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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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 3

[Docket No. 93–6]

Capital Treatment of Intangible Assets

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its risk-based capital guidelines with respect to the treatment of intangible assets held by national banks. These amendments delete the three criteria (separability, cash flow, and liquidity) used in determining qualifying intangible assets, and instead replace the criteria with a specific list of qualifying intangible assets; provide that only purchased mortgage servicing rights and purchased credit card relationships are allowed as qualifying intangible assets; increase the limitation on all qualifying intangible assets from 25 percent to 50 percent of Tier 1 capital of which purchased credit card relationships can consist of no more than 25 percent of Tier 1 capital; require that the limitation on qualifying intangible assets be calculated on Tier 1 capital net of goodwill and other disallowed intangible assets; and require that qualifying intangible assets be valued at least quarterly at the lesser of 90 percent of the fair market value or 100 percent of the remaining unamortized book value.

The quarterly valuation requirement implements the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) which requires that banks value purchased mortgage servicing rights at no more than 90 percent of fair market value and reevaluate the fair market value no less than quarterly.

These amendments promote greater uniformity in the capital rules of the OCC, Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and Office of Thrift Supervision (OTS) (collectively the federal banking agencies). Further, these amendments increase the total amount of purchased mortgage servicing rights and purchased credit card relationships that a national bank may include in the computation of its regulatory capital.

EFFECTIVE DATE: March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Elizabeth Salomon, Professional Accounting Fellow, Office of the Chief National Bank Examiner (202) 874–5180; Roger Tufts, Senior Economic Advisor, Office of the Chief National Bank Examiner (202) 874–5070; Ronald Shimabukuro, Senior Attorney, Bank Operations and Assets Division (202) 874–4460, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Backgound

The OCC's final risk-based capital guidelines were published in the **Federal Register** on January 27, 1989. See 54 FR 4168 (codified at 12 CFR part 3, appendix A). The risk-based capital guidelines, which were developed in cooperation with the FDIC and the FRB, impose capital requirements that are based on the credit risk profiles of the assets held by financial institutions. The guidelines implement the agreement on International Convergence of Capital Measurement and Capital Standards of July 1988, as reported by the Basle Committee on Banking Supervision (Basle Agreement).

Prior to publishing the risk-based capital guidelines, the OCC specifically included purchased mortgage servicing rights without limitation in the computation of regulatory capital. See 50 FR 10207, 10212 (March 14, 1985); 12 CFR 3.2 (1989). Unlike other intangible assets, purchased mortgage servicing rights were not excluded from capital because they possess characteristics similar to those of many tangible assets.

In developing the risk-based capital guidelines, the OCC determined that it was more appropriate to establish specific criteria for qualifying intangible assets rather than simply listing the types of intangible assets acceptable as capital. See 54 FR 4168, 4175–4176 (January 17, 1989). Consequently, prior to this amendment, under the risk-based capital guidelines, three criteria needed to be satisfied for an intangible asset to qualify as Tier 1 capital: (1) The intangible asset must be able to be separated and sold apart from the bank or from the bulk of the assets of the bank; (2) the market value of the intangible asset must be established on an annual basis through an identifiable stream of cash flows, and there must be a high degree of certainty that the asset will hold this market value notwithstanding the future prospects of the bank; and (3) the bank must demonstrate that a market exists which will provide liquidity for the intangible asset. See 12 CFR part 3, subpart A and appendix A, section (c)(2)(i).

In the preamble to the risk-based capital guidelines, the OCC did not specify any intangible assets, other than purchased mortgage servicing rights, that would meet these criteria and, therefore, be considered for regulatory capital purposes. This reflected the OCC's view at the time that other intangible assets were less likely to satisfy the three criteria required for inclusion in regulatory capital. The risk-based capital guidelines also limit the amount of qualifying intangible assets to no more than 25 percent of Tier 1 capital. In other words, if a bank's investment in purchased mortgage servicing rights or other qualifying intangibles exceeds 25 percent of Tier 1 capital, the bank must deduct the excess from both total assets and Tier 1 capital.

On April 9, 1992, the OCC published a notice of proposed rulemaking (NPRM) in the **Federal Register** to amend the risk-based capital guidelines with respect to the treatment of intangible assets held by national banks. See 57 FR 12214. The NPRM proposed to permit the inclusion of purchased credit card relationships as a qualifying intangible asset, increase the capital limitation on all qualifying intangible assets from 25 percent to 50 percent of Tier 1 capital, of which purchased credit card relationships can consist of no more than 25 percent of Tier 1 capital, and impose certain valuation requirements for qualifying intangible assets.

The OCC specifically requested comment on the following issues in the

NPRM: (1) Whether qualifying intangible assets should be limited to 50 percent of Tier 1 capital; (2) whether any intangible assets other than purchased mortgage servicing rights and purchased credit card relationships should be included in Tier 1 capital; (3) whether a 25 percent sublimit should be imposed for purchased credit card relationships; (4) whether certain valuation requirements should be imposed on qualifying intangibles; and (5) whether any changes should be made to the three criteria used by the OCC to determine if an intangible asset qualifies for inclusion in Tier 1 capital.

