater County, Idaho. Because of the potential for significant impacts resulting from the proposed action (as defined by 40 CFR 1508.27) an Environmental Impact Statement will be prepared.

This proposal has been analyzed in an environmental assessment. As a result of that analysis, the Forest Service decided that the proposed action was not significant, and issued a decision notice in September, 1991. The decision notice was appealed in November, 1991 and after review the decision was remanded to the District in February, 1992. Because the significance of the effects of the proposal seem to be controversial and due to new Forest Service direction in the environmental policy and procedures handbook (FSH 1909.15, pp. 1–25), we have decided to proceed with further analysis that will

culminate in an environmental impact statement.

The proposed actions are consistent with the Clearwater National Forest Land and Resource Management Plan (September 1987) which provides the overall guidance (Goals, Standards and Guidelines, and Management Area direction) in achieving the desired future condition for this area. There are five management areas located within the study area. The purpose and goals for the proposed actions are specifically defined by these management areas and include:

Management Area C4—Provide sufficient winter forage and thermal cover for existing and projected big game populations while achieving timber production outputs.

Management Area C3—Provide winter forage and thermal cover for big game.

Management Area E1—Provide an optimum, sustained production of wood products through harvests that fully realize site potential and result in healthy, vigorous stands.

Management Area M2—Provide for the protection and enhancement of riparian dependent resources. Management activities can include timber harvest, grazing, and recreation as long as these practices enhance and protect the riparian values.

Management Area US—Unsuitable for timber management. Includes nonforest and low productive forest lands incapable of producing crops of industrial wood and lands with apparent regeneration limitations. Manage for soil and watershed protection.

The analysis area is located in all or part of sections 25, 26, 27, 34, 35, 36 of T41N, R8E, BM; section 19, 20, 28, 29, 30, 31, 32, 33 of T41N, R9E, BM; sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 15, 16 of T40N, R8E, BM; and section 6, T40N, R9E, BM.

The North Fork Ranger District proposes to initiate silvicultural treatment on approximately 739 acres and construct approximately 3.7 miles of new road. Specifically, the proposal includes 614 acres of clearcut harvest, 91 acres of salvage harvest, 18 acres of liberation harvest, and 16 acres of shelterwood harvest. The majority of the harvest units would be yarded using cable systems and a few units would require helicopter yarding systems. This proposal includes approximately 3.9 miles of road reconstruction. The proposed harvest would generate approximately 11.5 million board feet of wood products.

Preliminary issues and concerns identified as a result of internal scoping include:

- Protection of the visual resources.
- The effects of the proposed activities on the outfitter/guide in the area.
- The protection and continuity of old growth stands for viable populations of dependent species.
- The effect of proposed activities on recreation users of the area.
- The effects of management practices on elk security.
- The protection watershed values, fish productivity, and riparian zones.
- Potential effect on threatened, endangered, and sensitive species.
- The efficiency and cost-effectiveness of the timber sale.
- The effect of proposed practices on the stability of the steep slopes that characterize the area.

No meetings are scheduled, but letters, phone calls, or personal visits are invited for the purpose of providing information related to this proposal. This additional information will be used to prepare a Draft Environmental Impact Statement. This process will include:

1. Determination of significant issues.
2. Determination of potential cooperating agencies.
3. Identification and elimination from detailed study of nonsignificant issues, or issues that have been covered by previous environmental review.
4. Identification of reasonable alternatives to the proposed action.
5. Identification of potential environmental effects of the alternatives.

The analysis will consider a range of alternatives developed from the key issues. One of these will be the "No Action" alternative, in which all harvest and regeneration activities are deferred. Other alternatives will consider various levels and location of harvest and regeneration activities in response to issues and non-timber objectives.

Public participation is important all through the analysis process. Agencies and other interested publics are invited to visit with Forest Service officials at any time during the process. However, two specific time periods are identified for the receipt of formal comments on the analysis. They are: (1) during the scoping process (the next 45 days) and, (2) during the formal review period of the Draft EIS.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement.

Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The Forest Service believes it is important to give reviewers notice at this early stage 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.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

The Final EIS is expected to be released May 30, 1993. The Forest Supervisor for the Clearwater National Forest who is the responsible official for the EIS will make a decision regarding this proposal considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: October 27, 1992.

Win Green,

Forest Supervisor, Clearwater National Forest.

[FR Doc. 92-26957 Filed 11-5-92; 8:45 am]

BILLING CODE 3410-11-M

Management Plan for the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an environmental impact statement for a review and revision of the operation and development plan for the two units of the Whiskeytown-Shasta-Trinity National Recreation Area (NRA) that lie within the Shasta-Trinity National Forests boundary and are managed by the Forest Service.

The Whiskeytown-Shasta-Trinity NRA was designated by Congress in 1965 (Pub. L. 89–336). Of the three units within the NRA, the Shasta and Trinity Units are managed by the Forest Service; the Whiskeytown Unit is managed by the Department of the Interior, National Park Service. An operation and development plan for the two units under Forest Service management was developed in 1988 in conjunction with an environmental impact statement (EIS) that explored alternatives for all aspects of NRA management. The Shasta-Trinity National Forests are now conducting a scheduled review, and are considering potentially significant changes from the direction contained in the 1988 plan and analyzed in its EIS.

A range of alternatives for NRA operation and development will be developed and analyzed in depth, including the alternative of continuing present management unchanged. The alternatives for changing management will respond to identified issues and concerns. Some of the issues already identified are: Low water management; resort locations; endangered species management; and riparian zone management.

Federal, State, and local agencies as well as holders of special use authorizations within the NRA and other organizations and individuals who may be affected by or interested in the decision are being invited to participate in the scoping process. This process includes:

1. Identification of potential issues.
2. Identification of significant issues to be examined in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

Public scoping for this proposal begins with the issuance of this Notice of Intent and a letter to those listed above as well as all of those who responded to the 1988 plan revision. Also planned are direct contacts with lake user groups and individuals. Additional information on public issues will be available as a result of a socio-economic study conducted in the National Recreation Area in 1991–92. A news release announcing the scoping process and inviting public involvement will be widely distributed.

William V Carpenter, Acting Forest Supervisor, Shasta-Trinity National Forests, is the responsible official.

The analysis is expected to take approximately one year. The draft environmental impact statement is scheduled to be available in the spring of 1993 while the final environmental impact statement is scheduled for late summer of 1993.

Issues, comments and suggestions concerning the analysis should be sent to: Shasta-Trinity National Forests, Attn: NRA Plan, 14225 Holiday Road, Redding, California 96003; or, Shasta-Trinity National Forests, Attn: NRA Plan, Box 1190, Weaverville, California, 96093. Comments must be received by January 15, 1993 in order to be considered in the analysis.

Questions about the proposed action and environmental impact statement should be directed to Ken Smith, EIS Team Leader, Shasta Lake Ranger District, 14225 Holiday Road, Redding, California 96003, phone (916) 275–1587.

Dated: October 28, 1992.

William V. Carpenter,

Acting Forest Supervisor, Shasta-Trinity National Forests.

[FR Doc. 26939 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–11–M

Cancellation of Hoosier Ridge Research Natural Area

AGENCY: Forest Service, USDA.

ACTION: Notice; withdrawal of decision.

SUMMARY: Notice is hereby given that the Chief of the Forest Service has vacated the portion of his decision, published in **Federal Register** Vol. 57, No. 62, p. 10856, establishing Hoosier Ridge as a Research Natural Area. Cancellation of this portion of his decision is due to a finding that not all pertinent information on Hoosier Ridge was available to the Chief of the Forest Service at the time his decision was made. The suitability of Hoosier Ridge as a Research Natural Area will be reevaluated based on all available information.

DATES: This action is effective upon publication in the **Federal Register** November 6, 1992.

FOR FURTHER INFORMATION CONTACT: Jacob L. Whitmore, Forest Management Research Staff, (202) 205–1149.

Dated: October 26, 1992.

Mark A. Reimers,

Acting Chief.

[FR Doc. 92–26936 Filed 11–5–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket A(32b1)–6–92]

Foreign-Trade Zone 64, Jacksonville, FL; Request for Processing Authority (Auto Audio Systems)

A request has been submitted to the Foreign-Trade Zones (FTZ) Board pursuant to § 400.32(b)(1) of the Board's regulations for approval of zone processing authority within FTZ 64 in Jacksonville, FL, by Trade Zone Operations, Inc., zone operator. It was formally filed on October 29, 1992.

The proposed activity involves the installation of foreign-sources auto audio components and systems (mainly Delco products from Mexico) into General Motors automobiles assembled abroad. The duty rates for the audio components range from 3.7 to 8.0 percent. Zone procedures would allow the company to pay duties on the installed items when formal Customs entry is made on the finished auto (duty rate 2.5%). The request indicates that zone procedures would encourage installation activity in the U.S. rather than abroad.

Public comment on the proposal is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 23, 1992.

A copy of the application and accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: November 2, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–27027 Filed 11–5–92; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

[A-549-601]

Certain Malleable Cast Iron Pipe Fittings From Thailand; Determination Not To Revoke Antidumping Duty Order

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty order on certain malleable cast iron pipe fittings from Thailand.

EFFECTIVE DATE: November 6, 1992.

FOR FURTHER INFORMATION CONTACT: Gerry Zapiain or Alain Letort, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–3793 or telefax (202) 482–0190.

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1992, the Department of Commerce ("the Department") published in the **Federal Register** (57 FR 40434) a notice of its intent to revoke the antidumping duty order on certain malleable cast iron pipe fittings from Thailand (August 20, 1987, 52 FR 31440). The Department may revoke an antidumping duty order if the Secretary concludes that it is no longer of interest to interested parties. The Department had not received a request to conduct an administrative review of the antidumping order on certain cast iron pipe fittings from Thailand for the most recent four consecutive annual anniversary months.

On October 2, 1992, the petitioner, the Cast Iron Pipe Fittings Committee, objected to the Department's intent to revoke this order. Therefore, we no longer intend to revoke the order.

This administration and notice are in accordance with section 353.25(d)(4) of the Commerce Department's regulations.

Dated: October 30, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92–27028 Filed 11–5–92; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Notice of receipt of application for scientific research permit (P500B).

Notice is hereby given that the Fish Passage Center (FPC), 2501 SW. First Ave., Portland, OR 97201–4752, has applied in due form for a permit to take endangered and threatened species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR part 217–227)

The applicant requests authorization to harass by capture and handling up to 6,410 listed wild Snake River spring/summer chinook (*Onchorhynchus tshawytscha*) yearlings, 166 listed wild Snake River fall chinook (*O. tshawytscha*) subyearlings, and 10 listed wild Snake River sockeye (*O. nerka*). Of these, 5,000 spring/summer chinook will be PIT tagged. The objective of the research is to document the migrational characteristics of downstream migrating juvenile salmon as a basis for present and future mitigation actions regarding provision of flows for migration and the operation of the hydrosystem. These numbers are requested for each year over a five-year period.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Document submitted in connection with the above application are available for review by interested persons in the following offices by appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 8268, Silver Spring, MD 20910, (301) 713–2322); and Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232, (503) 230–5400)

Dated: November 2, 1992.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–27024 Filed 11–5—92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals; Correction

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

ACTION: Correction to application for permit; Cornish Seal Sanctuary (P526).

SUMMARY: In notice document 92–25972 on page 48602 in the issue of Tuesday, October 26, 1992, make the following correction:

Following the introductory paragraph in the Summary, section 3. Number and Name of Marine Mammals, which formerly read, "One California sea lion (*Zalophus californianus*)" should be changed to read, "Two California sea lions (*Zalophus californianus*)."

Section 4., in the first paragraph, first sentence, "one California sea lion" should be changed to "two California sea lions."

Section 4., in the second paragraph, first sentence "Marine mammal" should be changed to "marine mammals" and, in the second sentence, "animal" should be changed to "animals."

Section 4., following the second paragraph, an additional paragraph should be inserted as follows:

In September 1992, the Cape Cod Aquarium ceased to be operated by the Underwater Education Program Corporation. Subsequently, the owners of the facility rejected authorization by NMFS to assume custody of and responsibility for the marine mammals in the inventory of the Cape Cod Aquarium. These marine mammals are currently being cared for on a temporary basis by the New England Aquarium until they can be transferred to other approved facilities.

The NMFS has reviewed the application of the Cornish Seal Sanctuary and has found that it was submitted in conformance with NMFS requirements for an application to transfer marine mammals for display to areas beyond the jurisdiction of the United States (40 FR 11619, March 12, 1975). NMFS is therefore processing this application on a routine basis. However, as noted above there is an urgent requirement to place the animals currently held at the Cape Cod Aquarium as soon as possible. As a result, the NMFS may authorize the transfer of the two sea lions requested by the Cornish Seal Sanctuary, for the protection and welfare of the animals pursuant to § § 109(h) and 112(c) of the Marine Mammal Protection Act, before issuance of the permit.

Dated: November 2, 1992.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-27026 Filed 11-5-92; 8:45 am]

BILLING CODE 3510-22-M

Endangered and Threatened Species; Recovery Planning Guidelines

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

ACTION: Notice of availability.

SUMMARY: NMFS has developed Recovery Planning Guidelines that will be used by the Agency to develop and implement recovery plans under the Endangered Species Act of 1973 (ESA) and conservation plans under the Marine Mammal Protection Act of 1972 (MMPA).

ADDRESSES: Requests for the guidelines should be sent to the Director, Office of Protected Resources, NMFS, 1335 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robert C. Ziobro, Protected Species Management Division, Office of Protected Resources, NMFS at (301) 713-2322.

NMFS is responsible for promoting the recovery of most endangered and threatened marine species and depleted marine mammals. Recovery efforts include (1) assessing the status and trends of the species and identifying important habitats; (2) identifying the factors adversely affecting or impeding recovery of the species; and (3) taking actions to mitigate the factors adversely affecting the species or to otherwise promote the species conservation.

Recovery efforts must not only involve NMFS, but must include a coordinated effort by other Federal agencies, state and local governments, private industry, conservation organizations, and the public. The development and implementation of recovery plans will help combine the programs and expertise of these agencies and organizations into effective recovery efforts.

NMFS has developed guidelines that provide a framework for developing and implementing coordinated recovery programs for endangered, threatened, and depleted marine species under the jurisdiction of NMFS. These guidelines discuss the role of recovery teams, the content of recovery plans, and monitoring and tracking of recovery actions.

Dated: November 2, 1992.

Michael F. Tillman,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-27025 Filed 11-5-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase from People who are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 7, 1992.

ADDRESSES: Committee for Purchase from People who are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 10, August 14, September 11 and 20, 1992, the Committee for Purchase from People who are Blind or Severely Disabled published notices (57 FR 30727, 36640, 41730 and 47743) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the services, fair market price, and the impact of the additions on the current or most recent contractor, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Assembly of Promotional Material, U.S. Information Agency, Washington, DC

Grounds Maintenance, Marine Corps Reserve Center, 75th and Warwick Boulevard, Newport News, Virginia

Janitorial/Custodial, Defense Construction Supply Center, Columbus, Ohio

Janitorial/Custodial, Agricultural Research Service, Southern Plains Range Research Station, 2000 18th Street, Woodward, Oklahoma.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-27015 Filed 11-5-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Addition

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 7, 1992.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a

substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following service to the Procurement List:

Laundry Service, Military Processing Station (MEPS), 1222 Spruce Street, St. Louis, Missouri

Nonprofit Agency: St. Clair Association Vocational, Enterprises, Inc., Belleville, Illinois.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92–27016 Filed 11–5–92; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS). The purpose of the meeting is to review unresolved resolutions made by the Committee at the DACOWITS 1992 Fall Conference; review the Subcommittee Issue Agenda; review the proposed agenda for the DACOWITS 1993 Spring Conference; and discuss issues relevant to women in the Services. All meeting sessions will be open to the public.

DATES: December 7, 1992, 8:30 a.m.–4 p.m.

ADDRESSES: SECDEF Conference Room 3E869, The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Branda M. Weidner, Office of the DACOWITS and Military Women Matters, OASD (Force Management and Personnel), The Pentagon, room 3D769, Washington, DC 20301–4000; telephone (703) 697–2122.

Dated: November 3, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–26986 Filed 11–5–92; 8:45 am]

BILLING CODE 3810–01–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 1, 1992; Tuesday, December 8, 1992; Tuesday, December 15, 1992; Tuesday, December 22, 1992 and Tuesday, December 29, 1992, at 2 p.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20310.

Dated: November 3, 1992.

L.M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–26973 Filed 11–5–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Deferment of Test for the Domestic Interstate Household Goods Program

AGENCY: Military Traffic Management Command, DOD.

ACTION: Notice of change.

SUMMARY: This is a notice of change to the proposed test as published in the **Federal Register** (57 FR 28842, June 29, 1992), Military Traffic Management Command, Directorate of Personal Property, CONUS Automated Rate System (CARTS) Proposed Changes.

Effective immediately the Military Traffic Management Command (MTMC) announces the deferment of test for the Domestic Interstate Household Goods Program.

ADDRESSES: Headquarters, Military Traffic Management Command, ATTN: MTPP–CD, 5611 Columbia Pike, Falls Church, VA 22041–5050.

DATE: November 6, 1992.

FOR FURTHER INFORMATION CONTACT: Ms. Cassandra Butler, Military Traffic Management Command, ATTN: MTPP–CD, 5611 Columbia Pike, Falls Church, VA 22041–5050, telephone (703) 756–1190.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–27034 Filed 11–5–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

DOE Response to Recommendation 92–6 of the Defense Nuclear Facilities Safety Board Concerning the Conduct of Operational Readiness Reviews Throughout the Defense Nuclear Facilities Complex

AGENCY: Department of Energy.

ACTION: Notice and request for public comment.

SUMMARY: Pursuant to section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b), the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 92–6 of the Defense Nuclear Facilities Safety Board, published in the **Federal Register** on September 2, 1992, (57 FR 40181) concerning the conduct of Operational Readiness Reviews throughout the defense nuclear facilities complex.

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before December 7, 1992.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Knuth, Deputy Assistant Secretary for Operations, Defense Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on November 2, 1992.

Mario P. Fiori,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

October 19, 1992.

The Honorable John T. Conway, Chairman, *Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.*

Dear Mr. Conway: Your letter to me dated August 26, 1992, contained Defense Nuclear Facilities Safety Board Recommendation 92–6. I accept your recommendation and share your concerns regarding the Department of Energy (DOE) management of Operational Readiness Reviews (ORRs).

Upon completion of the major ORR conducted prior to the resumption of operations at the Savannah River Site K-Reactor, a comprehensive review was made of our experience with major ORRs performed within the DOE. As a result of the lessons learned from those ORRs, I directed that a model plan be developed for the conduct of ORRs for major new facilities undergoing startup, as well as for the restart of facilities which were shutdown for major safety concerns or had not operated for a significant period of time. In addition, a plan for performing graded ORRs was also to be developed.

We are currently in the process of developing a DOE order on startup and restart of nuclear facilities and a DOE standard on the planning and conduct of ORRs. The order will specify when an ORR is required and what level of approval is necessary for the various types of startups and restarts. The standard on ORRs will establish a uniform process for evaluating the overall readiness of nuclear facilities to be started or restarted. The implementation plan to be developed in response to your recommendation will include schedules for the completion of these controlling documents.

Sincerely,

James D. Watkins,

Admiral, U.S. Navy (Retired).

[FR Doc. 92–27018 Filed 11–5–92; 8:45 am]

BILLING CODE 6450–01–M

DOE Response to Recommendation 92–1 of the Defense Nuclear Facilities Safety Board Concerning Operational Readiness of the HB-Line at the Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice and request for public comment.

SUMMARY: Pursuant to section 315(b) of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2286d(b), the Department of Energy (DOE) hereby publishes notice of a response of the Secretary of Energy (Secretary) to Recommendation 92–1 of the Defense Nuclear Facilities Safety Board, published in the **Federal Register** on May 29, 1992, (57 FR 22732) concerning operational readiness of the HB-Line at the Savannah River Site in the State of South Carolina.

DATES: Comments, data, views, or arguments concerning the Secretary's response are due on or before December 7, 1992.

ADDRESSES: Send comments, data, views, or arguments concerning the Secretary's response to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. Donald F. Knuth, Deputy Assistant Secretary for Operations, Defense Programs, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Issued in Washington, DC, on November 2, 1992.

Mario Fiori,

Departmental Representative to the Defense Nuclear Facilities Safety Board.

October 19, 1992.

The Honorable John T. Conway, Chairman, *Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.*

Dear Mr. Conway: As I wrote you in my September 1, 1992, letter, I committed to provide you a response to Recommendation 92–1 within 30 days of receipt of the Defense Nuclear Facilities Safety Board HB-Line investigative report, which you forwarded on September 14, 1992.

The HB-Line has been the subject of two specific recommendations from the Board: 92–1 and 92–3. In addition, Recommendation 92–6 apparently stems, at least in part, from the Board's assessment of readiness reviews conducted at HB-Line.

I understand satisfactory completion of the Implementation Plan for Board Recommendation 92–3 will resolve many of the issues raised in the HB-Line investigative report. Upon satisfactory completion of the issues necessary for restart as required in the Department of Energy Recommendation 92–3 Implementation Plan and satisfactory completion of HB-Line Operational Readiness Reviews, I will decide when operations at the HB-Line will commence. You will be notified at least 10 days prior to restart as requested in your April 20, 1992, letter.

Those additional issues raised in the investigative report regarding Operational Readiness Reviews, as mentioned in your letter, are addressed in your Recommendation 92–6, Operational Readiness Reviews. The Department will address these issues in its response to Recommendation 92–6, which I will submit to you no later than October 19, 1992.

Recommendation 92–1 requires the Department to defer HB-Line resumption "pending issuance of the report of the Board's investigation, resolution of the issues, and possible further Board action." Now that the investigative report has been issued and given that the issues raised by that report will be resolved before resumption of HB-Line processing, the first two elements of the Recommendation have been fully addressed. With the issuance of the Board's Recommendation 92–3, it appears that the "possible further Board action" of Recommendation 92–1 has occurred. Accordingly, the Department accepts Recommendation 92–1.

Because of the temporary nature of Recommendation 92–1, we believe an implementation plan is not required and further, since no additional actions are required by Recommendation 92–1 we consider Recommendation 92–1 completed.

Our mutual goal is to assure that the public and workers are adequately protected when plutonium processing recommences. As always, we will analyze any future recommendations the Board may choose to issue regarding HB-Line.

Sincerely,
James D. Watkins,
Admiral, U.S. Navy (Retired).
[FR Doc. 92-27017 Filed 11-5-92; 8:45 am]
BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

NICE ³ Pollution Prevention Grants

AGENCY: The Department of Energy (DOE) and the Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Office of Waste Reduction of the Department of Energy and the Pollution Prevention Division of the Environmental Protection Agency are jointly managing a State Grant Program entitled National Industrial Competitiveness through Efficiency, Energy, Environment and Economics (NICE ³). The goals of the NICE ³ Program are to foster new industrial processes and/or equipment that can significantly reduce the generation of wastes in industry, improve energy efficiency and enhance the competitiveness of U.S. industry.

DATES: Applications must be received by April 30, 1993.

FOR FURTHER INFORMATION: Technical Inquiry Service at National Renewable Energy Laboratory (NREL), 1617 Cole Boulevard, Golden, Colorado 80401—Telephone 303-231-7303—for referral to appropriate DOE Support Office.

SUPPLEMENTARY INFORMATION: NICE ³ was created in 1991 as a pilot program for seven States (New York and New Jersey in Region II, Illinois and Ohio in Region V, Texas and Louisiana in Region VI and California in Region IX) to advance competitiveness through pollution prevention while conserving energy. Initial funding was $600,000, with DOE and EPA providing an equal amount of funds. The Office of Waste Reduction and the Office of Pollution Prevention were the two contributors.

The NICE ³ Program continued as a pilot in the same four regions in 1992. $700,000 each was contributed by DOE and EPA for a total of $1.4 million. In 1991, three projects were funded in Ohio, Texas and New York. In 1992, six projects have been funded: three in Ohio, two in California an one in New York.

Availability of FY '93 Funds

With this publication, DOE and EPA are announcing the availability of up to $2.5 million in grant/cooperation agreement funds for fiscal year 1993. This third round of awards will be made through a competitive process. Size of the grant may range up to $400,000 and projects may cover a period of up to 3 years.

Restricted Eligibility

Eligible applicants for purposes of funding under this program include the 50 States, the District of Columbia, the U.S.Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State including State universities, and all Federally-recognized Indian tribes. For convenience, the term State in this notice refers to all eligible applicants. Local governments, private universities, private non-profits, private businesses, and individuals are not eligible. Organizations excluded from applying directly are encouraged to work with eligible applicants in developing proposals that include them as participants in the project. DOE and EPA strongly encourage this type of cooperative arrangement.

The Catalogue of Federal Domestic Assistance number assigned to this program is 81.105. The $2.5 million in Federal funds are provided by DOE and EPA. Cost sharing is required by all participants. The Federal Government will provide up to 50% of the funds for the Project. The remaining funds must be provided by industry and the States. Cost-sharing beyond the 50 percent match is desirable. In addition to direct financial contributions, cost-sharing can include beneficial services or items, such as manpower, equipment, consultants, and computer time that are allowable in accordance with the Federal Acquisition Regulations and industrial partner monies. Industrial partners are required for a proposal to be considered responsive to this announcement and eligible for grant consideration. State involvement is required for a proposal to be responsive.

Eligible Activities

DOE and EPA seek projects that will encourage accelerated industrial development and dissemination of pollution reduction and energy conserving technologies, demonstrate successful industrial applications of innovative waste reduction techniques in conjunction with less polluting, energy-efficient technologies, and enhance industrial competitiveness through the introduction of cost effective waste reduction and energy efficient practices.

Evaluation Criteria

All proposals submitted under this Notice will be evaluated according to the conditions and specifications set forth in this solicitation, including demonstrated need for Federal support.

Review Process

The first tier evaluation will be at the appropriate DOE Support Office. Proposals selected for further consideration will be reviewed by a panel comprised of members representing DOE's Office of Conservation and Renewable Energy, the Environmental Protection Agency, and DOE and EPA field offices. More detailed information is available from NREL. (See telephone number above.)

DOE/EPA reserves the right to fund, in whole or in part, any, all, or none of the proposals submitted in response to this notice.

J. Michael Davis, P.E.,
Assistant Secretary, Conservation and Renewable Energy.
[FR Doc. 92-27019 Filed 11-5-92; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearing and Appeals

Notice of Cases Filed During the Week of October 16 Through October 23, 1992

During the Week of October 16 through October 23, 1992, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: November 2, 1992.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 16 through October 23, 1992]

Date	Name and location of applicant	Case No.	Type of submission
10/16/92	Arco/Islandia Sportfishing, Atlantic Beach, FL	RR304-49	Request for Modification/Rescission in the ARCO Refund Proceeding. If granted: The February 15, 1990 Dismissal Letter (Case No. RF304-10985) issued to Islandia Sportfishing regarding the firm's application for refund submitted in the Arco refund proceeding would be modified.
10/19/92	KOAT—Channel 7, Albuquerque, NM	LFA-0246	Appeal of an Information Request Denial. If granted: The October 5, 1992 Freedom of Information Request Denial issued by the Albuquerque Field Office would be rescinded, and KOAT—Channel 7 would receive access to documents titled "Fiscal Year 91 Construction plan through Fiscal Year 97" and "Site Development Plan Annual Summary."
10/19/92	Nox-Crete, Inc., Omaha, NE	RR272-101	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The June 17, 1992 Decision and Order (Case No. RF272-67171) issued to Nox-Crete, Inc. would be modified regarding the firm's application for refund submitted in the Crude Oil refund proceeding..
10/19/92	James L. Schwab, Spokane, WA	LFA-0245	Appeal of an Information Request Denial. If granted: The September 30, 1992 Freedom of Information Request Denial issued by the Office of Inspector General would be rescinded, and James L. Schwab would receive access to all copies of information regarding the Inspector General's investigation of his complaints about the Tonopah Test Range in Tonopah, Nevada.
10/23/92	Dale E. Wallace, Richland, WA	LFA-0247	Appeal of an Information Request Denial. If granted: The September 21, 1992 Freedom of Information Request Denial issued by the Office of Communications in the Richland Field Office would be rescinded, and Dale E. Wallace would receive access to his personnel records, field file, lab training records, all EEO records and all interview evaluations from Battelle.

REFUND APPLICATIONS RECEIVED

Date received	Name of refund proceeding/name of refund application	Case No.
10/16/92 thru 10/23/92	Texaco Oil Refund Applications Received	RF321-19320 thru RF321-19345
10/16/92 thru 10/23/92	Crude Oil Refund Applications Received	RF272-93908 thru RF272-93926
10/16/92 thru 10/23/92	Gulf Oil Refund Applications Received	RF300-20619 thru RF300-20635
10/16/92 thru 10/23/92	Shell Oil Refund Applications Received	RF315-10261 thru RF315-10273
10/19/92	Dan's Arco	RF304-13338
10/19/92	Sam's Arco	RF304-13339
10/20/92	Al's Auto Supply	RF304-13340
10/20/92	Arco of West Chester	RF304-13341
10/20/92	Art's Arco	RF304-13342
10/20/92	Ben Thomas, Inc.	RF304-13343
10/20/92	Lenny's Arco	RF304-13344
10/20/92	Cross Roads Truck Stop	RF304-13345
10/20/92	Northeast Turnpike Serv. Sta	RF304-13346

[FR Doc. 92-27021 Filed 11-5-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Notice of Cases Filed During the Week of October 2 Through October 9, 1992

During the week of October 2 through 9, 1992, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: November 2, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of October 2 through October 9, 1992]

Date	Name and Location of applicant	Case No.	Type of submission
10/5/92	Keystone Central School District, Paris, TN	RR272-10C	Request for Modification/Recession in the Crude Oil Refund Processing. If granted: The September 4, 1992 Decision and Order (Case No. RF272-80856) issued to Keystone Central School District regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding would be modified.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of October 2 through October 9, 1992]

Date	Name and Location of applicant	Case No.	Type of submission
10/5/92	WPC Companies, Irving, TX	LFA-0241	Appeal of an Information Request Denial. If granted: The September 16, 1992 Freedom of Information Request Denial issued by the Office of Information & Administrative Services Division would be rescinded, and WPC Companies would receive access to certain DOE information.
10/8/92	Gulf/Ogburn Station Gulf, Rural Hall, NC	RR300-207	Request for Modification/Rescission in the Gulf Refund Proceeding. If granted: The June 10, 1992 Decision and Order (Case No. RF300-14210) issued to Ogburn Station Gulf regarding the firm's Application for Refund submitted in the Gulf refund proceeding would be modified.
10/9/92	Haskell R. Brown, Jr., Ladson, SC	LFA-0242	Appeal of an Information Request Denial. If granted: The September 10, 1992 Freedom of Information Request Denial issued by the Office of Naval Reactors would be rescinded, and Haskell R. Brown, Jr. would receive access to all records and documents pertaining to him as requested from the Naval Reactors Representative's Office at Charleston Naval Shipyard.
10/9/92	Texaco/Roy Carberry, Stillwater, OK	RR321-117	Request for Modification/Rescission in the Texaco Refund Proceeding. If granted: The October 1, 1992 Decision and Order (RF321-4433) issued to Roy Carberry regarding the firm's Application for Refund submitted in the Texaco refund proceeding would be modified.

Refund Applications Received

Date received	Name of refund proceeding/name of refund applicant	Case No.
10/2/92 thru 10/9/92	Gulf Oil Refund Applications Received	RF300-20586 thru FR300-20607
10/2/92 thru 10/9/92	Texaco Oil Refund Applications Received	RF321-19282 thru RF321-19317
10/2/92 thru 10/9/92	Atlantic Richfield Applications Received	RF304-13309 thru RF304-13325
10/5/92	Farmers Coop Merchatile of Ser	RF272-93887
10/5/92	Sigmor Corporation	RF272-93888
10/6/92	All Florida Sanitation	RF272-93889
10/6/92	City of Palestine	RF272-93890
10/6/92	Cooper Hosp/Univ Med Center	RF272-93891
10/6/92	Critzas Industries, Inc	RF272-93892
10/6/92	Edwards Baking Co., Inc	RF272-93893
10/6/92	Fedway Associates, Inc	RF272-93894
10/6/92	Hillsdale College	RF272-93895
10/6/92	Independent Pier Company	RF272-93896
10/7/92	Publishers Clearing House	RC272-162

[FR Doc. 92-27020 Filed 11-5-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 2391-001, et al]

Hydroelectric Applications; The Potomac Edison Company, et al

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Filing:* Subsequent License.

b. *Project No.:* 2391-001.

c. *Date Filed:* December 12, 1991.

d. *Applicant:* The Potomac Edison Company.

e. *Name of Project:* Warren Project.

f. *Location:* On the Shenandoah River in Warren County, Virginia.

g. *Filed pursuant:* Federal Power Act, 16 U.S.C., section 791(a)-825(r).

h. *Applicant Contact:* Mr. D.E. Gervenak, Executive Director, Operations, Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601, (412) 838-6835.

i. *FERC Contact:* Hector M. Perez, (202) 219-2843.

j. *Comment Date:* December 21, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D6.

l. *The existing project consists of:* (1) A 15.3-foot-high, 483-foot-long reinforced concrete dam impounding a small reservoir with a storage capacity of 900 acre-feet; (2) a headgate structure and a 350-foot-long headrace at the west end of the dam; (3) a powerhouse containing 3 generating units with a total installed capacity of 750 kW; (4) a 2.8-mile-long, 34.5 kV transmission line; and (4) other appurtenances. Subsequent licenses are defined in 18 CFR 16.2(e).

m. *Purpose of this Project:* The energy generated by the project is integrated into Potomac Edison's system.

n. This notice also consists standard paragraphs B1 and D6.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371. A copy is also available for inspection and reproduction at Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601 (412) 838-6835.

2 a. *Type of Filing:* Major New License.

b. *Project No.:* 2425-001.

c. *Date Filed:* December 12, 1991.

d. *Applicant:* The Potomac Edison Company.

e. *Name of Project:* Luray/Newport Project.

f. *Location:* On the South Fork of the Shenandoah River in Page County, Virginia.

g. *Filed pursuant:* Federal Power Act, 16 U.S.C., section 791(a)–825(r).

h. *Applicant Contact:* Mr. D.E. Gervenak, Executive Director, Operations, Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601, (412) 838–6835.

i. *FERC Contact:* Hector M. Perez, (202) 219–2843.

j. *Comment Date:* December 24, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E1.

l. The existing project comprises the Luray and the Newport Development described below.

The Luray Development consists of: (1) A 21.9-foot-high, 525-foot-long reinforced concrete dam impounding a small reservoir with a storage capacity of 880 acre-feet; (2) a powerhouse at the southeast end of the dam containing 3 units with a total capacity of 1,600 kW; (3) a 1.54-mile-long, 34.5-kV transmission line; and (4) other appurtenances.

The Newport Development consists of: (1) A 28.8-foot-high, 443-foot-long reinforced concrete dam impounding a small reservoir with storage capacity of 1,090 acre-feet; (2) a powerhouse at the northwest end of the dam containing 3 units with a total installed capacity of 1,400 kW; (3) a 70-foot-long, 34.5-kV transmission line; and (4) other appurtenances.

m. *Purpose of this Project:* The energy generated by the project is integrated into Potomac Edison's system.

n. This notice also consists standard paragraphs B1 and E1.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601 (412) 838–6835.

3 a. *Type of Filing:* Major New License.

b. *Project No.:* 2493–006.

c. *Date Filed:* November 25, 1991.

d. *Applicant:* Puget Sound Power & Light Company.

e. *Name of Project:* Snoqualmie Falls.

f. *Location:* On the Snoqualmie River in King County, Washington.

g. *Filed pursuant:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contracts:* Mr. W.J. Finnegan, Vice President, Engineering, Puget Sound Power & Light Company, One Bellevue Center, P.O. Box 97034, Bellevue, WA 98009–9734, (206) 454–6363.

i. *FERC Contact:* Hector M. Perez, (202) 219–2843.

j. *Comment Date:* December 23, 1992.

k. *Status of Environmental Analysis:* This application is not ready for environmental analysis at this time—see attached paragraph E.

l. *The existing project consists of:* (1) A 8.5-foot-high, 217-foot-long concrete and wooden dam 150 feet upstream from the Snoqualmie Falls, with 4.5-foot-high flashboards and lift gates, creating an impoundment with a storage capacity of 390-acre-feet; (2) an intake structure on the south bank of the river about 150 feet upstream from the dam feeding; (3) two 7.5-foot-diameter steel penstocks, in 270-foot-long vertical rock shafts leading to; (3) Plant 1 which is an underground powerhouse containing 5 generating units with a total capacity of 11,000 kW; (4) a 317-foot-long, 115-kV transmission line; (5) an intake structure on the north bank about 50 feet upstream from the dam feeding; (6) a 12-foot-diameter, 1,215-foot-long concrete lined tunnel leading to; (7) a small forebay and then to three 8-foot diameter, 515-foot-long steel penstocks leading to; (8) Plant 2 which is an above ground powerhouse with 2 generating units with a total capacity of 29,250 kW; (9) a 0.5-mile-long, 111-kV transmission line; and (10) other appurtenances. The project has an average annual generation of 256,000 MWH.

The applicant proposes to: (1) Refurbish the dam and add spillway capacity; (2) refurbish the intake structure for Plant 1; (3) replace the existing penstocks to Plant 1 for an 8-foot-diameter steel penstock; (4) replace the 5 existing units in Plant 1 with a new 9-MW unit; (5) abandon the existing and construct a new intake for Plant 2; (6) replace the existing tunnel and penstocks to Plant 2 with a 20-foot-diameter, 250-foot-long vertical shaft and a 1,575-foot-long, 18-foot-high by 18-foot-wide horseshoe concrete-lined tunnel; and (7) upgrade the 2 existing units in Plant 2 and extend the powerhouse to install a new unit for a total capacity of 64,000 kW.

After upgrades and equipment additions, the project would have a total installed capacity of 73 MW with an average annual generation of 381,000 MWH.

m. *Purpose of this Project:* The energy generated by the project is used by the applicant in its system. The applicant is an investor-owned utility company.

n. This notice also consists standard paragraphs B1 and E.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104 Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Pudget Sound Power & Light Company, One Bellevue Center, P.O. Box 97034, Bellevue, WA 98009–9734 (206) 454–6363.

4 a. *Type of Filing:* Subsequent License.

b. *Project No.:* 2509–001.

c. *Date Filed:* December 12, 1991.

d. *Applicant:* The Potomac Edison Company.

e. *Name of Project:* Shenandoah Project.

f. *Location:* On the South Fork of the Shenandoah River in Page County, Virginia.

g. *Filed pursuant:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. D.E. Gervenak, Executive Director, Operations, Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601, (412) 838–6835.

i. *FERC Contact:* Héctor M. Pérez, (202) 219–2843.

j. *Comment Date:* December 21, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D6.

l. *The existing project consists of:* (1) A 15-foot-high, 495-foot-long reinforced concrete dam impounding a small reservoir with a storage capacity of 190 acre-feet; (2) a powerhouse adjacent to the north end of the dam containing 4 generating units with a total installed capacity of 862 kW; (3) a 1.52-mile-long, 34.5 kV transmission line; and (4) other appurtenances. Subsequent licenses are defined in 18 CFR 16.2(e).

m. *Purpose of this Project:* The energy generated by the project is integrated into Potomac Edison's system.

n. This notice also consists standard paragraphs B1 and D6.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Allegheny Power Service Corporation, 800 Cabin Hill Drive, Greensburg, PA 15601 (412) 838–6835.

5 a. *Type of Application:* Subsequent License (see 18 CFR 16.2(e) for definition).

b. *Project* No. 2541–004.

c. *Date filed:* December 18, 1991.

d. *Applicant:* Cascade Power Company.

e. *Name of Project:* Cascade Hydroelectric Project.

f. *Location:* On the Little River, a tributary of the French Broad River, in Transylvania County, North Carolina, near the town of Brevard.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

C.W. Pickelsimer, Jr., President, Cascade Power Company, P.O. Box 1137, Brevard, NC 28712, (704) 884–9011.

Mr. John Boaze, Fish and Wildlife Associates, Inc., P.O. Box 241, Whittier, NC 28789, (704) 497–6505.

i. *FERC Contact:* Ms. Deborah Frazier-Stutely (202) 219–2842.

j. *Comment Date:* December 24, 1992.

k. *Description of Project:* The existing project would consist of: (1) *A* 58-foot-high, 240-foot-long concrete arch dam with a 5-foot-high concrete parapet will with a crest elevation at 2,227 feet msl; (2) a 33-foot-long concrete spillway consisting of 2-inch by 2-inch flashboards, and rods; (3) a 2.3-foot by 4.5-foot rectangular bypass through dam, controlled by a rectangular slide gate; (4) the 64 acre Cascade Lake with a storage capacity of 1,590 feet with a crest elevation at 2,227 feet, msl; (5) an intake structure with rectangular slide gates and a 9.7-foot-wide by 30-foot-long steel bar screen; (6) a 6.35-foot-diameter, 984-foot-long wood stave penstock; (7) a 12.5-foot-diameter, 35-foot-high concrete and brick masonry surge tank; (8) a 5-foot-diameter, 75-f00t-long steel penstock; (9) a brick masonry powerhouse containing two generating units with a combined capacity of 960 kW; (10) a tailrace; and (11) related facilities.

Cascade Power Company maintains the Little River Camping Resort a public fee collecting, recreation area with campsites, water, toilets, bathhouses, a sewage dumping station, camp store, a swimming lake with shoreline play area and boat launching ramp to Cascade reservoir.

The project generates on an average 4,850,000 kilowatthours of energy annually.

l. *Purpose of Project:* Project power is sold to Duck Power Company.

m. *This notice also consists of the following standard paragraphs:* B1, E.

n. *Available Locations of Applications:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

6 a. *Type of Application:* Transfer of License.

b. *Project No.:* 2613–006.

c. *Date Filed:* August 24, 1992.

d. *Applicant:*

Augusta Development Corp., Central Maine Power Co., Madison Paper Industries, Scott Paper Company, Merimil Limited Partnership (transferors).

Edwards Manufacturing Co. (transferee).

e. *Name of Project:* Moxie Project.

f. *Location:* On Moxie Stream, Somerset County, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Donald H. Clarke, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006–5289, (202) 783–4141.

i. *FERC Contact:* Michael Dees (202) 219–2807.

j. *Comment Date:* December 2, 1992.

k. *Description of Project:* On August 24, 1992, the transferors and transferee filed a joint application to transfer transferors' interest in the license for the Moxie Project No. 2613.

The project is currently licensed to Central Maine Power Company, Madison Paper Industries, Scott Paper Company, Merimil Limited Partnership, and Augusta Development Corporation. Augusta Development Corporation sold its interest in the project to Edwards Manufacturing Company in 1989. The applicants state that they inadvertently failed to obtain prior Commission approval of the property transfer.

The proposed transfer will not result in any change in the project. The transferee states that it will comply with all terms and conditions of the license.

l. *This notice also consists of the following standard paragraphs: B, and C.*

7 a. *Type of Filing:* Minor License.

b. *Project No.:* 7589–007.

c. *Date Filed:* April 27, 1985, and amended on December 26, 1991.

d. *Applicant:* John S. Boyer.

e. *Name of Project:* Shingle Creek Project.

f. *Location:* On Shingle Creek in Idaho County, Idaho, partly within the Nezperce National Forest.

g. *Filed pursuant:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Carl L. Myers, Myers Engineering Company, 750 Warm Springs Avenue, Boise, ID 83712, (208) 336–1425.

i. *FERC Contact:* Héctor M. Pérez, (202) 219–2843.

j. *Comment Date:* December 21, 1992.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *The proposed project would consist of:* (1) A 2-foot-high dam at elevation 2,525 feet impounding a reservoir with neglible storage capacity; (2) a 20-inch-diameter, 3,680-foot-long penstock; (3) a powerhouse containing a 300-kW unit; (4) a 200-foot-long transmission line; and (5) other appurtenances. The applicant estimates an average annual generation of 1,300,000 kilowatthours.

m. *Purpose of this Project:* The energy generated by the project would be sold.

n. This notice also consists standard paragraphs A4 and D10.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address in item h above.

8 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11342–000.

c. *Date Filed:* October 1, 1992.

d. *Applicant:* Monia Hydro Corp.

e. *Name of Project:* Monticello Dam Hydro Project.

f. *Location:* On the Maquoketa River, near Monticello, Jones County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas J. Wilkinson, 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* December 23, 1992.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 434-foot-long and 10-foot-high concrete dam; (2) an existing 40-acre reservoir; (3) a new concrete and masonry powerhouse containing a single 320-kW generator; (4) a proposed 180-foot-long, 36-kV transmission line; and (5) appurtenant facilities. The average annual generation would be 1.4 GWh. The applicant estimates that the cost of the studies under the terms of the permit would be $27,000. All power generated would be sold to a local utility company. The site is owned by the Jones County

Conservation Board, Center Junction, IA 52212.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A10, B, C, and D2.

9 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11343–000.

c. *Date Filed:* October 1, 1992.

d. *Applicant:* Rutia Hydro Corp.

e. *Name of Project:* Rutland Mill Dam Hydro Project.

f. *Location:* On the West Ford of the Des Moines River, near Rutland, Humboldt County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas J. Wilkinson, 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* December 23, 1992.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 260-foot-long and 13-foot-high concrete dam; (2) an existing 80-acre reservoir; (3) a new concrete and masonry powerhouse containing a single 700-kW generator; (4) a proposed 200-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities. The average annual generation would be 3.55 GWh. The applicant estimates that the cost of the studies under the terms of the permit would be $27,000. All power generated would be sold to a local utility company. The site is owned by the Huymboldt County Conservation Board, Dakota City, IA 50529.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A10, B, C, and D2.

10. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11347–000.

c. *Date Filed:* October 1, 1992.

d. *Applicant:* Maria Hydro Corp.

e. *Name of Project:* Marble Rock Mill Dam Hydro Project.

f. *Location:* On the Shell Rock River, near Marble Rock, Floyd County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas J. Wilkinson, 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* December 23, 1992.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 160-foot-long and 15-foot-high concrete dam; (2) an existing 55-acre reservoir; (3) a new concrete and masonry powerhouse containing a single 660-kW generator; (4) a proposed 50-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities. The average annual generation would be 2.89 GWh. The applicant estimates that the cost of the studies under the terms of the permit would be $27,000. All power generated would be sold to a local utility company. The site is owned by the City of Marble Rock, IA 50616.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A10, B, C, and D2.

11. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11348–000.

c. *Date Filed:* October 1, 1992.

d. *Applicant:* Mitia Hydro Corp.

e. *Name of Project:* Mitchell Mill Dam Hydro Project.

f. *Location:* On the Cedar River, near Mitchell, Mitchell County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas J. Wilkinson, 300 American Building, 101 Second Street SE, Cedar Rapids, IA 52401, (319) 366–4990.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* December 23, 1992.

k. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 120-foot-long and 20-foot-high concrete dam; (2) an existing 120-acre reservoir; (3) a new concrete and masonry powerhouse containing a single 510-kW generator; (4) a proposed 400-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities. The average annual generation would be 2.24 GWh. The applicant estimates that the cost of the studies under the terms of the permit would be $27,000. All power generated would be sold to a local utility company. The site is owned by the Mitchell County Conservation Board, Osage, IA 50461.

l. *This notice also consists of the following standard paragraphs:* A5, A7, A10, B, C, and D2.

12. a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11349–000.

c. *Date Filed:* October 1, 1992.

d. *Applicant:* Mitchell County, Iowa.

e. *Name of Project:* Mitchell Mill Dam Hydro Project.

f. *Location:* On the Cedar River, near Mitchell, Mitchell County, Iowa.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Milton R. Owen, 415 Lime Kiln Road, R.R. 2, Osage, IA 50461, (515) 732–5204.

i. *FERC Contact:* Ed Lee (202) 219–2809.

j. *Comment Date:* December 23, 1992.

k. *Competing Application:* Project No. 11348–000.

Date filed: October 1, 1992.

l. *Description of Project:* The proposed project would consist of the following facilities: (1) An existing 120-foot-long and 20-foot-high concrete dam; (2) an existing 120-acre reservoir; (3) a new concrete and masonry powerhouse containing a single 510-kW generator; (4) a proposed 400-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities. The average annual generation would be 2.83 GWh. The applicant estimates that the cost of the studies under the terms of the permit would be $27,000. All power generated would be sold to a local utility company. The site is owned by the Mitchell County Conservation Board, Osage, IA 50461.

m. *This notice also consists of the following standard paragraphs:* A8, A10, B, C, and D2.

13 a. *Type of Application:* Transfer of License.

b. *Project No.:* 4627–015.

c. *Date Filed:* July 27, 1992.

d. *Applicant:* Mr. and Mrs. Albert Hunt, Inc. and W.E.A. Baker Creek Inc. (Transferors) and Mr. and Mrs. Albert Hunt and Baker Station Associates L.P. (Transferees).

e. *Name of Project:* Baker Creek.

f. *Location:* On Baker Creek in Humboldt County, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. and Mrs. Albert Hunt, P.O. Box 26, Bridgeville, CA 95526.

i. *FERC Contact:* Michael Spencer at (202) 219–2846.

j. *Comment Date:* December 9, 1992.

k. *Description of the Proposed Action:* Mr. and Mrs. Albert Hunt Inc. and W.E.A. Baker Creek Inc. propose to transfer the license for the Baker Creek Project to Mr. and Mrs. Albert Hunt and Baker Station Associates L.P. The co-transferor (W.E.A. Baker Creek Inc.) has gone out of business and the transfer is needed to insure the continued operation of the facility. The proposed transfer will not result in any changes to the existing development. The Transferor certifies that it has fully complied with the terms and conditions of the license. The Transferee accepts all the terms and conditions of the license and agrees to be bound thereby to the same extent as though he were the original licensee.

l. *This notice also consists of the following standard paragraphs:* B and C.

14 a. *Type of Application:* Transfer of License.

b. *Project No.:* 6689–007.
c. *Date Filed:* September 28, 1992.
d. *Applicant:* Penacook Hydro Associates Briar Hydro Associates.
e. *Name of Project:* Upper Penacook Project.
f. *Location:* On the lower Contoocook River, Merrimack County, New Hampshire.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).
h. *Applicant Contact:* David B. Ward, P.C., Flood & Ward, 1000 Potomac Street, NW., Suite 402, Washington, DC 20007, (202) 298–6910.
i. *FERC Contact:* Mary Golato (202) 219–2804.
j. *Comment Date:* December 4, 1992.
k. *Description of Project:* Penacook Hydro Associates proposes to transfer the Upper Penacook Project No. 6689 to Briar Hydro Associates. The purpose of the transfer is to simplify administration of the project.
l. *This notice also consists of the following standard paragraphs:* B & C.

15 a. *Type of Application:* Surrender of License.
b. *Project No.:* 8121–008.
c. *Date Filed:* October 20, 1992.
d. *Applicant:* Warren B. Nelson.
e. *Name of Project:* Deer Creek Project.
f. *Location:* On lands administered by the Bureau of Land Management and the Bureau of Reclamation, on Deer Creek, a tributary to the Payette River, near the town of Banks, in Boise County, Idaho.
g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Mr. Warren B. Nelson, RTD Hydro Projects, 3410 Montvue Drive, Meridian, Idaho 83642, (208) 888–1280.
i. *FERC Contact:* Mr. Michael Strzelecki, (202) 219–2827.
j. *Comment Date:* December 16, 1992.
k. *Description of the Proposed Action:* On November 11, 1988, a minor license was issued to Warren B. Nelson for the construction, operation, and maintenance of the Deer Creek Project. The project would consist of a 10-foot-high dam, an 11,000-foot-long penstock, a powerhouse with an installed capacity of 383 kW, a 300-foot-long transmission line, and appurtenant facilities.

The applicant requests surrender of the license because the project is not financially feasible. Project construction has not yet begun.

l. *This notice also consists of the following standard paragraphs:* B and C

16 a. *Type of Application:* Minor License.
b. *Project No.:* 11351–000.
c. *Date filed:* October 7, 1992.
d. *Applicant:* Old Columbia Dam Electric Facility.
e. *Name of Project:* Old Columbia Dam Project.
f. *Location:* on the Duck River, Columbia Township, Maury County, Tennessee.
g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).
h. *Applicant Contact:* Debra Whitehead, 841 McCord Hollow Road, Hohenwald, TN 38462, (615) 796–4139.
i. *FERC Contact:* Mary C. Golato (202) 219–2804.
j. *Comment Date:* December 7, 1992.
k. *Description of Project:* The proposed project consists of the following features: (1) An existing dam 22 feet high and 572 feet long; (2) an existing reservoir with a surface area of 80 acres; (3) an existing powerhouse containing two turbine-generating units at a total rated capacity of 800 kilowatts; (4) an existing 0.1-mile, 46-kilovolt transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 4 megawatthours. The dam is owned by the City of Columbia Water and Power Department.

1. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. Initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit will be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to

intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtain by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D6. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (December 21, 1992 for Project Nos. 2391–001 and 2509–001.) All reply comments must be filed with the Commission within 105 days from the date of this notice. (February 2, 1993 for Project Nos. 2391–001 and 2509–001.)

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 28 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (December 21, 1992 for Project No. 7589–007.) All reply comments must be filed with the Commission within 205 days from the date of this notice. (February 2, 1993 for Project No. 7589–007.)

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in the proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

E. Filing and Service of Responsive Documetns—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions. When the application is ready for environmental analysis, the Commission will notify all persons on the service list and affected resource agencies and Indian tribes. If any person wishes to be placed on the service list, a

motion to intervene must be filed by the specified deadline date herein for such motions. All resource agencies and Indian tribes that have official responsibilities that may be affected by the issues addressed in this proceeding, and persons on the service list will be able to file comments, terms and conditions, and prescriptions within 60 days of the date the Commission issues a notification letter that the application is ready for an environmental analysis. All reply comments must be filed with the Commission within 105 days from the date of that letter.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

E1. Filing and Service of Responsive Documents—The application is not ready for environmental analysis at this time; therefore, the Commission is not now requesting comments, recommendations, terms and conditions, or prescriptions.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title "PROTEST" or "MOTION TO INTERVENE;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: November 3, 1992, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26993 Filed 11-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF92-172-000]

Ag-Energy, L.P.; Amendment to Filing

November 2, 1992.

On September 10, 1992, Ag-Energy, L.P. tendered for filing an amendment to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The amendment provides additional information pertaining primarily to the ownership structure of the cogeneration facility.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such motions or protests must be filed by November 16, 1992, and must be served on the applicant. 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26993 Filed 11-5-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM93-4-20-000]

Algonquin Gas Transmission Company; Proposed Changes in FERC Gas Tariff

November 2, 1992.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on October 20, 1992, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed To Be Effective October 21, 1992

15 Rev Sheet No. 21
15 Rev Sheet No. 22
11 Rev Sheet No. 25
15 Rev Sheet No. 26
15 Rev Sheet No. 27
15 Rev Sheet No. 28
15 Rev Sheet No. 29

Algonquin states that the revised tariff sheets listed above are being filed to reduce Algonquin's currently effective sales commodity rates pursuant to its Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA") in Sections 17 and 39, respectively, of the General Terms and Conditions of Algonquin's FERC Gas Tariff. Algonquin further states that the sales commodity rate reflects a decrease of $8.1031 from the rates contained in Algonquin's last Out-of-Cycle PGA filing in Docket No. TQ93-1-20-000, *et al.*, filed on September 16,1992 and approved on October 16, 1992.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-26994 Filed 11-5-92; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-4531-1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 or (202) 260-5075.

Availability of Environmental Impact Statements Filed October 26, 1992. Through October 30, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920420, Draft Supplement, BIA, WA, Swinomish Marina and Support Facilities Development, New Information concerning Design Changes, Approval, COE Section 10/404 Permits and EPA National Pollution Discharge Elimination System Permit, Swinomish Indian Reservation, Skagit County, WA, Due: December 21, 1992, Contact: Ron Eggers (503) 231–6749.

EIS No. 920421, Draft EIS, FHW, WI, WI–TH–29 (Wisconsin Corridors 2020 Project) Improvements, Linking I–94 in eastern Dunn to WI–TH–29/CTH J Interchange in south-central Chippewa, Funding and OCE 404 Permit, Dunn and Chippewa Counties, WI, Due: December 31, 1992, Contact: Robert W. Copper (608) 264–5966.

EIS No. 920422, Draft EIS, USA, AL, KY, MD, IL, CA, Redstone Arsenal Base Realignment, Transfer of Activities from US Army Armament, Munitions and Chemical Command, Rock Island, IL; Lexington-Bluegrass Army Depot, KY; Presidio Army Base, San Francisco, CA and Harry Diamond Laboratories, Adelphi, MD to the Redstone Arsenal Base, Madison County, AL, Due: December 21, 1992, Contact: Glen Coffee (202) 690–2729.

EIS No. 920423, Final EIS, FHW, WI, WI–TH–29 (Ringle-Shawano) Corridor Project, Improvement, Linking I–94 and Minneapolis/St. Paul to Green Bay/Fox River Valley, Funding, Land Acquisition and COE Section 404 Permit, Shawano and Marathon Counties, WI, Due: December 07, 1992, Contact: Robert W. Copper (608) 264–5940.

EIS No. 920424, Draft EIS, BLM, CA, Cajon Crude Oil Pipeline Project, Construction, Operation and Transporation, from the Santa Barbara Channel and the San Joaquin Valley to the Los Angeles Basin, Granting of Right-of-Way Permit, San Bernardino and Los Angeles Counties, CA, Due: January 05, 1993, Contact: Stephen Johnson (714) 697–5233.

EIS No. 920425, Final EIS, DOE, CA, Lawrence Livermore National (LLNL) and Sandia National (SNL) Laboratories, Continued Operation/Construction, Funding, Livermore Valley, City of San Francisco, Alameda and San Joaquin Counties, CA, Due: December 07, 1992, Contact: Anthony J. Adduci (510) 273–4193.

EIS No. 920426, Final EIS,, VAD, OH, Cleveland Area National Cemetary Construction and Operation, Site Selection, Franklin, Concord and Guilford Townships, North Ridgeville and Massillon Cities, Summit, Lake, Lorain, Stark and Medina Counties, OH, Due: December 07, 1992, Contact: Michael Mersky (202) 233–7088.

EIS No. 920427, Final EIS, MMS, AL, LA, MS, TX, 1993 Central and Western Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Lease Sales No. 142 and No. 143, Lease Offerings, offshore AL, LA, TX and MS, Due: December 07, 1992, Contact: Richard H. Miller (703) 787–1665.

EIS No. 920428, Draft EIS, COE, NC, Carolina Beach and Vicinity/Area South Project, Beach Erosion Control and Hurricane Wave Protection, Implementation, New Hanover County, NC, Due: December 21, 1992, Contact: Daniel Small (919) 251–4730.

EIS No. 920429, Draft EIS, DOE, TX, MS, LA, AL, Strategic Petroleum Reserve Expansion Plan, Implementation and Site Selection, Brazoria and Jefferson Counties, TX; Iberia and St. Mary Parishes, LA or Perry County, MS with Associated Pipeline and Terminals located in several counties and parishes of TX, LA, MS and AL, Due: December 29, 1992, Contact: Hal Delaplane (202) 586–4730.

Amended Notices

EIS No. 920258, Draft EIS, NPS, WA, Hanford Reach of the Columbia River Comprehensive River Conservation Study, Designation or Nondesignation, National Wildlife Refuge with Wild and Scenic River Overlay, Benton, Grant and Franklin Counties, WA, Due: November 09, 1992, Contact: Bob Karotko (206) 553–4720. Published FR 07–10–92—Review period extended.

Dated: November 2, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–26990 Filed 11–5–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4531–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 19, 1992 through October 23, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in **Federal Register** dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D–FHW–J40127–UT Rating EC2, West Valley Highway Transportation Improvement, 9000 South to 126000 South, Funding and Right-of-Way Acquisition, Salt Lake County, UT.

Summary: EPA is concerned that the EIS does not contain sufficient information to fully assess environmental impacts to water quality that should be avoided and specific mitigation methods to minimize those impacts.

ERP No. D–USN–K12007–00 Rating LO2, U.S. Naval Observatory Optical Interferometer Project, Construction, Operation and Site Selection, Anderson Peak and Chews Ridge in Los Padres National Forest, Monterey County, CA or U.S. Naval Observatory Station in Flagstaff County, AZ.

Summary: EPA recommended that the FEIS add information concerning the project's conformity under the Clean Air Act, threatened and endangered species, and seismic activity.

Final EISs

ERP No. F–AFS–K65128–CA Duncan/Sunflower Timber Sales, Implementation, Duncan Canyon, Tahoe National Forest, Foresthill Ranger District, Placer County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal letter was sent to the preparing agency.

ERP No. F–AFS–L65149–OR Bergan Fire Salvage Timber Sale and other Fire Recovery Projects, Silver Creek Wild and Scenic River Designation, Implementation, Snow Mountain Ranger District, Ochoco National Forest, Harney County, OR.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–AFS–L65159–OR Canyon Integrated Resource Project, Resource Management Plan, Implementation, Siskiyou National Forest, Illinois Valley Ranger District, Josephine County, OR.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–FAA–J51011–UT Salt Lake City International Airport Expansion, Construction and Operation, Air Carrier Runway 16R/34L, Plan Approval, Funding and Section 404 Permit Issuance, Salt Lake City, Salt Lake County, UT.

Summary: EPA had no objection to the Final environmental impact statement.

ERP No. FS–AFS–J65097–00 Norbeck Wildlife Preserve Land Management Plan, Implementation, Additional Information, Black Hills National Forest Land and Resource Management Plan, Custer and Pennington County, SD.

Summary: EPA had no significant concerns with the proposed action.

ERP No. FS–COE–G36145–NM Rio Grande Floodway Flood Protection Plan, San Acacia to Bosque del Apache Unit, Updated Information, Implementation and Section 404 Permit, Elephant Butte Reservoir, Socorro County, NM.

Summary: The FEIS adequately responded to EPA comments issued on the Draft EIS.

ERP No. F1–AFS–J67004–MT Stillwater Valley Platinum-Palladium Mining and Milling Project, Operation Approval, Custer National Forest, Stillwater County, MT.

Summary: EPA had environmental concerns over the complete lack of disclosure of the water management plan and of potential reclamation problems. EPA's comments were not completely addressed in the FEIS.

Regulations

ERP No. R–FAA–A88023–00 Proposed Advisory Circular 91–53A, Noise Abatement Departure Profiles, (Proposed Rulemaking) (57 FR 153).

Summary: EPA recommended use of the close in procedure for all airports except for category A airports which should use the distant procedure. EPA also recommended that noise analysis outside the DNL 65 dB contour be reviewed and that the use of the 3,000 feet criterion be used on a case-by-case basis.

Dated: November 2, 1992.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 92–26991 Filed 11–5–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL 4531–9]

Public Meeting To Discuss Environmental Requirements on Local Governments and Small Communities

On November 19–20, 1992, EPA will meet with local and state officials, public interest groups and environmental groups to discuss environmental requirements for local governments and small communities. The purpose of the meeting is to gather additional facts and exchange information regarding problems local governments and small communities face implementing environmental regulations.

Participants will meet in workgroups on November 19 to discuss issues of financing local government environmental services and infrastructure; regulator flexibility, intergovernmental coordination and priority-setting at the local level; and data and information on the costs and benefits of environmental regulation. Workgroup leaders and EPA are preparing discussion papers for distribution at the meetings. An agenda for the November 20 plenary will be developed that day based on workgroup proceedings.

All interested parties are invited to attend. Please call Mr. Lou Kerestesy at the Office of Regional Operations and State/Local Relations, 202–260–3670 for the meeting times and location. Meeting minutes can also be obtained by requesting them in writing from Mr. Kerestesy at U.S. EPA, H–1501, 401 M Street SW., Washington, DC 20460.

Dated: November 3, 1992.

Laurie D. Goodman,

Associate Administrator, Office of Regional Operations and State/Local Relations.

[FR Doc. 92–27006 Filed 11–5–92; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4531–3]

Recognition of Outstanding Agency Achievement in Complying With the National Environmental Policy Act of 1969

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to its authority under section 309 of the Clean Air Act, EPA has recognized three agencies for excellence in implementing the National Environmental Policy Act of 1969 (NEPA). The Forest Service of the U.S. Department of Agriculture was acknowledged for two projects, the Personal Use Firewood Program at the Wenatchee National Forest, Wenatchee, WA, and the Grouse Creek Mining Project at the Challis National Forest, Clayton, ID; the U.S. Army Corps of Engineers, Philadelphia District, was acknowledged for the Delaware River Comprehensive Navigation Study and Main Channel Deepening Project; and the U.S. Postal Service was recognized for the overall compliance program at the Northeast Region Facilities Services Center. EPA has nominated each of these to the Council on Environmental Quality so that they might be considered among other projects and programs for possible Federal Environmental Quality Awards.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon Cunniff, Office of Federal Activities (A–104), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; Telephone, 202–260–5067.

Dated: October 30, 1992.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 92–26992 Filed 11–5–92; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–59952; FRL–4173–8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 3 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–1, 93–2, 93–3, October 27, 1992.

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 on the PMNs 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.

Y 93-1

Manufacturer. Electrocal Inc.

Chemical. (G) Polyesterdiol, polymer with diisyanate and diaminoalkane.

Use/Production. (S) Industrial adhesive, laminating. Prod. range: 5,000–15,000 kg/yr.

Y 93-2

Manufacturer. Construction Products Div.

Chemical. (S) 2-Propenoic acid, polymer with methyloxirane polymer, with oxirane; monobutylether; 20% acrylic acid with 80% polyalkoxylated.

Use/Production. (S) Concrete admixture. Prod. range: 84,000–368,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (rat). Eye irritation: moderate species (rabbit). Skin irritation: none species (rabbit).

Y 93-3

Manufacturer. Confidential.

Chemical. (G) Hydroxy functional acrylic polymer.

Use/Production. (S) Binder in primer coating. Prod. range: Confidential.

Dated: October 22, 1992.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-27007 Filed 11-5-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPT-59314; FRL 4175-6]

Certain Chemicals; 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 2 application for exemption, provides a summary, and requests comments on the appropriateness of granting these exemptions.

DATES:

Written comments by:

T 93-1, October 31, 1992.
T 93-2, November 1, 1992.

ADDRESSES: Written comments, identified by the document control number "(OPPT-59314)" 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.

T93-1

Close of Review Period. November 14,1992.

Manufacturer. Confidential.

Chemical. (G) Modified polyphenyl sulfone.

Use/Production. (S) Incorporated into medical devices. Production range: Confidential.

Toxicity Data. Mutagenicity: negative.

T93-2

Close of Review Period. November 15, 1992.

Manufacturer. Confidential.

Chemical. (G) Ortanoaluminum compound.

Use/Manufacturer. (G) Contained destructive use. Production range: Confidential.

Dated: October 22, 1992.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-27008 Filed 11-5-92 8:45 am]

BILLING CODE 6560-50-F

[FRL-4530-8]

Allen County Area Combined Aquifer System, Ohio; Sole Source Aquifer Petition Final Determination

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination

SUMMARY: Notice is hereby given that, under subsection 1424(e) of the federal Safe Drinking Water Act, the U.S. Environmental Protection Agency (EPA) Regional Administrator has determined that the petitioned portion of the combined aquifer system within Allen, Auglaize, Mercer, Putnam, and Van Wert Counties in northwestern Ohio, hereafter called the Allen County Area Combined Aquifer System (ACACAS), is the sole or principal source of drinking water in the petitioned area and that this aquifer, if contaminated, would create a significant hazard to public health. As a result of this action, all federal financially assisted projects proposed within the ACACAS designated area and its recharge zone will be subject to EPA's review to ensure that these projects are designed and constructed so that they do not create a significant hazard to public health.

EFFECTIVE DATE: This determination will be effective as of September 14, 1992.

ADDRESSES: The data on which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region 5, Ground Water Protection Branch, 77 West Jackson Boulevard, 5WG-16J, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Anna Miller, Sole Source Aquifer Coordinator, Ground Water Protection Branch, U.S. EPA, Region 5, at 312/886-7060.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Subsection 1424(e) of the Federal Safe Drinking Water Act (Pub. L. 93-523, as amended) states if the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal financial assistance may, if authorized under another provision of law, be entered into

to plan or design the project to assure that it will not so contaminate the aquifer.

(Note: Effective March 9, 1987, authority to make a sole source aquifer designation determination was delegated to the U.S. EPA Regional Administrator.)

II. Petition Background

In October 1990, EPA received a petition from Spencerville Dumpbusters, Inc. (the petitioner) which described a primary and secondary proposed area for designation; on July 26, 1991, EPA received additional information requested of the petitioner, and the petition was determined to be complete. To ensure a hydrogeologically defensible boundary, EPA revised the boundary of the proposed designated area to include the secondary petition area. Subsequent information on boundaries were submitted by the petitioner and discussed with EPA. EPA modified this second petitioner-generated map to arrive at a final boundary for designation.

III. Public Participation and Comment

On October 13, 1991, EPA published a 30-day public notice of the proposed SSA designation in a local newspaper, the *Lima News*. Of the 17 written comments submitted in response to this notice, 13 requested that a public meeting and hearing be held to discuss the proposed designation. Therefore, a combined public informational meeting and hearing was held in Lima, Ohio, on December 17, 1991, which was attended by about 90 people. A total of 49 comments were received from 35 persons during the three-month public comment period. A responsiveness summary addressing comments, dated March 2, 1992, was provided to those who commented.

IV. Basis for Determination

Among the factors to be considered by EPA in connection with the designation of an aquifer under Subsection 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water, and (2) Whether contamination of the aquifer would create a significant hazard to public health. On the basis of technical information reasonably available to EPA, the Regional Administrator has made the following findings which are the basis for the determination noted above:

1. The ACACAS currently serves as the sole source of drinking water for approximately 90% of the 30,000 residents of Allen, Auglaize, Mercer, Van Wert, and Putnam Counties.

2. There is no existing alternative drinking water source or combination of sources which provides 50 percent or more of the drinking water to the designated area, nor is there any technically and economically feasible potential source or combination of sources capable of replacing the drinking water needs of the communities and individuals that presently rely on the aquifer.

V. Description of the Allen County Area Combined Aquifer System: Hydrogeology; Use; Recharge; Boundaries

The ACACAS SSA is a combined aquifer system consisting of a carbonate bedrock aquifer (dolomite and limestone) of Silurian geologic age and the overlying unconsolidated materials of glacial origin deposited about 12,000 years ago during the most recent episode of glaciation of the North American continent. The glacier left behind a heterogeneous deposit of rocks, gravel, sand, silt, and clay, called till. The till ranges in thickness from 0 to 50 feet or more, generally increasing from north to south within the designated area. The bedrock aquifer is comprised of three major lithologic units. From bottom to top they are: The Lockport Group, the Greenfield Formation, and the Tymochtee Formation. The thicknesses of these three units in the petition area average approximately 190, 45, and 100 feet or less, respectively. Underlying the Lockport dolomite is the relatively impermeable Rochester shale, which transmits very little water and thus is considered an aquitard.

The aquifer system is recharged primarily by precipitation percolating downward through the unconsolidated deposits into the dolomite bedrock. Most wells in the area draw ground water from the upper 50 feet of the bedrock aquifer. In some areas, however, sand and gravel lacustrine deposits and sandier portions of the glacial till (e.g., former beach ridges and sandy lenses within the till) are tapped by shallow wells which provide sufficient water for local needs. The upper bedrock aquifer and the localized unconsolidated aquifers may be considered one system inasmuch as they both share essentially the same recharge area.

This aquifer system supplies ground water for human, agricultural, and livestock needs. Total ground water withdrawal from public and private water supply wells tapping the ACACAS is estimated to average approximately 3 to 4 million gallons per day. This resource is the most technically and economically feasible source of drinking water in the area. In fact, over 90 percent of the water used in the designated area in drawn from the ACACAS. The ACACAS is recharged primarily by precipitation infiltrating from the land surface.

Maps of the designated area are available from the U.S. EPA, Region 5, Ground Water Protection Branch.

VI. Alternative Sources

Comparative analyses were conducted of the technical and economic feasibility of possible alternative drinking water sources to the ACACAS. Cost analyses were performed for all of these potential alternative sources. The costs for water distribution system and/or treatment plant improvements would far exceed SSA guidance thresholds for economic feasibility. Therefore, these sources are not feasible alternatives to the water presently supplied by the ACACAS.

VII. Information Used in the Determination

The information used in this determination includes the petition, published State and federal reports, maps, and various technical publications. The petition file is available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region 5, Ground Water Protection Branch, 77 West Jackson Boulevard, 16th Floor, Chicago, Illinois 60604.

VIII. Project Reviews

EPA—Region 5 has Memoranda of Understanding (MOU) with other federal agencies which may in the future provide financial assistance to projects in the ACACAS designated area. Relevant MOUs will be updated to include the ACACAS designated area.

Interagency procedures have been developed through which EPA will be notified of proposed commitments of funding by federal agencies for projects which could contaminate the ACACAS. EPA will evaluate such projects and, where necessary, conduct in-depth reviews, including solicitation of public comments where appropriate. Should the Administrator determine that a project may contaminate the aquifer through its recharge zone so as to create a significant hazard to public health, no commitment of federal financial assistance may be made. However, a commitment of federal financial assistance, if authorized under another provision of law, may be made to plan or redesign the project to assure that it will not contaminate the aquifer.

Although the project review process cannot be delegated, EPA will rely to the maximum extent possible on existing or future State and local control mechanisms to protect the ground water quality of the ACACAS. Included in the review of any federal financially assisted project will be coordination with State and local agencies. Their comments will be given full consideration, and the federal review process will attempt to complement and support State and local ground water protection mechanisms.

IX Conclusion

Today's action provides for a review by EPA of federally financially assisted projects proposed within the designated area for their potential to impact ground water.

Dated: September 14, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92-26895 Filed 11-5-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

[Docket No. R-0767]

Factors for Evaluating Reserve Bank Requests to Withdraw from a Priced Service Line

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy Statement.

SUMMARY: The Board has adopted factors that it will use as part of its analytical framework for evaluating Federal Reserve Banks' requests to withdraw from a priced Federal Reserve service line; normally, these factors would be applied after a Reserve Bank determines that it can no longer comply with the Board's pricing principles. These factors were developed to provide the Board with a consistent methodology for reviewing withdrawal proposals so that any public policy issues arising from such proposals receive appropriate consideration. These factors are unchanged from the factors proposed by the Board in July 1992.

EFFECTIVE DATE: October 29, 1992.

FOR FURTHER INFORMATION CONTACT: Charles W. Bennett, Assistant Director (202/452-3442), or Donna A. DeCorleto, Program Leader (202/452-3956), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washingotn, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Monetary Control Act of 1980 requires that the Federal Reserve price the services it provides to depository institutions in order to recover the costs incurred in providing those services over the long run. The legislative history of the Act indicates that, inter alia, Congress sought to encourage competition in order to assure provision of these services at the lowest cost to society; consequently, Congress charged the Board with adopting pricing principles that "give due regard to competitive factors and the provision of an adequate level of services nationwide."

The Board subsequently adopted pricing principles that incorporate both the specific statutory requirements of the Act and provisions intended to fulfill its legislative intent (46 FR 1338, January 6, 1981). The principles require, among other things, that services be explicitly priced, that fees be based on all direct and indirect costs actually incurred in providing the services, and that fees be set so that revenues for major service line categories match costs over the long run. If, in the interest of providing an adequate level of services nationwide, the Board determines to authorize a below-cost fee schedule for a service, the pricing principles require that the Board announce its decision. Finally, the principles direct that service arrangements and fee schedules be responsive to the changing needs for services in particular markets.

The pricing principles established an important foundation for the conduct of priced services, but did not specifically address the issues that should be considered when a service no longer could comply with the principles. The Board believes that a consistent methodology for reviewing Reserve Bank proposals to withdraw from a priced service line is needed to ensure that any public policy issues arising from such proposals receive appropriate consideration. Accordingly, the Board requested comment on the following five proposed factors that it would use to evaluate Federal Reserve Bank proposals to withdraw from a priced service line; application of these withdrawal factors would generally be triggered by a failure to achieve full-cost recovery over the long run (57 FR 31203, July 14, 1992).

Withdrawal Factors

1. It is likely that other service providers would supply an adequate level of the same service (i.e. access, price, and quality) in the relevant market(s) if the Federal Reserve withdraws from the service.

As noted above, Congress, in requiring that the Federal Reserve price its services, was attempting to encourage competition, provision of services at the lowest cost to society, and nationwide availability of an adequate level of service. This factor considers whether other service providers are likely to supply an adequate level of the same service in terms of access, price, and quality. Restricted access, prices significantly higher than Reserve Bank full-cost-based fees, or material degradation in the quality of service would weigh in favor of the Reserve Banks continuing to provide the service. A relevant market would be the region that is accessible to the depository institution using the service at a cost and within a time frame that is reasonable for the service involved.

2. If other service providers are not likely to provide an adequate level of the same service in the relevant market(s), it is likely that users of the service could obtain other substitutable services that could reasonably meet their needs.

A substitutable service would be an alternative service that would achieve the same or a comparable outcome for the service user at a cost commensurate with that service. For example, providing access to a securities depository could be considered a substitutable service to providing definitive securities safekeeping on premises. The existence of adequate substitutable services would weigh in favor of Reserve Banks withdrawing from the service even if adequate levels of the service were not available from alternate sources.

3. Withdrawal from the service would not have a material, adverse effect on the Federal Reserve's ability to provide an adequate level of other services.

A material, adverse effect would be any consequence of withdrawal that would seriously impede or undermine the Federal Reserve's ability to provide an adequate level of other services. For example, if withdrawal from one service caused a shift of large overhead costs to another service, it could necessitate a fee increase large enough to affect adversely the provision of that other service. These circumstances would

weigh in favor of the Reserve Banks continuing to provide the service.

4. Withdrawal from the service would not have a material, adverse effect on the Federal Reserve's ability to discharge other responsibilities.

A material, adverse effect would be any consequence of withdrawal that would seriously impede or undermine the Federal Reserve's ability to discharge its other responsibilities as central bank or fiscal agent of the United States. For example, if Federal Reserve withdrawal from a payment service would seriously jeopardize its ability to carry out its fiscal agency responsibilities, this circumstance would weigh in favor of the Reserve Banks continuing to provide the service.

5. The public benefits of continued Federal Reserve provision of the service do not outweigh the benefits of withdrawing from the service.

The Board would consider whether there was any other public benefit, not addressed under the previous factors, that could be achieved through continued provision of the service. If any could be identified, the Board would consider whether the public benefit outweighed the withdrawal benefits.

Summary of Comments

The Board received 15 comments on this proposal: six from commercial banks or bank holding companies, two from credit unions, three from trade associations, and four from Federal Reserve Banks. Nine commenters, including two depository institutions, the four Reserve Banks, and the three trade associations, supported the use of some or all of the proposed factors in evaluating a Reserve Bank's request to withdraw from a priced service line. These commenters believe the proposed methodology was prudent, would ensure that all relevant issues are considered, and should ensure a balance between the Reserve Banks' pricing requirements under the Monetary Control Act and the needs of banks that use services provided by Reserve Banks.

Of the six remaining depository institution commenters, four were opposed and two expressed concerns about certain aspects of the proposal. Of the four commenters who opposed the proposal in its entirety, only one did so on the basis of the specific factors. That commenter believed that the framework, particularly the first two factors, does not lend itself to objective measurement and suggested that the only method of determining whether "adequate levels of the same service" or "substitutable services" exist is to survey the institutions using the service. This commenter further suggested that withdrawal from a service line be conditioned on approval by the users of that service. The Board believes that input from Federal Reserve Banks, commenters, and industry representatives generally would be sufficient to determine the adequacy of levels of that service or the availability of alternate services. In addition, interested parties generally would have the opportunity to raise concerns related to a proposed withdrawal from a service line via the comment process, as discussed below.

The remaining three commenters opposed to the proposal did not address the specific factors. One commenter stated that the Federal Reserve is an unfair competitor and that the Board should evaluate a Reserve Bank's request to withdraw from a service line purely on a cost recovery basis. Another commenter stated that Federal Reserve Banks should offer more services, not fewer, while the third commenter suggested that the Federal Reserve Banks should not reduce their service offerings at this time since they have been reliable service providers during a period of instability for the industry. The Board believes that the five factors, coupled with the existing pricing principles, address all of these concerns in a manner consistent with the MCA.

Three commenters suggested that each of the five factors should be "weighted" according to its relative importance. One commenter stated that the first two factors were of paramount importance given the need to preserve the competitiveness of the private sector, while another commenter suggested that the Board limit its analysis to only the first two factors. Conversely, a trade association representing community banks commented that the last factor, regarding the public benefit of remaining in a priced service, should be the prevailing factor. The Board believes that all five factors are essential to a complete analysis and that it is not necessary to assign relative weights to each factor.

While agreeing with the factors in general, one Reserve Bank did not feel that the same standards need apply for both locally and nationally priced service lines, especially when the service is not System interdependent. The Board does not believe that different sets of factors should apply to different service lines. The Board believes that the scope of the proposed factors is sufficient to address the unique aspects of any service line.

Accordingly, the Board, after considering the comments received, has adopted the five factors as originally proposed. If the Board determines, after applying these factors, that withdrawal from a service line is inappropriate, the Board's pricing principles, including the principles applicable to cost recovery, will continue to apply to the service.

The majority of commenters discussed the administration of the factors rather than the factors themselves. Five commenters opposed the Board's proposal to request comment only the first time a Federal Reserve Bank or Banks propose withdrawing from a priced service line. They suggested that comment should be requested each time a proposal to withdraw from a priced service line is considered in order to allow affected parties, who had not previously commented because they were not concerned or affected by another Reserve Bank's withdrawal, the opportunity to comment. While the Board believes that it should not be required to request comment each time it considers a Reserve Bank proposal to withdraw from a particular priced service line, it may request comment on a proposed withdrawal, even though comment had previously been requested regarding withdrawal from that service line, when circumstances warrant. For example, additional comment may be useful in cases where considerable time has passed since the Board's last request for comment on withdrawal from that service line and business conditions have changed in the interim. To encourage broad comment in situations where only selected Reserve Banks proposed to withdraw from a priced service line, the Board would request comment both on the implications of the specific proposed withdrawal, as well as any additional issues that may arise if additional Reserve Banks withdrew from that service in the future.

Four commenters expressed concern that the proposed minimum 60-day transition period from Board approval of a request to withdraw from a Federal Reserve priced service line to the discontinuation of that service is not sufficient to enable users and other providers of the service a reasonable period of time to prepare for the change. The minimum 60-day transition period would be used only when it is clear that this time frame would not cause unnecessary inconvenience for service users and other service providers; otherwise a longer transition period would be provided. For example, the Board has provided for a transition period of at least eight months for the withdrawal from the priced definitive securities safekeeping service. (See

Docket R-0768, elsewhere in today's Federal Register.)

In view of these comments, the Board will request comment the first time a Reserve Bank or Banks propose to withdraw from a priced Federal Reserve service line, may request comment on subsequent withdrawal proposals when circumstances warrant, even though comment had previously been requested regarding withdrawal from that service line, and will require its approval of all Reserve Bank requests to withdraw from a priced Federal Reserve service line. The Board will provide at least a 60-day transition period following approval of the withdrawal from a service line to enable users and other providers of the service a reasonable period of time to prepare for the change; longer transition periods would be provided when warranted.

Three commenters expressed concern that adoption of the proposed withdrawal factors could signal a decline in the Federal Reserve's operational role in the payments system. Except for the proposal to withdraw from the priced definitive securities safekeeping service, the Board does not anticipate any other Federal Reserve Bank proposal to withdraw from a priced service line in the foreseeable future.

By order of the Board of Governors of the Federal Reserve System, November 2, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-26988 Filed 11-5-92; 8:45 am]

BILLING CODE 6210-01-F

[Docket No. R-0768]

Withdrawal From Priced Definitive Securities Safekeeping Service

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy Statement.

SUMMARY: The Board has approved the Federal Reserve Banks' proposal to withdraw from the priced definitive securities safekeeping service by year-end 1993. This withdrawal eliminates all priced safekeeping, including the safekeeping of definitive securities pledged to state and local governments; it does not affect the safekeeping of collateral pledged to the discount window, to the Treasury Department, or to Federal Government agencies. Secondary market purchase and sale of securities, which is currently included in the definitive securities service line, will continue to be offered but will be included under another service line after 1993. Fees for definitive securities safekeeping will remain at their 1992 levels until withdrawal is completed. The Federal Reserve Banks will not assess a fee for the withdrawal and shipment of securities held in priced accounts to the successor custodian chosen by the depositing institution.

DATES: Withdrawal will be completed by all Federal Reserve Banks by December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Charles W. Bennett, Assistant Director (202/452-3442), or Donna A. DeCorleto, Program Leader (202/452-3956), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The definitive securities service line consists of the definitive securities safekeeping service and the purchase and sale service. Definitive securities safekeeping consists of the storage of certain types of physical securities, such as registered and bearer municipal securities, mortgage certificates, and other commercial paper, that are ineligible for Federal Reserve Bank book-entry securities safekeeping.[1] The purchase and sale service consists of performing secondary market securities purchases and sales on behalf of depository institutions. All of the Federal Reserve Banks, with the exception of the Federal Reserve Bank of San Francisco, offer the priced definitive securities safekeeping service and most Federal Reserve Banks also offer the purchase and sale service. From the inception of pricing in 1981, the long-term role of the Federal Reserve Banks in priced definitive securities safekeeping was uncertain because the industry was slowly moving its municipal securities, which represented the bulk of Federal Reserve Bank priced vault holdings, to depositories to facilitate secondary market trading and settlement of these securities. (Similarly, the purchase and sale service was evolving from the purchase and sale of definitive and book-entry securities to primarily book-entry securities.) In 1982, Congress passed the Tax Equity and Fiscal Responsibility Act which, in effect, eliminated the Federal tax advantages for bearer municipal securities issued after July 1, 1983. This change essentially shifted the demand for new issues of municipal securities from bearer, definitive form to book-entry form; the Federal Reserve Banks do not offer book-entry municipal securities safekeeping. As a result, as the municipal securities held in Federal Reserve Bank vaults matured or were moved to depositories, they were not replaced by new definitive securities. Consequently, the volume of priced definitive securities safekeeping holdings steadily declined and per-deposit costs began to rise. Federal Reserve Banks continued their on-going efforts to contain safekeeping costs, but a large portion of the cost associated with operating a securities vault is fixed. Eventually, declining volume and high fixed costs necessitated fee increases in order to achieve full-cost recovery; however, in 1991 it became evident that further fee increases would only accelerate withdrawals.

Total Federal Reserve Bank holdings in priced definitive securities safekeeping declined by 65 percent between 1987 and 1991. Through cost containment efforts, higher fees, and revenue generated by vault withdrawals, the Federal Reserve Banks in total were able to achieve full-cost recovery for the definitive securities service line until 1991, when the recovery rate declined to 91 percent. The recovery rate for the definitive securities service line in 1992 is estimated to be 80.2 percent; gross revenue for 1992 is projected to be $3.3 million. The definitive securities safekeeping service is projected to comprise 81 percent of the service line's total 1992 costs, but only 77 percent of its total revenue.

Proposal to Withdraw from Definitive Securities Safekeeping

Given the definitive securities safekeeping service's declining volume and its negative effect on the service line's recovery rate, the Federal Reserve Banks evaluated several alternatives. One alternative considered was for the Federal Reserve Banks to join a depository and offer depository access. This alternative would have enabled the Federal Reserve Banks to achieve full-cost recovery and would have promoted securities immobilization at a depository. The Federal Reserve Banks concluded that this alternative, however, did not meet two of the Board's criteria for establishing new services or major service enhancements. Specifically, offering depository access would not provide a clear public benefit,

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[1] A book-entry security is a certificate-less security represented by an accounting entry maintained electronically on the books of the security issuer or the issuer's agent.

given the small market share of eligible definitive securities held by the Federal Reserve Banks. In addition, depository access is widely available either directly or indirectly through depository participants. Therefore, this service enhancement would not meet the criterion that the enhancement be one that other providers alone cannot be expected to provide with reasonable effectiveness, scope, and equity.

The Federal Reserve Banks also considered consolidating the priced definitive securities safekeeping service at one location. The Reserve Banks did not believe that consolidation would yield substantial cost savings, based on the savings realized by Reserve Banks that had previously consolidated this service within their districts, as well as the large one-time cost to ship the securities to the consolidation site. The Reserve Banks believed that consolidation would result in safekeeping withdrawals by depository institutions that chose a Reserve Bank as custodian due to the Reserve Bank's physical proximity to them. This volume decline, in addition to the existing reductions in volume, would exacerbate the under recovery of the costs of providing this service.

A third alternative considered was to increase fees further to offset the revenue lost through declining volume. This alternative had been successful until 1991, when the Federal Reserve Banks did not achieve full-cost recovery despite fee increases. The Federal Reserve Banks believe that further fee increases would not achieve full-cost recovery, but instead would accelerate the volume decline and increase the shortfall for this service.

As a fourth alternative, the Federal Reserve Banks considered remaining in the definitive securities safekeeping service at less than full-cost recovery. Under this alternative, the Federal Reserve Banks could avoid the expense of withdrawing and shipping securities back to the depositor or to a successor custodian. The Federal Reserve Banks did not believe that it was appropriate that they remain in this service at less than full-cost recovery because they believed that the definitive securities safekeeping service is available nationwide from a range of alternate service providers, that withdrawal from this service would not adversely affect other Federal Reserve priced and nonpriced services, and that there was no public benefit of continued Federal Reserve presence in this service that outweighed the reasons for withdrawing.

The fifth alternative considered was to move the purchases and sales service, which now involves primarily book-entry securities trades, to a different service line and to withdraw from the priced definitive securities service line and absorb the cost of returning the securities held in priced safekeeping to the depositors or the depositors' designated agent. The Federal Reserve Banks surveyed institutions regarding the possible effect of withdrawal from priced definitive securities safekeeping and determined that withdrawal would be acceptable to the majority of service users. Consequently, the Federal Reserve Banks requested that the Board approve their proposal to move the purchase and sale service to another service line and withdraw from the definitive securities service line.

Since the definitive securities safekeeping service comprises the large majority of the costs and revenue of the definitive securities service line, the Board evaluated the Federal Reserve Banks' proposed withdrawal from the definitive securities safekeeping service in the context of the five factors that the Board proposed to use for evaluating Federal Reserve Bank requests to withdraw from a priced service line; the Board has since formally adopted those factors (see Docket R-0767, elsewhere in today's Federal Register). The Board's evaluation of the Federal Reserve Banks' proposal in the context of these factors supported withdrawal from priced definitive securities safekeeping.

In addition to using these factors as the framework for its evaluation of the Reserve Banks' proposed withdrawal from the definitive securities safekeeping service, the Board also considered other factors for withdrawal. First, as noted earlier in this notice, the revenue from the Federal Reserve Banks' definitive securities safekeeping service no longer fully recovers the costs of providing this service. The Board anticipates that the cost recovery for this service will continue to decline in the future. The Board believes that full-cost recovery in this service can no longer be achieved, even assuming significant price increases. Moreover, the Board is concerned that significantly higher fees would only accelerate volume run-off and thus hamper an orderly withdrawal from this service. Finally, continued Federal Reserve presence in this service would be at cross purposes with the Federal Reserve's support of securities immobilization via the use of depositories.

The Board requested comment on the proposal by the Federal Reserve Banks to withdraw from the priced definitive securities safekeeping service by year-end 1993, to maintain fees at their 1992 levels until withdrawal is accomplished, and to absorb the cost of returning securities held in priced safekeeping to the depositors or the depositors' agent. The Board also requested comment on the application of the proposed factors, or any other factors, to this withdrawal request (57 FR 31201, July 14, 1992).

The following is the Board's analysis of the application of the factors for evaluating Federal Reserve Bank requests to withdraw from a priced service line to the definitive securities safekeeping withdrawal proposal.

Factor 1: It is likely that other service providers would supply an adequate level of the same service (i.e. access, price, and quality) in the relevant market(s) if the Federal Reserve withdraws from the service.

The Federal Reserve Banks' survey of service users indicated that a range of alternate service providers exists, including depository institutions and securities depositories.

Factor 2: If other service providers are not likely to provide an adequate level of the same service in the relevant market(s), it is likely that users of the service could obtain other substitutable services that could reasonably meet their needs.

Since other service providers can reasonably be expected to provide an adequate supply of definitive safekeeping services in the event of the Federal Reserve Banks' withdrawal, a substitutable service is not needed.

Factor 3: Withdrawal from the service would not have a material, adverse effect on the Federal Reserve's ability to provide an adequate level of other services.

Withdrawal from priced definitive securities safekeeping should have no material, adverse effect on the Federal Reserve Banks' ability to provide an adequate level of other services. Approximately 10 percent of the volume in the noncash collection service comes from securities held in Federal Reserve Bank vaults. The Reserve Banks anticipate that any increase in unit cost in the noncash collection service resulting from a volume decline attributable to withdrawal from the definitive securities safekeeping service would be offset by cost savings associated with the interdistrict consolidation of the noncash collection service. More than half of the fixed costs remaining after withdrawal is accomplished will be redistributed to other vault activities with the remainder being shared by all areas of the Reserve Banks; these costs are not significant.

Factor 4: Withdrawal from the service would not have a material, adverse

effect on the Federal Reserve's ability to discharge other responsibilities. There are no material linkages between this service and any other Federal Reserve responsibilities except non-priced (*i.e.* collateral) safekeeping. If the priced definitive securities safekeeping service is eliminated, securities held in priced safekeeping would no longer be immediately available on Reserve Bank premises for pledge, but could still be pledged using a depository institution or depository as third-party custodian.

Factor 5: The public benefits of continued Federal Reserve provision of the service do not outweigh the reasons for withdrawing from the service. As part of priced definitive securities safekeeping, the Federal Reserve Banks serve as custodian for collateral pledged to state and local governments; however, Federal Reserve Bank withdrawal from priced safekeeping would not leave state and local governments without alternative custodians for their collateral. Institutions surveyed by the Reserve Banks indicated that there are numerous alternate service providers available to them. Further, the Board believes that the public may benefit from the Reserve Banks' withdrawal through accelerated migration of securities to depositories.

Summary of Comments

The Board received 54 comments on this proposal: 43 from commercial banks or bank holding companies, one from a credit union, four from trade associations, two from state and local governments, and four from Federal Reserve Banks. Eight commenters, including five depository institutions and three Federal Reserve Banks, supported the proposal to withdraw. These commenters believed that the Reserve Banks should withdraw from this service if they anticipate that they can no longer recover costs. These commenters acknowledged, however, that customers would experience short-term inconvenience due to the Federal Reserve's withdrawal from the service.

Forty-three commenters, including 37 depository institutions, three trade associations, the two state and local governments, and one Federal Reserve Bank, opposed the proposed withdrawal from this service. Thirty-eight commenters indicated that the Federal Reserve, by maintaining securities pledged to state and local governments, accomplishes a governmental task; some further suggested that state and local governments require or prefer that this collateral be held at the Federal Reserve. The Board does not believe this aspect of safekeeping is a governmental task, since it is also widely available from private-sector providers. In addition, the Board is not aware of any law identifying the Federal Reserve Banks as the only acceptable custodians for pledges to state and local governments. Twenty-seven commenters believed Federal Reserve Banks' safekeeping fees are lower than fees charged by other providers. Twenty-four commenters suggested that the Federal Reserve Banks increase fees and remain in the service, but only as long as the higher fees were reasonable. As previously noted, the Board believes that further fee increases would accelerate volume runoff, and thus would not achieve the objective of long-term full-cost recovery.

Twenty-three commenters expressed concern that community banks purchase local security issues which are usually not depository eligible; and therefore, the need for definitive safekeeping services will continue. The Board believes that these securities could be safekept with service providers other than the Federal Reserve Banks. The governmental entities issuing these securities and the banking industry may wish to pursue efforts to make these securities depository eligible.

Thirty-two commenters that opposed the proposed withdrawal were concerned that withdrawal would require them to increase the number of correspondent relationships that they must maintain. Thirty commenters preferred the level of service, integrity, and responsiveness that the Federal Reserve Banks provided; some commenters described correspondent bank services as expensive and unreliable, particularly when an institution uses none of the correspondent bank's services except definitive safekeeping. Three commenters also indicated that depository institutions are reluctant to share customer information with a correspondent bank that is also a competitor.

The Board believes that depository institutions have a variety of service providers available to them. The levels and quality of services available from these alternate providers offer them a range of options from which to choose.

One commenter expressed concern that shifting an institution's definitive securities safekeeping business from the Federal Reserve to a correspondent bank would increase interbank exposure, contrary to the objectives of the Board's proposed Regulation F (Interbank Liabilities). Custodial services, including safekeeping, would not create exposures of the type addressed in that regulation. The commenter was also concerned that the proposed withdrawal was not consistent with the Supervisory Policy on Securities Activities, which addresses the selection of securities dealers and requires depository institutions to establish prudent policies and strategies for securities transactions. The policy cautions depository institutions against leaving securities with a selling dealer that is inadequately capitalized, but there is no requirement that a Reserve Bank serve as the custodian. Instead, the depository institution could direct that the securities be delivered to itself or to any number of alternate custodians.

One commenter agreed with the Board's analysis of the Reserve Banks' proposal to withdraw from definitive safekeeping as it pertained to the effects of fee increases, depository membership, and less than full-cost recovery. This commenter suggested that the Federal Reserve consolidate this service at the Richmond Reserve Bank. The Board has stated above the reasons the Reserve Banks chose not to consolidate the definitive securities safekeeping service.

Two commenters specifically discussed the Board's application of the factors to the proposed withdrawal from the definitive securities safekeeping service. Both commenters addressed Factor 1, which relates to whether other service providers are likely to provide an adequate level of this service, with one commenter agreeing and the other disagreeing with the Board's analysis. The latter commenter indicated that community banks may not be adequately served if the Reserve Banks withdrew from the definitive securities safekeeping service. The large majority of community banks, however, do not use the Federal Reserve's safekeeping service, and Reserve Bank surveys have determined that other service providers are available to provide this service to community banks.