The OCC received and reviewed 19 comment letters on the NPRM. The commenters represented a diverse group of organizations that included national banks, thrifts, and industry associations. Although many of the commenters favored no capital limitations on qualifying intangibles, the majority supported the overall increase in the limitation from 25 percent to 50 percent of Tier 1 capital and supported the inclusion of purchased credit card relationships as a qualifying intangible asset. However, some of the commenters opposed the separate sublimit for purchased credit card relationships and certain of the valuation requirements proposed in the NPRM. In addition, some of the commenters favored including additional intangible assets as qualifying, particularly core deposit intangibles. After careful consideration of the comments received, the OCC is issuing this final rule to amend the risk-based capital guidelines.

Basis and Purpose

Section 475 of FDICIA, Public Law 102–242, 105 Stat. 2236 (December 19, 1991) (codified at 12 U.S.C. 1828 note), mandates that the federal banking agencies establish a requirement that purchased mortgage servicing rights be valued at no more than 90 percent of fair value. FDICIA also requires the fair value of purchased mortgage servicing rights to be determined at least quarterly. These amendments to the risk-based capital guidelines implement the valuation requirements mandated by FDICIA.

In addition, these amendments will promote greater uniformity in the treatment of intangible assets among the federal banking agencies. Currently, each federal banking agency treats intangible assets differently for purposes of computing regulatory capital. The other federal banking agencies either plan to amend, or have amended, their capital guidelines to make similar changes in an effort to eliminate these inconsistencies.

Discussion of Amendments

I. Qualifying Intangibles

This final rule amends 12 CFR part 3, appendix A, section 2(c) to delete from the risk-based capital guidelines the three criteria used to determine whether an intangible asset qualifies for inclusion in Tier 1 capital. This final rule further amends section 2(c) to state that only purchased mortgage servicing rights and purchased credit card relationships are considered qualifying intangible assets for purposes of computing regulatory capital under the risk-based capital guidelines.

As discussed in the NPRM, the three criteria for qualifying intangible assets have caused some confusion. Some national banks, without prior approval, applied the criteria to make their own determination of the types of intangible assets that qualify as Tier 1 capital. In the NPRM, the OCC proposed to retain the three criteria but amend the guidelines to make clear that the OCC and not the banks determines which intangible assets meet the criteria and, therefore, qualify as Tier 1 capital.

Seven comments were received on this issue. All seven commenters favored retaining the three criteria so that additional intangible assets could be considered qualifying in the future as financial markets and new products continue to develop and evolve. Some of these commenters also favored retaining the criteria so that additional intangible assets could be considered qualifying without amending the leverage ratio and risk-based capital guidelines. One commenter objected to the OCC determining whether an intangible asset satisfied the criteria and instead favored allowing banks to make this determination.

After further consideration, the OCC has decided to delete the three criteria from the specific regulatory language. The OCC believes that deletion of the specific criteria from the regulatory language is the best way to avoid any further confusion as to which intangible assets qualify for inclusion as capital under the risk-based capital guidelines.

The OCC believes that this amendment will result in more uniform and consistently applied capital standards. While the OCC is not retaining the criteria in the text of the risk-based capital guidelines, the OCC agrees generally with the commenters that the criteria would be useful for identifying additional intangible assets which could be considered in the future. The OCC believes that the three criteria provide an appropriate analytical framework to assist in determining whether an intangible asset should qualify as capital for regulatory capital purposes. Therefore, the OCC will continue to use the criteria as guidance in deciding whether to expand the list of qualifying intangible assets. However, just as the development and evolution of financial markets and new products may create other qualifying intangible assets, the OCC may also need to adjust the criteria for qualifying intangible assets.

The OCC specifically requested comment on whether the criteria for qualifying intangible assets should be changed and whether the cash flow criterion should be clarified to indicate that the cash flows had to be predictable and reliable. One commenter opposed changing the cash flow criterion on the basis that the change was unnecessary. Other commenters either did not object or did not comment on the issue. There was no suggestion for other changes to the criteria. As explained above, although the criteria are no longer part of the regulation, they will be used in the future as a guideline for determining whether other intangibles should be considered qualifying. Accordingly, the OCC will consider the predictability and reliability of cash flows when it determines whether other intangible assets qualify for inclusion as capital.

At this time, the OCC believes that only purchased mortgage servicing rights and purchased credit card relationships are qualifying intangible assets for purposes of computing compliance with the risk-based capital guidelines. Therefore, this final rule adopts the amendment, as proposed in the NPRM. No other intangible assets, including core deposit intangibles, currently qualify for inclusion as capital.

No comments were received objecting to the inclusion of purchased mortgage servicing rights and purchased credit card relationships as qualifying intangible assets. Several commenters suggested that additional intangible assets, besides purchased mortgage servicing rights and purchased credit card relationships, should be considered qualifying intangible assets for regulatory capital purposes. Ten of these commenters specifically asked the OCC to consider core deposit intangibles as a qualifying intangible asset.

The commenters generally believed that core deposit intangibles meet the three criteria. Many of the commenters cited the premiums paid for the deposits of failed institutions as support for the inclusion of core deposit intangibles as a qualifying intangible asset. In addition, the commenters believed that the exclusion of core deposit intangibles from the calculation of regulatory

capital would discourage industry consolidation.

The OCC believes that the general characteristics of core deposit intangibles do not satisfy the three criteria. Specifically, the NPRM discussed the OCC's concerns about the separability of core deposit intangibles. The OCC acknowledges the commenters' view that banks may continue operating following the sale of a portion of its core deposit intangibles and related core deposits. However, the OCC continues to have supervisory concerns that the sale of a bank's core deposits could alter significantly the funding and liquidity structure of an otherwise viable institution in an unsafe and unsound manner.

After considering the comments received regarding core deposit intangibles, the OCC believes that no change is warranted at this time. Thus, national banks will continue to deduct core deposit intangibles when calculating their risk-based capital ratios. However, the OCC will discuss this issue further with the other banking and thrift agencies. If the supervisory concerns over the appropriate valuation and separability of core deposit intangibles can be adequately addressed then the current treatment for these assets would be revisited.

Four commenters mentioned other intangible assets that they believed should be considered qualifying, including purchased trust servicing rights, purchased home equity servicing rights, and favorable leasehold intangible assets. The OCC believes that the characteristics of these intangible assets do not satisfy the three criteria, at a minimum because the markets for these intangible assets currently lack the depth and maturity necessary for inclusion in regulatory capital.

II. Capital Limitations

As proposed in the NPRM, this final rule amends 12 CFR part 3, appendix A, section 2(c) by increasing the capital limitation on all qualifying intangible assets from the current 25 percent of Tier 1 capital to 50 percent of Tier 1 capital. This final rule also provides that with respect to the 50 percent limit on total intangible assets, no more than 25 percent of Tier 1 capital can consist of purchased credit card relationships. Therefore, the final rule imposes a further 25 percent sublimit on the amount of purchased credit card relationships that can qualify as capital.

The capital limitation on purchased credit card relationships is a supplemental limit rather than an addition to the 50 percent overall limitation. In other words, a national bank with both purchased mortgage servicing rights and purchased credit card relationships may not include purchased credit card relationships in excess of 25 percent of Tier 1 capital, nor may it include total qualifying intangible assets (purchased mortgage servicing rights plus purchased credit card relationships) in excess of 50 percent of Tier 1 capital in its regulatory capital computations. In addition, this final rule requires that the calculation of the limitation be based on Tier 1 capital net of goodwill and other disallowed intangible assets.

To illustrate, assume that a national bank has Tier 1 capital of $1,300,000. The bank also has qualifying purchased credit card relationships of $300,000 qualifying purchased mortgage servicing rights of $200,000, goodwill of $100,000, and core deposit intangibles of $200,000. To determine the amount of qualifying intangible assets the bank may include in Tier 1 capital, the bank first must subtract goodwill and other disallowed intangible assets from Tier 1 capital.

In this example, goodwill of $100,000 and core deposit intangibles of $200,000 must be subtracted from Tier 1 capital of $1,300,000. This results in "net" Tier 1 capital of $1,000,000 to which the percentage limitations are applied. The amount of purchased credit card relationships that may be included in Tier 1 capital is $250,000 ($1,000,000 × 0.25). As a result, the bank must also deduct $50,000 of $300,000 in purchased credit card relationships from Tier 1 capital of $1,300,000 and from risk-weighted assets.

The overall limit on all qualifying intangible assets that may be included in Tier 1 capital in this example is $500,000 ($1,000,000 × 0.50). The bank is already including $250,000 of purchased credit card relationships, the maximum amount permitted. Therefore, the bank may include up to $250,000 of purchased mortgage servicing rights in Tier 1 capital. Because the bank has only $200,000 of purchased mortgage servicing rights, the full $200,000 may be included in Tier 1 capital. However, note that the bank should be required to deduct from Tier 1 capital and risk-weighted assets any amount of purchased mortgage servicing rights in excess of $250,000, along with the $50,000 excess purchased credit card relationships.

The OCC received ten comments addressing the proposed increase in the limitation on the amount of qualifying intangible assets includable in the calculation of regulatory capital. Four of the commenters favored the increase from 25 percent to 50 percent of Tier 1 capital. Five commenters did not object to the increase but felt that no limitation was more appropriate. One commenter objected to the increase on the basis that the change weakened capital standards.

The OCC believes that both purchased mortgage servicing rights and purchased credit card relationships expose banks to significant amounts of interest rate risk, prepayment risk, credit risk, and operational risk. In light of these risks, and after considering related safety and soundness issues, the OCC believes that, at this time, raising the limitation beyond 50 percent, or eliminating the limitation altogether, is not prudent.