These commenters also addressed the Board's analysis of Factor 2, which relates to the availability of substitutable services if other service providers are not likely to provide an adequate level of service. One commenter agreed with the Board's analysis; the other disagreed, based on its belief that other service providers would not be likely to provide an adequate level of the definitive securities safekeeping service. As noted previously, the Board believes that a sufficient number of alternate providers exist and that their safekeeping services are comparable to the service offered by the Federal Reserve.

One commenter indicated that the remaining factors are unnecessary to

consider in evaluating this proposal, given that the first two factors have been met. The Board believes that analysis of each of the five factors is important to ensure a thorough evaluation of whether the Reserve Banks' withdrawal from this service is appropriate.

Finally, one commenter, addressing the fifth factor, stated that there is a significant public benefit to continued Federal Reserve provision of this service, namely equal access to fair and equitably priced services. As noted above, the Board believes that other service providers are likely to provide an adequate level of this service.

The Board, after considering the comments received, has approved the request by the Reserve Banks to withdraw from the priced definitive securities safekeeping service by year-end 1993. Reserve Banks may discontinue this service prior to year-end 1993. Each Reserve Bank will announce its withdrawal schedule to its customers at least six months prior to the start of the actual withdrawal. The withdrawal period will be a period of at least 60 days, during which Reserve Banks will withdraw all securities from priced definitive securities safekeeping accounts and ship them in accordance with depositors' instructions. When the Reserve Bank announces its withdrawal schedule, depositors will be advised to make arrangements with an alternate service provider and to notify the Reserve Bank of these arrangements. Fees will remain at their 1992 levels until withdrawal is completed.

Once the withdrawal period has commenced, securities will no longer be accepted for deposit and withdrawal fees will be waived; other safekeeping fees will remain in effect. Also, during the withdrawal period, the Federal Reserve Banks will not assess fees for shipping securities held in priced accounts to the successor custodian or custodians chosen by each depositing institution. Finally, if a depository institution requests that its entire holdings be withdrawn and shipped before the withdrawal period begins, the Reserve Bank may, at its discretion, waive the withdrawal and shipping fees.

By order of the Board of Governors of the Federal Reserve System, November 2, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-26989 Filed 11-5-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Community Mental Health Services Block Grant

ACTION: Notice.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) solicits comment on proposed definitions of two populations: 1) Children With a Serious Emotional Disturbance, and 2) Adults With a Serious Mental Illness. Comment is also solicited on the proposed process for developing standardized methods for identifying and estimating the size of these two populations within each State.

ADDRESSES: Interested organizations and/or individuals should send comment to: Irene S. Levine, Ph.D., Acting Deputy Director, Center for Mental Health Services, 12-95 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

DATE: Comments must be received by January 5, 1993.

SUPPLEMENTARY INFORMATION: Public Law 102-321, the ADAMHA Reorganization Act, enacted on July 10, 1992, creates a new Substance Abuse and Mental Health Services Administration (SAMHSA). A new Center for Mental Health Services is established within SAMHSA to coordinate the federal role in the prevention and treatment of mental illnesses and the promotion of mental health. Title II of Public Law 102-321 establishes a Block Grant for Community Mental Health Services, administered by the Center, which allocates funds to states for the provision of community mental health services to children with a serious emotional disturbance and adults with a serious mental illness. This new Block Grant replaces authority to provide mental health services under the previously authorized Alcohol, Drug Abuse, and Mental Health Services Block Grant. As part of the process to implement the new Block Grant, Section 1912(c)(1) of subpart I of part B of Title XIX of the Public Health Service Act, as amended by Public Law 102-321, requires that the Secretary of the U.S. Department of Health and Human Services establish definitions of the terms "children with a serious emotional disturbance" and "adults with a serious mental illness". In addition, the Secretary is required under Section 1912(c)(2) to establish standardized methods for making estimates of the overall number (prevalence) and the number of new cases (incidence) for these two populations. Under Section 1912(b)(11), such estimates are to be included in annual state plans as part of the State application for a Community Mental Health Services Block Grant award.

The proposed definitions, as well as standardized methods to be developed later, are intended to identify and estimate the size of these two groups within the general population of each State. These estimates may not be equivalent to the populations actually served by the entities funded through mental health block grant funds.

The proposed definitions in this Notice are the result of considerable prior input from organizations and individuals knowledgeable about serious emotional disorders in children and serious mental illnesses in adults. This document also reflects comments received in response to an earlier notice published in the **Federal Register** on August 21, 1992 (p. 37979). The definitions exclude substance use disorders, developmental disorders including mental retardation, and Alzheimer's-related dementias, unless they co-occur with another diagnosable disorder; it is recognized that the inclusion or exclusion of these disorders is much debated in the field.

SAMHSA invites further comment on these definitions and exclusions to help ensure that the final definitions adequately reflect the state of current knowledge and the best interests of the populations being defined. Comment is also solicited on the proposed process for developing standardized methods for making the estimates required.

Definition of Children With a Serious Emotional Disturbance

For epidemiological estimation pursuant to Section 1912(c) of Subpart I of Part B of Title XIX of the Public Health Service Act, as amended by Public Law 102-321, "Children With a Serious Emotional Disturbance" are persons:

- From birth up to age 18,[1]
- Who currently or at any time during the past year,[2]

[1] Although the definition of serious emotional disturbance in children is restricted to persons up to age 18, it is recognized that some States extend this age range to persons less than age 22. To accommodate this variability, epidemiological studies on this population and on the population of adults with a serious mental illness need to have the capacity to produce separate estimates for persons age 18 to 22.

[2] The referenced year in each of the definitions refers to a 12 month period because this is a frequently used interval in epidemiological research and because it relates closely to commonly used planning cycles.

• Have had a diagnosable mental, behavioral, or emotional disorder,

• That resulted in functional impairment in family, school, or community activities.

These disorders are limited to all mental disorders listed in DSM–III–R or ICD–9 or subsequent revisions (with the exception of DSM–III–R "V" codes, substance use disorders and developmental disorders, unless they co-occur with another diagnosable mental disorder).

Functional impairments are meant to describe a problem in the child's achieving or maintaining developmentally appropriate behavior in one or more of the following areas: role and task performance; cognition and communication; behavior toward self and others; and mood and emotions. Functional impairments of both episodic and continuous duration are included unless they are temporary and expected responses to stressful events in the environment. Children who would have met functional impairment criteria during the referenced year without the benefit of treatment of other support services are considered to have serious emotional disturbances. Clearly, any definition of serious emotional disturbance in children also requires attention to cultural and ethnic norms.

Children and adolescents at risk for serious emotional disturbance are not included in the definition of children with a serious emotional disturbance. In our deliberations, the importance of attention to the developmental nature of children was stressed. The mental health needs of children are shaped by a multitude of forces, including their biology, their environment, and life events. Serious emotional disturbance occurs more predictably in the presence of certain risk factors. These factors include, but are not limited to, homelessness, family history of mental illness, physical or sexual abuse or neglect, HIV infection, chronic and serious physical or developmental disability or illness, heavy and/or persistent substance use, and multiple out-of-home placements. Therefore, prevention and early intervention services need to focus on children and adolescents experiencing any of these risk factors. Children with combinations of risk factors are at much higher risk for serious behavior, emotional, and mental disorders.

Definition of Adults With a Serious Mental Illness

For epidemiological estimation pursuant to Section 1912(c) of Subpart I of Part B of Title XIX of the Public Health Service Act, as amended by Public Law 102–321, "Adults with a Serious Mental Illness" are persons:

• Age 18 and over,[3]

• Who currently or at any time during the past year,[4]

• Have had a diagnosable mental, behavioral, or emotional disorder,

• That has resulted in functional impairment in one or more major life activities.

These disorders include any mental disorder listed in DSM–III–R or ICD–9 or subsequent revisions, (with the exception of DSM–III–R "V" Codes, substance use disorders, developmental disorders including mental retardation, and Alzheimer's-related dementias, unless they co-occur with another diagnosable disorder).

Examples of major life activities of daily living (eating, bathing, dressing); instrumental activities of daily living (maintaining a household, using money, using public transportation); functioning in social, family, and vocational/educational contexts; and coping skills and stress tolerance. Adults who would have met functional impairment criteria during the referenced year without the benefit of treatment or other support services *are* considered to have serious mental illnesses. Clearly, any definition of serious mental illness in adults also requires attention to cultural and ethnic norms.

Standardized Methods for Estimation

At the present time, practical methods that can be uniformly applied as a State-by-State basis have not been developed for estimating the incidence and prevalence of "serious emotional disturbance" in children and "serious mental illness" in adults. It is anticipated that several different types of studies are or will soon be available to facilitate the development of these standardized methods. SAMHSA plans to further consult with the field to develop methods from relevant studies once final definitions of the two populations have been formulated. One potential approach to produce estimates could make use of national rates for prevalence and incidence of the two defined groups, applied to general population counts for each State. Proposed methods will be reviewed, findings compared and summarized, and any issues resolved.

Joseph R. Leone,

Associate Administrator for Management, SAMHSA.

[FR Doc. 92–26869 Filed 11–5–92; 8:45 am]

BILLING CODE 4160–20–M

[3] See footnote 1.

[4] See footnote 2.

Food and Drug Administration

[Docket No. 92E–0340]

Determination of Regulatory Review Period for Purposes of Patent Extension; Proscar®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Proscar® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John S. Ensign, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be

subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Proscar®. Proscar® (finasteride) is indicated for the treatment of symptomatic benign prostatic hyperplasia (BPH). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Proscar® (U.S. Patent No. 4, 760,071) from Merck & Co., Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. FDA, in a letter dated September 10, 1992, advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Proscar® represented the first commercial marketing of the product. Shortly thereafter, the Patent and Trademark Office requested that the FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Proscar® is 2,191 days. Of this time, 1,759 days occurred during the testing phase of the regulatory review period, while 432 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective*: June 22, 1986. FDA has verified the applicant's claim that June 22, 1986, was the date the investigational new drug application became effective.

2. *The date the application was initially submitted with respect to the human drug product under section 505(i) of the Federal Food, Drug, and Cosmetic Act*: April 15, 1991. FDA has verified the applicant's claim that April 15, 1991, was the date the new drug application (NDA) for Proscar® (NDA 20–180) was initially submitted.

3. *The date the application was approved*: June 19, 1992. FDA has verified the applicant's claim that NDA 20–180 was approved on June 19, 1992.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 329 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 5, 1993, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before May 6, 1993, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 22, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92–26971 Filed 11–5–92; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally contact the Clerk, United States Claims Court, 717 Madison Place, NW., Washington, DC 20005, (202) 633–7257. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, 6001 Montrose Road, room 702, Rockville, MD 20852, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a partial list of petitions received by PHS on October 1, 1990.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition;" and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggraved, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one

of the vaccines referred to in the Table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Richard Von Zomeren on behalf of Heather Von Zomeren, Glenwood Springs, Colorado, Claims Court Number 90–2826 V.

2. Kelly Helton, Beckley, West Virginia, Claims Court Number 90–2827 V.

3. Dorothy Hatch on behalf of Dean Bodily, Deceased, Ogden, Utah, Claims Court Number 90–2828 V.

4. Diedre Pundt, Marshall Islands, Claims Court Number 90–2829 V.

5. Dennis King, Mount Holly, New Jersey, Claims Court Number 90–2830 V.

6. Carol Green on behalf of Meredith Green, Erie, Pennsylvania, Claims Court Number 90–2831 V.

7. Raymond Higginbotham, Birmingham, Alabama, Claims Court Number 90–2832 V.

8. Philip Thornton on behalf of Ryan Thornton, Charleston, West Virginia, Claims Court Number 90–2833 V.

9. Robert Syphax, Cincinnati, Ohio, Claims Court Number 90–2834 V.

10. Annette Ostrem, Ontario, California, Claims Court Number 90–2835 V.

11. Susan Sanders on behalf of Christine Sanders, Albuquerque, New Mexico, Claims Court Number 90–2836 V.

12. Dave Coffin, Lewiston, Maine, Claims Court Number 90–2837 V.

13. Veronica Griggs on behalf of Darin Griggs, Hollywood, Florida, Claims Court Number 90–2838 V.

14. Susan Moss on behalf of Jesse Moss, Waterbury, Connecticut, Claims Court Number 90–2839 V.

15. Ron Jaramillo on behalf of Tiffany Jaramillo, Ontario, Oregon, Claims Court Number 90–2840 V.

16. Bernodette Coyne on behalf of Christina Coyne, Grand Rapids, Michigan, Claims Court Number 90–2841 V.

17. Chiara DeChellis, Buffalo, New York, Claims Court Number 90–2842 V.

18. Joan A. McEvoy on behalf of Judy L. McEvoy, Cortland, New York, Claims Court Number 90–2843 V.

19. Bob Kasuda on behalf of Michael Kasuda, Loveland, Colorado, Claims Court Number 90–2844 V.

20. Rita Plasencia on behalf of Elizabeth Plasencia, Deceased, Chicago, Illinois, Claims Court Number 90–2845 V.

21. Maria Venegas on behalf of Randy Venegas, Roseville, California, Claims Court Number 90–2846 V.

22. Keith Green on behalf of Elizabeth Green, Red Lion, Pennsylvania, Claims Court Number 90–2847 V.

23. Hugh and Beverly Pentney on behalf of Daniel Pentney, St. Bernard, Louisiana, Claims Court Number 90–2848 V.

24. Ruth Lockard, Calipatria, California, Claims Court Number 90–2849 V.

25. Gayle Ginochio on behalf of Audura Ginochio, Ukiah, California, Claims Court Number 90–2850 V.

26. Beatric Turner on behalf of Raynard Turner, Baltimore, Maryland, Claims Court Number 90–2851 V.

27. Kathleen Stilwell on behalf of Shannon Stilwell, Alpena, Michigan, Claims Court Number 90–2852 V.

28. Laura Mandell on behalf of Eda Mandell, Brooklyn, New York, Claims Court Number 90–2853 V.

29. Robert Yost on behalf of Arick Yost, Deceased, Harrisville, West Virginia, Claims Court Number 90–2854 V.

30. patricia Veasey, Caretta, West Virginia, Claims Court Number 90–2855 V.

31. Audrey Klotz, Philadelphia, Pennsylvania, Claims Court Number 90–2856 V.

32. Mitchell Gentry, Jasper, Arkansas, Claims Court Number 90–2857 V.

33. William Claypool on behalf of Robert Claypool, Livonia, Michigan, Claims Court Number 90–2858 V.

34. Bonnie Grant on behalf of Lonnie Grant, Hartford, Kentucky, Claims Court Number 90–2859 V.

35. Johnny Poole on behalf of Jonathan Poole, Winston-Salem, North Carolina, Claims Court Number 90–2860 V.

36. Marine Damvelt on behalf of Karla Damvelt, Kalamazoo, Michigan, Claims Court Number 90–2861 V.

37. Terry Cotharin on behalf of Michael Cotharin, Manahawkin, New Jersey, Claims Court Number 90–2862 V.

38. Judy Cadman on behalf of Siebert Cadman, Gallup, New Mexico, Claims Court Number 90–2863 V.

39. Steven Wolske, Algoma, Wisconsin, Claims Court Number 90–2864 V.

40. Claire Sudduth-George on behalf of Christen Sudduth-George, Deceased, Jackson, Mississippi, Claims Court Number 90–2865 V.

41. Froym Berezin on behalf of Alexandra Berezin, Chicago, Illinois, Claims Court Number 90–2866 V.

42. State of Minnesota on behalf of Marthin Greiner, Minneapolis, Minnesota, Claims Court Number 90–2867 V.

43. Kathleen Sanzone on behalf of Tiffany Sanzone, Waterbury, Connecticut, Claims Court Number 90–2868 V.

44. Marcellas Lough on behalf of Mark Lough, Fairmont, West Virginia, Claims Court Number 90–2869 V.

45. Dinah Seaman, Mobile, Alabama, Claims Court Number 90–2870 V.

46. James Robinson on behalf of Linda Robinson, Savannah, Georgia, Claims Court Number 90–2871 V.

47. Daniel Riska on behalf of John Riska, Huntsville, Alabama, Claims Court Number 90–2872 V.

48. Joseph Spooner on behalf of Samuel Spooner, El Dorado, Arkansas, Claims Court Number 90–2873 V.

49. Cindy Alvis on behalf of Tera Alvis, Sarasota, Florida, Claims Court Number 90–2874 V.

50. Frank Dobson on behalf of Kimberly Dobson, Birmingham, Alabama, Claims Court Number 90–2875 V.

51. Fred Nisi on behalf of Mark Nisi, Fort Myers, Florida, Claims Court Number 90–2876 V.

52. Dannie Valencia on behalf of Wayne Valencia, Pueblo, Colorado, Claims Court Number 90–2877 V.

53. Ronald Nussbaum on behalf of Douglas Nussbaum, Des Moines, Iowa, Claims Court Number 90–2878 V.

54. Caroline Torbergson on behalf of Carl Torbergson, Spokane, Washington, Claims Court Number 90–2879 V.

55. Linda Cooper, Du Bois, Pennsylvania, Claims Court Number 90–2880 V.

56. Brian Gunter, McLeansbora, Illinois, Claims Court Number 90–2881 V.

57. Roselyn Nevervis, Midland, Michigan, Claims Court Number 90–2882 V.

58. Cheryl Schultz on behalf of James Schultz, Toledo, Ohio, Claims Court Number 90–2883 V.

59. Margaret Center on behalf of Katharina Center, Glens Falls, New York, Claims Court Number 90–2884 V.

60. Darlene Brda on behalf of Phillip Brda, Festus, Missouri, Claims Court Number 90–2885 V.

61. David Shafer on behalf of Lorraine Shafer, Rochester, New York, Claims Court Number 90–2886 V.

62. Walter Nichols on behalf of Thomas Nichols, Meridian, Mississippi, Claims Court Number 90–2887 V.

63. Russell Gurr on behalf of Curtis Gurr, Deceased, Parker, Colorado, Claims Court Number 90–2889 V.

64. Julie Behning on behalf of Jonathan Behning, Deceased, Dubuque, Iowa, Claims Court Number 90–2889 V.

65. Daryl Schuttle on behalf of Derrek Schuttle, Dawson, Minnesota, Claims Court Number 90–2890 V.

66. Debra Epling on behalf of Loretta McCoy, Chapmanville, West Virginia, Claims Court Number 90–2891 V.

67. Fred Eakin, Westfield, New Jersey, Claims Court Number 90–2892 V.

68. Linda Korte on behalf of Clayton Korte, St. Louis, Missouri, Claims Court Number 90–2893 V.

69. Barbara Freeman on behalf of Jessica Freeman, Pine Bluff, Arkansas, Claims Court Number 90–2894 V.

70. Larry Carpenter on behalf of Sarah Carpenter, Clarksville, Tennessee, Claims Court Number 90–2895 V.

71. William Derl-Davis on behalf of Laurence Davis, Evanston, Illinois, Claims Court Number 90–2896 V.

72. Emma Johnson on behalf of Paula Johnson, El Paso, Texas, Claims Court Number 90–2897 V.

73. Carl Connell on behalf of Jill Connell, Lynchburg, Virginia, Claims Court Number 90–2898 V.

74. Gwen Beno on behalf of Korynne Mahoney, Utica, New York, Claims Court Number 90–2899 V.

75. George Wei on behalf of Emily Wei, Webster, Texas, Claims Court Number 90–2900 V.

76. Cynthia McDonald on behalf of Lucia McDonald, Westerville, Ohio, Claims Court Number 90–2901 V.

77. Erma Brown on behalf of Clavern Brown, Oakland, California, Claims Court Number 90–2902 V.

78. Roy Massey on behalf of Roy Massey, Jr., Fort Campbell, Kentucky, Claims Court Number 90–2903 V.

79. Kimberly Smolley on behalf of Courtney Smolley, Leesburg, Virginia, Claims Court Number 90–2904 V.

80. Eddie Doak, Akron, Ohio, Claims Court Number 90–2905 V.

81. Eileen Young, Philadelphia, Pennsylvania, Claims Court Number 90–2906 V.

82. William Richardson, Canadensis, Pennsylvania, Claims Court Number 90–2907 V.

83. Janice Markowitz, Oakland, Pennsylvania, Claims Court Number 90–2908 V.

84. Maria Greth on behalf of Michael Greth, Phoenix, Arizona, Claims Court Number 90–2909 V.

85. William E. Ampey on behalf of William O. Ampey, Edwardsburg, Michigan, Claims Court Number 90–2910 V.

86. Ronald Nickey on behalf of Erica Wildasin, Hanover, Pennsylvania, Claims Court Number 90–2911 V.

87. Sandra Taylor on behalf of Erica Parker, Memphis, Tennessee, Claims Court Number 90–2912 V.

88. Robert Wright on behalf of Robert Wright, II, Lansing, Michigan, Claims Court Number 90–2913 V.

89 Charles Cody on behalf of Linda Cody, Deceased, Chicago, Illinois, Claims Court Number 90–2914 V.

90. Robert Agar on behalf of Claudia Agar, St. Paul, Minnesota, Claims Court Number 90–2915 V.

91. Leslie Hawker, Indianapolis, Indiana, Claims Court Number 90–2916 V.

92. Jack Jensen on behalf of Stephanie Jensen, Bozeman, Montana, Claims Court Number 90–2917 V.

93. Patricia Mabie on behalf of Hartl Mabie, Marshfield, Wisconsin, Claims Court Number 90–2918 V.

94. Carmel Edwards on behalf of Michael Edwards, Minerva, Ohio, Claims Court Number 90–2919.

95. Michael Sage on behalf of Lori Sage, San Diego, California, Claims Court Number 90–2920 V.

96. Cheryle Howell on behalf of Goodloe Farrington III, Pensacola, Florida, Claims Court Number 90–2921 V.

97. Louise Corley, Houston Texas, Claims Court Number 90–2922 V.

98. J.J. Wehmeyer on behalf of Joseph T. Wehmeyer, Milford, Connecticut, Claims Court Number 90–2923 V.

99. Pamela Craig on behalf of Jonathan Craig, Detroit, Michigan, Claims Court Number 90–2924 V.

100. Charles Watson on behalf of Ashley Watson, Deceased, Apple Valley, California, Claims Court Number 90–2925 V.

101. John Burroughs, Washington, North Carolina, Claims Court Number 90–2926 V.

102. Kelly Smith on behalf of Jarrod Smith, Shreveport, Louisiana, Claims Court Number 90–2927 V.

103. Peter Futro on behalf of Sara Futro, Aurora, Colorado, Claims Court Number 90–2928 V.

104. Michelle Roy, Tampa, Florida, Claims Court Number 90–2929 V.

105. John Jennings on behalf of Jennifer Jennings, Aurora, Illinois, Claims Court Number 90–2930 V.

106. John Lamotte on behalf of Anita Lamotte, Fairfax, Virginia, Claims Court Number 90–2931 V.

107. James Houston on behalf of Abigail Houston, Deceased, San Antonio, Texas, Claims Court Number 90–2932 V.

108. James Comer on behalf of Adam Comer, Latham, New York, Claims Court Number 90–2933 V.

109. John Jones, Middletown, Ohio, Claims Court Number 90–2934 V.

110. Lawrence Tieves on behalf of Kimberly Tieves, Cincinnati, Ohio, Claims Court Number 90–2935 V.

111. Ethel Myers on behalf of Stacey Myers, Greencastle, Pennsylvania, Claims Court Number 90–2936 V.

112. Elizabeth Sooter, Phoenix, Arizona, Claims Court Number 90–2937 V.

113. Loraine Timmerman on behalf of Mark Prediger, Troy, New York, Claims Court Number 90–2938 V.

114. Linda Mattix on behalf of Marvin Mattix, New Port Richey, Florida, Claims Court Number 90–2939 V.#

115. Anissa Davis, Long Beach, California, Claims Court Number 90–2940 V.

116. Mark Lankford on behalf of Justin Lankford, Deceased, Nashville, Tennessee, Claims Court Number 90–2941 V.

117. Larry Kopcsak, Van Nuys, California, Claims Court Number 90–2942 V.

118. Emmet Carver on behalf of Jason Carver, Bowling Green, Kentucky, Claims Court Number 90–2943 V.

119. Susan Keltner on behalf of Richard Keltner, Corinth, Mississippi, Claims Court Number 90–2944 V.

120. Jerry Bashrum on behalf of Diane Bashrum, Baytown, Texas, Claims Court Number 90–2945 V.

121. Francine Fryckman on behalf of Heather Fryckman, Fridley, Minnesota, Claims Court Number 90–2946 V.

122. Zaida Dandridge on behalf of Leah Dandridge, Valley Stream, New York, Claims Court Number 90–2947 V.

123. Deborah Black on behalf of Angela Black, Ventura, California, Claims Court Number 90–2948 V.

124. Rochelle Chapman on behalf of Andrew Chapman, New York, New York, Claims Court Number 90–2949 V.

125. Brian Liebelt on behalf of Briana Liebelt, Merced, California, Claims Court Number 90–2950 V.

126. Michele Parent, Los Angeles, California, Claims Court Number 90–2951 V.

127. Gloria Crockett on behalf of Shawn Wright, Little Rock, Arkansas, Claims Court Number 90–2952 V.

128. Charlton Hughes on behalf of Rachel Hughes, Lewisville, Texas, Claims Court Number 90–2953 V.

129. Kathleen Leone on behalf of Kateri Leone, Ghent, New York, Claims Court Number 90–2954 V.

130. Lyle Metzger, Warsaw, Indiana, Claims Court Number 90–2955 V.

131. C. Bryant Boydstun, Ripley, Tennessee, Claims Court Number 90–2956 V.

132. Larry Thorne on behalf of Leah Thorne, Aiken, South Carolina, Claims Court Number 90–2957 V.

133. Patricia Strife on behalf of Russell Strife, Carthage, New York, Claims Court Number 90–2958 V.

134. Catherine Pike on behalf of Stephen Wordell, Barrington, Rhode Island, Claims Court Number 90–2959 V.

135. Larry Clarkson on behalf of Christopher Clarkson, NO CITY OR STATE LISTED, Claims Court Number 90–2960 V.

136. Sandra Weeks on behalf of Brandilyn Hall, Greenville, North Carolina, Claims Court Number 90–2961 V.

137. Jerome Webb, Pine Bluff, Arkansas, Claims Court Number 90–2962 V.

138. Jack Cothren on behalf of Jo Anne Cothren, Schenectady, New York, Claims Court Number 90–2963 V.

139. Edna O'Neill, Idaho Falls, Idaho, Claims Court Number 90–2964 V.

140. Elaime Carr on behalf of Layton Carr, Attleboro, Massachusetts, Claims Court Number 90–2965 V.

141. Daniel Gough, Elgin, Illinois, Claims Court Number 90–2966 V.

142. Shawonder Scott on behalf of Christopher Watson, St. Louis, Missouri, Claims Court Number 90–2967 V.

143. Harry Smith, Philadelphia, Pennsylvania, Claims Court Number 90–2968 V.

144. Jeffrey Wagner on behalf of Jody Wagner, Dubuque, Iowa, Claims Court Number 90–2969 V.

145. Lawrence Tieves on behalf of Melissa Tieves, Cincinnati, Ohio, Claims Court Number 90–2970 V.

146. Edith Thorton, Beaufort, South Carolina, Claims Court Number 90–2971 V.

147. Gary Bathke on behalf of Kristen Bathke, Chippewa Falls, Wisconsin, Claims Court Number 90–2972 V.

148. Sharol Bench on behalf of Patrick Bench, Portland, Oregon, Claims Court Number 90–2973 V.

149. Freda Kushmaul on behalf of William Kushmaul, Greenville, Michigan, Claims Court Number 90–2974 V.

150. Freddie Roberts on behalf of Julius Roberts, Tinker AFB, Oklahoma, Claims Court Number 90–2975 V.

151. Bobby Shull on behalf of Alan Shull, Bartlesville, Oklahoma, Claims Court Number 90–2976 V.

152. Terrence O'Boyle on behalf of Peter O'Boyle, Blue Island, Illinois, Claims Court Number 90–2977 V.

153. Stephen Eiler on behalf of Marlo Eiler, Los Lunas, New Mexico, Claims Court Number 90–2978 V.

154. Kathy Coffey on behalf of Wendy Coffey, Morristown, Tennessee, Claims Court Number 90–2979 V.

155. David Ihinger on behalf of Michele Ihinger, Zanesville, Ohio, Claims Court Number 90–2980 V.

156. Steven Schulze on behalf of Steven Schulze, Jr., Jasper, Michigan, Claims Court Number 90–2981 V.

157. Ronnie Puckett on behalf of Jonathan Puckett, Manassas, Virginia, Claims Court Number 90–2982 V.

158. Jamie Loncar, Harrisburg, Pennsylvania, Claims Court Number 90–2983 V.

159. Douglas Carson on behalf of Benjamin Carson, Raleigh, North Carolina, Claims Court Number 90–2984 V.

160. Michele Schreiner on behalf of Camille Law, Inver Grove Heights, Minnesota, Claims Court Number 90–2985 V.

161. Maurine Lee on behalf of Russell Lee, Austin, Texas, Claims Court Number 90–2986 V.

162. Rose Moore, Sitka, Alaska, Claims Court Number 90–2987 V.

163. Ronald Firestone, Tappan, New York, Claims Court Number 90–2988 V.

164. Connie Williams on behalf of Tracy Markle, Charleston, West Virginia, Claims Court Number 90–2989 V.

165. Paula Ibonie on behalf of Frederick Ibonie, Fremont, California, Claims Court Number 90–2990 V.

166. Robert L. Smith on behalf of Robert B. Smith, Crawfordsville, Indiana, Claims Court Number 90–2991 V.

167. Arnon Ivey on behalf of Jeffrey Ivey, East Point, Georgia, Claims Court Number 90–2992 V.

168. Doris Jenkins on behalf of Joseph Jenkins, Wilmington, North Carolina, Claims Court Number 90–2993 V.

169. Richard Myers on behalf of Leigh Ann Myers, Corvallis, Oregon, Claims Court Number 90–2994 V.

170. Kenneth Browning, Baton Rouge, Louisiana, Claims Court Number 90–2995 V.

171. Delton Cheramie, Jr., on behalf of Darby Cheramie, New Orleans, Louisiana, Claims Court Number 90–2996 V.

172. Robert Vaughn, Huron, South Dakota, Claims Court Number 90–2997 V.

173. Hal Dean on behalf of Nancy Dean, Midland, Texas, Claims Court Number 90–2998 V.

174. Lisa Berry on behalf of Morgan Berry, Oklahoma City, Oklahoma, Claims Court Number 90–2999 V.

175. Linda Hecker on behalf of Jeffrey Hecker, Canandaigua, New York, Claims Court Number 90–3000 V.

176. Jose Robles on behalf of Inez Mari Sanchez, Bayamon, Puerto Rico, Claims Court Number 90–3001 V.

177. Betty Rutherford on behalf of Cathy Sue Roberts, Deceased, Knoxville, Tennessee, Claims Court Number 90–3002 V.

178. Paul Winston on behalf of Paul Winston, Jr., Biloxi, Mississippi, Claims Court Number 90–3003 V.

179. Mirrel Stufflebeam on behalf of Karl Stufflebeam, Portland, Oregon, Claims Court Number 90–3004 V.

180. Michael Swarthout on behalf of Layne Swarthout, Rochester, Minnesota, Claims Court Number 90–3005 V.

181. Danny Collins, Walnut Ridge, Arkansas, Claims Court Number 90–3006 V.

182. Nancy Jansson, Mount Vernon, Washington, Claims Court Number 90–3007 V.

183. Larry Lariza on behalf of Jamie Lariza, Seattle, Washington, Claims Court Number 90–3008 V.

184. Mary Mihalko on behalf of Benjamin Mihalko, Uniontown, Pennsylvania, Claims Court Number 90–3009 V.

185. Edward Nimtz on behalf of Danielle Nimtz, Ottawa, Illinois, Claims Court Number 90–3010 V.

186. Hubert Sherer on behalf of Jessica Sherer, Denver, Colorado, Claims Court Number 90–3011 V.

187. Sue Kitasako on behalf of Karen Kitasako, Seattle, Washington, Claims Court Number 90–3012 V.

188. Lori Raney on behalf of Brian Schmidt, Wichita, Kansas, Claims Court Number 90–3013 V.

189. David Echevarria on behalf of David Echevarria, II, Deceased, Berrien

Center, Michigan, Claims Court Number 90–3014 V.

190. Robyn Christiansen, Salt Lake City, Utah, Claims Court Number 90–3015 V.

191. Clifford Taylor on behalf of Brian Taylor, Shady Grove, Pennsylvania, Claims Court Number 90–3016 V.

192. Enrique Ponce on behalf of Doroteo Ponce, Phoenix, Arizona, Claims Court Number 90–3017 V.

193. David McGrath, Milton, Wisconsin, Claims Court Number 90–3018 V.

194. Jacqueline Debilewski on behalf of Francis Dubilewski, Bayport, New York, Claims Court Number 90–3019 V.

195. Nina Scheffler on behalf of Vanessa Scheffler, San Pedro, California, Claims Court Number 90–3020 V.

196. Franklin Catalfamo on behalf of Christopher Catalfamo, Lancaster, New York, Claims Court Number 90–3021 V.

197. Lillian Davidson on behalf of Ann Davidson, Lynwood, California, Claims Court Number 90–3022 V.

198. Lorahdelle Darrow on behalf of Mellisa Darrow, Petoskey, Michigan, Claims Court Number 90–3023 V.

199. Myrtle Krikorian, Bridgeport, Connecticut, Claims Court Number 90–3024 V.

200. Deborah Miller, Detroit, Michigan, Claims Court Number 90–3025 V.

Dated: October 30, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92–26935 Filed 11–5–92; 8:45 am]

BILLING CODE 9160–15–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, October 23, 1992. (Call PHS Reports Clearance Officer on 202–690–7100 for copies of requests)

1. Health Professions Student Loan Program and Nursing Student Loan Program Debt Management Report—0915–0046—This information is needed to monitor the schools' fiscal activities, which include collection activities, investment income, return of excess cash, compliance with the performance standards, and the return of Federal share of monies collected. Respondents: Non-profit institutions.

Title	Number of respondents	Number of responses per respondent	Average burden per response
DMR—All Schools HPSL/NSL 6-Month Report	1,712	1	3
DMR—Closing Schools HPSL/NSL 3-Months Reports	785	2	1

Estimated Total Annual Burden: 6,706 hours.

2. Medical Devices Standards Activities Report—0910–0219—The Medical Devices Standards Activities Report is a comprehensive listing of national and international standards activities. It serves as guidelines for the continuing review of existing standards and the development of new standards. It is used by government agencies, hospitals, libraries, industry, and small businesses. Respondents: Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations; Number of Respondents: 18.5; Number of Responses per Respondent: 1; Average Burden Per Response: 2 hours; Estimated Annual Burden: 37 hours.

3. Community Models for Diabetes Prevention and Control—0920–0301—This submission is for a pilot household survey to field test survey protocols, provide preliminary estimates of diabetes prevalence, and obtain the information necessary to design and implement subsequent community diabetes surveys. Information from the study activities will be used to plan and develop baseline community surveys and intervention activities, evaluating the burden of diabetes in a high-risk community. Respondents: Individuals or households.

Title	Number of respondents	Number of responses per respondent	Average burden per response
Screener	3,318	1	.25
Questionnaires + 1 finger	819	1	1.4
Questionnaires for eligibles + 2 fingersticks	1,151	1	1.63
Clinic Questionnaires	300	1	1
Clinical Procedures	300	1	1.75

Estimated Total Annual Burden: 5,016 hours.

Desk Officer: Shannah Koss.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: November 2, 1992.

James Scanlon,

Director, Division of Data Policy, Office of Health Planning and Evaluation.

[FR Doc. 92–26895 Filed 11–5–92; 8:45 am]

BILLING CODE 4160–17–M

Health Resources and Services Administration; Part L and Part M, Title III of the Public Health Service Act, as Amended; Delegation of Authority

Notice is hereby given that in furtherance of the delegations of authorities to the Administrator, Health Resources and Services Administration (HRSA), on February 2, 1988, and September 21, 1992, by the Assistant Secretary for Health, the Administrator, HRSA, has delegated to the following officials with authority to redelegate, the authorities under Part L and Part M of title III of the Public Health Service (PHS) Act, as amended, is indicated below:

1. To the Director, Bureau of Primary Health Care: All of the authorities under Part L, excluding the authority delegated to the Director, Maternal and Child Health Bureau, pertaining to Health Care Services in the Home.

2. To the Director, Maternal and Child Health Bureau: All of the authorities under Subpart III of Part L, providing Grants for Home Visiting Services for At-Risk Families.

3. To the Director, Maternal and Child Health Bureau: All of the authorities under Part M of title III of the PHS Act, as amended, providing for Services for Children of Substance Abusers.

These authorities may be redelegated.

The above delegations were effective on October 28, 1992.

Dated: October 28, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92–26932 Filed 11–5–92; 8:45 am]

BILLING CODE 4160–15–M

Opportunity for a Hearing on Office of Research Integrity Scientific Misconduct Findings

AGENCY: Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice announces that the Public Health Service (PHS) will provide an interim procedure for an individual to seek a hearing on PHS Office of Research Integrity (ORI) findings of scientific misconduct in research supported or conducted by the PHS. It also announces the effect of recent PHS decisions on the PHS policies and procedures for dealing with misconduct in extramural research.

EFFECTIVE DATE: November 6, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Lyle W. Bivens, Director, Division of Policy and Education, ORI, (301) 443–5300). (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The PHS published in the **Federal Register** its proposed Policies and Procedures for Dealing With Possible Scientific Misconduct in Extramural Research for public comment on June 13, 1991. 56 FR 27384. Based on those comments and input received from the PHS Advisory Committee on Scientific Integrity, PHS has decided to offer an administrative hearing to each person where the ORI has made a finding of scientific misconduct involving research, research training, or research related activities which involve PHS funds or applications for PHS funds. Intramural scientists of the PHS will be offered a similar hearing process. The regulated research program of the Food and Drug Administration will continue to offer hearings under 21 CFR part 16 where FDA has primary jurisdiction.

Partly in response to its decision to offer hearings, PHS has recently reorganized its research integrity program, 57 FR 24262, June 8, 1992. Under this reorganization, PHS created a new Office of Research Integrity (ORI) in the Office of the Assistant Secretary for Health, abolished the Office of Scientific Integrity and the Office of Scientific Integrity Review, and transferred their functions to ORI.

PHS plans to publish a Notice of Proposed Rulemaking (NPRM) covering its new hearing process. In addition, the NPRM will substantially revise and expand the existing regulations at 42 CFR part 50, subpart A and amend and supersede the PHS policies and procedures published in the **Federal Register** on June 13, 1991.

While these regulatory changes are in process, PHS has decided to announce this interim hearing process and to advise the scientific community of the current status of the PHS policies and procedures published on June 13, 1991.

Opportunity for a Hearing

Effective immediately, when ORI makes a finding of scientific misconduct, it will notify in writing the person charged (the "respondent") of the findings and any proposed administrative actions, and it will offer the respondent an opportunity for an administrative hearing. An opportunity for a hearing on the ORI findings and proposed administrative actions will be provided when

(1) ORI has accepted a finding of scientific misconduct made by an awardee or applicant institution, or;

(2) ORI has made an independent finding of scientific misconduct.

A Research Integrity Adjudications Panel operating under the direction of the DHHS Departmental Appeals Board (DAB) will conduct the hearings. The Chair of the DAB will appoint a Chair of the Panel and at the Chair's discretion, may appoint one or more persons with appropriate scientific or technical expertise to the Panel.

Administrative hearings will be provided at the request of the respondent for any case that has not been "closed" as of May 29, 1991, the date the Secretary approved the PHS reorganization (57 FR 24263). A closed case is a case in which the PHS has made a final decision on misconduct findings and administrative actions and communicated that decision to the respondent.

The administrative hearing will address both the ORI findings of scientific misconduct and the proposed administrative actions. It will provide the respondent the opportunity to be represented by counsel, to question any evidence and witnesses presented by ORI, and to present evidence and witnesses in rebuttal to the findings and proposed administrative actions.

Until PHS is able to promulgate final regulations establishing the hearing process, the specific hearing procedures employed by the DAB will be *ad hoc* procedures based on DAB's experience in providing hearings for various disputes arising in DHHS programs, including its experience in conducting prior debarment hearings involving scientific misconduct. For general guidance, respondents may wish to review 45 CFR 16.11 which describes hearing procedures followed by the DAB in certain types of grant disputes. When the respondent requests a hearing in a particular case, the DAB will provide the respondent and ORI with notice of the specific procedures it will follow in that case.

Relationship Between the Debarment Process and the PHS Hearing Process

When the ORI believes that debarment from eligibility for Federal grants and contracts is warranted by the misconduct findings, whenever possible a consolidated hearing will be offered to the respondent which will cover the ORI findings of misconduct and administrative actions and the proposed debarment. In some cases a proposed debarment may follow the PHS hearing process. In those circumstances, the respondent will be separately notified of the proposed debarment. Debarment from eligibility for Federal grants and contracts is governed by existing regulations at 45 CFR part 76 and 48 CFR subparts 9.4 and 309.4.

Status of PHS Policies and Procedures

When PHS published its proposed Policies and Procedures for Dealing With Possible Scientific Misconduct in Extramural Research on June 13, 1991, it stated its intent to issue final policies and procedures following public comment. It also stated that "[i]n the interim the PHS will continue to follow these policies and procedures in investigating and resolving all instances of possible scientific misconduct in extramural research" (56 FR 27384) except in the Western District of Wisconsin where the United States District Court found in *Abbs* versus *Sullivan*, 756 F. Supp. 1172 (W.D., Wisc. 1990), that the PHS policies and procedures were not enforceable. Subsequently, the District Court opinion in *Abbs* was vacated by the Seventh Circuit, thus eliminating any need for PHS to exclude the Western District of Wisconsin from coverage by the policies and procedures. *Abbs* versus *Sullivan*, 963 F.2d 918 (7th Cir. 1992).

During the period that final regulations are being prepared, PHS generally intends to follow the policies and procedures published on June 13 to the extent that they remain relevant. PHS notes that portions of the policies and procedures are no longer germane due to changes in the PHS research integrity program made by the recent reorganization, and the interim hearing procedure.

In addition, deviations from the policies and procedures may be necessary where PHS determines it is in the best interests of the Government to do so in an individual case. Such determinations will take into careful consideration the PHS commitment to ensure fairness to extramural institutions, respondents, and others affected by the scientific misconduct process.

Dated: October 28, 1992.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 92-26974 Filed 11-5-92; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-3350-N-04]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88-2503-OG (D.D.C).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD:

(1) Its intention to make the property available for use to assist the homeless,

(2) Its intention to declare the property excess to the agency's needs, or

(3) A statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Air Force:* Bob Menke, USAF, Bolling AFB, SAF-MIIR, Washington, DC 20332-5000; (202) 767-6235; *Dept. of Interior:* Lola D. Knight, Property Management Specialist, Dept. of Interior, 1849 C St. NW., Mailstop 5512-MIB, Washington, DC 20240; (202) 208-4080; (These are not toll-free numbers).

Dated: October 30, 1992.

Randall H. Erben,

Acting Assistant Secretary for Community Planning and Development.

Title V, Federal Surplus Property Program Federal Register Report for 11/06/92

Suitable/Available Properties

Buildings (by State)

Arkansas

Bldg. 294, M. Willis Residence
201 Avenue Street
Hot Springs Co: Garland AR 71901
Landholding Agency: Interior
Property Number: 619230001
Status: Unutilized
Comment: 936 sq. ft., one story metal frame, most recent use—residence, off-site use only.

California

Bldgs. 604, 605, 612, 611, 613–618
Point Arena Air Force Station
Mendocino County, CA 95468–5000
Landholding Agency: Air Force
Property Numbers: 189010237–189010246
Status: Unutilized
Comment: 1232 sq. ft. each; stucco-wood frame; most recent use—housing.
Bldg. 21180
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Location: Hwy 1, Hwy 246, Coast Rd., PT Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Number: 189130384
Status: Unutilized
Comment: 7487 sq. ft., 1 story/wood shingle structure, most recent use—contracting administrative office, needs major rehab.

Guam

Anderson VOR
In the municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Access is through Route 1 and Route 3, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010267
Status: Unutilized
Comment: 550 sq. ft.; 1 story perm/concrete; on 226 acres.
Anderson Radio Beacon Annex
In the municipality Dededo
Dedeco Co: Guam GU 96912–
Location: Approximately 7.2 miles southwest of Anderson AFB proper; access is from Route 3, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010268
Status: Unutilized
Comment: 480 sq. ft.; 1 story perm/concrete; on 25 acres; most recent use—radio beacon facility.
Annex No. 4
Anderson Family Housing
Municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Access is through Route 1, Marine Drive.
Landholding Agency: Air Force
Property Number: 189010545
Status: Underutilized
Comment: Various sq. ft.; 1 story frame/modified quonset; on 376 acres; portions of building and land leased to Government of Guam.
Harmon VORsite (Portion) (AJKZ)
Municipality of Dededo
Dededo Co: Guam GU 96912–
Location: Approx. 12 miles southwest of Anderson AFB proper.
Landholding Agency: Air Force
Property Number: 189120234
Status: Unutilized
Comment: 550 sq. ft. bldg., needs rehab on 82 acres.

Idaho

Bldg. 121
Mountain Home Air Force Base
Main Avenue
Elmore County, ID 83648–
Landholding Agency: Air Force
Property Number: 189030007
Status: Excess
Comment: 3375 sq. ft.; 1 story wood frame; potential utilities; needs rehab; presence of asbestos; building is set on piers; most recent use—medical administration, veterinary services.
Bldg. 705, Ditchrider House
Boise Project
Notus Co: Cayon ID 83656
Landholding Agency: Interior
Property Number: 619120010
Status: Unutilized
Comment: 586 sq. ft., 1 story residence, needs major rehab, off-site use only.

Louisiana

Barksdale Radio Beacon Annex
Barksdale Radio Beacon Annex
Curtis Co: Bossier LA 71111–
Location: 7 miles south of Bossier City on highway 71 south; left 1¼ miles on highway C1552.
Landholding Agency: Air Force
Property Number: 189010269
Status: Unutilized
Comment: 360 sq. ft.; 1 story wood/concrete; on 11.25 acres.