The OCC believes that increasing the limitation on qualifying intangible assets to 50 percent of Tier 1 capital will not expose national banks to unreasonable risks. The FDIC and the OTS have adopted capital rules permitting their supervised institutions to include purchased mortgage servicing rights in the calculation of regulatory capital up to 50 percent of Tier 1 capital. Further, the sublimit on purchased credit card relationships and the valuation requirements discussed below alleviate some of the concerns about the risks inherent in the qualifying intangible assets.

The OCC received one comment in favor of the separate sublimit on purchased credit card relationships. While commenters generally did not oppose including purchased credit card relationships as qualifying intangible assets, four commenters opposed the separate sublimit proposed in the NPRM. These commenters objected to the sublimit on the basis that different limitations for different types of qualifying intangible assets amounted to credit allocation, which should be left up to each institution's management.

As discussed in the NPRM, the OCC bases this more restrictive limitation on purchased credit card relationships on several factors. First, the OCC believes that the market for purchased credit card relationships does not have the depth and maturity of the market for purchased mortgage servicing rights. Second, the OCC believes that the assumptions used in the valuation of purchased credit card relationships generally are more subjective and subject to less market discipline than the assumptions for purchased mortgage servicing rights. Therefore, the OCC continues to believe that the sublimit of 25 percent of Tier 1 capital for purchased credit card relationships is appropriate.

In an October 17, 1990, notice of proposed rulemaking the OCC proposed certain technical and clarifying amendments to the risk-based capital

guidelines. See 55 FR 42017 (October 17, 1990). Of the various issues raised, the OCC specifically requested comment on (1) whether to adopt a case-by-case exception to the 25 percent limitation on qualifying intangible assets and (2) whether the calculation of the limitation should be based on total Tier 1 capital or Tier 1 capital net of goodwill and other disallowed intangible assets.

In the final rule, the OCC decided not to amend the risk-based capital guidelines with respect to these issues. Consequently, the calculation of the 25 percent limitation continued to be based on total Tier 1 capital. See 57 FR 44078, 44081–44082 (September 24, 1992). However, as discussed in the preamble to that final rule, the OCC determined that the whole issue of the capital treatment of intangible assets was too complex to address piecemeal through those technical amendments.

As part of this comprehensive review of the capital treatment of intangible assets, the OCC has reconsidered this issue concerning the method of calculating the capital limitation on qualifying intangible assets. The OCC received three comments on this issue in response to the October 17, 1990, notice of proposed rulemaking. All three commenters favored calculation of the limitation based on total Tier 1 capital. While a less restrictive calculation may have been appropriate with the lower 25 percent limitation, the OCC believes that in view of the increase in the limitation on total qualifying tangible assets and the inclusion of purchased credit card relationships as a qualifying intangible asset, the calculation of the limitation should be done on a more restrictive basis.

III. Other Requirements

This final rule amends 12 CFR part 3, appendix A, section 2(c) to require banks to value qualifying intangible assets, purchased mortgage servicing rights and purchased credit card relationships, for capital adequacy purposes, at the lesser of (1) 90 percent of the asset's fair market value; or (2) 100 percent of the asset's remaining unamortized book value. This final rule also amends section 2(c) to require national banks to determine, at least quarterly, the appropriate fair market value and unamortized book value of qualifying intangible assets to be used in determining the limitations described above.

In the NPRM, the OCC proposed to include guidance for determining the appropriate unamortized book value of qualifying intangible assets as part of the amendments to the risk-based capital guidelines. The OCC has reconsidered this issue and has decided along with the other federal banking agencies that any discussion of the appropriate method for determining the book value of qualifying intangible assets is best suited as part of the Instructions to the Consolidated Reports of Condition and Income (Call Report) instead of the risk-based capital guidelines. Moreover, addressing the proper reporting for the book value of intangible assets in the instructions to the Call Report ensures consistency in application by all financial institutions, regardless of their type of charter.

These changes to the Call Report will require a bank to determine the book value of its qualifying intangible assets based on the discounted amount of future net cash flows related to the intangible asset.

Accordingly, if unanticipated prepayments, account attrition, or other events occur that reduce the amount of expected future net cash flows from the asset, the bank must write down the asset to the extent that the discounted amount of the future net cash flows is less than the asset's carrying amount. Further, the Call Report instructions will specify that the discount rate used in the above quarterly determination of book value should not be less then the original discount rate inherent in determining the fair value of the asset at its original acquisition.

These amendments implement section 475 of FDICIA which requires that purchased mortgage servicing rights be valued at no more than 90 percent of fair market value, and that fair market value be determined at least quarterly. While section 475 of FDICIA technically applies only to purchased mortgage servicing rights, the OCC will apply these requirements to all qualifying intangible assets. Three commenters indicated that extending the 90 percent of fair market value limitation to all qualifying intangible assets was overly restrictive. The OCC believes that valuation issues warrant the consistent application of the 90 percent limitation to all qualifying intangible assets.

The NPRM proposed an additional limitation of 90 percent of original purchase price on the amount of qualifying intangibles that could be included in the calculation of regulatory capital. The OCC received seven comments opposed to this limitation. These commenters opposed this limitation on the basis that it went beyond the requirements of FDICIA and was unnecessary in light of the other valuation requirements proposed in the NPRM. The OCC agrees with these commenters and therefore eliminated this additional limitation from the final rule.

With respect to the other valuation requirements proposed in the NPRM, the OCC received three comments in support of the requirement that the book value of the qualifying intangible asset be based on discounted net cash flows related to the asset, using not less than the original discount rate inherent in determining the original fair value of the asset. The OCC received four comments opposing this requirement as overly restrictive and inconsistent with generally accepted accounting principles (GAAP). The OCC also received four comments that did not object to the requirement to discount the net cash flows but did object to the use of the original discount rate.

The use of a discounted cash flow to determine the book value of purchased mortgage servicing rights is consistent with GAAP. The Financial Accounting Standards Board Emerging Issues Task Force Issue 86–38A specifically indicates that either a discounted or an undiscounted approach could be used when determining whether a writedown is necessary because of unanticipated prepayments. While this conclusion applied only to purchased mortgage servicing rights, the OCC believes that the characteristics of purchased credit card relationships are similar and therefore should be treated consistently. Since the use of discounting is acceptable under GAAP and is more conservative than an undiscounted approach, the OCC believes it is the most appropriate method for determining the book value of qualifying intangible assets.

Those commenters who objected to the use of original discount rate to discount the net cash flows generally favored the use of a market-based rate. These commenters believe that the original discount rate could result in book values that are either overstated or understated relative to the fair value of the intangible asset. However, the OCC believes that amounts that are overstated relative to fair value do not raise safety and soundness concerns because inclusion of the assets in regulatory capital will be limited to 90 percent of their fair value. If 90 percent of fair value is less than the book value, then only this lower amount will be included in regulatory capital. On the other hand, assets that have book values less than fair values ensure a level of capital support to the bank consistent with their inclusion in regulatory capital.

The OCC also believes that use of the original discount rate to determine book value is advantageous because it is an

objectively determinable rate. The original discount rate is based on the original purchase price relative to the estimated future net cash flows at the time of purchase. A market-based discount rate is much less objective than the original discount rate and is subject to greater manipulation and abuse.

The OCC considered establishing a minimum discount rate to overcome the concerns about the subjectivity and manipulation associated with a market-based rate. However, this idea was rejected on the basis that a minimum rate would be arbitrary and would not reflect the economics of the asset. While the original discount rate does not reflect changes in market rates, it does reflect the economics of the transaction at its inception, which is consistent with the historical cost accounting model. The use of a market-based discount rate is more consistent with the concept of market value accounting, which is not consistent with GAAP. In addition, the OCC believes that determining the book value based on expected net cash flows discounted at the original discount rate makes the characteristics of these qualifying intangible assets more similar to those of certain tangible assets (e.g., excess servicing fee receivables) which currently have no specific capital limitations.

Some of the commenters raised other issues related to the valuation requirements proposed in the NPRM. First, several commenters asked if the value of mortgage servicing retained upon the institution's origination (rather than purchase) and sale of mortgage loans could be included in the quarterly determination of the fair value of purchased mortgage servicing rights. Although these comments related only to the fair value calculation and not the recorded value, GAAP does not permit such retained servicing to be recorded as an asset on the books of the bank. The OCC believes that it is inconsistent with the requirements of FDICIA to include the value of retained mortgage servicing arising from the origination and sale of mortgage loans in the quarterly determination of the fair value of any qualifying intangible assets. The OCC believes that inclusion of retained servicing in the calculation of fair value would eliminate the effectiveness of the 90 percent of fair value limitation.

A second issue raised by several commenters was whether the determination of book value should be based on the aggregate portfolio of qualifying intangibles (the aggregate approach) or on each individual qualifying intangible (the pool-by-pool approach). Under GAAP, both the pool-by-pool approach and the aggregate approach are acceptable. The OCC has concerns about the use of the aggregate approach because of past experience with institutions using the aggregate approach to avoid recording a writedown of individual assets merely by purchasing new assets.

The OCC believes that this practice is inconsistent with the inclusion of these assets in regulatory capital and is contrary to the principles of safety and soundness. However, the OCC believes that this issue is best dealt with through accounting and reporting policies, rather than through the capital regulations. Accordingly, the OCC will study the issue further and provide separate guidance in the future.

One commenter asked whether the quarterly valuation proposed in the NPRM must be performed by an independent third party. The OCC believes that, in most cases, the costs to obtain an independent valuation outweigh the benefits to either the OCC or the bank. Further, the OCC believes that a bank engaged in the activities associated with these qualifying intangible assets should have the necessary systems in place to perform its own valuation. Consequently, the OCC is not requiring an independent third party valuation. The OCC does, however, retain the right to require a national bank to obtain an independent third party valuation if considered necessary.