Michigan

Bldg. 21
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010776
Status: Excess
Comment: 2146 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—storage.
Bldg. 22
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010777
Status: Excess
Comment: 1546 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—administrative facility.
Bldg. 30
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010779
Status: Excess
Comment: 2593 sq. ft.; 1 floor; concrete block; possible asbestos; potential utilities; most recent use—communications transmitter building.
Bldg. 40
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010780
Status: Excess
Comment: 2069 sq. ft.; 2 floors; concrete block; possible asbestos; potential utilities; most recent use—administrative facility.
Bldg. 41
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010781
Status: Excess
Comment: 2069 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dormitory.
Bldg. 42
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010782
Status: Excess
Comment: 4017 sq. ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—dining hall.
Bldg. 43
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010783
Status: Excess
Comment: 3674 sq. ft.; 2 story; concrete block; possible asbestos; potential utilities; most recent use—dormitory.
Bldg. 44
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010784
Status: Excess
Comment: 7216 sq. ft.; 2 story; concrete block; possible asbestos; potential utilities; most recent use—dormitory.
Bldg. 45
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010785
Status: Excess
Comment: 6070 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—administrative facility.
Bldg. 46
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010786
Status: Excess
Comment: 5898 sq. ft.; 2 story; concrete block; potential utilities; possible asbestos; most recent use—visiting personnel housing.
Bldg. 47
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010787
Status: Excess
Comment: 83 sq. ft.; 1 story; concrete block; potential utilities; most recent use—storage.
Bldg. 48
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–

Landholding Agency: Air Force
Property Number: 189010788
Status: Excess
Comment: 96 sq. ft.; 1 story; concrete block; potential utilities; most recent use—storage.
Bldg. 49
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010789
Status: Excess
Comment: 1944 sq. ft.; 1 story; concrete block; potential utilities; most recent use—dormitory.
Bldg. 50
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010790
Status: Excess
Comment: 6171 sq. ft.; 1 story; concrete block; potential utilities; possible asbestos; most recent use—Fire Department vehicle parking building.
Bldgs. 51–52
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010791–189010802
Status: Excess
Comment: 1134 sq. ft. each; 1 story wood frame residence with garages; possible asbestos.
Bldgs. 63–67
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010803–189010807
Status: Excess
Comment: 1306 sq. ft. each; 1 story wood frame residence with garages; possible asbestos.
Bldg. 68
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010808
Status: Excess
Comment: 1478 sq. ft.; 1 story wood frame residence with garage; possible asbestos.
Bldg. 70
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010809
Status: Excess
Comment: 1394 sq. ft.; 1 story concrete block; possible asbestos; most recent use—youth center.
Bldgs. 72–89
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Numbers: 189010811–189010828
Status: Excess
Comment: 1168 sq. ft. each; 1 story wood frame residence; potential utilities; possible asbestos.
Bldg. 97
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010829
Status: Excess
Comment: 171 sq. ft.; 1 floor; potential utilities; most recent use—pump house.
Bldg. 98
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010830
Status: Excess
Comment: 114 sq. ft.; 1 floor; potential utilities; most recent use—pump house.
Bldg. 14
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010833
Status: Excess
Comment: 6751 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—gymnasium.
Bldg. 16
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010834
Status: Excess
Comment: 3000 sq. ft.; 1 floor concrete block; most recent use—commissary facility.
Bldgs. 9–13
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010835–189010839
Status: Excess
Comment: 1056 sq. ft. each; 1 story wood frame residences.
Bldgs. 5–8
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010840–189010843
Status: Excess
Comment: 864 sq. ft. each; 1 floor wood frame residences; possible asbestos.
Bldg. 4
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010844
Status: Excess
Comment: 2340 sq. ft.; 1 floor concrete block; most recent use—heating facility.
Bldg. 3
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010845
Status: Excess
Comment: 5314 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—maintenance shop and office.
Bldg. 1
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010846
Status: Excess
Comment: 4528 sq. ft.; 1 floor concrete block; possible asbestos; most recent use—office.
Bldgs. 216–224, 212, 214
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010847–189010855, 189010859, 189010861
Status: Excess
Comment: 780 sq. ft. each; 1 story wood frame housing garages.
Bldg. 215
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010856
Status: Excess
Comment: 390 sq. ft.; 1 story wood frame housing garage.
Bldg. 158
Calumet Air Force Station
Calument Co: Keweenaw MI 49913-
Landholding Agency: Air Force
Property Number: 189010857
Status: Excess
Comment: 3603 sq. ft.; 1 story concrete/steel; possible asbestos; most recent use—electrical power station.
Bldg. 15
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010864
Status: Excess
Comment: 538 sq. ft.; 1 floor; concrete/wood structure; potential utilities; most recent use—gymnasium facility.
Bldg. 23
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010865
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.
Bldg. 24
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010866
Status: Excess
Comment: 44 sq. ft.; 1 story; metal frame; prior use—storage of fire hoses.
Bldgs. 31–35
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010867–189010871
Status: Excess
Comment: 36 sq. ft. each; 1 story; metal frame; prior use—storage of fire hoses.
Bldgs. 36–37, 39, 201–207
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010872–189010874, 189010879–189010885
Status: Excess
Comment: 25 sq. ft. each; 1 floor metal frame; prior use—storage of fire hoses.
Bldg. 153
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010886
Status: Excess
Comment: 4314 sq. ft.; 2 story concrete block facility; (radar tower bldg.) potential use—storage.
Bldg. 154
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010887
Status: Excess

Comment: 8960 sq. ft.; 4 story concrete block facility; (radar tower bldg.) potential use—storage.
Bldg. 157
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010888
Status: Excess
Comment: 3744 sq. ft.; 1 story concrete/steel facility; (radar tower bldg.); potential use—storage.

New Mexico

Old Helium Plant
Gallup Co: McKinley MN 87301
Location: 1/4 mile north of Gallup, adjacent to Old US Hwy 666
Landholding Agency: Interior
Property Number: 619010002
Status: Excess
Comment: 7653 sq. ft., 1 story office and warehouse space, possible asbestos, on 4.65 acres, secured area with alternate access.

Land (by State)

California

60 ARG/DE
Travis ILS Outer Marker Annex
Rio-Dixon Road
Travis AFB Co: Solano CA 94535–5496
Location: State Highway 113
Landholding Agency: Air Force
Property Number: 189010189
Status: Excess
Comment: .13 acres; most recent use—location for instrument landing systems equipment.

Guam

Annex 1
Andersen Communication
Dededo Co: Guam GU 96912–
Location: In the municipality of Dededo.
Landholding Agency: Air Force
Property Number: 189010427
Status: Underutilized
Comment: 862 acres; subject to utilities easements.
Annex 2, (Partial)
Andersen Petroleum Storage
Dededo Co: Guam GU 96912–
Location: In the municipality of Dededo.
Landholding Agency: Air Force
Property Number: 189010428
Status: Underutilized
Comment: 35 acres; subject to utilities easements.

Michigan

Calumet Air Force Station
Section 1, T57N, R31W
Houghton Township
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010862
Status: Excess
Comment: 34 acres; potential utilities.
Calumet Air Force Station
Section 31, T58N, R30W
Houghton Township
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010863
Status: Excess
Comment: 3.78 acres; potential utilities.

Suitable/Unavailable Properties

Buildings (by State)

California

Hawes Site (KHGM)
March AFB
Hinckley Co: San Bernardino, CA 92402
Landholding Agency: Air Force
Property Number: 189010084
Status: Unutilized
Comment: 9290 sq. ft., 2 story concrete, most recent use—radio relay station, possible asbestos, land belongs to Bureau of Land Management, potential utilities.

Michigan

Bldg. 20
Calumet Air Force Station
Calumet Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010775
Status: Excess
Comment: 13404 sq.ft.; 1 floor; concrete block; potential utilities; possible asbestos; most recent use—warehouse/supply facility.
Bldg. 28
Calumet Air Force Station
Calumet Co: Keweenaw, MI 49913–
Landholding Agency: Air Force
Property Number: 189010778
Status: Excess
Comment: 1000 sq. ft.; 1 floor; possible asbestos; potential utilities; most recent use—maintenance facility.

Missouri

Jefferson Barracks ANG Base
Missouri National Guard
1 Grant Road
St. Louis Co: St. Louis, MO 63125–4118
Landholding Agency: Air Force
Property Number: 189010081
Status: Underutilized
Comment: 20 acres; portion near flammable materials; portion on archaeological site; special fencing required.

New Mexico

Bldg. 13 1606 ABW/DE
Kirtland AFB
Wyoming Avenue
Kirtland Co: Bernalillo, NM 87117–5496
Landholding Agency: Air Force
Property Number: 189010072
Status: Unutilized
Comment: 520 sq. ft., 1 story portable building, off-site use only.

Texas

Bldg. 697
Brooks Air Force Base
San Antonio Co: Bexar, TX 78235
Landholding Agency: Air Force
Property Number: 189010092
Status: Unutilized
Comment: 770 sq. ft., possible asbestos, most recent use—supply store, needs rehab.
Bldg. 698
Brooks Air Force Base
San Antonio Co: Bexar, TX 78235
Landholding Agency: Air Force
Property Number: 189010093
Status: Unutilized
Comment: 5815 sq. ft., 1 story corrugated iron, possible asbestos, needs rehab, most recent use—recreation, workshop.
Bldg. 605
Brooks Air Force Base
San Antonio Co: Bexar, TX 78235–
Landholding Agency: Air Force
Property Number: 189010090
Status: Unutilized
Comment: 392 sq. ft.; 1 story sheet metal building; most recent use—storage; possible asbestos; needs rehab.
Bldg. 696
Brooks Air Force Base
San Antonio Co: Bexar, TX 78235–
Landholding Agency: Air Force
Property Number: 189010091
Status: Unutilized
Comment: 1344 sq. ft.; possible asbestos; most recent use—auto hobby shop; needs rehab.
Bldg. 699
Brooks Air Force Base
San Antonio Co: Bexar, TX 78235–
Landholding Agency: Air Force
Property Number: 189010094
Status: Unutilized
Comment: 2659 sq. ft.; 1 story; possible asbestos; most recent use—arts and crafts center.

Utah

Bryce Canyon Admin. Site
Near Bryce Canyon National Park
Bryce Canyon Co: Garfield, UT 84717
Landholding Agency: Interior
Property Number: 619140005
Status: Underutilized
Comment: 7 houses and other bldgs. on 66 acre site, seasonal use, one story wood frame structures, 48 thru 1400 sq. ft., environmentally protected.

Wyoming

Administration Bldg.
Fontenelle Camp
Fontenelle Co: Lincoln Wy
Landholding Agency: Interior
Property Number: 619030017
Status: Excess
Comment: 4464 sq. ft., 2 story brick structure with a 2880 sq. ft. wood frame addition, needs rehab, possible asbestos, offsite use only.

Land (by State)

Arizona

Tract No. APO–HR–12–N–GSA–001
Central Arizona Project
Scottsdale Co: Maricopa AZ 85251
Landholding Agency: Interior
Property Number: 61923002
Status: Excess
Comment: 16.22 acres, powerline and road easements, access subject to a private road, land near a historic landmark.

California

Norton Com. Facility Annex
Norton AFB
Sixth and Central Streets
Highland Co: San Bernardino CA 92409–5045
Landholding Agency: Air Force
Property Number: 189010194
Status: Excess
Comment: 30.3 acres; most recent use—recreational area; portion subject to easements.
Camp Kohler Annex
McClellan AFB
Sacramento Co: Sacramento CA 95652–5000

Landholding Agency: Air Force
Property Number: 189010045
Status: Unutilized
Comment: 35.30 acres + .11 acres easement; 30+ acres undeveloped; potential utilities; secured area; alternate access.

Florida

Eglin AFB
Mossy Head Co: Walton FL 32533–
Location: NW quadrant of Florida Highway 285 and I–10. Bounded on the North by Louisville RR near Mossy Head, Florida.
Landholding Agency: Air Force
Property Number: 189010134
Status: Excess
Comment: 50 acres; Parcel; previous buffer zone; potential utilities.
Eglin AFB
Mossy Head Co: Walton FL 32533–
Location: NE quadrant of Florida Highway 285, I–10 intersection. Bounded on the North by Louisville and Nashville RR near Mossy Head, Florida.
Landholding Agency: Air Force
Property Number: 189010135
Status: Excess
Comment: 265 acres; Parcel 10; previous buffer zone; potential utilities.
Eglin AFB
Mossy Head Co: Walton FL 32533–
Location: Approximately 1 mile east of Florida Highway 285 and US Highway 90 on North side.
Landholding Agency: Air Force
Property Number: 189010136
Status: Excess
Comment: 47 acres; Parcel 11; previous buffer zone; potential utilities.

Suitable/To Be Excessed

Nevada

Bldgs. 300–302
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120001–189120003
Status: Unutilized
Comment: 1573 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldgs. 303–306
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120004–189120007
Status: Unutilized
Comment: 2750 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only
Bldgs. 307–310, 318, 320–322
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120008–189120011, 189120019 189120021–189120023
Status: Unutilized
Comment: 2170 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldgs 311–317, 319, 324–326
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120012–189120018, 189120020, 189120025–189120027
Status: Unutilized
Comment: 2424 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 323
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120024
Status: Unutilized
Comment: 1233 sq. ft., one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldgs. 331–341, 343, 345–346, 348–353
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120028–189120047
Status: Unutilized
Comment: 1170 sq. ft. each, one story family housing, easement restrictions, potential utilities, off-site removal only.
Bldg. 400
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120048
Status: Unutilized
Comment: 2464 sq. ft., one story, most recent use—maintenance shop, easement restrictions, potential utilities, off-site removal only.
Bldg. 402
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120049
Status: Unutilized
Comment: 2570 sq. ft., one story, most recent use—Chapel, easement restrictions, potential utilities, off-site removal only.
Bldg. 404
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120050
Status: Unutilized
Comment: 2376 sq. ft., one story, most recent use—religious education facility, easement restrictions, potential utilities, off-site removal only.
Bldg. 406
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120051
Status: Unutilized
Comment: 2605 sq. ft., one story, most recent use—child care facility, easement restrictions, potential utilities, off-site removal only.
Bldgs. 3027, 3029–3040
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Numbers: 189120052, 189120054–189120065
Status: Unutilized
Comment: 120 sq. ft. each, one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.
Bldg. 3028
Nellis Air Force Base
Indian Springs AF Aux. Field
Indian Springs Co: Clark NV 89018–
Landholding Agency: Air Force
Property Number: 189120053
Status: Unutilized
Comment: 60 sq. ft., one story, most recent use—storage, easement restrictions, potential utilities, off-site removal only.

North Dakota

Bldg. 101
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Location: Located on North Dakota State Highway 5, four miles west of Fortuna and approximately 60 miles north of Williston via U.S. Highway 85.
Landholding Agency: Air Force
Property Number: 189110095
Status: Excess
Comment: 768 sq. ft., 2 bedroom single family housing unit, needs rehab, off-site use only.
Bldgs. 102–106
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110096–189110100
Status: Excess
Comment: 988 sq. ft. each, 3 bedroom single family housing units, needs rehab, off-site use only.
Bldgs. 107, 110–111
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110101–189110103
Status: Excess
Comment: 768 sq. ft. each, 2 bedroom single family housing units, needs rehab, off-site use only.
Bldgs. 112–116, 123–129
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110104–189110108, 189110115–189110121
Status: Excess
Comment: 1510 sq. ft. each, 3 bedroom single family housing units with attached garages, needs rehab, off-site use only.
Bldgs. 117, 119–122
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110109, 189110111–189110114
Status: Excess
Comment: 1595 sq. ft. each; 3 bedroom single family housing units with attached garages; needs rehab; off-site use only.
Bldg. 118
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189110110
Status: Excess

Comment: 2295 sq. ft.; 4 bedroom single family housing unit, needs rahab; off-site use only.
Bldg. 141
Fortuna Air Force Station
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Number: 189110122
Status: Excess
Comment: 364 sq. ft.; 1 stall vehicle garage; needs rehab; off-site use only.
Bldgs. 142–145
Fortuna Air Force Base
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110123–189110126
Status: Excess
Comment: 624 sq. ft. each; 2 stall vehicle garages; needs rehab; off-site use only.
Bldgs. 201–218
Fortuna Air Force Base
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110127–189110144
Status: Excess
Comment: 1203 sq. ft. each; 3 bedroom single family relocatable housing units; needs rehab; off-site use only.
Bldgs. 221–229
Fortuna Air Force Base
Fortuna Co: Divide ND 58844–
Landholding Agency: Air Force
Property Numbers: 189110145–189110153
Status: Excess
Comment: 672 sq. ft. each; 2 stall vehicle garages; needs rehab; off-site use only.

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. 203, 113
Tin City Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Numbers: 189010296–189010297
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 165, 150, 130
Sparrevohn Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Numbers: 189010298–189010300
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 306
King Salmon Airport
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010301
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 1401
Galena Airport
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010302
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 11–230, 21–116, 34–616, 43–010, 63–320, 63–325
Elmendorf Air Force Base
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Numbers: 189010303–189010308
Status: Unutilized
Reason: Secured area, contamination.
Bldg. 103, 110, 112–115, 118, 1001, 1018, 1025, 1055
Ft. Yukon Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Numbers: 189010309–189010319
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 107, 115, 113, 150, 152, 301, 1001, 1003, 1055, 1056
Cape Lisburne Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Numbers: 189010320–189010329
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 103–105, 110, 114, 202, 204–205, 1001, 1015
Kotzebue Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Numbers: 189010330–189010339
Status: Unutilized
Reason: Secured area, isolated area, not accessible by road, contamination.
Bldg. 50
Cold Bay Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010433
Status: Unutilized
Reason: Other, isolated area, not accessible by road
Comment: Isolated and remote; Arctic environment.

Alabama

48 Bldgs.
Maxwell AFB
Montgomery Co: Montgomery, AL 36112–
Landholding Agency: Air Force
Property Numbers: 189010002–189010005, 189110165–189110167, 18912031–189120232, 189130335–189130336, 189130370–189130381, 189140010–189140014, 189220005–189220014
Status: Unutilized
Reason: Secured area.
22 Bldgs.
Gunter AFB
Montgomery Co: Montgomery, AL 36114–
Landholding Agency: Air Force
Property Numbers: 189010011–189010013, 189010015–189010016, 189010019–189010020, 189010022, 189040853–189040855, 189130349, 189140001–189140009, 189140021
Status: Underutilized
Reason: Secured area.
Bldg. 1435–1436, 1440–1441
Maxwell Air Force Base
Mimosa Road
Montgomery Co: Montgomery AL 36112–
Landholding Agency: Air Force
Property Numbers: 189030220–189030223
Status: Unutilized
Reason: Floodway, secured area.
Bldg. 1004
Reserves Forces Training Facility
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112–
Location: 1004 Maxwell Blvd. & Kelly Street
Landholding Agency: Air Force
Property Number: 189130369
Status: Unutilized
Reason: Secured area, within airport runway clear zone.
Bldgs. 906–907, 931, 933–934
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Numbers: 189240013–189240017
Status: Unutilized
Reason: Secured area, extensive deterioration.
Bldgs. 143, 839
Maxwell Air Force Base
Montgomery Co: Montgomery AL 36112
Landholding Agency: Air Force
Property Numbers: 189240018–189240019
Status: Unutilized
Reason: Secured area.

Arizona

Dormitory Building 632
Williams Air Force Base
Corner of 4th and D Street
Williams AFB Co: Maricopa AZ 85240–5000
Landholding Agency: Air Force
Property Number: 189040856
Status: Unutilized
Reason: Secured area.

California

Bldg. 4052
March AFB
Ice House in West March
Riverside Co: Riverside, CA 92518–
Landholding Agency: Air Force
Property Number: 189010082
Status: Unutilized
Reason: Within airport runway clear zone.
Bldg. 392 60 ABG/DE
Travis Air Force Base
Hospital Drive
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010187
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldg. 1182 60 ABG/DE
Travis Air Force Base
Perimeter Road
Travis AFB Co: Solano, CA 94535–5496
Landholding Agency: Air Force
Property Number: 189010188
Status: Unutilized

Reason: Within airport runway clear zone, secured area.
Bldg. 152, 159, 384, 60 ABG/DE
Travis Air Force Base
Broadway Street
Travis AFB Co: Solano CA 94535–5496
Landholding Agency: Air Force
Property Numbers: 189010190–189010192
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldg. 707, 502, 23, 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Numbers: 189010193, 189010196–189010197
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldg. 575, 63 ABG/DE
Norton Air Force Base
Norton Co: San Bernadino CA 92409–5045
Landholding Agency: Air Force
Property Numbers: 189010195
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.
Bldg. 100–101, 116, 202
Point Arena Air Force Station
Co: Mendocino CA 95468–5000
Landholding Agency: Air Force
Property Numbers: 189010233–189010236
Status: Unutilized
Reason: Secured area.
Bldg. 201–204
Vandenberg Air Force Base
Point Arguello
Vandenberg AFB Co: Santa Barbara CA 93437–
Location: Highway 1, Highway 246, Coast Road, Pt Sal road, Miguelito Cyn.
Landholding Agency: Air Force
Property Numbers: 189010546–189010549
Status: Unutilized
Reason: Secured area.
Bldg. 1009–1010, 1015, 1022–1024
Vandenberg Air Force Base
Off Terra Road
Vandenberg AFB Co: Santa Barbara CA 93437—
Landholding Agency: Air Force
Property Numbers: 189010558–189010563
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldg. 1100–1101, 1103–1107, 1110, 1108
Vandenberg Air Force Base
Off Tangair Road
Vandenberg AFB Co: Santa Barbara CA 93437—
Landholding Agency: Air Force
Property Numbers: 189010567–189010569, 189010571–189010574, 189010579–189010580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldg. 1823
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437—
Location: Hwy 1, Hwy 246, Coast Road, Pt Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Number: 189130360
Status: Unutilized
Reason: Secured area. within 2000 ft. of flammable or explosive material.
Bldgs. 8006, 11443, 1011–1014, 1016–1021, 1027–1031, 6105, 8111, 8118–8119, 8140–8141, 9341, 10312, 10314, 10503, 5431, 6117, 13009, 13012, 13013, 13015, 13021, 13221
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437—
Location: Hwy 1, Hwy 246, Coast Road, Pt Sal Rd., Miguelito CYN
Landholding Agency: Air Force
Property Numbers: 189130362, 189140029, 189210007–189210028, 18923005–1889230006, 189230014–189230019
Status: Unutilized
Reason: Secured area.
Bldg. 10748
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437—
Landholding Agency: Air Force
Property Number: 189210029
Status: Unutilized
Reason: Other. Comment: Extensive deterioration.
Bldgs. 11195, 10004 10702, 10704, 10706, 10710, 10726, 10742, 16104
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437—
Landholding Agency: Air Force
Property Numbers: 189220017, 189230007–189230013, 189230020
Status: Underutilized
Reason: Secured area.
Bldgs. 1791, 7001, 7002, 7008, 13028, 13104, 13106
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Numbers: 189240044–189240047, 189240050–189240052
Status: Unutilized
Reason: Secured area.
Bldgs. 10721, 11026
Vandenberg Air Force Base
Vandenberg AFB Co: Santa Barbara CA 93437
Landholding Agency: Air Force
Property Numbers: 189240048–189240049
Status: Underutilized
Reason: Secured area.
Bldg. 4310–A
Redwood National Park
1409 P.J. Murphy Memorial Drive
Klamath Co: Del Norte CA 95548
Landholding Agency: Interior
Property Number: 619240001
Status: Unutilized
Reason: Extensive deterioration.

Colorado

Bldg. 24
Buckley Air Nat'l Guard Base Aurora Co: Arapahoe CO 80011–9599
Location: Demolished 7 Dec. 90.
Landholding Agency: Air Force
Property Number: 189010249
5Status: Unutilized
Reason: Secured area.
Bldg. 291
:Lowry Air Force Base Denver Co: Denver CO 80230–5000
Location: South of 6th Avenue and east of Rosemary Court.
Landholding Agency: Air Force
Property Number: 189010250
Status: Excess
Reason: Secured area.

Delaware

Bldg. 230
Dover Air Force Base 436 ABG/DE Dover AFB Co: Kent DE 19902–
Landholding Agency: Air Force
Property Number: 189140017
Status: Unutilized
Reason: Secured area.
Bldg. 1900, 1304
436 CSG Dover AFB Dover Co: Kent DE 19902–5516
Landholding Agency: Air Force
Property Numbers: 189120230, 189140018
Status: Unutilized
Reason: Within airport runway clear zone. Secured area.

Florida

Bldgs. 42, 6058–6059
Eglin Air Force Base Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Numbers: 189110001–18911003
Status: Unutilized
Reason: Secured area.
Bldg. 8501, 8505, 8507
Eglin Air Force Base Site A–5 Eglin AFB Co: Okaloosa FL 32542–5000
Landholding Agency: Air Force
Property Number: 189110005–189110006, 189110008
Status: Unutilized
Reason: Floodway, Secured area.
Bldg. 400
Patrick Air Force Base
C Street bet. First & Second Streets
Cocoa Beach Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189220001
Status: Unutilized
Reason: Secured area.
Bldg. 430
Patrick Air Force Base
Third Street bet. B and C Streets
Cocoa Beach Co: Brevard FL 32925
Landholding Agency: Air Force
Property Number: 189220002
Status: Underutilized
Reason: Secured area.
Bldg. 902
Tyndall Air Force Base
Panama City Co: Bay FL 32403–5000
Landholding Agency: Air Force
Property Number: 189130348
Status: Underutilized
Reason: Secured area.
Facility 01322
Cape Canaveral AFS
1301 Flight Control Road
Cape Canaveral Co: Brevard FL 32920
Landholding Agency: Air Force
Property Number: 189220004
Status: Unutilized
Reason: Secured area.
Bldgs. 1176, 1179, 659
Patrick Air Force Base
Co: Brevard FL 32935
Landholding Agency: Air Force
Property Numbers: 189240029–189240031
5Status: Unutilized

Reason: Secured area, extensive deterioration.

Idaho

Bldgs. 1012, 923, 604
Mountain Home Air Force Base
Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Numbers: 189030004–189030006
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.
Bldg. 229
Mt. Home Air Force Base
1st Avenue and A Street
Mt. Home AFB Co: Elmore ID 83648–
Landholding Agency: Air Force
Property Number:189040857
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, within airport runway clear zone.

Illinois

Bldg. 3191
Scott Air Force Base
East Drive 375/ABG/DE
Scott AFB Co: St. Clair IL 62225–5001
Landholding Agency: Air Force
Property Number: 189010247
Status: Unutilized
Reason: Within airport runway clear zone, secured area.
Bldg. 3670, 503, 869, 865
Scott Air Force Base
Scott AFB Co: St. Clair IL 62225–5001
Landholding Agency: Air Force
Property Numbers: 189010248, 189010725, 189110087, 189130347
Status: Unutilized
Reason: Secured area.

Indiana

Bldg. 520, 309, 301
Grissom Air Force Base
Grissom Co: Miami IN 46971–
Landholding Agency: Air Force
Property Numbers: 189010183–18901084, 189010186
Status: Underutilized
Reason: Secured area.
Bldg. 219, 307
Grissom Air Force Base
Grissom AFB Co: Miami IN 46971–5000
Landholding Agency: Air Force
Property Numbers: 189110084–189110085
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldg. 707
Parallel to NE–SW runway & alternate runway
Grissom AFB Co: Miami IN 46971–
Landholding Agency: Air Force
Property Number: 189130334
Status: Unutilized
Reason: Within airport runway clear zone, secured area.

Louisiana

Bldg. 3477
Barksdale Air Force Base
Davis Avenue
Barksdale AFB Co: Bossier LA 71110–5000
Landholding Agency: Air Force
Property Number: 189140015
Status: Unutilized
Reason: Secured area.

Massachusetts

Bldg. 1900, 1833
Westover Air Force Base
Chicopee Co: Hampden MA 01022–
Landholding Agency: Air Force
Property Numbers: 189010438, 189040002
Status: Unutilized
Reason: Secured area.

Maryland

Bldg. 4–4
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges MD 20613–
Landholding Agency: Air Force
Property Numbers: 189010261, 189010264
Status: Unutilized
Reason: Secured area.
Bldg. 3427
Andrews Air Force Base
3427 Pennsylvania Avenue
Andrews AFB Co: Prince George's MD 20355–
Landholding Agency: Air Force
Property Number: 189140016
Status: Unutilized
Reason: Secured area.

Maine

Bldg. 5200, 6200, 6100
Loring Air Force Base
Limestone Co: Aroostook ME 04750–
Landholding Agency: Air Force
Property Numbers: 189010541–189010543
Status: Unutilized
Reason: Secured area.

Michigan

Bldg. 560, 5658, 580, 856, 1005, 1012, 1041, 1412, 1434, 1688, 1689, 5670
Selfridge Air National Guard Base
Selfridge Co: Macomb MI 48045–
Landholding Agency: Air Force
Property Numbers: 189010522–189010533
Status: Unutilized
Reason: Secured area.
Bldg. 71
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010810
Status: Excess
Reason: Other.
Comment: Sewage treatment and disposal facility.
Bldg. 99–100
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010831–189010832
Status: Excess
Reason: Other.
Comment: Water well.
Bldg. 118, 120, 168
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010875–189010876, 189010878
Status: Excess
Reason: Other
Comment: Gasoline station.
Bldg. 166
Calumet Air Force Station
Calumet Co: Keweenaw MI# 49913–
Landholding Agency: Air Force
Property Numbers: 189010877
Status: Excess
Reason: Other
Comment: Pump lift station.
Bldg. 69
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Number: 189010889
Status: Excess
Reason: Other
Comment: Sewer pump facility.
Bldg. 2
Calumet Air Force Station
Calumet Co: Keweenaw MI 49913–
Landholding Agency: Air Force
Property Numbers: 189010890
Status: Excess
Reason: Other
Comment: Water pump station.

Missouri

Bldg. 42, 45–47, 61
Jefferson Barracks ANG Base
1 Grant Road, Missouri National Guard
St. Louis Co: St. Louis MO 63125–
Landholding Agency: Air Force
Property Numbers: 189010726, 189010728–189010731
Status: Unutilized
Reason: Secured area.

Montana

Bldg. 140
Malmstrom AFB
Between Goddard Avenue & 2nd Street
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Numbers: 189010076
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, within airport runway clear zone, secured area, other environmental.
Bldg. 280
Malmstrom AFB
Flightline & Avenue G
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Numbers: 189010077
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, within airport runway clear zone, secured area, other environmental.
Bldg. 621
Malmstrom AFB
1st Street & Avenue I
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Numbers: 189010078
Status: Unutilized
Reason: Other environmental, secured area
Comment: Friable asbestos.
Bldg. 1500, 1502
Malmstrom AFB
Perimeter Road
Malmstrom Co: Cascade MT 59402–
Landholding Agency: Air Force
Property Numbers: 189010079–189010080
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured area, other environmental.
Bldg. 627, 677
Malmstrom Air Force Base
Great Falls Co: Cascade MT 59402–
Landholding Agency: Air Force

Property Numbers: 189010722–189010723
Status: Unutilized
Reason: Secured area, other environmental.
Bldg. 1991
Malmstrom Air Force Base
Between Avenue G and H
Malmstrom Co: Cascade MT 59405–
Landholding Agency: Air Force
Property Numbers: 189040057
Status: Underutilized
Reason: Secured area other environmental.

Nebraska

Offutt Communications Annex-#3
Offutt Air Force Base
Scribner Co: Dodge NE 68031–
Landholding Agency: Air Force
Property Numbers: 189210006
Status: Unutilized
Reason: Other
Comment: Former sewage lagoon.
Bldgs. 637, 639
Lincoln Municipal Airport
2301 West Adams
Lincoln Co: Lancaster NE 68524
Landholding Agency: Air Force
Property Numbers: 189230021–189230022
Status: Unutilized
Reason: Other.
Comment: Extensive deterioration.
Bldgs. 31, 311, 401, 416, 417, 545
Offutt Air Force Base
Offutt Co: Sarpy NE 68113
Landholding Agency: Air Force
Property Numbers: 189240007–189240012
Status: Unutilized
Reason: Secured area.

North Carolina

Bldg. 187
Pope Air Force Base
317 CSG/DE Reilly Road
Pope AFB Co: Cumberland NC 28308–5045
Landholding Agency: Air Force
Property Number: 189010262
Status: Unutilized
Reason: Secured area.
Bldg. 4230—Youth Center
Cannon Ave.
Goldsboro Co: Wayne NC 27531–5005
Landholding Agency: Air Force
Property Number: 189120233
Status: Underutilized
Reason: Secured area.

North Dakota

Bldg. 422
Minot Air Force Base
Minot Co: Ward ND 58705–
Landholding Agency: Air Force
Property Number: 189010724
Status: Underutilized
Reason: Secured area.

New Hampshire

Bldgs. 132, 317, 343, 439
Pease Air Force Base
Pease AFB Co: Rockingham NH 03803–
Landholding Agency: Air Force
Property Numbers: 189010536–189010539
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material.

New Mexico

Bldg. 20330
Kirtland Air Force Base
1606 ABW/DEEVR
Kirtland AFB Co: Bernalillo NM 87117–5496
Landholding Agency: Air Force
Property Number: 189110083
Status: Unutilized
Reason: Secured area.
Bldg. 831
833 CSG/DEER
Holloman AFB Co: Otero NM 88330–
Landholding Agency: Air Force
Property Number: 189130333
Status: Unutilized
Reason: Secured area.
Bldgs. 21, 80, 98, 324, 596, 801, 802, 1095, 1096, 321, 75115
Holloman Air Force Base
Co: Otero NM 88330
Landholding Agency: Air Force
Property Numbers: 189240032–189240042
Status: Unutilized
Reason: Secured area.
Farmington Office and Yard
900 La Plata Highway
Farmington Co: San Juan NM 87499
Landholding Agency: Interior
Property Number: 619010001
Status: Unutilized
Reason: Within airport runway clear zone.

New York

Bldgs. 626 (Pin: RVKQ)
Niagara Falls International Airport
914th Tactical Airlift Group
Niagara Falls Co: Niagara NY 14303–5000
Landholding Agency: Air Force
Property Number: 189010075
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, secured area.
Bldgs. 272, 888
Griffiss Air Force Base
Rome Co: Oneida NY 13441–
Landholding Agency: Air Force
Property Numbers: 189140022–189140023
Status: Excess
Reason: Secured area.
Facilities 814, 808, 807
Griffiss Air Force Base
Rome Co: Oneida NY 13441
Landholding Agency: Air Force
Property Numbers: 189230001–189230003
Status: Excess
Reason: Within airport runway clear zone, secured area.
Facilities 126, 127, 135, 137, 138, 173, 261, 308, 1200
Griffiss Air Force Base
Rome Co: Oneida NY 13441–4520
Landholding Agency: Air Force
Property Numbers: 189240020–189240028
Status: Unutilized
Reason: Secured area.

Ohio

Facility 30205
Wright-Patterson Air Force Base
Greene Co: Greene OH 45433–
Landholding Agency: Air Force
Property Number: 189010434
Status: Unutilized
Reason: Secured area.
Bldg. 404, Hydrant Fuel
910 Airlift Group
Kings-Graves Road
Vienna Co: Trumbull OH 44473–5000
Landholding Agency: Air Force
Property Number: 189220015
Status: Unutilized
Reason: Secured area.
Bldg. 405, Text Cell
910 Airlift Group
Kings-Graves Road
Vienna Co: Trumbull OH 44473–5000
Landholding Agency: Air Force
Property Number: 189220016
Status: Unutilized
Reason: Secured area.

Oklahoma

Bldg. 604
Vance Air Force Base
Enid Co: Garfield OK 73705–5000
Landholding Agency: Air Force
Property Number: 18901220204
Status: Unutilized
Reason: Secured area, within 2000 ft. of flammable or explosive material

Oregon

Eugene District Office Site
751 South Danebo
Eugene Co: Lane OR 97402
Landholding Agency: Interior
Property Number: 619010003
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material.

Puerto Rico

Bldg. 10
Punta Salinas Radar Site
Toa Baja Co: Toa Baja PR 00759–
Landholding Agency: Air Force
Property Number: 189010544
Status: Underutilized
Reason: Secured area.

South Dakota

Bldgs. 88513, 88501
Ellsworth Air Force Base
Ellsworth AFB Co: Meade SD 57706
Landholding Agency: Air Force
Property Numbers: 189210001–189210002
Status: Unutilized
Reason: Extensive deterioration.

Texas

Bldg. 400
Laughlin Air Force Base
Val Verde Co. Co: Val Verde TX 78843–5000
Location: Six miles on Highway 90 east of Del Rio, Texas.
Landholding Agency: Air Force
Property Number: 189010173
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, within airport runway clear zone.
Bldg. 645
Reese Air Force Base
Lubbock Co: Lubbock TX 79489–
Location: West of Lubbock
Landholding Agency: Air Force
Property Number: 189010210
Status: Excess
Reasons: Secured area.
Bldg. 02106
Reese Air Force Base
Lubbock Co: Lubbock TX
Landholding Agency: Air Force
Property Number: 189210005
Status: Unutilized
Reasons: Secured area.

Utah

11 Bldgs.
Hill Air Force Base
Co: Davis UT 84056–
Landholding Agency: Air Force
Property Numbers: 189010275, 189010277, 189010279, 189010281, 189010283, 189010285, 189010287, 189010289, 189010291, 189010293, 189010295
Status: Unutilized
Reasons: Secured area.
Bldgs. 788–790
Hill Air Force Base
Co: Davis UT 84056–
Landholding Agency: Air Force
Property Numbers: 189040858–189040860
Status: Unutilized
Reasons: Within airport runway clear zone, secured area.

Washington

21 Bldgs.
Fairchild AFB
Fairchild Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Numbers: 189010139–189010159
Status: Unutilized
Reasons: Secured area.
Bldg. 100, Geiger Heights
Grove and Hallet Streets
Fairchild AFB Co: Spokane WA 99204–
Landholding Agency: Air Force
Property Number: 189210004
Status: Unutilized
Reason: Other.
Comment: Extensive deterioration.

Wyoming

Bldg. 31, 34, 37, 284, 385, 803
F.E. Warren Air Force Base
Cheyenne Co: Laramie WY 82005–
Landholding Agency: Air Force
Property Number: 189010198–189010203
Status: Unutilized
Reason: Secured area.
Bldgs. 802, 804–806, 2780, 2781
Warren Air Force Base
Cheyenne Co: Laramie WY 82005–5000
Landholding Agency: Air Force
Property Number: 189240001–189240006
Status: Unutilized
Reason: Secured area.

Land (by State)

Alaska

Campion Air Force Station
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010430
Status: Unutilized
Reason: Other, isolated area, not accessible by road.
Comment: Isolated and remote area, Arctic environment.
Lake Louise Recreation
21 CSG–DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010431
Status: Unutilized
Reason: Other, isolated area, not accessible by road.
Comment: Isolated and remote area: Arctic coast.
Nikolski Radio Relay Site
21 CSG/DEER
Elmendorf AFB Co: Anchorage AK 99506–5000
Landholding Agency: Air Force
Property Number: 189010432
Status: Unutilized
Reason: Other, isolated area, not accessible by road.
Comment: Isolated and remote area, Arctic coast.

Florida

Land
MacDill Air Force Base
6601 S. Manhattan Avenue
Tampa Co: Hillsborough FL 33608–
Landholding Agency: Air Force
Property Number: 189030003
Status: Excess
Reason: Floodway.

Maryland

Land
Brandywine Storage Annex
1776 ABW/DE Brandywine Road, Route 381
Andrews AFB Co: Prince Georges MD 20613–
Landholding Agency: Air Force
Property Number: 189010263
Status: Unutilized
Reason: Secured area.

New Mexico

Facility 75100
Holloman Air Force Base
Co: Otero NM 88330
Landholding Agency: Air Force
Property Number: 189240043
Status: Unutilized
Reason: Secured area.

Puerto Rico

119.3 acres
Culebra Island PR 00775
Landholding Agency: Interior
Property Number: 619210001
Status: Excess
Reason: Floodway.

South Dakota

Badlands Bomb Range
60 miles southeast of Rapid City, SD
1½ miles south of Highway 44
Co: Shannon SD
Landholding Agency: Air Force
Property Number: 189210003
Status: Unutilized
Reason: Secured area.

Virginia

Parcel 1 (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150–
Landholding Agency: Air Force
Property Number: 189010435
Status: Unutilized
Reason: Floodway.
Parcel 3, (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150–
Landholding Agency: Air Force
Property Number: 189010436
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material.
Parcel 2, (Byrd Field)
Richmond IAP
5680 Beulah Road
Richmond Co: Henrico VA 23150–
Landholding Agency: Air Force
Property Number: 189010437
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material secured area.
ANG Site
Camp Pendleton
Virginia Air National Guard
Virginia Beach Co: (See County) VA 23451–
Landholding Agency: Air Force
Property Number: 189010589
Status: Unutilized
Reason: Secured area.

Washington

Fairchild AFB
SE corner of base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189010137
Status: Unutilized
Reason: Secured area.
Fairchild AFB
Fairchild AFB Co: Spokane WA 99011–
Location: NW corner of base.
Landholding Agency: Air Force
Property Number: 189010138
Status: Unutilized
Reason: Secured area.

[FR Doc. 92–26815 Filed 11–5–92; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

National Park Service

Recreation Entrance Fees

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the single-visit entrance fee will be increased by $1 at 126 areas of the National Park System. This increase is consistent with the legislatively imposed maximums of $5 vehicle/$3 person provided by Public Law 100–203.

Parks affected by the increase currently charge $5 vehicle/$2 person, $3 vehicle/$1 person. The new rates will be $5 vehicle/$3 person, $4 vehicle/$2 person, as applicable. Currently 136 parks, including the 126 fee increase parks, charge an entrance fee. Entrance fee parks and respective fees are listed below

DATES: This action is effective as of January 1, 1993.

ADDRESSES: National Park Service, Ranger Activities Division, P.O. Box 37127, Washington, DC 20013–7127.

FOR FURTHER INFORMATION CONTACT: Weston Kreis, Recreation Fee Coordinator, at the above address; telephone (202) 208–4874.

SUPPLEMENTARY INFORMATION: The last general entrance fee increase occurred in 1987. Public Law 100–203, approved December 22, 1987, which amended the Land and Water Conservation Fund Act of 1965, provided the National Park Service with authority to charge entrance fees at units of the National Park System until the year 2015. The legislatively required 60-day congressional review period expired October 30, 1992.

* * * * *

Dated: November 3, 1992.

Herbert S. Cables, Jr.,

Director, National Park Service.

NATIONAL PARK SERVICE—1993 SINGLE VISIT RATES

[Fees in **Bold** print identify $1 increase]

Park	Vehicle	Person
Acadia NP	$5.00	$3.00
Adams NHS		2.00
Andrew Johnson NHS		2.00
Antietam NB		2.00
Appomattox Court House NHP		2.00
Arches NP	**4.00**	2.00
Assateague Island NS	**4.00**	2.00
Aztec Ruins NM		2.00
Badlands NP	**5.00**	3.00
Bandelier NM	5.00	3.00
Bent's Old Fort		2.00
Big Bend NP	5.00	3.00
Big Hole NB	**4.00**	2.00
Black Canyon of the Gunnison NM	**4.00**	2.00
Booker T. Washington NM		2.00
Bryce Canyon NP	5.00	3.00
Cabrillo NM	**4.00**	2.00
Canyonlands NP	**4.00**	2.00
Cape Cod NS	5.00	3.00
Capitol Reef NP	**4.00**	2.00
Capulin Volcano NM	**4.00**	2.00
Carl Sandburg NHS		2.00
Casa Grande NM		2.00
Castillo De San Marcos NM		2.00
Cedar Breaks NM	**4.00**	2.00
Chaco Culture NHP	**4.00**	2.00
C & O Canal (Great Falls, Md)	**4.00**	2.00
Chickamauga and Chattanooga NMP		2.00
Chiricahua NM	**4.00**	2.00
Christiansted NHS		2.00
Colonial NHP	5.00	3.00
Colorado NM	**4.00**	2.00
Crater Lake NP	5.00	3.00
Craters of the Moon NM	**4.00**	2.00
Custer Battlefield NM	**4.00**	2.00
Death Valley NM	5.00	3.00
Denali NP		3.00
Devils Tower NM	**4.00**	2.00
Dinosaur NM	5.00	3.00
Edison NHS		2.00
Effigy Mounds NM		2.00
Eisenhower NHS		2.00
El Morro NM		2.00
Everglades NP	5.00	3.00
Florissant Fossil Beds NM		2.00
Fort Clatsop NMEM		2.00
Fort Davis NHS		2.00
Fort Frederica NM	**4.00**	2.00
Fort Laramie NHS		2.00
Fort Larned NHS		2.00
Fort McHenry NM		2.00
Fort Necessity NB		2.00
Fort Pulaski NM	**4.00**	2.00

NATIONAL PARK SERVICE—1993 SINGLE VISIT RATES—Continued

[Fees in **Bold** print identify $1 increase]

Park	Vehicle	Person
Fort Scott NHS		2.00
Fort Smith NHS		2.00
Fort Stanwix		2.00
Fort Union NM		2.00
Fort Vancouver NHS		2.00
Fort Washington	**4.00**	2.00
George Rogers Clark NHP		2.00
George Washington Birthplace NM		2.00
George Washington Carver NM		2.00
Glacier NP	5.00	3.00
Golden Spike NHS	**4.00**	2.00
Grand Canyon NP	10.00	4.00
Grand Portage NM		2.00
Grand Teton NP	10.00	4.00
Grant—Kohrs Ranch NHS		2.00
Great Falls Park (Va)	**4.00**	2.00
Great Sand Dunes NM	**4.00**	2.00
Gulf Islands NS	**4.00**	2.00
Haleakala NP	**4.00**	2.00
Harpers Ferry NHP	5.00	3.00
Harry S. Truman NHS		2.00
Hawaii Volcanoes HP	5.00	3.00
Herbert Hoover NHS		2.00
Home of Franklin D. Roosevelt		2.00
Hopewell Furnace NHS		2.00
Jefferson National Expansion Memorial		2.00
John F. Kennedy NHS		2.00
John Muir House NHS		2.00
Joshua Tree NM	5.00	3.00
Kings Canyon NP	5.00	3.00
Lassen Volcanic NP	5.00	3.00
Lava Beds NM	**4.00**	2.00
Lincoln Boyhood NMEN		2.00
Longfellow NHS		2.00
Manassas NBP		2.00
Martin Van Buren NHS		2.00
Mesa Verde NP	5.00	3.00
Minute Man NHP		2.00
Montezuma Castle NM		2.00
Morristown NHP		2.00
Mound City Group NM		2.00
Mount Rainier NP	5.00	3.00
Natural Bridges NM	**4.00**	2.00
Olympic NP	**4.00**	2.00
Organ Pipe Cactus NM	**4.00**	2.00
Padre Island NS	**4.00**	2.00
Pea Ridge NMP	**4.00**	2.00
Pecos NM		2.00
Perry's Victory and IPM		2.00
Petersburg NB	**4.00**	2.00
Petrified Forest NP	5.00	3.00
Pinnacles NM	**4.00**	2.00
Pipe Spring NM		2.00
Pipestone NM		2.00
Prince William Forest Park	**4.00**	2.00
Pu'Uhonua O Honaunau NHP		2.00
Rocky Mountain NP	5.00	3.00
Sagamore Hill NHS		2.00
Saguaro NM	**4.00**	2.00
Saint-Gaudens NHS		2.00
Saratoga NHP	**4.00**	2.00
Scotts Bluff NM	**4.00**	2.00
Sequoia	5.00	3.00
Shenandoah NP	5.00	3.00
Shiloh NMP		2.00
Sunset Crater NM	**4.00**	2.00
Theodore Roosevelt Birthplace		2.00
Theodore Roosevelt NP	**4.00**	2.00
Tonto NM	**4.00**	2.00
Tumacacori NM		2.00
Tuzigoot NM		2.00
Valley Forge NHP	**4.00**	2.00
Vanderbilt Mansion NHS		2.00
Vicksburg NMP	**4.00**	2.00
Walnut Canyon NM		2.00

NATIONAL PARK SERVICE—1993 SINGLE VISIT RATES—Continued

[Fees in **Bold** print identify $1 increase]

Park	Vehicle	Person
White Sands NM	**4.00**	2.00
Whitman Mission NHS		2.00
Wilson's Creek NB	**4.00**	2.00
Wright Brothers NMEM	**4.00**	2.00
Wupatki NM	**4.00**	2.00
Yellowstone NP	10.00	4.00
Yosemite NP	5.00	3.00
Zion NP	5.00	3.00

[FR Doc. 92–27022 Filed 11–5–92; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Under OMB Review

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the form and supporting documents may be obtained from the Agency Clearance Officer, Kathleen King, (202) 927–5493 Comments regarding this information collection should be addressed to Kathleen King, Interstate Commerce Commission, room 1312, Washington, DC 20423 and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attn: Desk Officer for ICC, Washington, DC 20503. When submitting comments, refer to the OMB number or the title of the form.

Type of Clearance: Revision of a currently approved form.

Bureau/Office: Office of the Managing Director.

Title of Form: Application to Open an Account for Billing Purposes.

Agency Form Number: ICC–1032.

Frequency: Upon initial application only.

Number of Respondents: 250.

Total Burden Hours: 75.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–27001 Filed 11–5–92; 8:45 am]

BILLING CODE 7035–01–M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporation intend to provide or use compensated intercorporate hauling

operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

Scrivner, Inc., an Oklahoma Corporation, Corporate Office, 5701 North Shartel, Oklahoma City, Oklahoma 73118. with Division Offices at:

Scrivner, Oklahoma Division, Incorporated in Delaware.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

Scrivner of Kansas, Inc., Incorporated in Kansas.
Scrivner of Texas, Inc., Incorporated in Texas.
Scrivner of Texas, Inc., Incorporated in Texas.
Scrivner of Iowa, Inc., Incorporated in Iowa.
Scrivner of Illinois, Inc., Incorporated in Illinois.
Scrivner of New York, Inc., Incorporated in New York.
Scrivner of New York, Inc., Incorporated in New York.
Scrivner of New York, Inc., Incorporated in New York.
Scrivner of Alabama, Inc., Incorporated in Alabama.
Scrivner of Tennessee, Inc., Incorporated in Tennessee.
Scrivner of North Carolina, Inc., Incorporated in North Carolina.
Scrivner of Pennsylvania, Inc., Incorporated in Pennsylvania.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27002 Filed 11-5-92; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 32167; Decision No. 2]

Kansas City Southern Industries, Inc., the Kansas City Southern Railway Co., and K&M Newco, Inc.—Control—MidSouth Corp., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of prefiling notification and request for comments.

SUMMARY: Pursuant to 49 CFR 1180.4(b), applicants have notified the Commission of their intent to file an application seeking authority for Kansas City Southern Industries, Inc., The Kansas City Southern Railway Company, K&M Newco, Inc. to acquire control of MidSouth Corporation, MidSouth Rail Corporation, MidLouisiana Rail Corporation, SouthRail Corporation, and TennRail Corporation. Applicants also filed petitions for waiver or clarification of our railroad consolidation procedures, to establish a procedural schedule, and for a protective order. Although the Commission finds this to be a significant transaction under 49 CFR part 1180, no responsive applications will be permitted and an operating plan for a minor transaction will be accepted. The Commission tentatively adopts the proposed evidentiary schedule, as amended, which is shorter than that generally used in processing significant transactions. Moreover, the Commission waives the requirement that a waiver request be filed at least 45 days prior to an application, and also waives the 2-month waiting period between the filing of the notice and the application. Also waived is the requirement that certain financial information be filed and the requirement that employee impact data appear in a certain form.

DATES: This decision is effective on November 6, 1992. Written comments must be filed with the Interstate Commerce Commission no later than November 27, 1992. Applicants' reply is due on or before December 7, 1992.

ADDRESSES: An original and 20 copies of all documents must refer to Finance Docket No. 32167 and be sent to: Office of the Secretary, Case Control Branch, Attn: Finance Docket No. 32167, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all documents in this proceeding must be sent to the United States Secretary of Transportation, the Attorney General of the United States, and each of applicants' representatives:

Federal Railroad Administration, Docket Clerk, Office of Chief Counsel, Room 5101, 400 Seventh Street, SW., Washington, DC 20590.
Attorney General of the United States, Antitrust Division, Washington, DC 20530.
Laurence R. Latourette, Preston, Gates, Ellis & Rouvelas Meeds, Suite 500, 1735 New York Avenue, NW., Washington, DC 20006-4759.
Richard P. Bruening, Kansas City Southern Industries, Inc., 114 West 11th Street, Kansas City, MO 64105.
Robert H. Forry, Troutman Sanders, NationsBank Plaza, Suite 5200, 600 Peachtree Street, NE., Atlanta, GA 30308-2216.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder, (202) 927-5610, [TDD for hearing impaired: (202) 927-5721.]

SUPPLEMENTARY INFORMATION: On October 8, 1992, Kansas City Southern Industries, Inc. (KCSI), The Kansas City Southern Railway Company (KCSR), K&M Newco, Inc. (KMN) (collectively KCS), and MidSouth Corporation (MSC), and its rail subsidiaries MidSouth Rail Corporation (MSR), MidLouisiana Rail Corporation (MLR), SouthRail Corporation (SR), and TennRail Corporation (TR) (all of these entities are referred to collectively as the applicants), filed a notice of intent indicating that they will file an application seeking Commission approval and authorization under 49 U.S.C. 11343 *et seq.*, for the common control by KCSI of KCSR and MSC's rail subsidiaries (MSR, MLR, SR, and TR). Applicants also filed petitions for waiver or clarification of our railroad consolidation procedures, to establish a procedural schedule, and for a protective order.[1]

The Illinois Central Railroad Company (IC) has filed objections and a motion for leave to file a reply to applicants' petition for waiver if its objections are considered to constitute a reply.

KSCI, a non-carrier holding company, owns and controls KCSR, which is a class I railroad. MSR is a class II railroad, as is SR. MLR and TR are class III railroads. KCSI, through its non-carrier subsidiary KMN, will acquire all of the common stock of MSC, which will then be merged with KMN. MSC will emerge as the surviving corporation, and will be a wholly owned subsidiary of KCSI. KSCR operates over 2,500 miles of track in 8 states. The MSC subsidiaries operate over 1,181 miles of track in 4 states. The KSCR and MSC systems do not serve any of the same shippers and their rail lines overlap only between the cities of Shreveport and Sibley, LA, a distance of 27 miles. The transaction is, thus, almost entirely "end-to-end" in nature.

In any proceeding filed under 49 U.S.C. 11343 not involving the merger or control of two or more class I railroads, we must determine at the outset if the transaction is significant or minor. See 49 CFR 1180.2 (b) and (c). If the Commission finds the transaction to be of regional or national transportation significance or that it involves at least one class I railroad acting with one or more class I or II railroads in a major market extension, it is considered significant. See 49 U.S.C. 11345(c) and § 1180.2(b). Significant proceedings are subject to longer decisional deadlines and more extensive evidentiary requirements that are minor proceedings. See 49 CFR 1180.4.

Applicants acknowledge that under our current regulations, their proposed transaction is a significant transaction. They contend, however, that the Commission should classify it as a minor transaction, citing the Commission's proposed rulemaking

[1] Applicants seek the order to protect confidential information and to facilitate compliance with 49 U.S.C. 11343 and 11910. A decision granting the protective order was served November 4, 1992.

decision in Ex Parte No. 282 (Sub-No. 17), Rail Consolidation Procedures: Definition of, and Requirements Applicable to, "Significant" Transactions (not printed), served August 7, 1992. In Ex Parte No. 282 (Sub-No. 17), the Commission is proposing to exclude from classification as significant those transactions not involving two or more class I railroads that clearly have no anticompetitive effects or where the public interest outweighs the anticompetitive effects. Stating that this transaction will allow KCS, for the first time, to enter markets in Mississippi and Alabama, IC argues that the transaction would be a major market extension for KCS and, thus, should be considered a significant transaction.

We find the proposed transaction to be a significant transaction. While applicants' transaction may fall within the proposed new definition of a minor transaction, until the Commission formally adopts the new rules we will continue to classify it according to our regulations as currently written. Nevertheless, for the reasons stated below, we do not believe that applicants need to meet all of the requirements associated with significant transactions. As a result, we will tentatively adopt applicants' proposed procedural schedule, with modifications, setting a 225-day schedule (instead of the 175 days requested by applicants). Extensions of time will be considered if necessary.

Although a significant transaction, the proposed merger is not particularly complex, as it is essentially end-to-end in nature and involves almost no overlap between KCS's and MSC's existing systems. IC is correct that we have recognized that end-to-end transactions can have significant effects on competition. See Union Pacific Corp. et al.—Control—Missouri Pacific Corp. et al., 366 I.C.C. 462, 528 (1982). We have also stated, however, that end-to-end transactions are not expected to have adverse competitive impacts under 49 U.S.C. 11344(d)(1). See Rio Grande Industries, et al.—Pur. & Track.—CMW Ry. Co., 5 I.C.C.2d 952, 968 (1989). In finance Docket No. 32036, Wisconsin Central Transportation Corporation, et al.—Continuance in Control—Fox Valley & Western Ltd. (not printed), served May 28, 1992 (Wisconsin Central), we also approved a similar expedited procedural schedule for a significant transaction.

We disagree with IC that the proposed expedited schedule would preclude affected parties, and the Commission, from thoroughly analyzing the transaction. IC argues that Wisconsin Central does not provide a useful analogy to the instant case, as the Commission there chose to classify a transaction as significant because of the particular characteristics of the transaction. The posture we took in Wisconsin Central is entirely consistent with our action here. We adjusted the schedule and filing requirements in Wisconsin Central to better reflect the particular facts of the transaction involved. Here, applicants submit that providing for an expedited schedule will have several benefits. While we are lengthening somewhat the scheduled applicants proposed, we believe that the schedule adopted will enable applicants to achieve these benefits while giving other parties an opportunity to make their case, and allow the Commission to thoroughly analyze the record.[2]

Applicants have requested a waiver of the requirement of 49 CFR 1180.4(f)(2) that all waivers be filed at least 45 days prior to the filing of an application so that it may adhere to its timetable and minimize delays to this transaction. We will grant the waiver. See Finance Docket No. 31801, Illinois Central Corporation and Illinois Central Railroad Company—Control—MidSouth Corporation, MidSouth Rail Corporation, MidLouisiana Rail Corporation, and Southrail Corporation (not printed), served February 22, 1991 (IC–MidSouth) Moreover, we will grant IC's request to file a reply to applicants' waiver petition to the extent their already filed objections to that petition are considered reply material. Accepting this pleading will not delay this proceeding.

Applicants request that responsive applications not be permitted. The provisions of 49 CFR 1180.4(d) provide for responsive applications in significant transaction proceedings and those of 49 CFR 1180.2(h) provide for trackage rights relief as part of a responsive application. The main effect of permitting a responsive application here, however, would be to delay the procedural schedule. In Wisconsin Central, we declined to allow responsive applications to be filed, and stated that we can impose competition-preserving conditions if they are warranted, without the aid of responsive applications. IC has not shown that it needs the additional time required for such filings or that the Commission cannot consider its request for conditions in a more expedited fashion. We can adequately address IC's concerns by imposing conditions that we find to be necessary, and we reserve the right to impose these conditions where needed.

Applicants ask us to issue a decision 45 days after the close of the evidentiary record. While we have agreed to expedite this proceeding as much as possible in accordance with applicants' requests, we do not feel that 45 days provides ample time to complete our review and issue a final decision. In Wisconsin Central, we set up a procedural schedule providing for a final decision to be issued 75 days after the close of the evidentiary period. Our recent experiences indicate that the Commission and the parties will be better served if we allow 90 days at the outset for the issuance of the final decision. We are prepared to shorten this time period if the circumstances allow it. As noted, we are adopting this schedule only tentatively, and if the arguments made for a shorter period are persuasive, we will consider amending the date.

We will waive the prefiling notice provision for significant transactions in 49 CFR 1180.4(b). We disagree with IC that interested parties will be prejudiced in their ability to evaluate the transaction by the granting of this waiver. This proposed transaction has received considerable advance publicity,[3] and as evidence by IC's filings, there has been ample time for opponents to have begun preparing their submissions. The provision for extensions of time will ensure that no participant or relevant issue will be ignored. We reserve the right to require the filing of supplemental information from applicants or any other party or individual as necessary to complete the record in this matter. The tentative schedule does not provide for oral hearing, as we do not anticipate that any will be required. If it is shown that such a hearing is necessary to fully develop the issues in this proceeding, we will amend the schedule to provide for oral hearing.

The following procedure schedule is tentatively adopted, barring any persuasive arguments against such a schedule that may be filed:

[2] IC is correct that in Finance Docket No. 31505, Rio Grande Industries, Inc., et al—Purchase and Related Trackage Rights—Soo Line Railroad Company Line Between Kansas City, MO and Chicago, IL (not printed), served October 17, 1989 (Rio Grande), the Commission stated that a 9-month procedural schedule was adequate for parties to present evidence and arguments and for the Commission to evaluate the evidence. Rio Grande, however, involved two Class I railroads in a much larger and more complex transaction than is the case here.

[3] For example, an article announcing the proposed merger first appeared in Traffic World on September 28, 1992.

Proposed Procedural Schedule

F—Primary application filed.

F+30—Commission notice of acceptance of primary application published.

F+60—Comments on primary application (except DOJ, DOT) due.

F+75—Written comments of DOJ and DOT due.

F+95—Opposition evidence and briefs due.

F+110—Government parties' evidence and briefs due.

F+135—Rebuttal evidence in support of primary application due. Close of evidentiary record.

F+225—Final decision.

The application is available for inspection in the Public Docket Room at the offices of the Interstate Commerce Commission in Washington, DC. Applicants are expected to follow the requirements of 49 CFR 1180.4(c)(5)(v) regarding service of copies on interest parties.

We are waiving certain regulatory requirements concerning what evidence must be included in the application. Specifically, applicants need not submit *pro forma* financial statements as required by 49 CFR 1180.9. Moreover, data concerning their operating plan shall comply with our regulations at 49 CFR 1180.8(b) for minor transactions. *Pro forma* financial statements are of little or no assistance in cases, such as this, that do not involve the merger of two class I railroads and where fixed charges are not at issue under the statute. We do not agree with IC that more detailed information is required to adequately assess the competitive impacts of this proposed transaction. The operating plans and financial schedule to be submitted will provide sufficient data on operating savings and financial information. Just as we allowed IC to waive these filing requirements in IC–MidSouth, so shall we grant applicants' request here.

Section 1180.6(a)(2)(v) requires an applicant to discuss the "effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached." Applicants seek confirmation that they may use the system of classification shown in attached appendix A and that, in presenting the required employee impact data, they may use the format presented in attached appendix B. This proposal is adequate to provide the information we need, and we will thus approve it. See Financial Docket No. 32133, Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company—Control—Chicago and North Western Holdings Corp, and Chicago and North Western Transportation Company (not printed), served October 26, 1992 (UP–CNW).

Section 118.6(a)(8) requires applicants to submit information with respect to environmental and energy matters in accordance with 49 CFR part 1105. Applicants state that, as required, their representatives consulted with personnel of the Commission's Section of Energy and Environment (SEE) on September 22, 1992. Applicants seek confirmation that they need not file an environmental report, because the transaction will neither exceed the thresholds in § 1105.7(e) (4) or (5) nor come within 49 CFR 1105.6(b)(4) (i) or (ii). SEE has concluded that this proceeding is exempt from environmental report requirements under section 1105.6(c)(2). We agree with SEE's conclusions and, therefore, waiver of these conditions is not necessary.

Applicants also request confirmation that they need not file a Historic Report, because the transaction will neither come within 49 CFR 1105.6(b)(4) (i) or (ii), nor involve a lease, transfer, or sale of a railroad's line, sites, or structures. SEE had also found, and we agree, that this proceeding is exempt from historic reporting requirements under § 1105.8(b)(3). Waiver of these conditions is, therefore, not necessary.

Applicants ask for clarification of the definition of "applicant carrier" under 49 CFR 1180.3(b). "Applicant carrier" is defined there to include not only an applicant, but "all carriers related to the applicant and all other carriers involved in the transaction." KCSR notes that it has less than a controlling interest in a number of terminal companies that are common carriers, and it seeks clarification that, for the purposes of this proceeding, these terminal companies are not "applicant carriers." KCSR also seeks clarification that its motor carrier subsidiaries not be considered "applicant carriers" for the purposes of this application. KCSR's motor carrier subsidiaries serve a function ancillary to KCSR's rail operations, and the financial performance date of these subsidiaries is consolidated with that of KCSR. These requests are reasonable and consistent with our previous interpretations in merger proceedings. See UP–CNW; Finance Docket No. 31522, Rio Grande Industries, Inc.—Purchase & Trackage Rights—Chicago, Missouri & Western Ry. Between St. Louis, MO and Chicago, IL (not printed), served August 18, 1989; and RGI–Soo. Accordingly, in the context of this proceeding, these entities will not be considered "applicant carriers."

Applicants also seek clarification on whether they are allowed to submit the information and data required by the Commission's procedures pertaining to MSC and its rail subsidiaries on a consolidated basis. Applicants state that while they maintain business records on both an independent and consolidated basis, a unified presentation of the data would be sufficient for the disposition of this proceeding. We agree, and consistent with our past practice, will permit the filing of information pertaining to each of MSC's rail subsidiaries on a consolidated basis. See UP–CNW.

Interested parties may participate in this proceeding by submitting written comments containing the information described in 49 CFR 1180.4(d)(iii).[4] Any person who files timely written comments will be considered a party of record if he or she so requests. In this event, no petition for leave to intervene need be filed.

We invite interested parties to submit written comments on the proposed schedule. Comments must be filed by November 27, 1992. Applicants may reply on or before December 7, 1992.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The petition for waiver and clarification is granted to the extent set forth in this decision. The transaction is considered significant under 49 CFR 1180.2(b).

2. Applicants' proposed procedural schedule is tentatively adopted, as amended above.

3. This decision is effective on November 6, 1992.

Decided: November 2, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett. Commissioner Simmons, joined by Vice Chairman McDonald dissented in part with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

Appendix A

Classifications of Jobs Shown In Labor Impact Data. Section 1180.(A)(2)(V)

Blacksmiths

[4] Applicants also request that if the written comments do not contain any substantive objections to the application that the Commission waive remaining filings and close the evidentiary record. This request is premature. Applicants may renew this request at an appropriate time.

Boilermakers
Carmen
Clerks
Dispatchers
Electricians
Enginemen
Laborers
Machinists
Maintenance of Way
Nonagreement
Railway Supervisors
Sheet Metal Workers
Signalmen
Trainmen
Yardmasters

Appendix B

Section 1180.6(A)(2)(v) Effects on Applicant Carriers' Employees

Current location	Classification	Jobs transferred to	Jobs abolished	Jobs created	Year

[FR Doc. 92-27076 Filed 11-5-92; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 32168]

Missouri Pacific Railroad Company and South Kansas and Oklahoma Railroad Company; Joint Relocation Project Exemption

On October 2, 1992, Missouri Pacific Railroad Company (MP) and South Kansas and Oklahoma Railroad Company (SKOL) filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate a line of railroad in Allen, Neosho, Wilson, and Woodson Counties, KS. The joint project involves: (1) A haulage arrangement under which SKOL will serve MP's customers, as its agent, at Humboldt and Fredonia, KS; [1] (2) overhead trackage rights to MP on approximately 26.6 miles of SKOL's Humboldt Industrial Spur between milepost 117.4 at Humboldt and milepost 144.0 at Benedict, KS; and (3) incidental abandonment by MP of approximately 10.41 miles of the Humboldt Industrial Spur, between milepost 44.59 near Piqua and milepost 34.18 near Humboldt, KS. The parties intend to consummate the transaction on or after October 9, 1992.

The joint project will not disrupt service to shippers; SKOL will continue to serve MP's customers at Humboldt and Fredonia.[2] MP, in turn, will retain access to these shippers via the trackage rights granted by SKOL. According to MP, the transaction will not generate new traffic, extend rail service into a new territory, or affect and/or change the competitive position of the rail carriers in the area.

The Commission generally will not assume jurisdiction over the incidental abandonment component of a relocation project unless a change in service to shippers, an expansion into new territory, or a change in existing competitive relationships is likely to result. See Denver & R.G.W.R. Co.—Jt. Proj.—Relocation Over BN, 4 I.C.C.2d 95 (1987). Under these standards, the Commission will not assume jurisdiction over the proposed abandonment. The remainder of the joint relocation project qualifies under the class exemption procedures at 49 CFR 1180.2(d)(5).

As a condition to the use of this exemption, any employees affected by the trackage rights agreement will be protected by the conditions in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Petitions to revoke the exemption under 49 U.S.C. 1505(D) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Joseph D. Anthofer, 1415 Dodge Street, room 830, Omaha, NE 68170.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Dated: October 21, 1992.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-27003 Filed 11-5-92; 8:45 am]
BILLING CODE 7035-01-M

[1] Car haulage is a private arrangement between carriers, it does not require Commission approval. See Finance Docket No. 31293, Burlington N.R. Co.—Exemp.—Jt. Proj. to Relocate a Line of Railroad Betw. Tulsa and Muskogee, OK (not printed), served July 19, 1988.

[2] To implement the car haulage arrangement, SKOL filed a related proceeding, Finance Docket No. 32171, South Kans. & Okla. R., Inc.,—Trackage Rights Exemption—Missouri Pac. R. Co., giving notice that MP has granted it approximately 1.91 miles of local trackage rights between mileposts 424.42 and 426.33 near Fredonia, KS.

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations is these decisions of prevailing rates and fringe benefits have been made in accordance with 39 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued

Under the Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut.
CT91-1 (Feb. 22, 1991)..... p. 63, p. 64.
CT91-3 (Feb. 22, 1991)..... p. 78a, p. 78b
CT91-4 (Feb. 22, 1991)..... p. 78g, p. 78h.
District of Columbia:
DC91-1 (Feb. 22, 1991)..... p. ALL.
Florida:
FL91-17 (Feb. 22, 1991)..... p. 141, p. 142
New York:
NY91-1 (Feb. 22, 1991)..... p. 773, p. 774-775.
NY91-7 (Feb. 22, 1991)..... p. 837, p. 839.
Pennsylvania:
PA91-6 (Feb. 22, 1991)..... p. 1007, p. 1008.
Virginia:
VA91-25 (Feb. 22, 1991)..... p. ALL.
VA91-34 (Feb. 22, 1991)..... p. ALL.
VA91-48 (Feb. 22, 1991)..... p. ALL.
VA91-52 (Feb. 22, 1991)..... p. ALL.
West Virginia:
WV91-3 (Feb. 22, 1991)..... p. 1445, p. 1446.
VA91-6 (Feb. 22, 1991)..... p. ALL.

Volume II

Michigan:
MI91-3 (Feb. 22, 1991)..... p. ALL.
Oklahoma:
OK91-14 (Feb. 22, 1991)..... p. 987, p. 990.
Texas:
TX91-3 (Feb. 22, 1991)..... p. ALL.
Wisconsin:
WI91-16 (Feb. 22, 1991)..... p. ALL.

Volume III

Alaska:
AK91-1 (Feb. 22, 1991)..... p. ALL.
Colorado:
CO91-1 (Feb. 22, 1991)..... p. 151, pp. 152-154, p. 156.
CO91-5 (Feb. 22, 1991)..... p. ALL.
Utah:
UT91-3 (Feb. 22, 1991)..... p. 409, p. 410.
Washington:
WA91-1 (Feb. 22, 1991)..... p. ALL.
WA91-9 (Feb. 22, 1991)..... p. ALL.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the State covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 30th day of October 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-26782 Filed 11-5-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-23,874]

General Motors Corporation, BOC Linden, Linden, N.J.; Third Notice of Negative Determination on Reconsideration

Pursuant to an order from the U.S. Court of International Trade in *International Union, United Automobile Aerospace and Agricultural Implement Workers of America, UAW and UAW # Local 595* v. *Secretary of Labor* (USCIT 90-05-00263), the Department undertook a further investigation and is affirming its initial denial of eligibility to apply for adjustment assistance for workers at General Motors Corporation's BOC plant in Linden, New Jersey.

This remand ordered that in determining whether vehicles are like or directly competitive with the vehicles produced by plaintiffs, the Department is to——

(1) Include in the record the factual data relied upon in determining passenger accommodations and cargo capacity and explain how they are applied in analyzing imported and domestic vehicles;

(2) Explain why its latest market segments include domestic vehicles with published prices which are lower than the published prices of imported vehicles when it stated in its First Supplemental Record that one must "adjust published prices of domestic vehicles significantly downward before comparing them to published prices of imports" and;

(3) Explain on what basis it distinguished the eleven imported vehicles which were too small and or too inexpensive to be like or directly competitive with the vehicles produced by plaintiffs from the five domestic vehicles which plaintiffs claim are too small and or inexpensive to be like or directly competitive with the vehicles produced by plaintiffs.

On remand, the Department is including that part of the April 1989 issue of Consumer Reports which contains the measurements of several 1989 model vehicle size and accommodation indicators along with a page explaining the meaning and methodology behind each measurement. The Consumer Reports table contains the most complete and reliable data related to interior space measurements and trunk capacity.

An examination of the data from Consumer Reports shows that there is not a great deal of variation in interior measurements among those vehicles included in the market analysis for the present case. The largest differences are in luggage capacity. As Consumer Reports itself notes (page 268), "The tape measure doesn't tell you everything about comfort". Therefore, the interior measurements can only be used in conjunction with direct inspection of the vehicles in question to draw conclusions about passenger accommodations. The Department's auto analyst conducts just such an inspection every year, and uses the conclusions obtained from these inspections to help in making accurate judgments about which vehicles offer comparable passenger accommodations.

The USCIT ordered that the Department explain why its latest

market segments include domestic vehicles with published list prices which are lower than the published prices of imported vehicles when the Department stated earlier in its First Supplemental Record that one must "adjust published prices of domestic vehicles significantly downward before comparing them to published prices of imports."

This order appears to have two related parts. The first refers to including domestic vehicles with published list prices lower than the published list prices of imported vehicles. The second refers to adjusting published prices of domestic vehicles downward.

With regard to the first part, the Department has been consistent in maintaining in all its analyses that base imported vehicles tend to have more standard equipment than domestic vehicles. During the calendar years covered in the analysis (1988 and 1989), it was standard practice for domestic makers to publish base prices for stripped (poorly equipped) vehicles; importers did not follow this practice Therefore, a true comparison of comparably-equipped domestic and imported vehicles requires that domestic vehicles with lower base prices be included. When enough equipment is added to the domestic vehicles to make them comparable with the imported vehicles, then the prices of the domestic vehicles will be comparable to the prices of the import vehicles.

Several academic studies have been done which demonstrate that trade restrictions cause imported vehicles to have higher levels of standard equipment than domestic vehicles of the same general size classification. One very commonly referenced study is "Quality Change Under Trade Restraints in Japanese Autos," by Robert C. Feenstra. The study compares prices and equipment levels for Japanese imports before and after the imposition of the Voluntary Restraint Agreement (VRA) in April, 1981; the data analyzed in the study are complete through 1985.

Feenstra's study confirms that the imposition of the VRA had two effects on the prices of Japanese imported cars. One effect was a pure price effect resulting from the decrease in supply. The other effect was that Japanese manufacturers upgraded the quality (added more standard features) of the cars they exported to the Untied States. Feenstra's econometric analysis estimated the size of these two effects to exceed $1,000 in 1983 and 1984.

Other data on average prices paid for domestic and imported cars compiled by the U.S. Department of Commerce's Bureau of Economic Analysis (as reported by the Motor Vehicle Manufacturer's Association) confirm that imported cars were, on average, less expensive than domestic cars prior to 1981 and more expensive thereafter; the gap between the average expenditure for imported new cars and for domestic new cars is growing. In 1982, the difference was less than $100.00. By 1988, the difference had risen to over $1,500.00.

Because much of the price difference is due to the fact that Japanese base imports have higher levels of standard equipment than domestic base cars of the same size category, these findings are the basis for including certain domestic cars having lower base prices than the imported cars included in the analysis. Adding the equipment and options necessary to bring the domestic cars into comparability with the imports raises the domestics' prices to the same competitive level as the imports' prices.

With regard to the second part of the order, the Department also had to consider the fact that factory and dealer rebates and other sales incentives were never included in any published list prices. Since these marketing tactics were used almost exclusively by dealers of domestic brands, published prices of domestic vehicles were higher than realistic market prices; published prices of imports were much closer to realistic market prices. Since a market analysis is based on as accurate an assessment of realistic market prices as possible, published list prices of some domestic cars had to be adjusted downward to reflect the existence of the rebates and other sales incentives.

The two price factors mentioned above may appear to be contradictory, but both were real factors in the auto market in 1988 and 1989, the relevant years of this analysis. The first led the Department to include some domestic vehicles with published list prices somewhat lower than those of most of the vehicles in the market segment, while the other leads the Department to include some domestic vehicles with published list prices somewhat higher than those of most vehicles in the market segment. Both factors, however contradictory they may seem, must be explained and included in the analysis.

Finally, the Court ordered that the Department explain its basis for distinguishing the eleven imported vehicles which were too small and/or too inexpensive to be like or directly competitive with the vehicles produced by plaintiffs from the five domestic vehicles which plaintiffs claim are too small and/or inexpensive to be like or directly competitive with the vehicles produced by plaintiffs.

The five domestic vehicles in question are: Fort Escort, Mercury Lynx, Toyota Corolla, Chevrolet Nova/Geo Prizm, and Nissan Sentra. Since the Escort and Lynx are the same vehicles under different badges (as are the Corolla and Prizm), they will be considered together as Excort/Lynx.

The eleven imported vehicles in question are: Chevrolet Sprint/Geo Metro, Suzuki Swift, Subaru Justy, Ford Festiva, Daihatsu Charade, Volkswagen Fox, Dodge/Plymouth Colt, Mitsubishi Precis, Hyundai Excel, Toyota Tercel, and Pontiac LeMans.

Table I, "Vehicle Size, Accommodation and Price Statistics" compares several characteristics of the five domestic vehicles in question with the same characteristics of the eleven imported vehicles in question.

The Department has consistently maintained that no one vehicle characteristic defines its market segment. Taken together, the five different characteristics clearly show that the five domestic vehicles and the eleven imported vehicles are in different classes.

The five domestic and eleven imported vehicles all have comparable front leg room. Rear leg room measurements are also not generally different among these cars. However, there are very clear differences in wheelbase, overall length, luggage capacity and price. The latter characteristics are more than important enough to distinguish the five domestic vehicles from the eleven imported ones in a market analysis.

The wheelbase measurements of the eleven imported vehicles (except for the LeMans) are significantly smaller than the five domestics. The overall length measurements are also significantly smaller. Luggage capacities are also smaller among the imports. Although these measurements criteria, except for the overall length, do not apply as strongly to the imported Pontiac LeMans, the base prices all of the imports are significantly smaller than those of the domestic vehicles.

In the analysis of published list prices above, it shows that base prices of imports should be somewhat higher than base prices of equivalent domestic models. These factors, all taken together, are the reasons that the listed imports were excluded from the market analysis while the listed domestic models were included.

The attached table entitled "TABLE I—Vehicle Size, Accommodation, and Price Statistics" compares several

characteristics of the five domestic vehicles in question with the same characteristics of the eleven imported vehicles in question. The Department has consistently maintained that no one characteristic of a vehicle defines its market segment. Taken together, the five different characteristics clearly show that the five domestic vehicles and the eleven imported vehicles are in different classes.

TABLE I.—VEHICLE SIZE, ACCOMMODATION, AND PRICE STATISTICS

Model	WB	Overall length	Front leg room	Rear leg room	Luggage cubic ft	Price dollars
	Inches					
Escort/Lynx	94.2	169.4	41.0	26.5	18	7,299
Corolla	95.7	170.3	40.5	26.0	11	9,453
Nova/Prizm	95.7	170.7	40.5	25.5	14	9,995
Sentra	95.7	168.7	40.0	24.5	12	7,099
Sprint/Metro	89.2	146.1	41.0	27.5	10	6,250
Swift	89.2	146.1	41.0	27.5	10	7,755
Justy	90.0	145.5	40.5	23.5	9	5,866
Festiva	90.2	140.5	40.5	26.0	12	5,954
Charade	92.1	144.9	N/A	N/A	N/A	6,456
Fox	92.8	163.4	42.0	26.0	10	6,890
Colt	93.9	158.7	40.5	24.5	10	6,717
Precis	93.7	160.9	40.0	26.5	11	5,764
Excel	93.7	160.9	40.5	27.0	11	5,774
Tercel	93.7	157.3	40.5	25.0	13	6,583
LeMans	99.2	163.7	41.5	25.5	18	6,714

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of General Motors Corporation's BOC plant in Linden, New Jersey.

Signed at Washington, DC., this 26th day of October 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service Unemployment Insurance Service.

[FR Doc. 92–26964 Filed 11–5–92; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,633, Houston, Texas; TA–W–27,634, Casper, Wyoming; TA–W–27,635, Lafayette, Louisiana; TA–W–27,636, Anchorage, Alaska; TA–W–27,637, Ventura, California]

Teleco Oilfield Services, Inc. for the Following Locations: Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1992, in response to a worker petition which was filed on August 18, 1992, on behalf of workers at Teleco Oilfield Services, Inc., Houston, Texas (TA–W–27,633), Casper, Wyoming (TA–W–27,634), Lafayette, Louisiana (TA–W–27,635), Anchorage, Alaska (TA–W–27,636), and Ventura, California (TA–W–27,637).

An active certification covering the petitioning group of workers remains in effect (TA–W–27,690A–F). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 13th day of October, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–26963 Filed 11–5–92; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program: Certifications under the Federal Unemployment Tax Act for 1992

On October 31, 1992, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 et seq., thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. In this letter, the Secretary also issued certifications of New Jersey and its law with respect to the twelve month period ending October 31, 1989. The letter and certifications are printed below.

Dated: October 31, 1992l.

Roberts T. Jones,

Assistant Secretary of Labor.

The Honorable Nicholas F. Brady,
Secretary of the Treasury, Washington, D.C. 20220

Dear Secretary Brady: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending on October 31, 1992. One is required with respect to normal Federal unemployment tax credit by section 3304 of the Internal Revenue Code of 1986, and the other is required with respect to additional tax credit by section 3303 of the Code.

The certification pursuant to section 3304 lists all 53 jurisdiction, except New Jersey. As was the case for the last three years, New Jersey is omitted from both certifications because of issues arising under the requirements of Section 3304(a) of the Internal Revenue Code of 1986. An agreement has been reached with the State of New Jersey, and, as the State fulfills its obligations under this agreement, I will forward to you the certifications with respect to New Jersey as appropriate. On this point, I have determined that the State of New Jersey and its law is now certifiable for 1989 under section 3304(c) and section 3303(b)(1), FUTA, and hereby so certify to you.

Please note that the certification pursuant to Section 3303 now includes Puerto Rico which began assigning rates based on experience beginning on January 1, 1992.

Sincerely,

Lynn Martin

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31, 1992, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming

This certification is for the maximum normal credit allowable under section 3302(a) of the Code.

Signed at Washington, DC, on October 31, 1992.

Lynn Martin,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1992:

Alabama	Montana
Alaska	Nebraska
Arizona	Nevada
Arkansas	New Hampshire
California	New Mexico
Colorado	New York
Connecticut	North Carolina
Delaware	North Dakota
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Puerto Rico
Illinois	Rhode Island
Indiana	South Carolina
Iowa	South Dakota
Kansas	Tennessee
Kentucky	Texas
Louisiana	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	Virgin Islands
Michigan	Washington
Minnesota	West Virginia
Mississippi	Wisconsin
Missouri	Wyoming

This certification is for the maximum additional credit allowable under section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1992.

Lynn Martin,

Secretary of Labor.

[FR Doc. 92-26962 Filed 11-15-92; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Husky Coal Company, Inc.

[Docket No. M-92-130-C]

Husky Coal Company, Inc., P.O. Box 3, Ashcamp, Kentucky 41512 has filed a petition to modify to the application of 30 CFR 75.1710-1 (canopies or cabs; self-propelled electric face equipment; installation requirements) to its Mine No. 2 (I.D. No. 15-16638) located in Pike County, Kentucky. The petitioner requests relief from the use of canopies on hualage equipment. The petitioner asserts that the use of canopies would result in poor visibility and cramped positions to the operator.

2. Falls Mining, Inc.

[Docket No. M-92-131-C]

Falls Mining, Inc., P.O. Box 72, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 1 Mine (I.D. No. 15-17269) located in Knox County, Kentucky. The petitioner proposes to use a hand-held continuous-duty methane and oxygen monitor on permissible three-wheel tractors with drag bottom buckets.

3. T & H Construction

[Docket No. M-92-132-C]

T & H Construction, P.O. Box 758, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 2 Mine (I.D. No. 15-17301) located in Whitley County, Kentucky. The petitioner proposes to use a hand-held deck mounted continuous and oxygen monitor on permissible three-wheel tractors with drag bottom buckets.

4. Dotson & Rife Coal Company, Inc.

[Docket No. M-92-133-C]

Dotson & Rife Coal Company, Inc., HC 60, Box 52, Hurley, Virginia 24620 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mine No. 1 (I.D. No. 15-05417) located in Pike County, Kentucky. Due to hazardous roof conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to use two evaluation points to monitor the quantity and quality of air in the affected area.

5. Dotson & Rife Coal Company, Inc.

[Docket No. M-92-134-C]

Dotson & Rife Coal Company, Inc., HC 60, Box 52, Hurley, Virginia 24620 has filed a petition to modify the application of 30 CFR 75.316 (ventilation system and methane and dust control plan) to its Mine No. 1 (I.D. No. 15-05417) located in Pike County, Kentucky. Due to hazardous roof conditions, certain areas of the mine cannot be safely traveled. The petitioner propose to use two evaluation points to monitor the quantity and quality of air in the affected area.

6. Foley Coal Company, Inc.

[Docket No. M-92-135-C]

Foley Coal Company, Inc., Route 1, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.313 (methane monitor) to its No. 2 Mine (I.D. No. 15-17255) located in Knox, Kentucky. The petitioner proposes to use hand-held continuous-duty methane and oxygen monitors on permissible three-wheel tractors with drag bottom buckets.

7. Mingo Logan Coal Company

[Docket No. M-92-136-C]

Mingo Logan Coal Company, 1000 Mingo Logan Avenue, Wharncliff, West Virginia 25651 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Mountaineer Mine (I.D. No. 46-06958) located in Mingo County, West Virginia. The petitioner proposes to plug and mine through oil and gas wells. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

8. Drummond Company, Inc.

[Docket No. M-92-137-C]

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 77.1109(c)(1) (quantity and location of firefighting equipment) to its Flat Top Mine (I.D. No. 01-00627) located in Jefferson County, Alabama. In place of a hand-held fire extinguisher, the petitioner proposes to use the Ansul

fire suppression system already installed on its 992–C Caterpillar loader. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

9. Drummond Company, Inc.

[Docket No. M–92–138–C]

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 77.1109(c)(1) (quantity and location of firefighting equipment) to its Cedrum Mine No. 2 (I.D. No. 01–0f1985) located in Walker County, Alabama. In place of a hand-held fire extinguisher, the petitioner proposes to use the Ansul fire suppression system already installed on its 992–C Caterpillar loader. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

10. Drummond Company, Inc.

[Docket No. M–92–139–C]

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 77.1109(c)(1) (quantity and location of firefighting equipment) to its Arkadelphia Mine (I.D. No. 01–00163) located in Cullman County, Alabama. In place of a hand-held fire extinguisher, the petitioner purposes to use the Ansul fire suppression system already installed on its 988–B Caterpillar loader. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

11. Drummond Company, Inc.

[Docket No. M–92–140–C]

Drummond Company, Inc., P.O. box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 77.1109(c)(1) (quantity and location of firefighting equipment) to its Cedrum Mine (I.D. No. 01–01270) located in Walker County, Alabama. In place of a hand-held fire extinguisher, the petitioner proposes to use the Ansul fire suppression system already installed on its 988–B caterpillar loader. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

12. Drummond Company, Inc.

[Docket No. M–92–141–C]

Drummond Company, Inc., P.O. Box 10246, Birmingham, Alabama 35202 has filed a petition to modify the application of 30 CFR 77.1109(c)(1) (quantity and location of firefighting equipment) to its Chetopa Mine (I.D. No. 01–00323) located in Jefferson County, Alabama. In place of a hand-held fire extinguisher, the petitioner proposes to use the Ansul fire suppression system already installed on its 992–B Caterpillar loaders. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

13. McElroy Coal Company

[Docket No. M–92–142–C]

McElroy Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its McElroy Mine (I.D. No. 46–01437 located in Marshall County, West Virginia. Due to deteriorating conditions, certain check points previously approved by MSHA under docket number M–81–219–C, cannot be safely accessed. The petitioner proposes to establish new check points to monitor the quantity and quality of air both entering and leaving the affected area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

14. Arch of Kentucky

[Docket No. M–92–143–C]

Arch of Kentucky, P.O. Box 787, Lynch, Kentucky 40855 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage and cables and transformers) to its No. 37 Mine (I.D. No. 15–04670) located in Harlan County, Kentucky. The petitioner proposes to use high-voltage cables to power longwall equipment. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

15. Underkoffler's Coal Service

[Docket No. 92–144–C]

Underkoffler's Coal Service, Route 209, Lykens, Pennsylvania 17048 has filed a petition to modify the application of 30 CFR 77.410(a)(1) (mobile equipment; automatic warning devices) to its Break (I.D. No. 36–02021) located in Dauphin County, Pennsylvania. The petitioner proposes to use back-up bells on trucks instead of back-up alarms. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 7, 1992. Copies of these petitions are available for inspection at that address.

Dated: November 2, 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92–26965 Filed 11–5–92; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–73]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting on Aerodynamics

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Aeronautics Advisory Committee meeting on aerodynamics.

DATES: December 7, 1992, 8:30 a.m. to 4:30 p.m.; December 8, 1992, 8:30 a.m. to 5 p.m.; and December 9, 1992, 8:30 a.m. to 2 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Hampton Room, H.J.E. Reid Conference Center, Hampton, VA 23665.

FOR FURTHER INFORMATION CONTACT: Mr. Roy Harris, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23665, 804/864–6048.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aeronautics Program Update
—Center Aerodynamics Overviews
—Aeronautics Thrust Reviews
—Computational Fluid Dynamics and Fluid Mechanics

Dated: November 2, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92-26970 Filed 11-5-92; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON AMERICA'S URBAN FAMILIES

Meeting; Notice

Notice is hereby given, pursuant to Public Law 92-463, that the National Commission on America's Urban Families will hold a meeting in Washington, DC, on Thursday, November 19, and Friday November 20, at the Department of Health and Human Services, 200 Independence Avenue SW., 20201. The purpose of the meeting is to discuss the Commission's ongoing work. For the exact time please contact the Commission two days prior to the event at (202) 690-6462.

Records shall be kept of all Commission proceedings and shall be available for public inspection at 200 Independence Avenue SW., room 305-F, Washington, DC 20201.

Gary Ashcraft,

Acting Executive Director.

[FR Doc. 92-27038 Filed 11-5-92; 8:45 am]

BILLING CODE 4150-04-M

NATIONAL SCIENCE FOUNDATION

Permit Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit issued under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On September 30, 1992 the National Science Foundation published a notice in the **Federal Register** of permit applications received. A permit was issued to Sean Turner, on October 29, 1992.

Thomas F. Forhan,

Permit Office, Division of Polar Programs.

[FR Doc. 92-27000 Filed 11-5-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-339]

Virginia Electric and Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an exemption from the requirements of appendix A to 10 CFR part 50 to Virginia Electric and Power Company (the licensee), for the North Anna Power Station, Unit No. 2 (NA-2) located in Louisa County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would allow temporary relief from the requirements of General Design Criterion-2 (GDC-2) for NA-2 with regard to a portion of the tornado missile protection for the NA service water restoration project. The proposed exemption would permit the temporary removal of the earth which provides missile protection for portions of the service water system piping, electrical system duct banks, and the emergency diesel generators' fuel oil supply piping.

The Need for the Proposed Action

The proposed exemption is needed in order to permit completion of highly desirable upgrades to the service water system without unduly extending the next several scheduled refueling outages. The proposed exemption would permit part of the preparatory work to be accomplished 30 days prior to the beginning of the presently scheduled 1993 NA-1 steam generator outage until 30 days after the outage.

Environmental Impacts of the Proposed Action

The proposed exemption does not involve any measurable environmental impacts during normal operation since the plant configuration is changed only minimally and plant operation is not changed. The likelihood of tornado missile damage during the time the exemption would be in effect which would affect equipment required to operate to avoid radiological impact is low. Thus, the proposed exemption would not significantly affect the probability or consequences of potential reactor accidents and would not otherwise affect radiological plant effluents. Consequently, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the staff concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the staff has concluded that there are no measurable environmental impacts associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require strict compliance with GDC-2. Such action would not significantly enhance the protection of the environment, and would result in a significant loss of power generation to the licensee, as the next several refueling outages for NA-1&2 would have to be extended considerably.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the North Anna Power 1Station.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the staff concludes that the proposed action would not have a significant effect on the quality of the human environment and has determined, therefore, not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application dated July 16, 1992, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Rockville, Maryland, this 30 day of October 1992.

For The Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-26987 Filed 11-5-92; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-19068; 812-7836]

Oppenheimer Management Corporation, et al.; Notice of Application

October 30, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Oppenheimer Management Corp. (the "Adviser"); Oppenheimer Fund Management, Inc. (the "Distributor"); Oppenheimer Asset Allocation Fund, Oppenheimer California Tax-Exempt Fund, Oppenheimer Discovery Fund, Oppenheimer Global Bio-Tech Fund, Oppenheimer Global Environment, Oppenheimer Global Fund, Oppenheimer Global Growth & Income Fund, Oppenheimer GNMA Fund, Oppenheimer Gold & Special Minerals Fund, Oppenheimer Fund, Oppenheimer Money Market Fund, Oppenheimer New York Tax-Exempt Fund, Oppenheimer Pennsylvania Tax-Exempt Fund, Oppenheimer Special Fund, Oppenheimer Target Fund, Oppenheimer Tax-Free Bond Fund, Oppenheimer Time Fund, Oppenheimer U.S. Government Trust, Oppenheimer Cash Reserves, Oppenheimer High Yield Fund, Oppenheimer Equity Income Fund, Oppenheimer Integrity Funds, Oppenheimer Blue Chip Fund, Oppenheimer Tax-Exempt Cash Reserves, Oppenheimer Total Return Fund, Inc., Oppenheimer Strategic Income Fund, Oppenheimer Strategic Investment Grade Bond Fund, Oppenheimer Champion High Yield Fund, Oppenheimer Government Securities Fund, Oppenheimer Tax-Exempt Bond Fund, Main Street Funds, Inc., Oppenheimer Strategic Income & Growth Fund, Oppenheimer Strategic Short-Term Income Fund, and any open-end investment management company which is or may in the future become a member of the same "group of investment companies," as defined in rule 11a-3 of the Act (the "Funds").

RELEVANT ACT SECTIONS: Exemptions requested pursuant to section 6(c) from the provisions of sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) and rule 22c-1.

SUMMARY OF APPLICATION: Applicants seek an order that will permit the Funds to (a) issue two classes of shares in each Fund representing interests in the same portfolio of securities, one of which would convert into the other after a specified period of time, and (b) impose different contingent deferred sales charge ("CDSC") arrangements on shares of each class of the Funds and waive the CDSC in certain cases.

FILING DATES: The application was filed on December 18, 1991, and amended on July 24, 1992, and October 6, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 2 World Trade Center, 34th Floor, New York, NY 10048-0203.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 272-2511, or C. David Messman, Branch Chief, (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

A. The Funds

1. Each of the Funds is an open-end management investment company registered under the Act. Each of the Funds has entered into an investment management agreement with the Adviser pursuant to which the Adviser provides investment advisory services to the Funds. The Distributor serves as the Funds' principal underwriter.

2. Shares of the Funds, other than those Funds that hold themselves out as "money market funds" under rule 2a-7 of the Act (the "Money Market Funds"), are offered for sale at net asset value plus a sales charge imposed at the time of sale on aggregate purchase transactions totalling less than $1 million.

However, no front-end sales load is assessed on shares of the Money Market Funds, and Main Street Funds, Inc. imposes a sales charge on sales of any amount. Certain of the Funds impose a contingent deferred sales charge ("CDSC") on purchases in aggregate amounts of $1 million or more.[1]

3. Under each Fund's respective distribution plan enacted pursuant to rule 12b-1 of the Act (the "12b-1 Plan"), shares of most of the Funds are subject to a fee of up to 0.25% of a Fund's average net assets. Certain Funds, however, have other maximum fees under their respective 12b-1 Plans as follows: Main Street Funds, Inc.—0.47%, Oppenheimer Cash Reserves—0.20%, Oppenheimer Tax-Exempt Cash Reserves—0.20%, and Oppenheimer Pennsylvania Tax-Exempt—0.15%. Oppenheimer Money Market Fund, Inc. has no 12b-1 Plan.

B. Dual Distribution System

1. Applicants propose to establish a dual distribution system (the "Dual Distribution System") to enable the Funds to offer investors different distribution alternatives. If the requested relief is granted, the Funds propose that their existing class of shares be recategorized as Class A shares ("Class A shares"), and that each Fund have the option of creating a second class of shares ("Class B shares").

Although none of the Funds has adopted a shareholder services plan or has any such plan under present consideration, the Funds also wish to have the option of adopting shareholder services plans in the future.

2. Class A shares and Class B shares of a Fund (or for any Fund having more than one series, the two classes of that series) will be identical except for (a) the compensation and other arrangements permitted by different distribution plans for each class; (b) voting rights with respect to any matter specifically affecting that class, including without limitation the Fund's distribution plan for that class; (c) the impact of any expenses directly attributable to that class; ("Class Expenses"); (d) any differences in distributions and/or net asset value per share resulting from differences in Class Expenses, (e) any differences in features for purchasing, redeeming or exchanging Class A shares or Class B shares and for converting Class B shares into Class A shares and/or in distribution arrangements for the offer and sale of shares of each class, and (f) the

[1] A CDSC is imposed by these Funds in reliance upon a prior exemptive order. *See* Investment Company Act Release Nos. 18454 (Dec. 20, 1991) (notice) and 18488 (Jan. 15, 1992) (order).

designation of classes. Class Expenses are those expenses specifically attributable to a particular class of shares, namely (i) distribution plan fees, (ii) transfer and shareholder servicing agent fees and administrative services fees, (iii) Blue Sky and SEC registration fees, (iv) shareholder meeting expenses, and (v) any other incremental expenses subsequently identified that should be allocated to one class which shall be approved by the SEC pursuant to an amended order or subsequently adopted rule or interpretation. Expenses identified in Items (iii) through (v) shall constitute Class Expenses only when they are attributable to a specific class.

3. Applicants have adopted a methodology and procedures for calculating the net asset value and dividends and distributions of the two classes. Under the methodology, expenses will be allocated to both classes of each Fund on the basis of the relative net assets of such individual class of shares, except insofar as differences in expenses are specifically allocated to the affected class.

C. Class A CDSC

1. Class A shares of the Funds generally will be offered for sale at net asset value plus a front-end sales charge (the "Class A CDSC"), subject to the following exceptions. No front-end sales charge will be imposed on Class A shares of the Money Market Funds, or on aggregate purchase transactions of Class A shares totalling $1,000,000 or more. In addition, all purchases of shares of the Main Street Funds, Inc., regardless of amount, will be subject to a sales charge. If Class A shares of the Funds purchased in aggregate amounts of $1 million or more are redeemed within 18 months of the time of purchase, a CDSC will be imposed equal to 1% of the lesser of: (a) The aggregate net asset value of the shares at the time of purchase, or (b) the aggregate net asset value of the shares at the time of redemption. In addition, applicants propose that the 12b-1 plan of each Fund (other than Oppenheimer Money Market Fund, which has no 12b-1 plan) shall continue to apply to that Fund's Class A shares.

2. The following Class A shares will not be subject to a CDSC on redemption: (a) Shares or amounts representing increases in the value of an account above the net cost of the investment due to increases in the net asset value per share; (b) shares acquired through reinvestment of income dividends or capital gain distributions; (c) shares acquired by exchange where the exchanged shares would not have been assessed a Class A CDSC upon redemption, except from shares exchanged for Money Market Funds purchased at net asset value without a sales charge; (d) shares on which a front-end sales charge was paid; (e) shares acquired at net asset value other than in purchases subject to a Class A CDSC; (f) shares acquired pursuant to the reinvestment privilege set forth in that Fund's Registration Statement; and (g) Class A shares held for more than 18 months after the end of the calendar month in which the purchase order was accepted.