Immediate Effective Date

This final rule is effective March 29, 1993. Pursuant to 12 U.S.C. 553(d)(1) and (3), this final rule is excepted from the 30 day delayed effective date which would otherwise be required under the Administrative Procedure Act. This final rule increases the overall capital limitation on qualifying intangible assets from 25 percent to 50 percent of Tier 1 capital and permits the inclusion of purchased credit card relationships as a qualifying intangible asset, subject to a separate 25 percent sublimit. The changes made by this final rule relieve a restriction imposed by the risk-based capital guidelines. For banks with purchased mortgage servicing rights (in excess of 25 percent of Tier 1 capital) or purchased credit card relationships, the effect of this final rule will allow these banks to report an increase in the amount of regulatory capital.

Further, the OCC believes that there is sufficient good cause to provide for an immediate effective date because the potential increase in capital as a result of this rule will likely have a positive effect on the banking industry and the general economy. The increase in bank capital will permit more lending by national banks, encouraging overall economic growth. In addition, the liberalization of capital treatment of intangible assets should increase the liquidity of the markets for mortgage servicing rights and credit card relationships. Finally, making the rule effective immediately will minimize the regulatory burden and disparate regulatory treatment on national banks with respect to financial institutions supervised by the FRB and the FDIC. The FRB and the FDIC had already promulgated rules making changes similar to this final rule.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

This final rule permits a greater amount of qualifying intangible assets to be included in the calculation of regulatory capital. Currently, relatively few national banks hold qualifying intangible assets in excess of the current limitations. Therefore, the OCC does not believe that the increase will significantly impact small national banks.

Executive Order 12291

The OCC has determined that this final rule is not a major regulation as defined in Executive Order 12291. Accordingly, a regulatory impact analysis is not required. Because this final rule permits more qualifying intangible assets to be included in the calculation of regulatory capital, this final rule should have a positive effect on national banks. However, these changes should not result in a significant effect on national banks.

List of Subjects in 12 CFR Part 3

Administrative practice and procedure, Capital risk, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set out in the preamble, appendix A of title 12, chapter I, part 3 of the Code of Federal Regulations is amended as set forth below.

PART 3—MINIMUM CAPITAL RATIOS; ISSUANCE OF DIRECTIVES

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

Authority: 12 U.S.C. 93a, 161, 1818, 1828(n), 1828 note, 1831n note, 3907 and 3909.

2. In appendix A to part 3, section 2, paragraphs (c)(1)(ii) and (c)(2) are revised to read as follows:

Appendix A—Risk-Based Capital Guidelines

* * * * *

Section 2. Components of Capital

* * * * *

(c) * * *

(1) * * *

(ii) Except as provided in section 2(c)(2) of this appendix A, all other intangible assets are deducted from Tier 1 capital before the Tier 2 portion of the calculation is made.

(2) Subject to the following conditions, purchased mortgage servicing rights and purchased credit card relationships need not be deducted from Tier 1 capital.

(i) The total of all intangible assets which are included in Tier 1 capital is limited to 50 percent of Tier 1 capital, of which no more than 25 percent of Tier 1 capital can consist of purchased credit card relationships. Calculation of these limitations must be based on Tier 1 capital net of goodwill and other disallowed intangible assets.

(ii) Each intangible asset which is included in Tier 1 capital must be valued at the lesser of:

(A) 90 percent of the fair market value of the intangible asset, determined in accordance with section 2(c)(2)(iii) of this appendix A; or

(B) 100 percent of the remaining unamortized book value of the intangible asset, determined at least quarterly in accordance with the instructions of the Call Report.

(iii) Banks shall determine the current fair market value of each intangible asset included in Tier 1 capital at least quarterly. The quarterly determination of the current fair market value of the intangible asset must include adjustments for any significant changes in original valuation assumptions, including changes in prepayment estimates. In determining the current fair market value of the intangible asset, the bank shall apply an appropriate market discount rate to the expected net cash flows of the intangible asset.

* * * * *

Dated: March 2, 1993.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

[FR Doc. 93-7135 Filed 3-26-93; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM-80; Special Conditions No. 25-ANM-68]

Special Conditions: Gulfstream Aerospace Corporation G-1159 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace Corporation G-1159 airplane modified by Delta Engineering Corporation. This airplane is equipped with high-technology digital avionic systems that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards which the Administrator considers necessary to ensure that the critical functions performed by these systems are maintained when the airplane is exposed to HIRF.

DATES: The effective date of these special conditions is March 18, 1993.

Comments must be received on or before May 13, 1993.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-80, 1601 Lind Avenue SW, Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-80. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gary Lium, FAA, Standardization Branch, ANM-113, 1601 Lind Avenue, SW., Renton, WA 98055-4056, telephone (206) 227-1112.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special conditions number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-80." The postcard will be date stamped and returned to the commentor.