3. Shareholders who are assessed a CDSC in connection with the redemption of Class A shares of any Fund may reinvest some or all of such amount in the Class A shares of any Fund within six months after such redemption (or such other time period as the Funds may establish from time to time) at net asset value if such entitlement is claimed at the time of reinvestment. If such reinvestment period changes after a shareholder redeems Class A shares of a Fund, that shareholder will be allowed to reinvest within the reinvestment period in effect at the time of redemption. Applicants acknowledge that they are not seeking any relief from the requirements of section 11(a) of the Act.

4. The Class A CDSC will be waived in connection with (a) redemptions in connection with (i) retirement distributions to participants or beneficiaries of, or loans to participants or beneficiaries from, plans qualified under section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), custodial accounts created under Section 403(b)(7) of the Code, Individual Retirement Accounts created under section 408(a) of the Code, deferred compensation plans created under section 457 of the code, or other employee benefit plans (collectively, "Retirement Plans"), and (ii) returns of excess contributions made to employee benefit plans; (b) redemptions pursuant to a Fund's Automatic Withdrawal Plan but limited to no more than 12% of the original account value annually; and (c) redemptions affected pursuant to a Fund's right to involuntarily redeem a shareholder's account if the aggregate net asset value of shares held in the account is less than the minimum account size set forth in the Fund's Declaration of Trust or Articles of Incorporation or as adopted by the Fund's Board of Directors pursuant thereto, or involuntary redemptions by operation of laws (collectively, "Involuntary Redemptions").

D. Class B CDSC

1. Class B shares of the Funds will be offered for sale at net asset value subject to a CDSC (the "Class B CDSC"). Under the Class B CDSC, if Class B shares of Funds other than Money Market Funds are redeemed within six years after the end of the calendar month in which the purchase order was accepted, a CDSC will be imposed by applying the appropriate sales charge to the lesser of: (i) The aggregate net asset value of the Class B shares at the time of purchase, or (ii) the aggregate net asset value of such shares at the time of redemption. Applicants presently anticipate that the Class B CDSC will be reduced in stages over the applicable period, so that redemptions of Class B shares held more than six years after the end of the calendar month in which such Class B shares were purchased will not be subject to a CDSC (the "CDSC Period").

2. The following Class B shares will not be subject to a CDSC on redemption: (a) Shares or amounts representing increases in the value of an account resulting from capital appreciation of Class B shares above the amount paid for such Class B shares; (b) shares acquired through reinvestment of income dividends or capital gain distributions; (c) shares acquired by exchange where the exchanged shares would not have been assessed a CDSC upon redemption; (d) Class B shares held for more than the Class B CDSC Period prior to redemption. No CDSC will be imposed on exchanges to purchase shares of another Fund (although a CDSC will be imposed on shares of the acquired Fund purchased by exchange of shares subject to a Class B CDSC if such acquired shares are redeemed within the CDSC Period of the exchanged shares). Applicants will comply with rule 11a-3 under the Act as to exchanges. The Distributor will not permit the acquisition by direct purchase of Class B shares of a Money Market Fund, because it would be more appropriate to directly purchase Class A shares of that Money Market Fund.

3. The Class B CDSC will be waived for redemptions in connection with (a) distributions from Retirement Plans to the participant or beneficiary of that Retirement Plan made under the Funds' automatic withdrawal plan after the participant or beneficiary attains age 59½ and which are limited to no more than 10% of the account value annually, (b) distributions from Retirement Plans following the death or disability, as defined in section 72(m) (7) of the Code, of the participant or beneficiary of that

Retirement Plan, (c) redemptions other than from Retirement Plans following the death or disability of the shareholder, (d) loans from Retirement Plans, (e) returns of excess contributions made to Retirement Plans, (f) plans of reorganization, such as mergers, assets acquisitions, and exchange offers, to which a Fund is a party, and (g) Involuntary Redemptions. In addition, no Class B CDSC will be imposed upon redemptions of shares of the Funds (i) sold to the Adviser or its affiliates, (ii) sold to registered investment companies or separate accounts pursuant to an agreement between the Adviser or the Distributor and the adviser or sponsor of such other registered investment company or separate account, or (iii) purchased by reinvestment of dividends or other distributions received from unit investment trusts for which reinvestment arrangements have been made with the Distributor.

4. A reinvestment privilege will be available following the redemption of Class B shares. All or part of the redemption proceeds of that redemption, net of any Class B CDSC imposed at the time of redemption, may, at the holder's request, be reinvested within six months of redemptions into Class A shares of any Fund, on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge.

5. Class B shares of each Fund shall be subject to a separate distribution plan from Class A shares. Under the Class B 12b-1 Plan, Class B shares will be subject to a service fee of 0.25% of average annual net assets in addition to an asset-based sales charge of 0.75% of the average annual net asset attributable to Class B shares held in an account for up to six years, or such other period as the Board of Directors of that Fund may determine. Any Fund having Class B shares in an account for longer than six years ("Matured Class B shares") will pay lower distribution fees, the amount of which will depend on the ration Matured Class B shares bear to the outstanding Class B shares of a Fund. Applicants, however, intend to convert Matured Class B shares to Class A shares.

6. Applicants propose an automatic conversion feature (the "Conversion Feature"), whereby Class B shares of a Fund automatically will convert to Class A shares of that Fund six years (or such other period as the Board of Directors of the Fund may determine) after the end of the calendar month in which such Class B share were purchased. Upon conversion of Matured Class B shares, all Class B shares of that Fund acquired by reinvestment of dividends and distributions of such Matured Class B shares also will convert to Class A shares of that Fund. Class B shares will convert into Class A shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge.

7. The Conversion Feature only will be suspended for existing shareholders of the Funds if applicants cannot obtain a ruling or satisfactory opinion of counsel or tax adviser stating that the conversion of Class B shares into Class A shares does not constitute a taxable event under current tax law. In the event that the Conversion Feature is suspended, applicants propose to permit Matured Class B shares to be exchanged for Class A shares of the same Fund on the basis of the relative net asset value of the two classes, without the imposition of any sales load, fee, or other charge. If applicants no longer decide to offer a class of shares with a Conversion Feature at any future time that the above-described ruling or opinion is available, existing shareholders, nevertheless, will continue to be entitled to such Conversion Feature.

Applicants' Legal Analysis

1. Applicants seek an exemption order to the extent that the proposed issuance and sale of two classes of shares of each Fund might be deemed: (a) To result in a "senior security" within the meaning of section 18(g) of the Act and thus be prohibited by section 18(f)(1); and (b) to violate the equal voting provisions of section 18(i) of the Act.

2. Section 18 is intended to prevent investment companies from issuing excessive amounts of senior securities and thereby increasing unduly the speculative character of their junior securities, or from operating without adequate assets or reserves. The Dual Distribution System does not raise the concerns that section 18 was designed to address. The Dual Distribution System does not involve borrowings and does not affect the Funds' assets or reserves. Nor will it increase the speculative character of the shares of any Fund because all of the income and expenses of each Fund will be allocated between the two classes of that Fund on the basis of the relative net asset values of the two classes, with the exception of Class Expenses which will be allocated to a particular class.

3. No class of shares of a Fund will have any preference or priority over any other class of shares in the commonly accepted sense (that is, no class will have distribution or liquidation preferences with respect to particular assets and no class will be protected by any reserve or other account). In addition, the method of allocating voting rights relating to 12b–1 Plans is equitable and would not discriminate against shareholders of any class.

4. The Dual Distribution System will permit an investor to select not only the Fund believed to have investment objectives and policies that are suitable to that investor's investment needs and risk tolerance, but also the most appropriate distributing method. To the extent that offering varying distribution alternatives increases sales, a larger pool of assets may reduce operating expenses on a per share basis. Offering alternatives to investors allows an informed choice to be made, based upon the amount of the investment and the period of time for which the investment is intended to be held.

5. Applicants also seek an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act, and rule 22c–1 thereunder to the extent necessary to permit the Funds to impose different CDSC arrangements on shares of each class of the Funds and to waive the CDSC in certain cases.

6. Applicants believe that the CDSC arrangements are consistent with the purposes of the Act and in the best interest of shareholders. The CDSC arrangements allow shareholders to have the advantage of having their full payment invested from them at the time of their purchase of shares of a Fund with no deduction of a sale charge. The contingent nature of the CDSC can place a purchaser in a better position than if a sales load were made at time of sale by causing more assets to be invested immediately. Because the charge is not imposed on increases in value of the shares or on shares purchased through dividend reinvestment, the purchaser can be no worse off, and can in fact be better off, with a CDSC imposed at the time of redemption than an equivalent sales charge imposed at the time of purchase.

7. The waivers of the CDSC will not harm the Funds or their shareholders, nor will they unfairly discriminate among shareholders or purchasers. Applicants believe, therefore, that the CDSC arrangements are consistent with the policies and provisions of the Act, are in the best interest of shareholders, are fair, and meet the standards of section 6(c).

Applicants' Conditions

A. Conditions Relating to the Dual Distribution System

Applicants agree that any order granting the requested relief shall be subject to the following conditions: [2]

1. Each class of shares will represent interests in the same portfolio of investments of the Funds, and be identical in all respects, except as set forth below. The only differences between the classes of shares of the funds will relate solely to: (a) The impact of the disproportionate payments made under the rule 12b–1 distribution plan and any shareholder services plan, the incremental transfer and shareholder servicing agency costs attributable to the class B shares of the Funds, Blue Sky, and SEC registration fees, shareholder meeting expenses, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the SEC pursuant to an amended order or subsequently adopted rule or interpretation; (b) the fact that the classes will vote separately with respect to any matter specially affecting that class, including without limitation the Funds' rule 12b–1 distribution plans and any shareholder services plan; (c) any differences in features for purchasing, redeeming, exchanging, or converting shares; and (d) the designation of each class of shares.

2. The directors of the Funds, including a majority of the independent directors, will approve the Dual Distribution System. The minutes of the meetings of the directors of the Funds regarding the deliberations of the directors with respect to the approvals necessary to implement the Dual Distribution System will reflect in detail the reasons for the directors' determination that the proposed Dual Distribution System is in the best interests of both the Fund and its shareholders.

3. On an ongoing basis, the directors of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. If any class will be subject to a shareholder services plan, such plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1. In evaluating the shareholder services plan, the directors will specifically consider whether (a) the shareholder services plan is in the best interest of the applicable classes and their respective shareholders, (b) the services to be performed pursuant to the shareholder services plan are required for the operation of the applicable classes, (c) the service organizations can provide services at least equal, in nature and quality, to those provided by others, including the Fund, providing similar services, and (d) the fees for such services are fair and reasonable in light of the usual and customary charges made by other entities, especially non-affiliated entities, for services of the same nature and quality.

5. If any class becomes subject to a shareholder services plan, each shareholder services agreement entered into pursuant to the shareholder services plan will contain a representation by the service provider that any compensation payable to the service provider in connection with the investment of its customers' assets in the Fund (a) will be disclosed by it to its customers, (b) will be authorized by its customers, and (c) will not result in an excessive fee to the service provider.

6. If any class will be subject to a shareholder services plan, each shareholder services agreement entered into pursuant to such shareholder services plan will provide that, in the event an issue pertaining to the shareholder services plan is submitted for shareholder approval, the service provider will vote any shares held for its own account in the same proportion as the vote of those shares held for its customers' accounts.

7. The directors of the Funds will receive quarterly and annual statements concerning distribution expenditures, and if any class becomes subject to a shareholder services plan, any shareholder servicing expenditures, complying with paragraph (b)(3)(ii) of rule 12b-1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing fee charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

8. Dividends paid by the Funds with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and, following adjustments for differences (if any) in net asset value, will be in the same amount, except that distribution and any transfer and shareholder servicing agent payments, Blue Sky, and SEC registration fees and shareholder meeting expenses relating to each respective class of shares will be borne exclusively by that class.

9. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes and the proper allocation of expenses between the two classes has been reviewed by an expert (the "Expert") who has rendered a report to the Funds, which has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with the respect to such reports, following request by the Funds (which the Fund agrees to provide), will be available for inspection by the SEC staff upon the written request to the Funds for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a

[2] One of the conditions in the application (condition 4), which relates to shareholder approval of 12b–1 Plans, is no longer required for exemptive relief permitting multiple classes of shares. Any order issued granting such relief would not be subject to this condition. The conditions in this notice have been renumbered to reflect the deletion of the condition.

System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

10. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition (10) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (10) above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

11. The prospectus of the Funds will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling Fund shares may receive different compensation with respect to one particular class of shares over another in the Funds.

12. The Distributor will adopt compliance standards, as to when each class of shares may appropriately be sold to particular investors, and will require all persons selling shares of the Funds to agree to conform to such standards.

13. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Funds with respect to the Dual Distribution System will be set forth in guidelines which will be furnished to the directors.

14. The Funds will disclose their respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Funds will disclose their respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares of that Fund. The information provided by applicants for publication in any newspaper or similar listing of the Funds' net asset values and public offering prices will present each class of shares separately.

15. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the Funds may make pursuant to its 12b-1 Plan or shareholder services plan in reliance on the exemptive order.

16. If Class B shares have an automatic conversion feature, Class B shares will convert into Class A shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge.

17. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of a majority of the directors of the Fund including a majority of the directors who are not interested persons of the Fund. Any person authorized to direct the allocation and disposition of monies paid or payable by the Fund to meet Class Expenses shall provide to the directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purpose for which such expenditures are made.

B. Condition Relating to the CDSC

Applicants will comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended unless granted exemptive relief by the SEC to do otherwise.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–26999 Filed 11–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25665]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 30, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 23, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Narragansett Electric Company (70–8081)

Notice of Proposal to Amend Preferred Stock Preference Provisions; Order Authorizing Solicitation of Proxies

The Narragansett Electric Company ("Narragansett"), 280 Melrose Street, Providence, Rhode Island, 02901–1438, an electric public-utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed an application declaration under sections 6(a)(2), 7(e) and 12(e) of the Act and Rules 62 and 65 thereunder.

Narragansett proposes to amend its preferred stock preference provisions ("Preference Provisions") to allow for one or more additional series or classes of preferred stock with different par values. The new preferred stock would rank pari passu and have the same preferences and rights as the existing class of preferred stock, $50 par value ("Cumulative Preferred Stock") but would have varying par values ("Parity Preferred Stock"). Narragansett may also amend the Preference Provisions to allow for one or more additional series or classes of preferred stock with the same par value, preferences and rights as the Cumulative Preferred Stock ("New Cumulative Preferred Stock").

Although the preferred stock does not have general voting rights, a class vote of preferred stock is provided for in certain circumstances, such as, amendments to the Preference Provisions and election of directors

following failure to pay four quarterly dividends. In these circumstances, the Parity Preferred Stock and the New Cumulative Preferred Stock would share voting rights with the Cumulative Preferred Stock with the per share vote to be proportional to the par value of the share. The Parity Preferred Stock, the New Cumulative Preferred Stock and the Cumulative Preferred Stock would vote as a single class, except for matters affecting only one of the classes.

The amendment of the Preference Provisions would allow for the issuance of an additional $30 million combined aggregate par value of shares of Cumulative Preferred Stock and New Cumulative Preferred Stock of any series or class. Currently, the Preference Provisions permit the issuance of an additional 70,000 shares, for a total of $3.5 million aggregate combined outstanding par value.

The amendment of the Preference Provisions will require the affirmative class vote of two-thirds of the Cumulative Preferred Stock now outstanding (and 75% of the total number of shares present or represented at the meeting). Narragansett proposes to solicit proxies in order to seek the affirmative vote of the holders of its Cumulative Preferred Stock.

In the event that insufficient proxies are received within a reasonable time to assure the required votes of the Cumulative Preferred Stock, Narragansett proposes to solicit proxies by telephone or telecopy, or to make personal solicitation through its officers and regular employees or those of New England Power Service Company, a service company subsidiary of NEES. Narragansett proposes to engage the services of professional proxy solicitors in connection with the proposed solicitation of its stockholders. Narragansett has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation of proxies for voting by its shareholders to approve the Proposal be permitted to become effective, as provided in Rule 62(d).

It appearing to the Commission that Narragansett's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith, pursuant to Rule 62:

It is Ordered, that the declaration regarding the proposed solicitation of proxies, be, and it hereby is, permitted to become effective forthwith, under Rule 62, and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–26997 Filed 11–5–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25664]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 30, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 23, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Massachusetts Electric Company (70–8079)

Notice of Proposal to Amend Articles of Organization and By-laws; Order Authorizing Solicitation of Proxies

Massachusetts Electric Company ("Mass Electric"), 25 Research Drive, Westborough, Massachusetts 01582, an electric public-utility subsidiary company of New England Electric System ("NEES"), a registered holding company, has filed an application-declaration under sections 6(a)(2), 7(e) and 12(e) of the Act and Rules 62 and 65 thereunder.

Mass Electric proposes to amend its Articles of Organization and By-laws to provide for a new class of preferred stock ("Preferred Stock-Cumulative") and to authorize additional shares of its existing preferred stock ("Cumulative Preferred Stock"). The Preferred Stock-Cumulative would rank on a parity with and have the same preferences and rights as the Cumulative Preferred Stock, but with a par value of $25 rather than $100.

Although the Cumulative Preferred Stock does not, and the Preferred Stock-Cumulative would not, have general voting rights, voting by class is provided for in certain circumstances, e.g. amendments to the By-laws and election of directors following failure to pay four quarterly dividends. In these circumstances, the Preferred Stock-Cumulative would have one-quarter vote per share and the Cumulative Preferred Stock would have one vote per share. The Preferred Stock-Cumulative and the Cumulative Preferred Stock would vote only as separate classes for matters affecting one or the other's class. In all other cases, the Preferred Stock-Cumulative and the Cumulative Preferred Stock would vote as a single class.

The amendment of the By-laws would allow for the issuance of shares of Cumulative Preferred Stock and Preferred Stock-Cumulative of any series so long as after such issuance, the aggregate combined outstanding par value of all series thereof would not exceed $120 million, an increase of $60 million over the aggregate combined par value currently permitted by the By-laws to be outstanding. The amendment of the Articles of Organization would authorize 1.2 million shares of Cumulative Preferred Stock and 4.8 million shares of Preferred Stock-Cumulative, the aggregate par value of all such shares not to exceed $120 million.

The amendment of the Articles of Organization and the By-laws ("Proposal") will require the affirmative class vote of two-thirds of the Cumulative Preferred Stock now outstanding, and the affirmative vote of two-thirds of the shares of the common stock now outstanding. Mass Electric proposes to solicit proxies in order to seek the affirmative vote of the holders of its Cumulative Preferred Stock for the Proposal. There is no need for Mass Electric to solicit proxies from the holders of its common stock, all of which are held by NEES.

In the event that insufficient proxies are received within a reasonable time to assure the required votes of the Cumulative Preferred Stock, Mass Electric proposes to solicit proxies by

telephone or telecopy, or make personal solicitation through its officers and regular employees or those of New England Power Service Company. Mass Electric proposes to engage the services of professional proxy solicitors in connection with the proposed solicitation of its stockholders. Mass Electric has filed its proxy solicitation material and requests that the effectiveness of its declaration with respect to the solicitation of proxies for voting by its shareholders to approve the Proposal be permitted to become effective, as provided in Rule 62(d).

It appearing to the Commission that Mass Electric's declaration regarding the proposed solicitation of proxies should be permitted to become effective forthwith, pursuant to Rule 62:

It is ordered, that the declaration regarding the proposed solicitation of proxies, be, and it hereby is, permitted to become effective forthwith, under Rule 62, and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26996 Filed 11-5-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25663]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 30, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 23, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

CSW Credit, Inc., et al. (70-7113/70-7218)

CSW Credit, Inc. ("CSW Credit"), a non-utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, and CSW, both of 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 42, 44, 50 and 50(a)(5) thereunder to their application-declaration filed with this Commission under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45 and 50(a)(5) thereunder.

By order dated July 19, 1985 (HCAR No. 23767) ("1985 Order"), CSW was authorized, among other things, to organize CSW Credit to purchase the accounts receivable of the operating companies of CSW at a discount and to finance these purchases with the issuance and sale of debt. CSW Credit was authorized to borrow up to $320 million and CSW was authorized to make equity investments in CSW Credit of up to an aggregate of $80 million through December 31, 1986.

By order dated July 31, 1986 (HCAR No. 24157) ("1986 Order"), CSW Credit was authorized to expand its business to the factoring of accounts receivable of nonaffiliated electric utility companies. In order to finance such transactions, CSW Credit was authorized to borrow up to an additional $160 million and CSW to make additional equity investments in CSW Credit of up to an aggregate of $40 million, through December 31, 1988. The 1986 Order also provided that CSW Credit limit its acquisition of utility receivables from nonassociate utilities so that the average amount of such receivables for the preceding twelve-month period outstanding as of the end of any calendar month would be less than the average amount of receivables acquired from CSW associate companies outstanding as of the end of each calendar month during the preceding twelve-month period ("50% Restriction"). Further, the 1986 Order extended the authority of the 1985 Order until December 31, 1988.

By order dated February 8, 1988 (HCAR No. 24575), CSW Credit was authorized, among other things, to factor the accounts receivable of nonaffiliated utility companies, subject to the 50% Restriction, and CSW Credit also was authorized to borrow, through December 31, 1989, up to $320 million and $304 million to finance the factoring of affiliate and nonaffiliate receivables, respectively. CSW was authorized to make equity investments in CSW Credit of up to an aggregate of $80 million and $76 million in connection with the factoring of affiliate and nonaffiliate receivables, respectively. This authority was extended through December 31, 1990 by order dated December 27, 1989 (HCAR No. 25009).

By order dated August 30, 1990 (HCAR No. 25138), CSW Credit was authorized to lower its equity ratio to no less than 5%.

By orders dated December 21, 1990 and December 24, 1991 ("1991 Order") (HCAR Nos. 25228 and 25443, respectively), CSW Credit's existing authority was extended through December 31, 1991 and December 31, 1992, respectively. In addition, the 1991 Order granted CSW Credit the authorization to borrow up to an additional $200 million to finance the factoring of associate receivables.

Pursuant to the orders summarized above, the following authority has been granted: (1) CSW Credit has been authorized to borrow $824 million, of which $520 million could be used to purchase receivables of affiliated companies and $304 million could be used to purchase receivables of nonaffiliated companies; and (2) CSW has been authorized to make equity investments in CSW Credit of up to an aggregate of $156 million, of which $80 million could be used to purchase receivables of affiliated companies and $76 million could be used to purchase receivables of nonaffiliated companies.

As of September 30, 1992, CSW Credit had outstanding receivables purchases from affiliated companies of $347.5 million and from nonaffiliated companies of $28.2 million. Also, as of September 30, 1992, the amount of remaining authority that CSW Credit had available to purchase receivables from affiliated companies was $172.5 million and nonaffiliated companies was $275.8 million.

CSW Credit and CSW now propose to extend the previously granted authorities through December 31, 1993.

Central and South West Services, Inc. (70-7671)

Central and South West Services, Inc. ("CSWS"), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a wholly-owned, non-utility subsidiary of Central and South West Corporation, a

registered holding company, has filed a post-effective amendment to its application with the Commission pursuant to sections 9(a) and 10 of the Act and Rule 23 thereunder.

By order dated August 10, 1990 (HCAR No. 25132) ("Order"), CSWS was authorized to license and sell to non-associate entities, from time to time, through December 31, 1992, specialized computer programs and to provide certain support services to licensees and purchasers of such software. The applicant now requests an extension of all previously granted authority in the Order through December 31, 1994.

National Fuel Gas Co., et al. (70–7866)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and its wholly owned subsidiary companies, National Fuel Gas Distribution Corporation, Penn-York Energy Corporation, National Fuel Gas Supply Corporation and Seneca Resources Corporation, all located at 10 Lafayette Square, Buffalo, New York 14203, have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45, 50 and 50(a)(5) thereunder.

By orders dated December 11, 1991 (HCAR No. 25426), February 10, 1992 (HCAR No. 25473) and May 21, 1992 (HCAR No. 25540) ("Orders"), National was authorized, among other things, to issue and sell, through December 31, 1993, an aggregate principal amount of up to $200 million of debt securities consisting of: (1) One or more series of its debentures ("Debentures") maturing from one to forty years, under the competitive bidding procedures of Rule 50 of the Act as modified by the Commission's Statement of Policy dated September 2, 1982 (HCAR No. 22623), and/or (2) medium-term notes ("MTNs") with maturities from nine months to forty years, under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5). The Commission further authorized that each MTN be issued to investors at 100% of its principal amount.

As of October 9, 1992, National has issued and sold an aggregate principal amount of $157 million of Debentures and/or MTNs pursuant to the Orders. The MTNs sold as of October 9, 1992 were at 100% of their principal amount.

National now proposes that if the remaining amount of $43 million of debt securities are issued in the form of MTNs, then the MTNs will be sold to investors at prices ranging between 98% and 102% of their principal amount.

Central and South West Corporation, et al. (70–7912)

Central and South West Corporation ("CSW"), 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, a registered holding company, and Transok, Inc. ("Transok"), 2 West Sixth Street, Tulsa, Oklahoma 74101, its nonutility subsidiary company, have filed a post-effective amendment to their application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 42, 43, 45 and 50(a)(5) thereunder.

By order dated September 26, 1991 (HCAR No. 25385), Transok was authorized to incur short-term debt ("Debt") in connection with the acquisition of the natural gas gathering, transmission and marketing business of TEX/CON Oil and Gas Company. By subsequent order dated December 27, 1991 (HCAR No. 25447) ("Order"), Transok was authorized to issue and sell, and CSW to acquire, its common stock and/or CSW could make capital contributions to Transok in aggregate principal amounts of up to $150 million at any time prior to December 31, 1992, in order to repay a portion of the Debt and to increase Transok's equity base. Additionally, CSW was authorized to finance the equity investments by using internally generated funds and/or the proceeds from the sale of its commercial paper.

On December 31, 1991, CSW contributed $85 million to the capital of Transok. As of October 1, 1992, Transok had outstanding Debt in the amount of $146,285,181.

CSW and Transok now request to extend the authority granted in the Order, through December 31, 1993, except that the aggregate amount of common stock that CSW can acquire from Transok and/or the amount of capital contributions that CSW can make to Transok will not exceed $65 million. In addition, CSW proposes to continue to finance the equity investments by using internally generated funds and/or the proceeds from the sale of its commercial paper, through December 31, 1993. The terms and conditions of the commercial paper will be the same as stated in the Order. The proceeds from any additional equity investment will be used to repay a portion of Transok's Debt, as contemplated by the Order.

National Fuel Gas Co., et al. (70–7927)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, New York, New York 10112, a registered holding company, and its wholly owned subsidiary company, National Fuel Gas Distribution corporation ("Distribution"), 10 Lafayette Square, Buffalo, New York 14203, have filed a post-effective amendment to their application-declaration under Sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 45, 50 and 50 (a)(5) thereunder.

By orders dated April 17, 1992 (HCAR No. 25517) and May 21, 1992 (HCAR No. 25541) ("Orders"), National was authorized, among other things, to issue and sell, through December 31, 1993, an aggregate principal amount up to $150 million of debt securities consisting of: (1) One or more series of its debentures ("Debentures") maturing from one to forty years, under the competitive bidding procedures of Rule 50 of the Act as modified by the Commission's Statement of Policy dated September 2, 1982 (HCAR No. 22623), and/or (2) medium-term notes ("MTNs") with maturities from nine months to forty years, under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5). The Commission further authorized that each MTN be issued to investors at 100% of its principal amount.

As of October 9, 1992, National has issued and sold an aggregate principal amount of $44 million of Debentures and/or MTNs pursuant to the Orders. The MTNs sold as of October 9, 1992 were at 100% of their principal amount.

National now proposes that if the remaining amount of $106 million of debt securities are issued in the form of MTNs, then the MTNs will be sold to investors at prices ranging between 98% and 102% of their principal amount.

Northeast Utilities, et al. (70–8052)

Northeast Utilities ("Northeast"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, a registered holding company, and its wholly owned subsidiaries ("Subsidiaries"), Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, Holyoke Water Power Company ("Holyoke"), 1 Canal Street, Holyoke, Massachusetts 01040, and The Connecticut Light & Power Company ("CL&P"), Northeast Nuclear Energy Company ("Nuclear"), The Rocky River Realty Company ("Rocky River") (Northeast and all Subsidiaries being "Borrowers") and Northeast Utilities Service Company ("NUSCO"), each of 107 Selden Street, Berlin, Connecticut 06037 (all companies collectively, "Declarants"), have filed a declaration under sections 6(a), 7 and 12(b) of the Act and Rule 45 thereunder.

By order of the Commission dated July 29, 1988 (HCAR No. 24686), ("1988

Order"), all of the Subsidiaries, including other Northeast subsidiaries, entered into a revolving credit agreement, dated as of August 25, 1988, which permits each of them to borrow up to $50 million, but not more than $50 million in the aggregate, on a short-term revolving credit basis through August 24, 1993. In addition, by order of the Commission dated August 18, 1989 (HCAR No. 24943) ("1989 Order"), Northeast, WMECO and CL&P entered into a revolving credit agreement, dated as of August 23, 1989, which permits them to borrow up to $100 million, $105 million and $350 million, respectively, but not more than $350 million in the aggregate, on a short-term revolving credit basis through September 4, 1993.

The Declarants now propose, through December 31, 1995: (1) To replace the two revolving credit facilities authorized by the 1988 Order and the 1989 Order with revolving credit facilities ("New Facilities") aggregating up to $360 million; (2) to issue notes ("Notes") evidencing borrowing under the New Facilities; and (3) that Northeast guarantee the obligations of Nuclear and Rocky River under the New Facilities. NUSCO will act as agent with respect to the New Facilities.

The Declarants initially expect to enter into separate agreements with approximately twenty banks for aggregate commitments of $360 million and not to exceed the individual short-term borrowing authorization applicable to each Borrower (as provided by order of the Commission under file number 70–8042).[1] It is expected that as many as four of these banks will each enter into agreements with NUSCO, as agent, and all six Borrowers, while the remainder of the banks will each enter into agreements only with NUSCO, as agent, and Northeast, CL&P and WMECO.

Each of the banks that participates in the New Facilities will enter into two single-bank revolving credit agreements. One of the two agreements for each bank will initially represent 75% of that bank's commitment and will be for a three-year revolving credit facility with a provision for three annual renewals at the election of the Borrowers with the consent of the bank. The second agreement for each bank will initially represent 25% of that bank's commitment and will be for a 364-day revolving credit facility. The Borrowers reserve the right to adjust the allocation of the commitments from each bank between the three-year facility with that bank and the 364-day facility if market conditions so require. It is expected that NUSCO, as agent, will request each bank to agree to a renewal prior to the end of the 364-day period under this facility. All borrowings must first be made under each bank's three-year agreement; the 364-day facility may only be utilized when the commitment amount under the three-year facility is fully utilized. Each loan made under each facility shall be unsecured and shall be evidenced by one of two forms of Notes (either a "Contract Note" for the Eurodollar loans and the Alternative Base Rate loans, as described below, or a "Competitive Note" for the Competitive Bid loans, as described below), with each Note to be executed by the respective Borrower. Each Borrower will select the bank or banks from which to make each borrowing.

Depending upon which bank is involved, either all six Borrowers or Northeast, CL&P and WMECO, will, as a group, enter into separate agreements with each of the participating banks (in each case with NUSCO acting as agent), and the transactions entered into with each bank will not be dependent upon any transactions with any other bank. The Borrowers may replace and/or terminate any bank which has made a commitment upon notice and payment in full of the outstanding amounts owed that bank. The Borrowers may also reduce any bank's commitment upon notice to that bank.

Each bank will be free to assign or participate all or any portion of its commitment. The minimum amount that may be assigned, however, is $10 million. NUSCO, as agent for the Borrowers, must approve any assignment or participation, and NUSCO will receive $3,000 as a processing and recordation fee for each assignment made.

Interest will accrue on borrowings under either the three-year or the 364-day facilities on one of three bases, to be selected by the Borrower. The first option is a Eurodollar interest option. Loans made under the Eurodollar option will have maturities of one, two, three or six months, as chosen by the Borrower. Interest on those loans will be payable in arrears at maturity except that, in the case of loans with a six-month maturity, an interim interest payment must be made 90 days after the advance is made by the bank. The interest rate on these loans will be equal to the rate per annum at which deposits in U.S. dollars are offered by the principal office of the lending bank in London to prime banks in the London interbank market (or, if such lending bank does not maintain an office in London, such rate offered by Citibank, N.A.'s London office) ("Eurodollar Rate") plus a certain margin rate ("Margin"). The Margin will vary, depending on the debt ratings as provided by certain rating agencies. For CL&P and WMECO, the interest rate will be equal to the Eurodollar Rate plus a Margin ranging from 37.5 to 62.5 basis points. For Northeast, Holyoke, Nuclear and Rocky River, the interest rate will be equal to the Eurodollar Rate plus a Margin ranging from 50 to 75 basis points. Each Borrower must compensate the lending bank or banks for any expenses those banks incur as a result of prepayment of any Eurodollar option loans.

The second interest rate option is the "Alternate Base Rate" option. Interest on loans made under this option will be equal to the greater from time to time of (i) the lending bank's prime lending rate and (ii) the Federal Funds Rate plus 50 basis points. The maturity of the Prime Rate loans may be up to 90 days, with interest paid in arrears upon maturity.

The final interest rate option is the "Competitive Bid" option. Under this arrangement, NUSCO, as agent for the Borrowers, would notify some or all of the banks of a requested loan amount, the date the loan will begin, and the maturity, which may be up to 270 days, and would request that each of those banks provide a quote for such a loan. NUSCO would then inform each Borrower of the rates that are quoted by responding banks. The Borrowers may then choose to accept or reject such quotes.

The Borrowers will pay a facility fee on each of the New Facilities. The facility fee on the three-year facilities will initially be 20 basis points per annum, and the facility fee on the 364-day facilities will initially be 13.5 basis points per annum. The Borrowers reserve the right to increase either or both facility fees by not more than 10 basis points during the term of the New Facilities if such an increase is needed to respond to changing market conditions. In each of the agreements, each Borrower will be responsible for a share of the facility fee equal to a fraction the numerator of which is the short-term borrowing limit (as provided by the Commission order for file number 70–8043) for that Borrower at that time and the denominator of which is the sum of the short-term borrowing limits for all Borrowers that are parties to that agreement at that time. In addition, the Borrowers propose to be jointly and severally liable for the facility fees under each agreement to which they are a party. These facility fees will be paid quarterly in arrears beginning

[1] *See* public notice of this filing at HCAR No. 25660 (October 23, 1992).

approximately 90 days after the closing of the New Facilities.

The Connecticut Light and Power Co., et al. (70–8060)

The Connecticut Light and Power Co. ("CL&P"), Selden Street, Berlin, Connecticut 06037, and Holyoke Water Power Company ("HWP"), One Canal Street, Holyoke, Massachusetts 01040, both wholly owned electric-utility subsidiary companies of Northeast Utilities, a registered holding company, have filed a declaration under Sections (6)(a) and 7 of the Act and Rule 50(a)(5) thereunder.

The Business Finance Authority of the State of New Hampshire ("NHBFA") is planning to issue pollution control revenue refunding bonds in the principal amount of not more than $21 million (the "CL&P Bonds") for the purpose of refunding certain pollution control revenue refunding bonds (the "CL&P Refunded Bonds") that were previously issued on CL&P's behalf to finance a portion of CL&P's cost of acquiring, constructing, and installing certain pollution control and/or sewage or solid waste disposal facilities at the Seabrook Nuclear Electric Generating Station, Unit No. 1. HWP proposes that the Massachusetts Industrial Finance Authority issue pollution control revenue refunding bonds in the principal amount of not more than $15 million (the "HWP Bonds" and, collectively with the CL&P Bonds, the "Bonds") for the purpose of refunding certain pollution control revenue bonds (collectively with the CL&P Refunded Bonds, the "Refunded Bonds") that were previously issued on HWP's behalf to finance a portion of HWP's cost of acquiring, constructing, and installing certain pollution control facilities at HWP's Mt. Tom Station.

The Bonds will be issued, and the proceeds thereof will be loaned to the companies to cause the refunding of the Refunded Bonds, pursuant to loan and trust agreements, among NHBFA, a trustee to be determined, and CL&P and HWP, respectively (collectively, "Loan and Trust Agreements"). Under the Loan and Trust Agreements, the companies will agree to make payments corresponding to the amounts needed to pay the principal, interest, and premium, if any, on the Bonds as they become due.

The Bonds will mature not later than 30 years from the date of issuance and may bear interest at commercial paper rates, weekly rates, or multiannual rates and may be converted for their remaining term to bear interest at a fixed rate. Such rates will be determined by remarketing agents for each interest rate period (or, if the Bonds are converted for their remaining term to bear interest at a fixed rate, for such remaining term) at that rate which results in the market value of the Bonds on the date of such determination being 100 percent of the principal amount thereof, subject to a maximum interest rate of 12% per annum. Each company will pay its remarketing agent an annual fee of up to 0.125% of the principal amount of its Bonds outstanding. It is anticipated that the Bonds will initially bear interest at weekly rates, payable monthly in arrears.

Each transaction will be structured so that the company's loan payment obligations shall be satisfied by drawings under an irrevocable letter of credit. Under each letter of credit, the applicable paying agent on the Bonds would, while the Bonds bear interest at weekly rates, be entitled to draw up to (i) an amount equal to the principal amount of the outstanding bonds and (ii) an amount equal to approximately 45 days' interest on the Bonds at the maximum interest rate of 12% per annum. While the Bonds bear interest at weekly rates (and at certain other times as well), all payments on account of principal or interest on the Bonds will be required to be made from the proceeds of letter of credit drawings. Each letter of credit will expire three years after its date of issuance, unless earlier terminated or extended in accordance with its terms.

Each letter of credit is expected to be issued by Canadian Imperial Bank of Commerce, Chicago Branch (the "Bank") pursuant to a letter of credit and reimbursement agreement. Under each reimbursement agreement, the company would be obligated to pay an annual letter of credit commission at a rate equal to approximately 0.60% per annum of the total amount available to be drawn under the applicable letter of credit. The reimbursement agreement also requires CL&P and HWP to pay certain transfer, drawing, cancellation, and other fees, to comply with certain business convenants, and to reimburse the Bank for any amounts drawn under the letter of credit, with interest thereon until paid.

The Loan and Trust Agreements will provide that while the Bonds bear interest at weekly rates, they are subject to tender for purchase from time to time at the option of the holders, at a price equal to par plus accrued interest. The remarketing agents will be obligated to use their best efforts to remarket such tendered Bonds upon such optional tender, and the principal portion of the purchase price for such tendered bonds will be paid to tendering holders from remarketing proceeds. If, and to the extent that, the remarketing agents are unable to remarket tendered Bonds, the paying agent for such Bonds will be required to pay such principal portion to tendering holders from the proceeds of drawings made on the applicable letter of credit.

The reimbursement agreements will provide that all letter of credit drawings (other than drawings to pay the principal portion of the purchase price for unremarketed tendered bonds) are immediately reimbursable to the Bank. Drawings to pay the principal portion of the purchase price for unremarketed tendered Bonds will be treated as advances or loans bearing interest until paid at rates specified in each reimbursement agreement.

The Bonds will be initially marketed and sold pursuant to underwriting arrangements reflected in bond purchase agreements. Each company will pay an underwriting fee of up to 1% of the principal amount of the Bonds to be purchased by the underwriter and will reimburse the underwriter for certain expenses.

CL&P and HWP request an exception from the competitive bidding requirements of rule 50 pursuant to subsection (a)(5) thereunder in connection with the Loan and Trust Agreements and the Reimbursement Agreements.

Columbia Gas System, Inc., et al. (70–8067)

Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and its wholly owned subsidiary, Columbia Gas Development Corp. ("Development"), 5847 San Felipe, Houston, Texas 77057, have filed a declaration under sections 12(b) and 12(c) of the Act and Rules 42 and 45 thereunder.

The declaration requests authorization for a recapitalization of Development, which recapitalization is required in connection with regulations promulgated by the U.S. Coast Guard relative to oil and gas companies that operate in offshore federal waters.

The Federal Offshore Oil Pollution Compensation Fund Regulations ("Regulations") require Development to demonstrate that it is financially responsible. 33 CFR part 135. The declaration states that in order to demonstrate that it is financially responsible, Development must have (i) a minimum of $35 million in equity, which would allow it to be deemed self-insured; (ii) a certification by a commercial insurance company; (iii) a guarantee by a financially responsible

third party; (iv) an indemnification by a financially responsible third party; or (v) a surety bond. Development has decided to acquire $35 million in equity to be deemed self-insured. The declaration states that the alternatives are impracticable.

In consequence of recent write-downs in the value of its gas assets, Development realized a reduction in net common equity to $20.3 million. On June 30, 1992, Development possessed about $186 million in long-term capital—about 10% of that amount was common equity. Development proposes to increase the amount of common equity, through a recapitalization, to $40 million by the end of 1992. The declaration states that the alternative to an increase in common equity would be a cessation of operations and a sale of offshore properties.

The contemplated recapitalization would consist of a contribution on the part of Columbia ultimately of up to $50 million, through December 31, 1993, in Development installment promissory notes to Development itself. The notes originally were issued by Development to Columbia between 1975 and 1991. The interest rates of the notes vary between 9.92% and 12.90%. The notes mature in either the year 2000 or 2001.

Columbia has filed for bankruptcy under chapter 11. The contemplated recapitalization will require the approval of the U.S. Bankruptcy Court for the District of Delaware prior to implementation.

New England Electric System (70–8073)

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed a declaration under Section 12(b) of the Act and Rule 45 thereunder.

By order dated December 27, 1990 (HCAR Nos. 25232) ("1990 Order"), NEES was granted authorization to make capital contributions to its subsidiary companies ("Subsidiaries") through December 31, 1992 of up to $40 million to Massachusetts Electric Company ("Mass-Elec"), $40 million to The Narragansett Electric Company ("Narragansett") and $3 million to Granite State Electric Company ("Granite"). NEES now proposes to make, from time-to-time through December 31, 1994, one or more capital contributions not to exceed, including amounts contributed under the 1990 Order, an aggregate of $50 million in each case for New England Power Company, Mass-Elec and Narragansett, and $3 million for Granite. The Subsidiaries will apply the funds received from the capital contributions toward the cost of, or the reimbursement of the treasury for, the payment of short-term borrowings incurred for retirement of outstanding general and refunding and first mortgage bonds and preferred stock, capital additions and improvements to plant and property or other corporate purposes.

Granite State Electric Co. (70–8075)

Granite State Electric Company ("Granite"), 4 Park Street, Concord, New Hampshire 03301, an electric public-utility subsidiary company of New England Electric System, a registered holding company, has filed a declaration under sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

Granite proposes to issue and sell, on or before December 31, 1994, one or more long-term notes in an aggregate principal amount not to exceed $10 million ("Note"). Each Note would be issued pursuant to a note agreement ("Note Agreement"), the specific terms of which will be negotiated with a purchaser. Granite expects that each Note will have a maturity date not to exceed 30 years and will bear interest at a fixed rate not to exceed 12%. The Note Agreement may provide for a sinking fund and limitations on callability or refundability, depending on market conditions. Granite proposes that the Notes will be redeemable at any time at its option, upon reasonable notice, at the then outstanding principal amount plus accrued interest and redemption premium, and may include a yield to maturity premium. Granite may elect not to include a dividend limitation for the Notes. The proceeds from the issuance and sale of the Notes will be applied by Granite to the payment of short-term borrowings, or to the cost of or the reimbursement of the treasury for the retirement of outstanding notes, capital additions and improvements to the plant and property of Granite, or other capital expenditures.

Granite will not be able to determine the specific terms and conditions upon which it will issue and sell each Note until it has undertaken preliminary negotiations with potential lenders. Therefore, Granite has requested authority to begin preliminary negotiations, including retaining an investment banking firm to assist in placement of the Notes and/or negotiating with potential lenders regarding the issuance and sale of the Notes. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–26998 Filed 11–5–92; 8:45 am]

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[Release No. 34–31387; File Nos. SR–Amex–92–38; SR–MSE–92–11; SR–NYSE–92–19; SR–PHLX–92–29]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Midwest Stock Exchange, Inc.; New York Stock Exchange, Inc.; and Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to an Extension of Certain Market-Wide Circuit Breaker Provisions

October 30, 1992.

I. Introduction

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] the American Stock Exchange, Inc. ("Amex"), Midwest Stock Exchange, Inc. ("MSE"), New York Stock Exchange, Inc. ("NYSE"), and Philadelphia Stock Exchange, Inc. ("PHLX") (collectively, the "Exchanges") have filed with the Securities and Exchange Commission ("Commission") proposed rule changes to extend the effectiveness of their respective rules that implement certain procedures that will be activated during volatile market conditions.

The Commission today solicits comments on the Amex, MSE, NYSE, and PHLX proposals from interested persons.

II. The Proposals

In 1988, the Commission approved circuit breaker proposals by the Exchanges.[3] In general, the circuit breaker rules provide that trading in all of these markets would halt for one hour if the Dow Jones Industrial Average ("DJIA") declines 250 points from its previous day's closing level and, thereafter, trading would halt for an additional two hours if the DJIA declines 400 points from its previous day's close.[4] These circuit breaker

[1] 15 U.S.C. 78s(b)(1) (1982)

[2] 17 CFR 240.19b–4 (1989).

[3] *See e.g.*, Securities Exchange Act Release Nos. 26386 (December 22, 1988) 53 FR 52904 (PHLX); 26218 (October 26, 1988) 53 FR 44137 (MSE); 26198 (October 19, 1988) 53 FR 41637 (Amex and NYSE).

[4] If the 250-point trigger is reached within one hour of the scheduled close of trading for a day, or if

Continued

mechanisms are an important part of the measures adopted by the Exchanges to address market volatility concerns in the wake of the October 1987 Market Break.

The Commission approved the Amex, Boston Stock Exchange ("BSE"),[5] MSE, NYSE, PHLX and National Association of Securities Dealers' ("NASD") [6] circuit breaker proposals on a pilot program basis. Circuit breaker proposals by the Chicago Board Options Exchange, Inc. ("CBOE",[7] the Pacific Stock Exchange, Inc. ("PSE") [8] and the Cincinnati Stock Exchange, Inc. ("CSE") [9] were approved by the Commission on a permanent basis rather than as a pilot program. In 1989, the Exchanges, the BSE, and the NASD filed, and the Commission approved, proposals to extend their respective pilot programs.[10] Subsequently, in 1990 and 1991, the Amex, MSE, NYSE, and PHLX filed, and the Commission approved, proposals to extend their respective pilot programs.[11] In 1991, the BSE filed, and the Commission approved, a proposal to extend its pilot program.[12] In 1990 and 1992, the NASD filed, and the Commission approved, proposals to extend its pilot program.[13] The proposals for the Exchanges are nearing their expiration dates and the Amex, MSE, NYSE and PHLX have filed with the Commission proposals to extend further their respective pilot programs until October 31, 1993.[14]

The circuit breaker mechanisms were enacted in the wake of the October 1987 Market Break. Both the Report of the Presidential Task Force on Market Mechanisms ("Brady Report") and the Working Group's Interim Report [15] recommended that coordinated trading halts and reopening procedures be developed that would be implemented in all U.S. markets for equity and equity related products during large, rapid market declines.[16] In response, the SROs submitted proposals to implement circuit breaker procedures that are designed to substitute planned trading halts for unplanned and destabilizing market closings. In addition, the stock index futures exchanges have implemented parallel circuit breakers that were approved by the CFTC on a permanent basis.

III. Commission Findings

Since the Commission approved these proposals in October 1988, the DJIA has not experienced a one day, 250-point decline that would trigger a market halt. Nevertheless, the Commission continues to believe that circuit breaker procedures are desirable to deal with potential strains that may develop during periods of extreme market volatility, and, accordingly, the Commission believes that the pilot programs should be extended. The Commission also believes that circuit breakers represent a reasonable means to retard a rapid, one day market decline that can have a destabilizing effect on the nation's financial markets and participants in these markets.

Accordingly, the Commission finds that the proposed rule changes filed by the Exchanges are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** because there are no changes being made to the current provisions, which originally were subject to the full notice and comment procedures, and accelerated approval would enable the pilots to continue on an uninterrupted basis. Due to the importance of these circuit breakers for market confidence, soundness, and integrity, it is necessary and appropriate that these procedures continue on an uninterrupted basis. The Commission believes, therefore, that granting accelerated approval of the proposed rule changes is appropriate and consistent with sections 6 and 19(b)(2)(B) of the Act.

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 changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings also will be available for inspection and copying at the respective principal office of each above-mentioned exchange. All submissions should refer to file number SR–AMEX–92–38, SR–MSE–92–11, SR–NYSE–92–19, or SR–PHLX–92–29, and should be submitted by November 27, 1992.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[17] that the Amex, MSE, NYSE and PHLX proposed rule changes (SR–Amex–92–38, SR–MSE–92–11, SR–NYSE–92–19 and SR–PHLX–92–29) are approved until October 31, 1993.

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the 400-point trigger is reached within two hours of the scheduled close of the trading day, trading will halt for the remainder of the day. If, however, the 250-point trigger is reached between one hour and one-half hours before the scheduled closing, or if the 400-point trigger is reached between two hours and one hour before the scheduled closing, the Exchanges would have the authority to use abbreviated reopening procedures either to permit trading to reopen before the scheduled closing or to establish closing prices.

[5] *See* Securities Exchange Act Release No. 26357 (December 14, 1988), 53 FR 51182.

[6] *See* Securities Exchange Act Release No. 26198 (October 19, 1988), 53 FR 41673.

[7] *Ind.*

[8] *See* Securities Exchange Act Release No. 26368 (December 16, 1988) 53 FR 51942.

[9] *See* Securities Exchange Act Release No. 26440 (January 10, 1989) 54 FR 1830.

[10] *See* Securities Exchange Act Release No. 27370 (October 23, 1989) 54 FR 43881 (Order approving extension of Amex, BSE, MSE, NASD, NYSE and PHLX circuit breaker rules).

[11] *See* Securities Exchange Act Release Nos. 28580 (October 25, 1990), 55 FR 45895; 29868 (October 28, 1991), 56 FR 56535 (Orders approving extensions of Amex, MSE, NYSE and PHLX circuit breaker rules).

[12] *See* Securities Exchange Act Release No. 29868 (October 28, 1991), 56 FR 56535 (Order approving extension of BSE circuit breaker rules). The BSE's pilot program was extended for two years in 1989; therefore, it was not necessary to extend it in 1990.

[13] *See* Securities Exchange Act Release Nos. 28694 (December 12, 1990), 55 FR 52119; 30304 (January 29, 1992), 57 FR 4658 (Orders approving extension of NASD circuit breaker rules).

[14] The NASD's circuit breaker provision expires December 31, 1993. The BSE's circuit breaker provision expires October 31, 1993.

[15] The Working Group on Financial Markets was established by the President in March 1988 to provide a coordinating framework for consideration, resolution, recommendation, and action on the complex issues raised by the market break in October 1987. The Working Group consists of the Chairmen of the Commission, Board of Governors of the Federal Reserve System and the Commodity Futures Trading Commission ("CFTC"), and the Under Secretary for Finance of the Department of the Treasury.

[16] In particular, the Working Group recommended a one-hour trading halt if the DJIA declined 250 points from its previous day's closing level, and a subsequent two-hour trading halt if the DJIA declined 400 points below its previous day's closing level. The Working Group also recommended that the NYSE use reopening procedures, similar to those used on Expiration Fridays, that are designed to enhance the information made public about market conditions.

[17] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26942 Filed 11-5-92; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2603]

Georgia; Declaration of Disaster Loan Area

Jenkins County and the contiguous counties of Bulloch, Burke, Emanuel and Screven in the State of Georgia constitute a disaster area as a result of damages caused by heavy rains and flooding in the City of Millen which occurred on October 8, 1992. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 21, 1992 and for economic injury until the close of business on July 20, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 260306 and for economic injury the number is 774700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 20, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-26949 Filed 11-5-92; 8:45 am]

BILLING CODE 8025-01-M

[18] 17 CFR 200.30-3(a)(12) (1986).

[Declaration of Disaster Loan Area #2604]

Mississippi; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on October 17 and an amendment dated October 20, 1992, I find that the Lowndes County in the State of Mississippi constitutes a disaster area as a result of damages caused by tornadoes, high winds, hail, and severe storms which occurred on October 10, 1992. Applications for loans for physical damage may be filed until the close of business on December 21, 1992, and for loans for economic injury until the close of business on July 20, 1993, at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous Counties of Clay, Monroe, Noxubee and Oktibbeha in Mississippi and Lamar and Pickens Counties in Alabama may be filed until the specified date at the above location.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 260412. For economic injury the number for Mississippi is 775600 and for Alabama the number is 775700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 22, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-26950 Filed 11-5-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2600]

New Jersey; Declaration of Disaster Loan Area

Monmouth County and the contiguous counties of Burlington, Mercer, Middlesex, and Ocean in the State of New Jersey constitute a disaster area as a result of damages caused by heavy rains and flooding which occurred on August 17, 1992. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 14, 1992 and for economic injury until the close of business on July 14, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.000
Businesses and nonprofit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 260006 and for economic injury the number is 774400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 14, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92-26952 Filed 11-5-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2602]

New Jersey; Declaration of Disaster Loan Area

Monmouth County and the contiguous counties of Burlington, Mercer, Middlesex, and Ocean in the State of New Jersey constitute a disaster area as a result of damages caused by a fire that destroyed the Collingswood Auction and Flea Market in Howell Township, which occurred on September 1, 1992. Applications for loans for physical

damage as a result of this disaster may be filed until the close of business on December 21, 1992 and for economic injury until the close of business on July 20, 1993 at the address listed below. U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 260205 and for economic injury the number is 774600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 20, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–26953 Filed 11–5–92; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Economic Injury Disaster Loan Area #7731]

North Carolina (And Contiguous Counties in Tennessee); Declaration of Disaster Loan Area

Swain County and the contiguous counties of Graham, Haywood, Jackson, and Macon in the State of North Carolina, and Blount, Cocke, Monroe, and Sevier Counties in the State of Tennessee constitute an economic injury disaster area as a result of damages caused by flash flooding which occurred on September 10, 1992 on the Cherokee Indian Reservation. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on July 6, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Fl., Niagara Falls, NY 14303, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The economic injury number assigned to the State of Tennessee is 773200.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: October 6, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–26947 Filed 11–5–92; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area 2597]

Commonwealth of the Northern Mariana Islands; Declaration of Disaster Loan Area

The Island of Rota in the Commonwealth of the Northern Mariana Islands constitutes a disaster area as a result of damages caused by Typhoon Omar which occurred on August 28 and 29, 1992. Applications for loans for physical damage may be filed until the close of business on December 4, 1992 and for economic injury until the close of business on July 6, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	6.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 259706 and for economic injury the number is 772000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.

Dated: October 5, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–26948 Filed 11–5–92; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area 2601]

Washington Declaration of Disaster Loan Area

Chelan County and the contiguous counties of Douglas, King, Kittitas, Okanogan, Skagit, and Snohomish in the State of Washington constitute a disaster area as a result of damages caused by a fire which occurred on September 26 and 27, 1992 in the City of Wenatchee. Applications for loans for physical damage may be filed until the close of business on December 15, 1992 and for economic injury until the close of business on July 16, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For physical damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Business with credit available elsewhere	6.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	8.500
For economic injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 260105 and for economic injury the number is 774500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 16, 1992.

Patricia Saiki,

Administrator.

[FR Doc. 92–26951 Filed 11–5–92; 8:45 am]

BILLING CODE 8025–01–M

Senior Executive Service Performance Review Board; List of Members

AGENCY: Small Business Administration.

ACTION: Listing of personnel serving as members of this agency's Senior Executive Service Performance Review Boards.

SUMMARY: Section 4314(c)(4) of title 5, U.S.C. requires Federal agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review

Boards (PRB). The following is a listing of those individuals currently serving as members of this agency's PRB:

1. Susan M. Collins, Regional Administrator, Boston.
2. Thomas Dumaresq, Assistant Administrator for Administration.
3. Michael P. Forbes, Regional Administrator, New York.
4. Samuel Gentile, Deputy to the Associate Deputy Administrator for Business Development (Substitute member, if required).
5. Mary B. Lukens, Associate Deputy Administrator for Business Development.
6. Robert F. Moffitt, Associate Administrator for Procurement Assistance.
7. George H. Robinson, Director, Equal Employment Opportunity and Compliance.
8. Lawrence R. Rosenbaum, Deputy CFO and Comptroller.
9. Carolyn J. Smith, Director of Personnel.
10. John D. Whitmore, CFO and Associate Deputy Administrator for Management and Administrator.
11. Janice E. Wolfe, Deputy to the Associate Deputy Administrator for Finance, Investment and Procurement.
12. Oscar Wright, Regional Administrator, San Francisco (Substitute member, if required).

Dated: October 30, 1992.

Patricia F. Saiki,

Administrator.

[FR Doc. 92-26954 Filed 11-5-92; 8:45 am]

BILLING CODE 8025-01-M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

National Housing Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C. App., announcement is hereby published for a meeting of the National Housing Advisory Board. The meeting is open to the public. Please note that elsewhere in this issue of the **Federal Register** is a meeting notice for the National Advisory Board which will meet in the morning prior to the National Housing Advisory Board meeting.

DATES: The meeting is scheduled for Tuesday, November 24, from 1 to 3 p.m.

ADDRESSES: The meeting will be held at the Holiday Inn Crowne Plaza, South Lobby, 775 12th St., NW. Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: In accordance with section 21A(d)(2) of the Federal Home Loan Bank Act, as amended by the Resolution Trust Corporation (RTC) Thrift Depositor Protection Reform Act of 1991, the Thrift Depositor Protection Oversight Board has established a National Housing Advisory Board to advise the Oversight Board on policies and programs related to the provision of affordable housing. The National Housing Advisory Board consists of the Secretary of the Housing and Urban Development and the chairs of the regional advisory boards established under section 21A(d)(3) of the Federal Home Loan Bank Act. The charter for the National Housing Advisory Board was filed on February 20, 1992.

Agenda

A detailed agenda will be available at the meeting. The meeting will include briefings from the Board's chair and from the chairs of the six regional advisory boards on their respective meetings held throughout the country between October 14 and November 18, 1992. Discussions will focus on the RTC's single-family and multi-family housing dispositions programs, regional performance and the status of RTC seller financing for affordable housing.

Statements

Interested persons may submit, in writing, data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating for the open meetings is available on a first come first served basis.

Dated: November 3, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92-27009 Filed 11-5-92; 8:45 am]

BILLING CODE 2222-01-M

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app., announcement is hereby published for a meeting of the National Advisory Board. The meeting is open to the public. Please note that elsewhere in this issue of the **Federal Register** is a meeting notice for the National Housing Advisory Board which will meet in the afternoon following the National Advisory Board meeting.

DATES: The meeting is scheduled for Tuesday, November 24, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held at the Holiday Inn Crowne Plaza, South Lobby, 775 12th St., NW. Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: Pursuant to section 21A (d) of the Federal Home Loan Bank Act, the Thrift Depositor Protection Oversight Board had established a National Advisory Board and six Regional Advisory Boards to advise the Oversight Board and the Resolution Trust Corporation (RTC) on the disposition of real property assets of the Corporation.

Agenda

A detailed agenda will be available at the meeting. The meeting will include briefings from the chairs of the six regional advisory boards on their respective meetings held throughout the country between October 14 and November 18, 1992. Discussion will focus on the key topics from the regional meetings: local real estate market impact and progress of RTC hard-to-sell real estate asset strategies including net recoveries by asset type and sales method, appraisal policies, bulk sales, environmentally significant property disposition and multiple investor funds for land disposition.

Statements

Interested persons may submit, in writing, data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating is available on a first come first served basis for this open meeting.

Dated: November 3, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92-27010 Filed 11-5-92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-92-32]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

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

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

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 26, 1992.

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

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

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 2, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 26936.
Petitioner: Woods Air Fuel, Inc.
Sections of the FAR Affected: 14 CFR 91.9.
Description of Relief Sought: To allow Woods Air Fuel, Inc., to operate its DC-6A aircraft at an increase of 5 percent zero fuel and landing weight.

Docket No.: 27023.
Petitioner: Boeing.
Sections of the FAR Affected: 14 CFR 25.1415(c) and 121.339(c).
Description of Relief Sought: To allow the operation of B-757-200 aircraft equipped with slide rafts that have been FAA approved for use as life rafts.

Dispositions of Petitions

Docket No.: 22706.
Petitioner: Bankair, Inc.
Sections of the FAR Affected: 14 CFR 135.225(e)(1).
Description of Relief Sought/ Disposition: To extend the termination date and amend Exemption No. 5090A, which expires August 31, 1993. Exemption 5090, as amended, allows Bankair, Inc.'s pilots to operate their aircraft from Myrtle Beach Air Force Base and Beaufort Marine Corps Air Station using takeoff visibility minimums that are less than 1 mile and are equal to or greater than the landing visibility minimums established for these airfields, subject to the approval of the appropriate military authority. The new request petitions to add 28 United States military bases to the list of bases for which the exemption applies. *Grant, October 23, 1992, Exemption No. 509B.*

Docket No.: 24605.
Petitioner: World Jet Corporation.
Sections of the FAR Affected: 14 CFR 91.511(a) and 135.165(b).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 4961, which expires August 30, 1994. Exemption No. 4961 allows World Jet Corporation (WJC) to operate in extended overwater operations using a single long-range navigational system (LRNS) and one high-frequency (HF) communication system. WJC also requests to add a Cessna Citation CE-650 to the list of airplanes authorized by the exemption to operate using a LRNS and HF communication system. *Grant, October 23, 1992, Exemption No. 4961C.*

Docket No.: 26152.
Petitioner: Sierra Academy of Aeronautics.
Sections of the FAR Affected: 14 CFR part 141, appendix F, paragraph (c)(III)(a).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5245, which allows Sierra Academy of Aeronautics to graduate students from its approved commercial pilot helicopter training course with 80 hours of flight instruction in helicopters and 70 hours of directed solo training in helicopters. *Grant, October 27, 1992, Exemption No. 5245A.*

Docket No.: 26285.
Petitioner: Jet Management Group, Inc.
Sections of the FAR Affected: 14 CFR 135.165 (b)(6) and (7).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5277, which expires January 31, 1993. Exemption 5277 allows Jet Management Group, Inc., to operate certain airplanes equipped with one high-frequency communication system in extended overwater operations. *Grant, October 23, 1992, Exemption No. 5277A.*

Docket No.: 26570.
Petitioner: Pere Air.
Sections of the FAR Affected: 14 CFR 43.3 (a) and (g).
Description of Relief Sought/ Disposition: To allow properly trained pilots employed by Pere Air to perform the preventive maintenance function of removing and replacing aircraft passenger seats in aircraft operated under Part 135 of the FAR. *Partial Grant, October 27, 1992, Exemption No. 5539.*

Docket No.: 26897.
Petitioner: Northwest Aerospace Training Corporation.
Sections of the FAR Affected: 14 CFR 121.411 (a)(2), (3), and (b)(2), 121.413(b), (c), and (d), part 121 appendix H.
Description of Relief Sought/ Disposition: To allow Northwest Aerospace Training Corporation (NATCO), without NATCO holding an air carrier operating certificate, to train a certificate holder's pilots and flight engineers in initial, transition, upgrade, differences, and recurrent training in approved simulators and in airplanes, without NATCO's instructor pilots meeting all the applicable training requirements of Subpart N and the employment requirements of Appendix H of Part 121. Additionally, to allow certain NATCO pilot check airmen and

designated pilot and flight engineer examiners to check and evaluate a certificate holder's pilots in simulator and aircraft check flights without NATCO's pilot check airmen meeting all the applicable requirements of the affected FAR sections. *Partial Grant, October 26, 1992, Exemption No. 5538.*

Docket No.: 26971.
Petitioner: United Airlines.
Sections of the FAR Affected: 14 CFR 121.314.
Description of Relief Sought/ Disposition: To allow United Airlines a 6-month extension in the compliance time for the retrofit of Class C and D cargo compartment liners, over the time currently granted to the Air Transport Association of America for all affected operators in Exemption No. 5288B. *Grant, October 20, 1992, Exemption No. 5535.*

[FR Doc. 92-26977 Filed 11-5-92; 8:45 am]
BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Anne Arundel County, MD

AGENCY: Federal Highway Administration (FHWA), DOT.
ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Anne Arundel County, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. David Lawton, Planning, Research, Environment and Safety Engineer, Federal Highway Administration, The Rotunda—Suite 220, 711 West 40th Street, Baltimore, Maryland 21211.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland State Highway Administration and Anne Arundel County, will prepare an environmental impact statement (EIS) on a proposal to construct East-West Boulevard in Anne Arundel County, Maryland. The proposed improvement would involve the construction of a new roadway between Veterans Highway and Ritchie Highway (MD 2) for a distance of about three miles. Improvements to Brightview Drive/Obrecht Road for about three miles, and Benfield Boulevard for about four miles between Veterans Highway and MD 2 are also being considered as alternatives.

Improvement to this corridor are considered necessary because currently there is no adequate connection, south of MD 100, between Veterans Highway and MD 2. Residential development is expected to continue to occur within the study area. Travel demand increases are a direct result of this continued growth. The local roadway network will be stressed and will be unable to accommodate the increased travel demand. The construction of a roadway on new location or improvements to the existing roadways will provide the desired capacity.

The alternatives under consideration include (1) taking no action, (2) constructing a two lane roadway on new location connecting Veterans Highway and MD 2, (3) constructing a four lane roadway with partial access controls on new location connecting Veterans Highway and MD 2, (4) reconstructing Brightview Drive/Obrecht Road as a two lane roadway between Veterans Highway and MD 2, (5) reconstructing Brightview Drive/Obrecht Road as a four lane roadway and MD 2 and (6) restriping Benfield Boulevard as a four lane roadway between Veterans Highway and Evergreen Road.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. A public hearing will be held in December of 1992. Public notice will be given of the time and place of this hearing.

The draft EIS will be available for public and agency review and comment prior to the public hearing. A formal scoping meeting for this project was held in February of 1989.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Programs and activities apply to this program).

Issued on: November 2, 1992.

George K. Frick, Jr.,

Assistant Division Administrator, Baltimore, Maryland.

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DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 37-92]

Treasury Bonds of November 2022, (CUSIP No. 912810 EN 4)

Washington, November 3, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Bonds. The Bonds will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Bonds are stated in the offering announcement. The Bonds will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Bonds will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Bonds will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. A Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. and 2.2. of this section are descriptive of Bonds in

their fully constituted form; the description of the separate Principal and Interest components is set forth in section 6 of this circular.

2.4. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Bonds offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Bonds being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for account of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Bonds to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an

amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Bonds specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Bonds allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Bond being purchased. In any such case, the tender form used to place the Bonds allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment B to this circular.

6.2. Attachment B also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. Attachment C to this circular provides the minimum par amounts required to separate a security at various interest rates, as well as the interest payments corresponding to those minimum par amounts. Par amounts greater than the minimum amount must be in multiples of that amount. The minimum par amount for this offering will be provided in the public announcement of the amount and yield range of accepted bids.

6.4. A Bond may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Bonds. Once a Bond has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their fully constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.6. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.7. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.8. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A, B, and C, and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A

Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—

A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—

A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—

A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—

A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—

A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships*—

Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, or other Fiduciaries*—

A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—

A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number [not social security account number).

(9) *Political Subdivisions*—

(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) a commonwealth, territory, or possession.

(10) *Mutual Funds*—

A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—

A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—

An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—

A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Attachment B—CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Bonds of November 15, 2022, CUSIP No. 912610 EN 4.

The Principal Component is designated (Interest Rate) Treasury principal (TPRN) 2022 due November 15, 2022, CUSIP No. 912803 BA 0.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury Interest (TINT) due:	
May 15, 1993	EW 6
Nov. 15, 1993	EX 4
May 15, 1994	EY 2
Nov. 15, 1994	EZ 9
May 15, 1995	FA 3
Nov. 15, 1995	FB 1
May 15, 1996	FC 9
Nov. 15, 1996	FD 7
May 15, 1997	FE 5
Nov. 15, 1997	FF 2
May 15, 1998	FG 0
Nov. 15, 1998	FH 8
May 15, 1999	FJ 4
Nov. 15, 1999	FK 1
May 15, 2000	FL 9
Nov. 15, 2000	FM 7
May 15, 2001	FN 5
Nov. 15, 2001	FP 0
May 15, 2002	FQ 8
Nov. 15, 2002	FR 6
May 15, 2003	FS 4
Nov. 15, 2003	FT 2
May 15, 2004	FU 9
Nov. 15, 2004	FV 7
May 15, 2005	FW 5
Nov. 15, 2005	FX 3
May 15, 2006	FY 1
Nov. 15, 2006	FZ 8
May 15, 2007	GA 2
Nov. 15, 2007	GB 0
May 15, 2008	GC 8
Nov. 15, 2008	GD 6
May 15, 2009	GE 4
Nov. 15, 2009	GF 1
May 15, 2010	JU 5
Nov. 15, 2010	JV 3
May 15, 2011	JW 1
Nov. 15, 2011	JX 9
May 15, 2012	JY 7
Nov. 15, 2012	JZ 4
May 15, 2013	KA 7
Nov. 15, 2013	KB 5
May 15, 2014	KC 3
Nov. 15, 2014	KD 1
May 15, 2015	KE 9
Nov. 15, 2015	KF 6
May 15, 2016	KH 2
Nov. 15, 2016	KK 5
May 15, 2017	KM 1
Nov. 15, 2017	KP 4
May 15, 2018	KR 0
Nov. 15, 2018	KT 6
May 15, 2019	KV 1
Nov. 15, 2019	KX 7
May 15, 2020	KZ 2
Nov. 15, 2020	LB 4
May 15, 2021	LD 0
Nov. 15, 2021	LF 5
May 15, 2022	LH 1
Nov. 15, 2022	LK 4

ATTACHMENT C.—MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000

Coupon (percent)	Minimum face	Interest payment
5.000	$40,000.00	$1,000.00
5.125	1,600,000.00	41,000.00
5.250	800,000.00	21,000.00
5.375	1,600,000.00	43,000.00

ATTACHMENT C.—MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000—Continued

Coupon (percent)	Minimum face	Interest payment
5.500	$400,000.00	$11,000.00
5.625	320,000.00	9,000.00
5.750	800,000.00	23,000.00
5.875	1,600,000.00	47,000.00
6.000	100,000.00	3,000.00
6.125	1,600,000.00	49,000.00
6.250	32,000.00	1,000.00
6.375	1,600,000.00	51,000.00
6.500	400,000.00	13,000.00
6.625	1,600,000.00	53,000.00
6.750	800,000.00	27,000.00
6.875	320,000.00	11,000.00
7.000	200,000.00	7,000.00
7.125	1,600,000.00	57,000.00
7.250	800,000.00	29,000.00
7.375	1,600,000.00	59,000.00
7.500	80,000.00	3,000.00
7.625	1,600,000.00	61,000.00
7.750	80,000.00	31,000.00
7.875	1,600,000.00	63,000.00
8.000	25,000.00	1,000.00
8.125	320,000.00	13,000.00
8.250	800,000.00	33,000.00
8.375	1,600,000.00	67,000.00
8.500	400,000.00	17,000.00
8.625	1,600,000.00	69,000.00
8.750	160,000.00	7,000.00
8.875	1,600,000.00	71,000.00
9.000	200,000.00	9,000.00
9.125	1,600,000.00	73,000.00
9,250	800,000.00	37,000.00
9.375	64,000.00	3,000.00
9.500	400,000.00	19,000.00
9.625	1,600,000.00	77,000.00
9.750	800,000.00	39,000.00
9.875	1,600,000.00	79,000.00
10.000	20,000.00	1,000.00
10.125	1,600,000.00	81,000.00
10.250	800,000.00	41,000.00
10.375	1,600,000.00	83,000.00
10.500	400,000.00	21,000.00
10.625	320,000.00	17,000.00
10.750	800,000.00	43,000.00
10.875	1,600,000.00	87,000.00
11.000	200,000.00	11,000.00
11.125	1,600,000.00	89,000.00
11.250	160,000.00	9,000.00
11.375	1,600,000.00	91,000.00
11.500	400,000.00	23,000.00
11.625	1,600,000.00	93,000.00
11.750	800,000.00	47,000.00
11.875	320,000.00	19,000.00
12.000	50,000.00	3,000.00
12.125	1,600,000.00	97,000.00
12.250	800,000.00	49,000.00
12.375	1,600,000.00	99,000.00
12.500	16,000.00	1,000.00

ATTACHMENT C.—MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000—Continued

Coupon (percent)	Minimum face	Interest payment
12.625	$1,600,000.00	$101,000.00
12.750	800,000.00	51,000.00
12.875	1,600,000.00	103,000.00
13.000	200,000.00	13,000.00
13.125	320,000.00	21,000.00
13.250	800,000.00	53,000.00
13.375	1,600,000.00	107,000.00
13.500	400,000.00	27,000.00
13.625	1,600,000.00	109,000.00
13.750	160,000.00	11,000.00
13.875	1,600,000.00	111,000.00
14.000	100,000.00	7,000.00
14.125	1,600,000.00	113,000.00
14.250	800,000.00	57,000.00
14.375	320,000.00	23,000.00
14.500	400,000.00	29,000.00
14.625	1,600,000.00	117,000.00
14.750	800,000.00	59,000.00
14.875	1,600,000.00	119,000.00
15.000	40,000.00	3,000.00
15.125	1,600,000.00	121,000.00
15.250	800,000.00	61,000.00
15.375	1,600,000.00	123,000.00
15.500	400,000.00	31,000.00
15.625	64,000.00	5,000.00
15.750	800,000.00	63,000.00
15.875	1,600,000.00	127,000.00
16.000	25,000.00	2,000.00
16.125	1,600,000.00	129,000.00
16.250	160,000.00	13,000.00
16.375	1,600,000.00	131,000.00
16.500	400,000.00	33,000.00
16.625	1,600,000.00	133,000.00
16.750	800,000.00	67,000.00
16.875	320,000.00	27,000.00
17.000	200,000.00	17,000.00
17.125	1,600,000.00	137,000.00
17.250	800,000.00	69,000.00
17.375	1,600,000.00	139,000.00
17.500	80,000.00	7,000.00
17.625	1,600,000.00	141,000.00
17.750	800,000.00	71,000.00
17.875	1,600,000.00	143,000.00
18.000	100,000.00	9,000.00
18.125	320,000.00	29,000.00
18.250	800,000.00	73,000.00
18.375	1,600,000.00	147,000.00
18.500	400,000.00	37,000.00
18.625	1,600,000.00	149,000.00
18.750	32,000.00	3,000.00
18.875	1,600,000.00	151,000.00
19.000	200,000.00	19,000.00
19.125	1,600,000.00	153,000.00
19.250	800,000.00	77,000.00
19.375	320,000.00	31,000.00
19.500	400,000.00	39,000.00
19.625	1,600,000.00	157,000.00

ATTACHMENT C.—MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1,000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1,000—Continued

Coupon (percent)	Minimum face	Interest payment
19.750	$800,000.00	$79,000.00
19.875	1,600,000.00	159,000.00
20.000	10,000.00	1,000.00
20.125	1,600,000.00	161,000.00
20.250	800,000.00	81,000.00

Treasury November Quarterly Financing

The Treasury will raise about $13,900 million of new cash and refund $23,096 million of securities maturing November 15, 1992, by issuing $15,500 million of 3-year notes, $11,250 million of 9¾-year 6⅜% notes, and $10,250 million of 30-year bonds. The $23,096 million of maturing securities are those held by the public, including $4,692 million held, as of today, by Federal Reserve Banks as agents for foreign and international monetary authorities.

The three issues totaling $37,000 million are being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Government accounts and Federal Reserve Banks, for their own accounts, hold $4,095 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Treasury decided to reopen the 6⅜% Treasury note maturing on August 15, 2002, in order to alleviate an acute, protracted shortage of this security. If next week's auction of this note results in a price or prices below par, the discount will be treated for Federal income tax purposes as market discount, not as original issue discount. This Federal income tax treatment is provided for under Internal Revenue Notice No. 92–13, released March 25, 1992.

The 9¾-year note and 30-year bond being offered today will be eligible for the STRIPS program.

Details about each of the new securities are given in the attached highlights of the offering and in the official offering circulars.

HIGHLIGHTS OF TREASURY OFFERING TO THE PUBLIC; NOVEMBER 1992 QUARTERLY FINANCING

[November 3, 1992]

Amount Offered to the Public	$15,500 million	$11,250 million	$10,250 million.
Description of Security:			
Term and type of security	3-year notes	9¾-year notes (reopening)	30-year bonds.
Series and CUSIP designation	Series R–1995 (CUSIP No. 912827 H5 4).	Series B–2002 (CUSIP No. 912827 G5 5)	Bonds of November 2022 (CUSIP No. 912810 EN 4).
CUSIP Nos. for STRIPS Components.	Not applicable	Listed in Attachment B of offering circular	Listed in Attachment B of offering circular.
Issue date	November 16, 1992	November 16, 1992	November 16, 1992 (to be dated November 15, 1992).
Maturity date	November 15, 1995	August 15, 2002	November 15, 2022.

HIGHLIGHTS OF TREASURY OFFERING TO THE PUBLIC; NOVEMBER 1992 QUARTERLY FINANCING—Continued

[November 3, 1992]

Interest rate	To be determined based on the average of accepted bids.	6⅜%	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction	To be determined after auction.
Interest payment dates	May 15 and November 15	February 15 and August 15 (first payment on February 15, 1993).	May 15 and November 15.
Minimum denomination available	$5,000	$1,000	$1,000.
Amount required for STRIPS	Not applicable	$1,600,000	To be determined after auction.
Terms of Sale:			
Method of sale	Yield auction	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor.	None	$16.11073 per $1,000 (from August 15, 1992, to November 16, 1992).	To be determined after auction.
Key Dates:			
Receipt of tenders	Monday, November 9, 1992	Tuesday, November 10, 1992	Thursday, November 12, 1992.
a) noncompetitive	prior to 11:00 a.m., EST	prior to 12:00 noon, EST	prior to 12:00 noon, EST.
b) competitive	prior to 12:00 noon, EST	prior to 1:00 p.m., EST	prior to 1:00 p.m., EST.
Settlement (final payment due from institutions):			
a) funds immediately available to the Treasury.	Monday, November 16, 1992	Monday, November 16, 1992	Monday, November 16, 1992.
b) readily-collectible check	Thursday, November 12, 1992	Thursday, November 12, 1992	Thursday, November 12, 1992.

[FR Doc. 92-27115 Filed 11-4-92; 12:27 pm]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 36-92; (CUSIP No. 912827 G5 5)]

6⅜% Treasury Notes of August 15, 2002, Series B-2002

Washington, November 3, 1992.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. A Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, transfer, and reconstitution of Principal and Interest Components are set forth in section 6 of this circular. Subsections 2.1. and 2.2. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest components is set forth in Section 6 of this circular.

2.4. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that

amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Competitive bids at yields higher than the highest acceptable yield, as specified in the offering announcement, will not be accepted since their equivalent prices would fall below the original issue discount limit. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, the price on each competitive tender allotted will be determined. Each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting non-competitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement must include any accrued interest specified in the offering announcement. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS Program (Separate Trading of Registered Interest and Principal of Securities), a Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The separate STRIPS components are: each future semiannual interest payment (referred to as an Interest Component) and the principal payment (referred to as the Principal Component). Each Interest Component and the Principal Component shall have an identifying designation and CUSIP number, which are set forth in Attachment B to this circular.

6.2. Attachment B also provides the payable dates for the separate components. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

6.3. For a Note to be separated into the components described in section 6.1., the par amount of the Note must be in an amount which, based on the stated interest rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple-of $1,000. The minimum par amount required to separate components for this Note is stated in the offering announcement and the public announcement of the amount and yield range of accepted bids. Par amounts greater than the minimum amount must be in multiples of that amount.

6.4. A Note may be separated into its components at any time from the issue date until maturity. A request for separation must be made to the Federal Reserve Bank maintaining the account for the Notes. Once a Note has been separated into its components, the components may be maintained and transferred in multiples of $1,000.

6.5. Interest and Principal Components of separated securities may be reconstituted, i.e., restored to their full constituted form, on the book-entry records of the Federal Reserve Banks. A Principal Component and all related unmatured Interest Components, in the appropriate minimum or multiple amounts previously announced, must be submitted together for reconstitution.

6.6. Detached physical interest coupons, coupons held under the CUBES Program, or cash payments may not be substituted for missing Interest or Principal Components. Any reconstitution request which does not comprise all of the necessary STRIPS components in the appropriate amounts will not be accepted.

6.7. The book-entry transfer of each Interest Component and Principal Component included in a reconstitution transaction will be subject to the fee schedule generally applicable to transfers of book-entry Treasury securities.

6.8. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B, and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaires*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary

more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, and (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10b) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Attachment B—CUSIP Numbers and Designations for the Principal Component and Interest Components of Treasury Notes of August 15, 2002, Series B–2002, CUSIP No. 912827 G5 5

The Principal Component is designated 6–3/8% Treasury Principal (TPRN) Series B–2002 due August 15, 2002, CUSIP No. 912820 BE 6.

INTEREST COMPONENTS

Designation	CUSIP No. 912833
Treasury interest (TINT) due:	
February 15, 1993	BM 1
August 15, 1993	BN 9
February 15, 1994	BP 4
August 15, 1994	BQ 2
February 15, 1995	BR 0
August 15, 1995	BS 8
February 15, 1996	BT 6
August 15, 1996	BU 3
February 15, 1997	BV 1
August 15, 1997	BW 9
February 15, 1998	BX 7
August 15, 1998	BY 5
February 15, 1999	BZ 2
August 15, 1999	CA 6
February 15, 2000	CB 4
August 15, 2000	CC 2
February 15, 2001	CD 0
August 15, 2001	CE 8
February 15, 2002	CF 5
August 15, 2002	CG 3

Treasury November Quarterly Financing

The Treasury will raise about $13,900 million of new cash and refund $23,096 million of securities maturing November 15, 1992, by issuing $15,500 million of 3-year notes, $11,250 million of 9¾-year 6⅜% notes, and $10,250 million of 30-year bonds. The $23,096 million of maturing securities are those held by the public, including $4,692 million held, as of today, by Federal Reserve Banks as agents for foreign and international monetary authorities.

The three issues totaling $37,000 million are being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Government accounts and Federal Reserve Banks, for their own accounts, hold $4,095 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Treasury decided to reopen the 6⅜% Treasury note maturing on August 15, 2002, in order to alleviate an acute, protracted shortage of this security. If next week's auction of this note results in a price or prices below par, the discount will be treated for Federal income tax purposes as market discount, not as original issue discount. This Federal income tax treatment is provided for under Internal Revenue Notice No. 92–13, released March 25, 1992.

The 9¾-year note and 30-year bond being offered today will be eligible for the STRIPS program.

Details about each of the new securities are given in the attached highlights of the offering and in the official offering circulars.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC, NOVEMBER 1992 QUARTERLY FINANCING

[November 3, 1992]

Amount Offered to the Public	$15,500 million	$11,250 million	$10,250 million.
Description of Security:			
Term and type of security	3-year notes	9¾-year notes (reopening)	30-year bonds.
Series and CUSIP designation	Series R–1995 (CUSIP No. 912827 H5 4).	Series B–2002 (CUSIP No. 912827 G5 5)	Bonds of November 2022 (CUSIP No. 912810 EN 4).
CUSIP Nos. for STRIPS Components.	Not applicable	Listed in Attachment B of offering circular	Listed in Attachment B of offering circular.
Issue date	November 16, 1992	November 16, 1992	November 16, 1992 (tc be dated November 15, 1992).
Maturity date	November 15, 1995	August 15, 2002	November 15, 2022.
Interest rate	To be determined based on the average of accepted bids.	6⅜%	To be determined based on the average of accepted bids.

HIGHLIGHTS OF TREASURY OFFERINGS TO THE PUBLIC, NOVEMBER 1992 QUARTERLY FINANCING—Continued

[November 3, 1992]

Investment yield	To be determined at auction	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction	To be determined after auction.
Interest payment dates	May 15 and November 15	February 15 and August 15 (first payment of February 15, 1993).	May 15 and November 15.
Minimum denomination available.	$5,000	$1,000	$1,000.
Amount required for STRIPS	Not applicable	$1,600,000	To be determined after auction.
Terms of Sale:			
Method of sale	Yield auction	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor.	None	$16,11073 per $1,000 (from August 15, 1992, to November 16, 1992).	To be determined after auction.
Key Dates:			
Receipt of tenders	Monday, November 9, 1992	Tuesday, November 10, 1992	Thursday, November 12, 1992.
(a) Noncompetitive	Prior to 11 a.m., EST	Prior to 12 noon, EST	Prior to 12 noon, EST.
(b) Competitive	Prior to 12 noon, EST	Prior to 1 p.m., EST	Prior to 1 p.m., EST.
Settlement (final payment due from institutions):			
(a) Funds immediately available to the Treasury.	Monday, November 16, 1992	Monday, November 16, 1992	Monday, November 16, 1992.
(b) Readily-collectible check	Thursday, November 12, 1992	Thursday, November 12, 1992	Thursday, November 12, 1992.

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BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 35-92; (CUSIP No. 912827 H5 4)]

Treasury Notes of November 15, 1995, Series R-1995

Washington, November 3, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2-86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239-1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may

it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount list. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name of title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institutions submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Noted to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted must be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are

accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Bank and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mututal Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Treasury November Quarterly Financing

The Treasury will raise about $13,900 million of new cash and refund $23,096 million of securities maturing November 15, 1992, by issuing $15,500 million of 3-year notes, $11,250 million of 9¾-year 6⅜% notes, and $10,250 million of 30-year bonds. The $23,096 million of maturing securities are those held by the public, including $4,692 million held, as of today, by Federal Reserve Banks as agents for foreign and international monetary authorities.

The three issues totaling $37,000 million are being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Government accounts and Federal Reserve Banks, for their own accounts, hold $4,095 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Treasury decided to reopen the 6⅜% Treasury note maturing on August 15, 2002, in order to alleviate an acute, protracted shortage of this security. If next week's auction of this note results in a price or prices below par, the discount will be treated for Federal income tax purposes as market discount, not as original issue discount. This Federal income tax treatment is provided for under Internal Revenue Notice No. 92–13, released March 25, 1992.

The 9¾-year note and 30-year bond being offered today will be eligible for the STRIPS program.

Details about each of the new securities are given in the attached highlights of the offering and in the official offering circulars.

Attachment

Highlights of Treasury Offerings to the Public

November 1992 Quarterly Financing

November 3, 1992.

Amount Offered to the Public	$15,500 million	$11,250 million	$10,250 million
Description of Security:			
Term and type of security	3-year notes	9-3/4-year notes (reopening)	30-year bonds.
Series and CUSIP designation	Series R-1995 (CUSIP No. 912827 H5 4).	Series B-2002 (CUSIP No. 912827 G5 5).	Bonds of November 2022 (CUSIP No. 912810 EN 4).
CUSIP Nos. for STRIPS Components.	Not applicable	Listed in Attachment B of offering circular.	Listed in Attachment B of offering circular.
Issue date	November 16, 1992	November 16, 1992	November 16, 1992 (to be dated November 15, 1992).
Maturity date	November 15, 1995	August 15, 2002	November 15, 2022.
Interest rate	To be determined based on the average of accepted bids.	6-3/8%	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction.	To be determined after auction.	To be determined after auction.
Interest payment dates	May 15 and November 15	February 15 and August 15 (first payment on February 15, 1993).	May 15 and November 15.
Minimum denomination available	$5,000	$1,000	$1,000.
Amount required for STRIPS	Not applicable	$1,600,000	To be determined after auction.
Terms of Sale:			
Method of sale	Yield auction	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor.	None	$16.11073 per $1,000 (from August 15, 1992, to November 16, 1992).	To be determined after auction.
Key Dates:			
Receipt of tenders	Monday, November 9, 1992	Tuesday, November 10, 1992	Thursday, November 12, 1992.
(a) noncompetitive	Prior to 11:00 a.m., EST	Prior to 12:00 noon, EST	Prior to 12:00 noon, EST.
(b) competitive	Prior to 12:00 noon, EST	Prior to 1:00 p.m., EST	Prior to 1:00 p.m., EST.
Settlement (final payment due from institutions):			
(a) funds immediately available to the Treasury.	Monday, November 16, 1992	Monday, November 16, 1992	Monday, November 16, 1992.
(b) readily-collectible check	Thursday, November 12, 1992	Thursday, November 12, 1992	Thursday, November 12, 1992.

[Supplement to Department Circular—Public Debt Series—No. 33–92]

Treasury Notes, Series AF–1994; Interest Rate

Washington, October 28, 1992.

The Secretary announced on October 27, 1992, that the interest rate on the notes designated Series AF–1994, described in Department Circular—Public Debt Series—No. 33–92 dated October 21, 1992, will be 4¼ percent. Interest on the notes will be payable at the rate of 4¼ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92–27011 Filed 11–5–92; 8:45 am]

BILLING CODE 4810–40–M

[Supplement to Department Circular—Public Debt Series—No. 34–92]

Treasury Notes, Series S–1997; Interest Rate

Washington, October 20, 1992.

The Secretary announced on October 28, 1992, that the interest rate on the notes designated Series S–1997, described in Department Circular—Public Debt Series—No. 34–92 dated October 21, 1992, will be 5¾ percent. Interest on the notes will be payable at the rate of 5¾ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 92–27012 Filed 11–5–92; 8:45 am]

BILLING CODE 4810–40–M

Fiscal Service

[Notice Number 01]

Notice to Claimants under the German Democratic Republic Claims Program; Title VI of the International Claims Settlement Act of 1949, as Amended

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: On May 13, 1992, the United States and the Federal Republic of Germany (FRG) signed an agreement under which the FRG will pay compensation to the United States for property claims of U.S. citizens covered by the Foreign Claims Settlement Commission's (FCSC's) German Democratic Republic Claims Program. The agreement permits claimants with favorable FCSC awards to choose to

receive their portions of this settlement amount, or to forego their portions of the settlement amount and instead pursue their claims through a property claims program currently in effect in Germany. The Department of the Treasury mailed election documents to claimants in August, 1992. A revised document package was sent in October, 1992. It provides information and enables claimants to elect whether to recover under the U.S. program or to choose to pursue their claims under the claims program currently in effect in Germany. Election forms must be postmarked by December 31, 1992. Some claimants under the above described program have not been located. This notice provides notice of the program, the election provision and the due date for election to all claimants. It sets forth the names of claimants issued favorable awards under the FCSC's German Democratic Republic Claims Program.

DATES: Election forms must be postmarked by December 31, 1992.

ADDRESSES: Inquiries should be submitted to: Financial Management Service, Department of the Treasury, Credit Accounting Branch, P.G. Center II Building, 3700 East-West Highway, 5th floor, Suite C, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Mia Abeya, Credit Accounting Branch, at (202) 874–8740.

SUPPLEMENTARY INFORMATION:

Statutory History

On October 18, 1976, Public Law 94–542 was enacted, amending the International Claims Settlement Act of 1949 (22 U.S.C. § 1621 et. seq.). The law provided for the determination of the validity and amount of outstanding claims against the former German Democratic Republic arising from the nationalization, expropriation, or other taking of (or special measures directed against) the property interests of United States nationals. Claims were to be adjudicated by the FCSC, which later found approximately 3,000 claimants eligible for award. However, the claimants never received payment of these awards, as there was no agreement for funding until 1992.

The U.S.-FRG Agreement

On May 13, 1992, the United States and the FRG signed an agreement under which the FRG will pay compensation to the United States for property claims of U.S. citizens covered by the FCSC's German Democratic Republic Claims Program. This agreement will enter into force upon ratification by the German Government, which is expected to take place by the end of 1992. The May 13, 1992, agreement between the United States and FRG establishes a "settlement amount" of $190 million. The U.S.-FRG settlement agreement gives claimants a choice: (1) To elect to receive their portions of the settlement amount under the agreement; or (2) to forego their portions of the settlement amount and instead pursue their claims through a property claims program currently in effect in Germany. Elections under the agreement will not become effective until the agreement enters into force.

Claimants may not recover under both the FCSC award and the property claims program currently in effect in the FRG for the same property. If a claimant elects to receive payment under the settlement agreement for a property covered by the FCSC award, the claim for that property will be settled, and the claimant will not be able to pursue it in Germany. Claimants who have already received compensation from Germany under previous claims programs, such as the Act Governing the Equalization of Burdens ("Lastenausgleichegesetz") or other German provision, for properties covered by their FCSC awards will have their portions under the settlement agreement reduced by the principal amount of the compensation already paid by the FRG plus any interest attributable under the FCSC awards to that principal amount. If the FRG has already returned property or provided compensation (either in cash or in the form of other property) under the current claims program in effect in Germany for properties covered by an FCSC award, the claimant will be deemed to have elected to pursue remedies in the FRG with respect to those properties and will not be eligible to receive a portion of the settlement amount for those properties.

Claimants must make the choice whether to take payment under the agreement or to seek return of their property or compensation through the claims program in Germany by filling out an "Election Form" and returning it to the Department of the Treasury. Election forms, or changes thereto, must be postmarked no later than December 31, 1992. Elections may be changed anytime prior to the deadline by sending in a full, newly-completed set of election documents, postmarked no later than December 31, 1992.

To assist claimants in making this choice, the Department of the Treasury in conjunction with the Department of State has developed a package of information, which has been sent to the last known addresses of all claimants. That package contains the calculation of the amount each claimant would receive if he or she elects to receive a portion of the settlement amount. It also contains limited information on German property law.

This notice sets out some of the information contained in the Treasury package. However, claimants with favorable awards from FSCS's German Democratic Republic Claims Program who have not received a package should write or call the office listed above immediately to obtain the full package, and should read it carefully before making their decisions. In addition to studying this package of information, claimants are encouraged to consult with counsel familiar with German law before making their decisions.

Claimants who do not return their forms postmarked by December 31, 1992, will be deemed to have elected to receive their portions of the settlement amount under the U.S.-FRG agreement.

General Information Concerning the Claims Program in Effect in Germany

1. Restitution of some property is not permissible under German law.

2. Claimants interested in pursuing compensation under the claims program currently in effect in Germany should understand that the FRG has not yet enacted a law establishing the level of compensation it will pay. However, FRG officials have stated that when all factors are taken into account, including the level of compensation likely to be adopted, the timing of compensation, and the possibility that such compensation will be paid in installments, compensation under the claims program in effect in Germany in typical cases is unlikely to be more favorable than compensation that will be paid under the settlement agreement.

3. The German law governing open property issues ("Gesetz zur Regelung offener Vermogensfragen"), which is the law governing the claims program currently in effect in Germany, has been amended to set December 31, 1992, as the final filing deadline for filing a claim in Germany. (An exception permits claims for movable properties to be filed until June 30, 1993.)

4. A recent change in German law will end "State Administration" for all properties automatically at midnight December 31, 1992. At that time, properties placed under State Administration will automatically be restored to the owner listed in the German land registry. For properties under State Administration that are covered by the U.S.-FRG agreement, the FRG will seek to extend State Administration for four months after the entry into force of the government, or, for claimants who have elected to

receive settlement under the agreement, until final transfer of property to the FRG occurs under the agreement. Claimants who wish to participate in the German program rather than the U.S. program, and who wish to seek compensation from the German Government rather than return of the properties themselves, are subject to a special filing deadline under German law if their properties are covered by the recent law regarding State Administration. The precise date of this deadline is unknown; claimants with property under State Administration who wish to seek compensation under the claims program currently in effect in Germany are urged to seek the advice of counsel familiar with German law as soon as possible.

Elections Involving Multiple Properties

Where an FCSC award covers multiple separate properties, the claimant may elect to receive the portion of the settlement amount attributable to any of those properties under the agreement and to pursue his or her claim through the claims program in effect in Germany for any other of those properties insofar as this is permissible under German law. Whether properties may be treated as separate for purposes of the claims program currently in effect in Germany is ultimately a question of German law which must be examined on a case-by-case basis. Claimants with particular questions may wish to consult counsel familiar with the German property claims program. Nevertheless, the FRG has provided some general guidelines:

1. Two separate parcels of real properties owned by an individual may be treated as separate properties;

2. Real properties and the immovable structures built upon them may not be treated as separate properties;

3. A factory building and its capital assets, e.g., machinery, may not be treated as separate properties;

4. Multiple assets, including separate parcels of real property, owned by a single corporation may not be treated as separate properties. The corporation and all its constituent assets are a single restitutable property for purposes of the German claims program.

5. A corporation's tangible assets including real and personal property and its intangible assets, such as good will, may not be treated as separate properties.

Elections Involving Multiple Owners

If a claimant with an FCSC award elects to receive a portion of the settlement amount, this does not terminate the right of another joint owner of the property to pursue a claim for his or her partial interest in the property through the claims program in effect in Germany. This is true both if the other joint owner's interest in the property is not covered by an FCSC award or if the other joint owner's interest is covered by an FCSC award, but he or she wishes to pursue his or her claim through the claims program currently in effect in Germany instead of receiving a portion of the settlement amount.

The Department of State has consulted with the FRG on whether, under German law, the owners whose partial ownership interest is not covered by an FCSC award (or owners who elect to pursue their claims under German law) may seek restitution of their interests in property, or whether they may seek only compensation from the German Government. The German response suggests that whether restitution may be sought may depend on a number of factors including, among other factors: (1) Whether the property is under State Administration or has been expropriated; and (2) how the owners hold the property under German law, i.e., whether their interests are divisible or indivisible. Interested claimants are urged to seek advice from counsel familiar with German law on this issue. The Department of State also is seeking additional clarification from the German Government on this issue.

Names of Persons Having Received Awards Under the FCSC's German Democratic Republic Claims Program

The following persons received favorable awards under the FCSC's German Democratic Republic Claims Program. Any person on this list who has not received notification from the Department of Treasury concerning election of remedies under the U.S.-FRG settlement agreement (or any successor in interest or heir of a claimant who has not received notification) is urged to contact the Financial Management Service, Department of Treasury, at the address and phone number listed above, as soon as possible. The deadline for filing an election under the program is December 31, 1992. Persons entitled to awards or any portion thereof, who are not listed below, are hereby notified of the provisions of this document.