Background

On February 5, 1993, Delta Engineering Corporation applied to the FAA New York Aircraft Certification Office for a supplemental type certificate (STC) to modify a Gulfstream Aerospace Corporation G-1159 airplane. The Gulfstream Aerospace Corporation G-1159 is a minimum two-crew, two-engine airplane, with a minimum takeoff weight of up to 64,800 lbs. The proposed modification incorporates the installation of an EFIS. The equipment originally installed in these airplanes presented the required information in the form of analog displays. The information present is flight critical. The EFIS as a digital system is vulnerable to high-intensity radiated fields external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.101, Delta Engineering Corporation must show that the modified Gulfstream Aerospace Corporation G-1159 airplane continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." The regulations incorporated by reference in Type Certificate No. A12EA are as follows: Part 25 of the FAR effective February 1, 1965, and Amendments 25-2 through 25-8, 25-10, 25-12, 25-16 through 25-22, 25-24, 25-26, 25-27, 25-29 through 25-31, 25-34, 25-37, 25-40 (as

applicable to new APU installation); § 25.1309 of Amendment 25–41 and § 25.329 dated February 1, 1966 (as applied to a new autopilot installation); § 25.994 (crashworthiness fuel system components); and § 25.581 (lightning protection) of Amendment 25–23; Special Federal Aviation Regulation (SFAR) 27 through Amendment 2 (fuel venting emission); Part 36 through Amendment 8 (noise requirements), and the special conditions contained in FAA letter to Grumman dated September 27, 1965.

If the Administrator finds that the applicable airworthiness regulations (i.e., Part 25 requirements) do not contain adequate or appropriate safety standards for the modified Gulfstream Aerospace Corporation G–1159 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established by the regulations. (In this context, "novel or unusual design feature" means novel or unusual with respect to the applicable standards of part 25. Such features may or may not be unusual as far as industry "state-of-the-art" is concerned.)

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, these special conditions require that new technology electrical and electronic systems, such as the EFIS, be designed and installed to preclude component damage and interruption of function due to HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communication, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as EFIS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with HIRF protection special conditions is shown with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz– 100 KHz	50	50
100 KHz– 500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz– 30 MHz	200	200
30 MHz– 70 MHz	30	30
70 MHz– 100 MHz	30	30
100 KHz– 200 MHz	150	33
200 MHz– 400 MHz	70	70
400 MHz– 700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz– 2 GHz	5,000	990
2 GHz– 4 GHz	6,680	840
4 GHz– 6 GHz	6,850	310
6 GHz– 8 GHz	3,600	670
8 GHz– 12 GHz	3,500	1,270
12 GHz– 18 GHz	3,500	360
18 GHz– 40 GHz	2,100	750

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S.

Conclusion: This action affects only certain unusual or novel design features on one model of airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of the special conditions for this airplane has been subject to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. app. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2), 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; and 49 U.S.C. 106(g).

The Final Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the modified Gulfstream Aerospace Corporation G–1159 airplane:

1. *Protection from unwanted effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields external to the airplane.

2. The following definition applies with respect to this special condition:

Critical Function. Function whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on March 18, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 93–7095 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 91-ANM-25]

Alteration of VOR Federal Airway V-595; Oregon

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action extends Federal Airway V-595 from Deschutes, OR, to Portland, OR. Currently, there is no direct route to Portland from Deschutes. Altering V-595 by extending the airway from Deschutes to Portland will provide a shorter route and save fuel.

EFFECTIVE DATE: 0901 u.t.c., May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Norman W. Thomas, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9230.

SUPPLEMENTARY INFORMATION:

History

On August 19, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to extend V-595 from Redmond, OR, to Portland, OR (57 FR 37490). Currently, there is no direct airway between these points. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, and the incorporation of the new names of the Rogue Valley, OR, VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) (formerly Medford, OR) and the Deschutes, OR, VORTAC (formerly Redmond, OR), this amendment is the same as that proposed in the notice. Domestic VOR Federal airways are published in Section 71.123 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The airway listed in this document will be published sequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations extends Federal Airway V-595 from Deschutes, OR, to Portland, OR. Extending V-595 from Deschutes to Portland will provide a shorter route and save fuel.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Domestic VOR Federal airways, Incorporation by reference.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71, as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V-595 [Revised]

From Rogue Valley, OR; Deschutes, OR; to Portland, OR.

* * * * *

Issued in Washington, DC, on March 18, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-7093 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 92-ASW-19]

Establishment of Jet Route J-183; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Jet Route J-183 located in the vicinity of El Paso, TX. Establishment of J-183 will provide an additional route for operation between the El Paso and the Houston, TX, terminal airspace areas. The new jet route will relieve congestion in an area where aircraft are usually radar vectored. This action will also reduce controller workload.