Aber, Florence Rosenthal
Abraham, Rosa
Abramson, Edith
Ackley, Maria D.
Adam, Walter H.
Adams, Marguerite H.
Aderman, Eva Sophia Roth
Adler, Hanna Lore
Adler, John J.
Adler, Lothar
Albert, Harry W.
Albin, Arkady
Alemann, Johanna
Alent, Rose M.
Alexander, Gary
Alexander, Rosel
Alfandari, Albert
Allin, Charles
Alten, Helga N.
Altman, Elsie
Altman, Oliver O.
Altmann, Else
Alton, Ruth
Altschul, Rolf
American Bible Society
American Committee for the Weizmann Institute of Science Incorporated
Amlung, Eva P.
Ammon, Hermann
Amory, Elizabeth
Amster, Hannchen
Anast, Susanne
Anderken, Elsie
Andersen, Anneliese H.
Andorn, Frederick S.
Andreas, Arno Max
Anzalone, Mable
Appel, Max
Arban, John
Arban, Peter
Arendt, Susanne
Ariowitsch, Edward
Armi, Edgar L.
Armi, Edgar L., F/L/O his father
Armi, Emita Dember
Arndt, Ingrid H.
Arndt, Ruth J.
Arner, Charlotte
Arnheim, Anne Liese
Arnhold, Henry H.
Arnhold, John
Arnhold, Michele
Arnhold, Reiner
Arnstein, George
Arnsten, Michael
Arnsten, Mira R.
Arons, Martin
Artus, Thomas John
Ascher, Edith
Askonas, Frederick W.
Astri, Edward
Atkin, Bertha N.
Atlantic District of the Lutheran Church
Aumann, Gutta
Aussenberg, Nash
B'nai B'rith
Bach, Harry
Bachman, Irvin
Bachman, Marjorie J.
Bachmann, Marion Edith
Bachwitz, Heinz
Bader, Paul
Baer, Curt M.
Baer, Gerda
Baer, Max
Bail, Grete
Bailey, James E.
Baldauf, Rosine
Baldridge, Mary Etta
Bamberger, Frank J.
Bamberger, Hannah Rosenthal
Bamberger, Henry J.
Bamberger, Lotte
Bancroft, Ruth M.
Bard, George

Bard, Julius
Bareiss, Walter
Barson, Fred
Barth, Beryl
Barth, Beryl J.
Bash, Margaret
Bass, Marion
Bass, Warner S.
Bateman, Roselore Renate
Bates, Helmut C.
Bauer, Charlotte
Bauer, Inge R.
Bauer, Lisa
Baum, Ludwig Leonard
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Kramer, George, H.
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Kramer, Max
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Krautheimer, Trude
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Krell, Fred
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Kroha, Curt W.
Kronenberg, Frances Roth
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Kroy, Ruth E.
Kubler, Ernest A.
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Kuehn, Werner H.
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Landman, Gerda Sylvia
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Lane, Herman G.
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Lees, Lore J.
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Lemmermann, Roy
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Leukhardt, Elsie H.
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Lichtenstein, Ernest
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Lieberg, Emilie E.
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Rosenbach, Max
Rosenbach, Philip
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Rosenbaum, Lore
Rosenberg, Gertrude
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Rosenthal, Fredrick
Rosenthal, Hattie R.
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Rosenthal, Lotte
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Salinger, Rudolf Michael
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Sattelmaier, Siegfried A.
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Sauer, Thea C.
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Schade, Karl O.
Schaefer, Carl D.
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Schaller, Elizabeth Frieda
Schaps, Henry T., A/S to Katie Schaps
Schaps, Henry T., Individually
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Schild, Manfred
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Selver, Irmgard
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Vinick, Ethel
Vogel, Ernest

Vogel, James, G.O.
Vogel, Lissy
Vogl, Josefa
von Bredow, Helene
Von Estorff, Fritz E.
Von Hippel, Arthur
Von Hoyningen-Huene, Aimee
von Klemperer, Alfred
von Klemperer, Klemens Wilhelm
von Klemperer, Franz
von Mering, Otto Oswald
von Mering, Friedrich Joseph
Voremberg, Beate
Voss, John K.
Vossmeyer, Frieda Marie Wohlgemuth
Wagner, Miriam
Wahl, Hilda
Walbaum, Margot E.
Wald, Erna
Waldman, Helga H.
Waldner, Julius H.
Walker, Alice Helen
Wallach, Eduard
Wallach, Gerda
Wallach, Lena
Wallach, Mark
Wander, Rose K.
Wanderer, Fred
Warnecke, Martha A.
Wasserman, Renate
Waters, Cora Wintroy
Wedell, Fanny
Wedgewood, Erika
Wegner, Rose
Wehmeyer, Werner Friedrich
Weichert, Ella
Weickert, Andrew A.
Weigert, Elisa M.
Weil, Eli
Weil, Jack
Weil, Lisa
Weinberg, Herbert
Weinberger, Meta
Weinberger, Siegbert
Weindling, Lester L.
Weindling, Lester
Weindling, Ralph E.
Weiner, Eva
Weiner, Lewis
Weiner, Wilhelmine (Wilma)
Weinert, Paul W.
Weinmann, Irma Metal
Weinrauch, Malke Rosa
Weinreb, Ruth P.
Weinreb, Wolf
Weinstock, Judah L.
Weiser, Eva
Weiss, Esther
Weiss, Eva
Weiss, Helene
Wentzel, Irmgard
Werner, Martha
Wertheim, Alice
Wertheim, Beatrice
Wertheim, Manfred
Wertheimer, Alfred
Wertheimer, Edgar
Wertheimer, Lisa
Westarp, Friedrich F.
Weston, Judy
Whaley, Ilse M.
White, Maria Riezler
White, Ursula R.
Whitson, Erna
Wichman, Heins, Dr.
Wiegand, A.B.
Wiegand, Frieda
Wiegand, Fritz W.
Wiener, Mary
Wiesen, Margaret
Wiesen, Rudolf
Wiesen, Trude
Wiesenthal, Joseph
Wilfert, Carl A.
Wilisch, Herbert W.
Williams, Erna Theresia
Willner, Dina
Wilson, Marion R.
Windesheim, Ernest
Windesheim, Hans
Windmueller, Goldie
Windmueller, Walter
Windmuller, Ruth H.
Winkler, Isle
Winterfelt, Rolf
Wintory, Michael L.
Wintory, Nicol L.
Wisbar, Eva Kroy
Wittman, Margaret
Wolf, Antonie
Wolf, Betty
Wolf, Frida
Wolff, Heinz O.
Wolfson, Manfred
Wolkenfeld, Helen
Wolz, Anna
Wolz, Julian
Wonneberger, Paul E.
Woodruff, Erna
Wortham, Frieda
Worton, Martha
Wuderlich, Kurt
Wurm, Ellen
Wurman, Regina
Wyland, Eric N.
Yadgaroff, Joseph
Yocher, Renate C.
Youngheim, Hede
Yourman, Janet
Zander, Fridel
Zander, Harry
Zarek, Leonore C.
Zaslav, Frances
Zeidler, Henry J.
Zeisse, Irmgard
Zeisse, Paul
Zeisse, Werner
Ziesch, John P.
Zilz, Edwin
Zimmerman, Charlotte G.
Zimmermann, Caecilie Flecker
Zuschlag, Johanna
Zylber, Norman

Matters of Regulatory Procedure

This document is not subject to the requirements of E.O. 12291 because it is not a regulatory action and because it deals, in part, with the foreign affairs function of the United States. The Regulatory Flexibility Act does not apply because this is not a regulatory action. Control number 1405–0087, expiring July 31, 1995, was assigned to the election document by the Office of Management and Budget.

Dated: November 2, 1992.

Michael T. Smokovich,

Acting Commissioner.

[FR Doc. 92–26883 Filed 11–5–92; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 216
Friday, November 6, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. COMMISSION ON CIVIL RIGHTS

DATE AND TIME: Friday, November 13, 1992, 10:00 a.m.

PLACE: U.S. Commission on Civil Rights, 1121 Vermont Avenue, NW, Room 512, Washington, DC 20425.

STATUS: Open to the Public.

November 13, 1992

I. Approval of Agenda
II. Approval of Minutes of October Meeting
III. Announcements
IV. Review of the Mt. Pleasant Draft Report
V. Review of Draft Report on *Validity of Testing in Education and Employment*
VI. Letter From Assistant Attorney General John Dunne
VII. Appointments to the Alaska, Ohio, and Oklahoma Advisory Committees
VIII. *Public Education in Idaho—Does it Meet the Needs of All Students*
IX. Staff Director's Report
X. Briefing by East/West Coast Commissioners' Group
XI. Future Agenda Items

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8105, (TDD 202–376–8116, at least five (5) working days before the scheduled date of the meeting.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: November 3, 1992.

Bernard Murillo,

Attorney Advisor, Alternate Liaison Officer.

[FR Doc. 92–27069 Filed 11–3–92; 4:57 pm]

BILLING CODE 6335–01–M

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: November 10, 1992, 10:00 a.m.

PLACE: 825 North Capitol Street, N.E., Room 9306, Washington, D.C. 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 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, 968th Meeting—November 10, 1992, Regular Meeting (10:00 a.m.)

CAH–1.
Project No. 11195–002, Sunset Falls Limited Partnership
CAH–2.
Project No. 10551–017, City of Oswego, New York
CAH–3.
Project No. 10536–002, Public Utility District No. 1 of Okanogan County, Washington
CAH–4.
Project No. 2801–018, Joseph A. Guerrieri
CAH–5.
Project No. 10707–001, Clark Gruening
CAH–6.
Docket No. 2114–020, Public Utility District No. 2 of Grant County, Washington
CAH–7.
Project No. 2854–023, Docket Nos. EL90–34–000 and EC90–14–000, City of Vidalia, Louisiana, Catalyst Old River Hydroelectric Limited Partnership, First National Bank of Commerce
CAH–8.
Docket No. HB61–85–1–001, Public Service Company of New Hampshire
CAH–9.
Project No. 7045–007, R.L. Garry Corporation
CAH–10.
Project No. 1651–015, Swift Creek Power Company, Inc.
CAH–11.
Project No. 2370–041, Pennsylvania Electric Company
CAH–12.
Docket No. 9755–004, American Electric and Power, I, Ltd.

Consent Electric Agenda

CAE–1.
Omitted
CAE–2.
Docket Nos. ER92–644–000 and EC92–18–000, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and Jersey Central Power & Light Company
CAE–3.
Docket No. EF91–5091–000, United States Department of Energy—Western Area Power Administration (Boulder Canyon Project)
CAE–4.
Docket No. ER92–693–001, Puget Sound Power & Light Company
CAE–5.
Docket No. ER92–110–002, PacifiCorp Electric Operations
CAE–6.
Docket No. ER86–562–005, Boston Edison Company
CAE–7.
Docket No. ER92–286–002, New England Power Company
CAE–8.
Docket No. ER92–517–002, Southern Company Services, Inc.
CAE–9.
Docket Nos. ER91–150–006 and ER91–570–005, Southern Company Services, Inc.
CAE–10.
Omitted
CAE–11.
Docket No. EL87–34–000, Cogeneration Coalition of America, Inc.
CAE–12.
Docket No. EL92–24–000, The Algoma Group v. Wisconsin Public Service Corporation
Docket No. EL92–12–000, Wisconsin Public Service Corporation
CAE–13.
Docket No. EL90–13–000, Vermont Department of Public Service and Vermont Public Service Board v. Connecticut Light and Power Company, Holyoke Water Power Company, Holyoke Power and Electric Company and Western Massachusetts Electric Company
CAE–14.
Docket Nos. EL89–18–000 and 001, Arizona Corporation Commission v. Century Power Corporation (Formerly Alamito Company)
Docket Nos. ER93–12–000, ES93–4–000 and EL93–3–000, Century Power Corporation
CAE–15.
Docket No. ER91–570–004, Southern Company Services, Inc.
Docket No. EL91–14–000, Cajun Electric Power Cooperative, Inc.
CAE–16.
Omitted
CAE–17.
Docket No. EL91–54–000, Carolina Power & Light Company
CAE–18.
Omitted
CAE–19.
Docket No. ER92–747–001, Ocean State Power II
Docket No. ER92–748–000, Ocean State Power
CAE–20.

Docket No. ES92-46-001, Northern Electric Power Company, L.P.

Consent Oil and Gas Agenda

CAG-1.
Docket Nos. RP92-137-007 and RP92-108-000, Transcontinental Gas Pipe Line Corporation
CAG-2.
Docket No. RP92-196-000, Transwestern Pipeline Company
CAG-3.
Docket No. RP92-18-003, El Paso Natural Gas Company
CAG-4.
Docket Nos. RP88-228-039, CP87-115-008, RP88-248-009, RP89-149-008, RP86-119-027 and RP92-206-001, Tennessee Gas Pipeline Company
CAG-5.
Docket Nos. TA92-1-22-002, RP92-201-001 and TM92-9-22-001, CNG Transmission Corporation
CAG-6.
Docket No. TQ92-7-17-001, Texas Eastern Transmission Corporation
CAG-7.
Docket Nos. RP91-161-009 and RP92-3-005, Columbia Gas Transmission Corporation
CAG-8.
Docket No. RP92-166-002, Panhandle Eastern Pipe Line Company
CAG-9.
Docket No. CP89-1281-023, Natural Gas Pipeline Company of America
CAG-10.
Docket No. RM93-2-000, Regulation Delegating Authority
CAG-11.
Docket No. RM90-15-000, Revisions to the Purchased Gas Adjustment Regulations
CAG-12.
Docket No. GP89-44-000, TransAmerican Natural Gas Corporation
CAG-13.
Docket No. RS92-82-000, Superior Offshore Pipeline Company
CAG-14.
Docket No. CP89-1953-004, ANR Storage Company
CAG-15.
Docket No. CP92-109-001, Equitrans, Inc.
CAG-16.
Docket No. RM92-13-002, Revisions to Regulations Governing NGPA Section 311 Construction and the Replacement of Facilities
CAG-17.
Docket Nos. CP92-397-001, CP91-694-005, CP91-969-004 and CP92-62-007, CNG Transmission Corporation
CAG-18.
Docket No. CP92-491-001, CNG Transmission Corporation
CAG-19.
Docket No. CP91-1634-002, Great Lakes Gas Transmission Limited Partnership
CAG-20.
Docket Nos. CP91-595-004, CP91-2465-002, CP91-2907-004, CP92-407-002, GT92-18-001 and GT92-19-001, Panhandle Eastern Pipe Line Company
CAG-21.
Docket No. CP88-137-008, ANR Pipeline Company
Docket No. CP88-651-009, Northwest Pipeline Corporation
CAG-22.
Docket No. CP92-522-001, Tarpon Transmission Company
Docket No. CP92-498-000, Trunkline Gas Company
CAG-23.
Docket No. CP92-678-000, Alabama-Tennessee Natural Gas Company
CAG-24.
Docket No. CP92-471-000, Williston Basin Interstate Pipeline Company
CAG-25.
Docket No. CP92-504-000, Arkla Energy Resources, a Division of Arkla, Inc. and Arkla Energy Resources Company
CAG-26.
Docket No. CP91-1925-000, Southwestern Glass Company, Inc. v. Arkla Energy Resources, a Division of Arkla, Inc.
Docket No. CP91-1910-000, Southwestern Public Service Company v. Red River Pipeline
CAG-27.
Docket No. RP93-11-000, Paiute Pipeline Company
CAG-28.
Docket Nos. CP89-7-023 and CP89-710-009, Transcontinental Gas Pipe Line Corporation

Hydro Agenda

H-1.
Reserved

Electric Agenda

E-1.
Docket No. RM93-1-000, Filing Requirements and Certification Procedures for Persons Seeking Exempt Wholesale Generation Status. Notice of Proposed Rulemaking.
E-2.
Docket No. RM93-3-000, Regional Transmission Group Proposal. Request for Comments.

Miscellaneous Agenda

M-1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters

PR-1.
Docket No. RP92-133-001, Gas Research Institute. Order on staff report for 1993 funding initial 1993-1998 five-year plan.
PR-2.
Docket No. RM87-5-011, Inquiry into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines. Order on remand.

II. Restructuring Matters

RS-1.
Reserved

III. Pipeline Certificate Matters

PC-1.
Docket Nos. CP92-184-000 and 001, Texas Eastern Transmission Corporation.
Docket Nos. CP92-185-000 and 001, Algonquin Gas Transmission Company. Application to provide long-term firm transportation and construct associated facilities.

Dated: November 3, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-27109 Filed 11-4-92; 2:27 pm]

BILLING CODE 6717-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 9, 16, 23, and 30, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of November 9

Thursday, November 12

2:00 p.m.
Session with NRC Staff, Including Opportunity for Staff Questions* (Open to Public Attendance) (Sheraton Hotel, Woodley Road, Washington, DC.)

Friday, November 13

10:00 a.m.
Briefing on Proposed Method for Regulating Major Materials Licensees (Public Meeting)
(Contact: John Greeves, 301-504-3334)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Amendments to 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste" (Tentative)
2:00 p.m.
Briefing on Current Reactor Technical Issues, e.g. Thermo-Lag Barriers and Reactor Water Level Indicators (Public Meeting)
(Contact: Ashok Thadani, 301-504-2884)

Week of November 16—Tentative

Friday, November 20

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 23—Tentative

Monday, November 23

9:30 a.m.
Briefing on Progress of Design Certification Review and Implementation (Public Meeting)
(Contact: Dennis Crutchfield, 301-504-1199)
2:00 p.m.
Briefing on Rulemaking Procedures for Design Certification Under Part 52 (Public Meeting)
(Contact: Geary Mizuno, 301-504-1639)

Tuesday, November 24

10:00 a.m.

*This session is not a deliberative one and thus not a "meeting" under the Sunshine Act. Nonetheless it is open for attendance, but not participation, by members of the public.

Briefing by OGC on Regulatory Issues and Options for Decommissioning Proceedings (Public Meeting)
(Contact: Mitzi Young, 301–504–1523)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 30—Tentative

Tuesday, December 1

1:30 p.m.
Briefing by TMI–2 Advisory Panel (Public Meeting)
(Contact: Michael Masnik, 301–504–1191)
3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

Dated: November 3, 1992.

Andrew L. Bates,

Chief, Operations Branch, Office of the Secretary.

[FR Doc. 92–27098 Filed 11–4–92; 2:26 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 57, No. 216
Friday, November 6, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4523-4]

Operating Industries, Inc. Site; Proposed Administrative Settlement

Correction

In notice document 92-25402 beginning on page 47856 in the issue of Tuesday, October 20, 1992, in the third column, under **SUMMARY**, in the ninth line, after "Beverly Hills;" insert "the City of El Monte;".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[92P-0330]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

Correction

In notice document 92-25503 appearing on page 48030 in the issue of Wednesday, October 21, 1992, make the following correction:

In the third column, in the last paragraph, the last line should read "not later than January 19, 1993.".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-92-4212-13; N-54527]

Opening Order, Public Lands; Elko County, NV

Correction

In notice document 92-21967 beginning on page 41773 in the issue of Friday, September 11, 1992, in T. 33 N., R. 56 E., in the second line, "SE¼SW¼" should read "SW¼SW¼".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6934

[UT-942-4214-10; UTU 4061]

Partial Revocation of Executive Order No. 5327 and Public Land Order No. 4522; Utah

Correction

In rule document 92-15075 beginning on page 28637 in the issue of Friday, June 26, 1992, on page 28637, in the third column, under **SALT LAKE MERIDIAN**, in Sec. 20, "SE¼NE¼" should read "SW¼NE¼".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[3150-AE04]

Receipt of Byproduct and Special Nuclear Material

Correction

In rule document 92-25504 beginning on page 47978 in the issue of Wednesday, October 21, 1992, make the following corrections:

1. On page 47979, in the 3d column:

a. In the 14th line, "of" should read "or".

b. In the second complete paragraph, in the 15th line, "authority" should read "authorized".

2. On page 47980, in the first column, in the 4th line, "license" should read "licensee".

3. On page 47982, in the second column, in the second paragraph, in the second and third lines, delete "to store wastes" the first time it appears.

BILLING CODE 1505-01-D

federal register

Friday
November 6, 1992

Part II

Department of Education

34 CFR Part 555

Bilingual Education: Evaluation Assistance Centers Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 555

RIN: 1885-AA19

Bilingual Education: Evaluation Assistance Centers Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations implementing section 7034 of the Bilingual Education Act—the Evaluation Assistance Centers Program. The regulations provide for the establishment of at least two Evaluation Assistance Centers (EACs) through competitive grants.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: James H. Lockhart, U.S. Department of Education, 400 Maryland Avenue, SW., room 5086, Switzer Building, Washington, DC 20202-6641. Telephone: (202) 205-5426. 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: These regulations implement section 7034 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965 (the Act).

Prior to fiscal year (FY) 1991, the Secretary awarded funds to EACs through competitive contracts. When the contracts for the previous EACs expired at the end of FY 1991, the Secretary changed the funding mechanism to competitive grants, as allowed by the Act. For the first competition, in the absence of implementing regulations, and in order to ensure timely awards, the Secretary evaluated applications for these grants on the basis of the selection criteria in the Education Department General Administrative Regulations (EDGAR) in 34 CFR 75.210. These regulations have been written specifically for the Evaluation Assistance Centers Program.

The regulations require EACs to provide technical assistance to: (1) Local educational agencies (LEAs) in conducting evaluations and using them to improve instructional services for limited English proficient (LEP) persons; and (2) State educational agencies (SEAs) in developing and administering instruments and procedures to assess the educational needs and competencies of LEP persons.

The Evaluation Assistance Centers Program supports AMERICA 2000, the President's education strategy for helping the Nation move itself toward the National Education Goals, by helping LEAs and SEAs identify the educational needs and competencies of LEP persons and improve instructional services for LEP persons. National Education Goal 3 specifically calls for all students to demonstrate competency in challenging subject matters. The Evaluation Assistance Centers Program is also an important part of the Department's efforts to evaluate the effectiveness of programs assisted under the Act.

On August 4, 1992, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the **Federal Register** (57 FR 34488).

As a result of public comments since publication of the NPRM, §§ 555.10 and 555.11 have been reworded to clarify that EACs provide technical assistance, upon the request of LEAs and SEAs, in identifying and evaluating the educational needs and competencies of LEP persons. A definition of technical assistance has been added in § 555.5.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, five parties submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes are not addressed. A change suggested by two commenters, involving the elimination of the EACs and the assumption of their functions by the existing Multifunctional Resource Centers, is not discussed since the Secretary is not legally authorized to make this change under the applicable statutory authority.

Section 555.10 What Kinds of Activities do the EACs Carry Out in Assisting Local Educational Agencies?

Comment: One commenter was concerned that use of the word "ensure" in paragraphs (b)-(d) of this section might imply that EACs would be responsible for making certain that LEAs use program evaluations effectively, involve parents and practitioners in the program evaluation process, and produce evaluation reports that provide superintendents and board members with useful information for improving instructional services for LEP persons. The commenter was also concerned that the term "non-technical language" used in paragraph (d) in reference to the required style of evaluation reports might be interpreted in different ways.

Discussion: The Bilingual Education Act requires EACs to provide LEAs technical assistance in evaluation, at their request. It does not authorize the EACs to assume responsibility for evaluation activities. The Secretary wishes to avoid any misunderstanding of this statutory mandate that may result from use of the word "ensure" in reference to EAC assistance to LEAs. The Secretary also wishes to clarify that use of the term "nontechnical language" in reference to evaluation reports is not intended to diminish the importance of adherence to established technical standards, but rather is intended to emphasize that these reports should serve as sources of useful information for policymakers who are not evaluation specialists.

Changes: The Secretary has deleted the word "ensure" in describing the assistance EACs provide to LEAs and reworded this section to clarify that this assistance is provided upon the request of LEAs. A definition of technical assistance has been added to § 555.5(c). The Secretary has also modified the discussion about evaluation reports, by deleting the word "nontechnical" and adding that these reports must adhere to established technical standards, as defined under § 500.50(b)(2).

Section 555.11 What Kinds of Activities do the EACs Carry Out in Assisting State Educational Agencies?

Comment: Two commenters were concerned that the wording of this section could be construed as requiring EACs to undertake the evaluation of bilingual education programs and the development and administration of assessment instruments and procedures. One commenter was unclear about whether EACs would be required to assist SEAs in the evaluation of bilingual education programs that are not funded under the Bilingual Education Act, *i.e.*, State-funded programs.

Discussion: The Bilingual Education Act requires EACs to provide SEAs technical assistance, at their request, regarding methods and techniques for identifying the educational needs and competencies of LEP persons. It does not

authorize the EACs to conduct their own evaluations of bilingual education programs or to develop and administer assessment instruments and procedures. The technical assistance provided by EACs may relate to an SEA's evaluation of bilingual education programs that are not funded under the Act, because SEAs may use funds they receive under the Act to evaluate these programs.

Changes: The Secretary has reworded this section to clarify that EACs provide technical assistance to SEAs at their request. EACs do not initiate evaluations of bilingual education programs for SEAs.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 555

Bilingual education, Elementary and secondary education, Grant programs—education, Postsecondary education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number: 84.194H Bilingual Education: Evaluation Assistance Centers Program)

Dated: October 20, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 555 to read as follows:

PART 555—EVALUATION ASSISTANCE CENTERS PROGRAM

Subpart A—General

Sec.

555.1 What is the Evaluation Assistance Centers Program?
555.2 Who is eligible for an award?
555.3 What geographic regions do the EACs serve?
555.4 What regulations apply?
555.5 What definitions apply?

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

555.10 What kinds of activities do the EACs carry out in assisting local educational agencies?
555.11 What kinds of activities do the EACs carry out in assisting State educational agencies?

Subpart C—How Does One Apply for an Award?

555.20 What requirements pertain to establishing an EAC advisory board?
555.21 What assurances must an applicant make?

Subpart D—How Does the Secretary Make an Award?

555.30 How does the Secretary evaluate an application?
555.31 What selection criteria does the Secretary use?
555.32 What is the length of the project period?
555.33 What requirements pertain to all grantees?

Subpart E—What Conditions Must Be Met After an Award?

555.40 Must the EAC have a director?
555.41 What reports must the EAC submit to the Secretary?
555.42 What conditions must an EAC meet in coordinating services throughout its region?

Authority: 20 U.S.C. 3304, unless otherwise noted.

Subpart A—General

§ 555.1 What is the Evaluation Assistance Centers Program?

This program provides Federal financial assistance to establish and operate at least two regional Evaluation Assistance Centers (EACs). These centers provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient (LEP) persons and assessing the educational progress achieved through programs such as those assisted under the Bilingual Education Act of 1988. The EACs' activities are an important part of the Department's efforts to evaluate the operation and effectiveness of programs assisted under the Act.

(Authority: 20 U.S.C. 3301, 3304)

§ 555.2 Who is eligible for an award?

An institution of higher education (IHE), including a junior or community college, is eligible for an award under this program.

(Authority: 20 U.S.C. 3304)

§ 555.3 What geographic regions do the EACs serve?

The Secretary announces, in a notice published in the **Federal Register**, the geographic service area of each EAC.

(Authority: 20 U.S.C. 3304)

§ 555.4 What regulations apply?

The following regulations apply to the Evaluation Assistance Centers Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 82 (New Restrictions on Lobbying).

(7) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this part 555.

(Authority: 20 U.S.C. 3304)

§ 555.5 What definitions apply?

(a) The definitions in 34 CFR 500.4 apply to the Evaluation Assistance Centers Program.

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Budget
Grant
Project period

(c) *Other definitions.* The following definitions also apply to this part:

Evaluation Assistance Center means an administrative unit of an institution

of higher education that engages in the activities specified in 34 CFR 555.10–555.11.

Technical assistance means the provision of information and training, including consultations, presentations, workshops, and coordination services, to improve the capacity of State and local educational agencies to identify the educational needs and competencies of LEP persons and assess their educational progress through programs such as those assisted under the Act.

(Authority: 20 U.S.C. 3281, 3283, 3304)

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 555.10 What kinds of activities do the EACs carry out in assisting local educational agencies?

The EACs shall provide technical assistance requested by local educational agencies (LEAs) in—

(a) Complying with the evaluation requirements in 34 CFR 500.50–500.52;

(b) Using program evaluations effectively to improve instructional services for LEP persons;

(c) Directly involving parents and practitioners, such as directors, teachers, principals, paraprofessionals, and teacher aides, with evaluators in the program evaluation process; and

(d) Preparing evaluation reports that are written in clear language, adhere to established technical standards, as defined under 34 CFR 500.50(b)(2), and provide superintendents and board members with useful information and data for improving instructional services for LEP persons in their districts.

(Authority: 20 U.S.C. 3303, 3304)

§ 555.11 What kinds of activities do the EACs carry out in assisting State educational agencies?

The EACs shall provide technical assistance requested by State educational agencies (SEAs) in—

(a) Reviewing and evaluating programs of bilingual education, including bilingual education programs that are not funded under the Act, as specified in 34 CFR 548.11(a)(2); and

(b) Developing and administering instruments and procedures for the assessment of the educational needs and competencies of LEP persons, as specified in 34 CFR 548.11(a)(4).

(Authority: 20 U.S.C. 3304)

Subpart C—How Does One Apply for an Award?

§ 555.20 What requirements pertain to establishing an EAC advisory board?

(a) An applicant shall establish an advisory board, composed of no fewer than five members, to assist in the development of the application and provide continuing guidance during the project period.

(b) The board membership must include representatives of the SEAs, LEAs, and IHEs within the geographic service area of the applicant. At least two-thirds of the board membership must be representatives of SEAs and LEAs.

(Authority: 20 U.S.C. 3304)

§ 555.21 What assurances must an applicant make?

In its application for an award for an EAC, an applicant shall include assurances that it will—

(a) Provide to the Secretary monthly schedules of workshops and activities and disseminate the schedules;

(b) Ensure that technical assistance materials developed as a result of grant activities are appropriately disseminated;

(c) Administer and maintain control of funds provided under this program; and

(d) Supervise the employment of personnel specified in § 555.31(b) and not commingle funds provided for this employment with State or local funds.

(Approved by the Office of Management and Budget under control number 1885–0003)

(Authority: 20 U.S.C. 3304)

Subpart D—How Does the Secretary Make an Award?

§ 555.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 555.31.

(b) The Secretary awards up to 100 points for these criteria, including a reserved 15 points.

(c) Subject to the distribution of the reserved points, the maximum possible score for each complete criterion is indicated in parentheses.

(d) The Secretary distributes an additional 15 points among these criteria. For each competition, as announced through a notice in the **Federal Register**, the Secretary indicates how these 15 points are distributed.

(Authority: 20 U.S.C. 3304)

§ 555.31 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Understanding of regional needs.* (5 points) The Secretary reviews each application to determine—

(1) The extent to which the applicant has assessed the needs of its region; and

(2) The extent to which the methods used by the applicant to identify those needs are reliable and objective.

(b) *Quality of key personnel.* (25 points) The Secretary reviews each application to determine—

(1) The extent to which the staffing plan for the EAC provides evidence that the project director and other key personnel (including a principal investigator, if applicable) have appropriate graduate training and experience in the areas of evaluation and assessment required to conduct the proposed activities, such as—

(i) Methodology in bilingual education, such as found in—

(A) Programs of transitional bilingual education authorized under section 7021(a)(1) of the Act;

(B) Programs of developmental bilingual education authorized under section 7021(a)(2) of the Act; and

(C) Special alternative instructional programs authorized under section 7021(a)(3) of the Act;

(ii) Educational practices at various levels from preschool to graduate school;

(iii) Technology-based instruction; and

(iv) Experience with educational entities, such as LEAs, SEAs, and IHEs;

(2) The extent to which each person referred to in paragraph (b)(1) of this section has other training and experience related to the objectives of the project;

(3) The time that each person referred to in paragraph (b)(1) of this section will commit to the project;

(4) Any other bilingual education skills, if appropriate, that the persons referred to in paragraph (b)(1) of this section may bring to the project; and

(5) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disability.

(c) *Coordination with other evaluation activities.* (5 points) The Secretary reviews each application to determine—

(1) The degree to which the applicant has coordinated with State and regional organizations administering evaluation programs in developing the application;

(2) The adequacy of the applicant's plans for coordination with State, regional, and national evaluation activities; and

(3) The adequacy of the applicant's plans to coordinate with other EACs funded under this part to achieve an equitable distribution of assistance.

(d) *Center advisory board.* (5 points) The Secretary reviews each application to determine—

(1) The extent to which representatives of the geographic service area of the EAC and representatives of the SEAs, LEAs, and IHEs within the service area have agreed to serve in an advisory capacity;

(2) The professional evaluation background of the representatives selected for board membership; and

(3) The adequacy of the applicant's plans to involve the advisory board in the activities of the proposed EAC.

(e) *Quality of the organization and management.* (15 points) The Secretary reviews each application to determine the quality of the organization and management capabilities for operating the EAC, including—

(1) The past performance and accomplishments of the applicant, indicating the ability to complete successfully the proposed project plan;

(2) The manner in which the applicant contributes IHE personnel resources, such as professional and non-professional staff, to achieve its objectives;

(3) The manner in which the applicant proposes to utilize its resources, such as libraries and other centers, to achieve its objectives;

(4) The extent to which the facilities, equipment, and other resources to be used are adequate and are accessible to persons with disabilities; and

(5) Proposed use of technology in the EAC and coordination between the EAC and other units of the IHE that will maximize services to clients.

(f) *Plan of Operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the EAC, including—

(1) The quality of the design of the project;

(2) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purposes of the program;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are objective and measurable; and

(iv) Include specific objectives to be met, during each budget period, that can be used to determine the progress of the project toward meeting its intended outcomes;

(3) The extent to which the plan of management is effective and ensures proper and efficient administration of the project; and

(4) The quality of the applicant's plan to use its resources and personnel to achieve each objective and intended outcome during the period of Federal funding.

(g) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes; and

(3) Are objective and produce data that are quantifiable.

(h) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project; and

(2) Costs are reasonable in relation to the objectives of the project.

(Approved by the Office of Management and Budget under control number 1885–0003)

(Authority: 20 U.S.C. 3304)

§ 555.32 What is the length of the project period?

The Secretary approves a project period of three years.

(Authority: 20 U.S.C. 3304)

§ 555.33 What requirements pertain to all grantees?

A grantee shall assure the Secretary that it will—

(a) Work closely with its EAC advisory board in carrying out project activities;

(b) Coordinate project activities with other Federal programs that are related to the purposes of the Evaluation Assistance Centers Program; and

(c) Assist grantees funded under Part A of the Act in the implementation of the evaluation requirements specified in 34 CFR 500.50–500.52.

(Authority: 20 U.S.C. 3303–3304)

Subpart E—What Conditions Must Be Met After an Award?

§ 555.40 Must the EAC have a director?

An EAC must have a full-time director.

(Authority: 20 U.S.C. 3304)

§ 555.41 What reports must the EAC submit to the Secretary?

(a) An EAC must submit to the Secretary the following reports:

(1) The monthly schedules specified in § 555.21(a).

(2) An annual evaluation report.

(b) The EAC may submit the reports and schedules specified in paragraph (a) of this section in hard copy or diskette form.

(Approved by the Office of Management and Budget under control number 1885–0003)

(Authority: 20 U.S.C. 3304)

§ 555.42 What conditions must an EAC meet in coordinating services throughout its region?

In carrying out its general responsibilities under the Act, each EAC must—

(a) Inform SEAs, LEAs and IHEs about the range of services offered by the EAC;

(b) Establish an EAC advisory board, as specified in § 555.20;

(c) Achieve an equitable distribution of assistance throughout its service area;

(d) Work cooperatively and coordinate efforts with the Multifunctional Resource Centers, the National Clearinghouse for Bilingual Education, and other programs funded under the Act; and

(e) Work cooperatively with the other EAC or EACs funded under the Act by sharing materials, books, information, and other resources.

(Authority: 20 U.S.C. 3304)

[FR Doc. 92–26960 Filed 11–5–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
November 6, 1992

Part III

Department of Education

34 CFR Part 755, et al.

National Program for Mathematics and Science Education; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Parts 755, 757, and 758

RIN 1850-AA45

National Program for Mathematics and Science Education; FIRST: Schools and Teachers Program; FIRST: Family-School Partnership Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Dwight D. Eisenhower National Program for Mathematics and Science Education, the Fund for the Improvement and Reform of Schools and Teaching (FIRST): Schools and Teachers Program, and the FIRST: Family-School Partnership Program. These amendments implement a preapplication process for these programs. The preapplication process responds to a concern that, while hundreds of applicants submit full applications to these programs, fewer than 10 percent of the submissions are funded. The Department believes that the preapplication process will reduce the burden on grant applicants, and encourage more applicants to submit requests for support under these programs.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Margo Anderson, U.S. Department of Education, 555 New Jersey Avenue NW., room 522, Washington, DC 20208-5524. Telephone (202) 219-1496. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The National Program for Mathematics and Science Education and the FIRST Program fund fewer than 10 percent of the applications submitted in a given fiscal year. Under the preapplication process, applicants will be required to submit a limited narrative during the first phase of the competition. During the second phase of the competition, successful applicants will be encouraged to submit a full application containing more detailed information on the categories addressed in the preapplication.

Note: Applicants submitting full applications may choose not to repeat any information submitted in the preapplication. Since only the top-ranked applicants from this preapplication phase of the competition will be encouraged to submit full applications, the aggregate burden on applicants will be reduced. As a result of reducing the burden on applicants, the Secretary also expects the preapplication process to encourage more applicants with ideas for reform and innovation in education to submit requests for support under these programs.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Waiver of Notice of Proposed Rulemaking

These final regulations implement a preapplication process for three programs. Preapplication requirements applicable to the Department's direct grant programs were previously included in the Education Department General Administrative Regulations (EDGAR) (34 CFR 75.130-75.134). The regulations in 34 CFR part 75 apply to all of these programs. On July 8, 1992, the Department published final regulations in the **Federal Register** (57 FR 30328) amending EDGAR and repealing these provisions. The Secretary believes that the Dwight D. Eisenhower National Program, the FIRST: Schools and Teachers Program, and the FIRST: Family-School Partnership Program should retain the authority to implement a preapplication process for their grant competitions.

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, since these regulations adopt rules of procedure, the requirements for publication of a notice of proposed rulemaking do not apply under 5 U.S.C. 553(b)(A).

Intergovernmental Review

These programs are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 755

Historically underserved and underrepresented populations, Gifted and talented students, Grant programs—education, Instruction, Mathematics, Reporting and recordkeeping requirements, Science.

34 CFR Parts 757 and 758

Education, Educational research, Grant programs—education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Numbers: 84.168, National Program for Mathematics and Science Education; 84.211, FIRST: Schools and Teachers Program; and 84.212, FIRST: Family-School Partnership Program)

Dated: August 19, 1992.

Lamar Alexander,

Secretary of Education.

The Secretary amends parts 755, 757, and 758 of title 34 of the Code of Federal Regulations as follows:

PART 755—NATIONAL PROGRAM FOR MATHEMATICS AND SCIENCE EDUCATION

1. The authority citation for part 755 continues to read as follows:

Authority: 20 U.S.C. 2992, unless otherwise noted.

2. Subpart C is amended by redesignating § 755.20 as § 755.22, and adding new §§ 755.20 and 755.21 to read as follows:

§ 755.20 May the Secretary require preapplications?

For each competition, the Secretary may require the submission of preapplications by applicants. The Secretary announces, in one or more application notices published in the **Federal Register**, those competitions requiring preapplications and information about the submission and review of preapplications.

(Authority: 20 U.S.C. 1221e-3, 2992)

§ 755.21 How does the Secretary consider a preapplication?

(a) The Secretary considers a preapplication if—

(1) The applicant complies with the procedural rules that govern submission of the preapplication; and

(2) The preapplication is submitted in response to an application notice that requires preapplications.

(b) If the Secretary requires preapplications and an applicant does not preapply, the applicant may not apply for a grant.

(c) If an applicant submits a preapplication, the Secretary—

(1) Informs the applicant that it is eligible and encourages it to apply for a grant;

(2) Informs the applicant that it is eligible but does not encourage it to apply for a grant; or

(3) Informs the applicant that it is ineligible for assistance, and explains why the applicant is ineligible.

(d) An applicant may apply for a grant whether or not the Secretary encourages it to apply.

(e) The Secretary evaluates a preapplication on the basis of the selection criteria in § 755.32.

(Approved by the Office of Management and Budget under control number 1850–0642)

(Authority: 20 U.S.C. 1221e-3, 2992)

PART 757—FIRST: SCHOOLS AND TEACHERS PROGRAM

3. The authority citation for part 757 continues to read as follows:

Authority: 20 U.S.C. 4811–4812, unless otherwise noted.

4. Subpart B is amended by redesignating § 757.10 as § 757.12 and adding new §§ 757.10 and 757.11 to read as follows:

§ 757.10 May the Secretary require preapplications?

For each competition, the Secretary may require the submission of preapplications by applicants. The Secretary announces, in one or more application notices published in the **Federal Register**, those competitions requiring preapplications and information about the submission and review of preapplications.

(Authority: 20 U.S.C. 1221e-3, 4811–4812)

§ 757.11 How does the Secretary consider a preapplication?

(a) The Secretary considers a preapplication if—

(1) The applicant complies with the procedural rules that govern submission of the preapplication; and

(2) The preapplication is submitted in response to an application notice that requires preapplications.

(b) If the Secretary requires preapplications and an applicant does not preapply, the applicant may not apply for a grant.

(c) If an applicant submits a preapplication, the Secretary—

(1) Informs the applicant that it is eligible and encourages it to apply for a grant;

(2) Informs the applicant that it is eligible but does not encourage it to apply for a grant; or

(3) Informs the applicant that it is ineligible for assistance, and explains why the applicant is ineligible.

(d) An applicant may apply for a grant whether or not the Secretary encourages it to apply.

(e) The Secretary evaluates a preapplication on the basis of the selection criteria in § 757.21.

(Approved by the Office of Management and Budget under control number 1850–0629)

(Authority: 20 U.S.C. 1221e-3, 4811–4812)

PART 758—FIRST: FAMILY-SCHOOL PARTNERSHIP PROGRAM

5. The authority citation continues to read as follows:

Authority: 20 U.S.C. 4821–4823, unless otherwise noted.

6. Subpart B is amended by removing the word "[Reserved]" after the title and adding new §§ 758.10 and 758.11 to read as follows:

§ 758.10 May the Secretary require preapplications?

For each competition, the Secretary may require the submission of preapplications by applicants. The Secretary announces, in one or more application notices published in the **Federal Register**, those competitions requiring preapplications and information about the submission and review of preapplications.

(Authority: 20 U.S.C. 1221e-3, 4823)

§ 758.11 How does the Secretary consider a preapplication?

(a) The Secretary considers a preapplication if—

(1) The applicant complies with the procedural rules that govern submission of the preapplication; and

(2) The preapplication is submitted in response to an application notice that requires preapplications.

(b) If the Secretary requires preapplications and an applicant does not preapply, the applicant may not apply for a grant.

(c) If an applicant submits a preapplication, the Secretary—

(1) Informs the applicant that it is eligible and encourages it to apply for a grant;

(2) Informs the applicant that it is eligible but does not encourage it to apply for a grant; or

(3) Informs the applicant that it is ineligible for assistance, and explains why the applicant is ineligible.

(d) An applicant may apply for a grant whether or not the Secretary encourages it to apply.

(e) The Secretary evaluates a preapplication on the basis of the selection criteria in § 758.21.

(Approved by the Office of Management and Budget under control number 1850–0629)

(Authority: 20 U.S.C. 1221e-3, 4823)

[FR Doc. 92–27041 Filed 11–5–92; 8:45 am]

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federal register

Friday
November 6, 1992

Part IV

Department of Health and Human Services

Centers for Disease Control

Revision of Fees for Sanitation Inspection of Cruise Ships; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Revision of Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice announces revised fees for vessel sanitation inspections effective January 1, 1993.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Anderson, Chief, Special Programs Group, National Center for Environmental Health, CDC, 4770 Buford Highway, NE., Mailstop F-29, Atlanta, GA 30341-3724. Telephone: (404) 488-7070.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The fee schedule for sanitation inspections of passenger cruise ships currently inspected under the Vessel Sanitation Program (VSP) was first published in the **Federal Register** on November 24, 1987 (52 FR 45019), and CDC began collecting fees on March 1, 1988. Since then, CDC has revised the fee schedule annually. This notice announces the fees effective January 1, 1993.

The formula used to determine the fees is as follows:

$$\text{Average cost per inspection} = \frac{\text{Total cost of VSP}}{\text{Weighted No. of annual inspections}}$$

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The size/cost factor was established in the proposed fee schedule published in the **Federal Register** on July 17, 1987 (52 FR 27060), and revised in a schedule published in the **Federal Register** on November 28, 1989 (54 FR 48942). The revised cost/factor is presented below in appendix A.

Fees

The fee schedule is presented in appendix A and will be effective January 1, 1993, through December 31, 1993. However, should there be a substantial increase in the cost of air transportation, it may be necessary to re-adjust the fees prior to December 31, 1993, since travel constitutes a sizable portion of the costs of this Program. If such a re-adjustment in the fee schedule is necessary, a notice will be published in the **Federal Register** 30 days prior to the effective date.

Applicability

The fees will be applicable to all passenger cruise vessels for which sanitation inspections are conducted as part of the Vessel Sanitation Program, CDC.

Dated: November 2, 1992.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control.

BILLING CODE 4160-18-M

Appendix A

SIZE/COST FACTOR

Vessel Size	GRT[1]	Average Cost X
Extra Small	(<3,001)	0.25
Small	(3,001-15,000)	0.5
Medium	(15,001-30,000)	1.0
Large	(30,001-60,000)	1.5
Extra Large	(>60,000)	2.0

FEE SCHEDULE JANUARY 1, 1993 - DECEMBER 31, 1993

Vessel Size	GRT[1]	Fee
Extra Small	(<3,001)	$ 794
Small	(3,001-15,000)	$ 1,589
Medium	(15,001-30,000)	$ 3,178
Large	(30,001-60,000)	$ 4,767
Extra Large	(>60,000)	$ 6,356

Inspections and reinspections involve the same procedure, require the same amount of time and will, therefore, be charged at the same rate.

[1]GRT-Gross Register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

[FR Doc. 92-26961 Filed 11-5-92; 8:45 am]
BILLING CODE 4160-18-C

federal register

Friday
November 6, 1992

Part V

The President

Proclamation 6503—National Women Veterans Recognition Week, 1992

Federal Register
Vol. 57, No. 216
Friday, November 6, 1992

Presidential Documents

Title 3—

The President

Proclamation 6503 of November 4, 1992

National Women Veterans Recognition Week, 1992

By the President of the United States of America

A Proclamation

More than one million American women are veterans of our Armed Forces, and as we celebrate the end of the Cold War and the promise of increasing cooperation and peace in the world, it is fitting that we offer a special salute to each of them. In peacetime and in time of peril, and in a variety of demanding roles, women service members have demonstrated great skill, sacrifice, and devotion to freedom.

Although World War II marked the first, large-scale entry of women into the Armed Forces, it was not the first conflict to test the courage and patriotism of American women. As early as our Nation's War for Independence, the contributions of women proved to be essential to the preservation of liberty. Women served as suppliers, scouts, and nurses for the Continental Army, and later, when our Nation faced a bitter war between the States, women again answered the call to duty. The extraordinary efforts of hundreds of women nurses during the Spanish-American War led to the establishment of the Army Nurse Corps in the early years of this century, and by World War I, the Navy and Coast Guard were also enlisting women.

Women achieved full military status during World War II, and tens of thousands served with distinction as members of the Women's Army Auxiliary Corps (WACS), Women Accepted for Voluntary Emergency Service (WAVES), and the Women Airforce Service Pilots. This week we remember, especially, those who made the ultimate sacrifice in the line of duty.

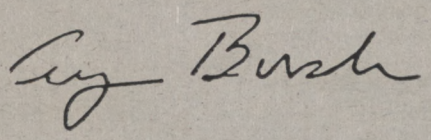
Shortly after World War II, the Women's Armed Services Integration Act authorized permanent status for women in the military, and since that time, women have continued to amass an impressive record of service and sacrifice. In Korea, Vietnam, Panama, and the Persian Gulf, America's service women have excelled as active duty and Reserve members of our Army, Navy, Air Force, Marine Corps, and Coast Guard.

As we salute women veterans for their contributions to our national security and to the defense of freedom around the globe, we also recognize their continuing contributions in civilian life. In keeping with the highest traditions of generations of former military personnel, many women veterans are actively engaged in efforts to improve their communities and to promote a strong America.

The Congress, by Public Law 102–517, has designated the week of November 8 through November 14, 1992, as "National Women Veterans Recognition Week" and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of November 8 through November 14, 1992, as National Women Veterans Recognition Week. I urge all Americans to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of November, 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 seventeenth.



[FR Doc. 92-27195
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Friday, November 6, 1992

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