EFFECTIVE DATE: 0901 u.t.c. May 27, 1993.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On July 2, 1992, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish J-183 located in the vicinity of El Paso, TX (57 FR 29454). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received. The commenter was concerned about the number of frequency changes that may occur in the area where the jet routes cross. However, there are only two air traffic control facilities involved, Houston Air Route Traffic Control Center (ARTCC) and Albuquerque ARTCC. The alignment of J-183 enters the airspace of Albuquerque, NM, Fort Worth, TX, and Houston, TX, ARTCC's. However, the Fort Worth segment of that airspace has been delegated to the Houston and Albuquerque ARTCC's thereby eliminating the radio contact with the Fort Worth ARTCC. Except for editorial changes, this amendment is the same as that proposed in the notice. Jet routes are published in Section 71.607 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations establishes J-183 located in the vicinity of El Paso, TX. J-183 will provide an additional route for en route operations between the El Paso and the Houston, TX, terminal airspace areas. The current congestion between these areas will be relieved by adding a new jet route in an area where aircraft are usually radar vectored. This action will reduce controller workload.

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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.607. Jet Routes

* * * * *

J-183 [New]

From El Paso, TX; Pecos, TX; Llano, TX; to College Station, TX.

* * * * *

Issued in Washington, DC, on March 23, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93-7092 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 95

[Docket No. 27192; Amdt. No. 375]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: April 1, 1993.

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 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment 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 95

Aircraft, Airspace.

Issued in Washington, DC on March 3, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 u.t.c., April 1, 1993.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

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

PART 95—[AMENDED]

2. Part 95 is amended to read as follows:

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS

[Amendment 375 Effective Date, April 1, 1993]

From	To	MEA
	§95.1001 Direct Routes—U.S.	
	Is Added To Read	
Scapa, PR FIX	Crstl, PR FIX	6000
	§95.1001 Direct Routes—U.S.	
	Puerto Rico Routes	
G432		
Dorado, PR NDB	*Alask, PR FIX	6000
*4800—MRA		
*Alask, PR FIX	Crstl, PR FIX	6000
*4800—MRA		
Crstl, PR FIX	Armur, PR FIX	6000
	Is Amended To Read In Part	
Route 10		
*Alask, PR FIX	Ponce, PR VOR/DME	3200
*4800—MRA		
	Bahama Routes	
	Is Added To Read	
53V		
Rajay, BF FIX	Prune, BF FIX	4000
Prune, BF FIX	Nassau BF VOR/DME	2000
	Is Amended To Read in Part	
55V		
Prune, BF FIX	Nassau, BF VOR/DME	2000
	Atlantic Routes	
	Is Deleted	
B764		
Daset, FL FIX	Fish Hook, FL NDB	*3000 MAA–45000
*1300—MOCA		
	Is Added To Read	
G765		
Maxim, FL FIX	Fish Hook, FL NDB	*3000
*1300—MOCA		
	§95.6001 VOR Federal Airway 1	
	Is Amended To Read in Part	
Cofield, NC VORTAC	*Drone, NC FIX	2000
*10000—MRA		
	§95.6003 VOR Federal Airway 3	
	Is Amended To Read in Part	
Harvy, VA FIX	*Nutts, VA FIX	**3000
*9000—MRA.		
**2000—MOCA		
	§95.6013 VOR Federal Airway 13	
	Is Amended To Read in Part	
Humble, TX VORTAC	Cleep, TX FIX	2300
Cleep, TX FIX	*Legge, TX FIX	**5000
*3000—MRA		
**2300—MOCA		
Legge, TX FIX	Lufkin, TX VORTAC	2000
Lufkin, TX VORTAC	Carth, TX FIX	*3800
*2400—MOCA		
	§95.6018 VOR Federal Airway 18	
	Is Amended To Read in Part	
Maddi, GA FIX	Corvi, GA FIX	*5000
*2000—MOCA		
	§95.6027 VOR Federal Airway 27	
	Is Amended To Read in Part	
Newport, OR VORTAC	Cutel, OR FIX	
	S BND	*3000
	N BND	*5000
*3000—MOCA		
Cutel, OR FIX	Danes, OR FIX	*5000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 375 Effective Date, April 1, 1993]

From	To	MEA
*4000—MOCA		
Danes, OR FIX	Astoria, OR VOR/DME	*8000
*5100—MOCA		
	§ 95.6036 VOR Federal Airway 36	
	Is Amended To Read in Part	
U.S. Canadian Border	Buffalo, NY VORTAC	4500
	§ 95.6038 VOR Federal Airway 38	
	Is Amended To Read in Part	
Rooky, VA FIX	Richmond, VA VORTAC	2100
	§ 95.6044 VOR Federal Airway 44	
	Is Amended To Read in Part	
Karrs, NJ FIX	Deer Park, NY VORTAC	*4000
*2000—MOCA		
Gamby, NJ FIX	Camm, NJ FIX	4000
Camm, NJ FIX	*Sates, NJ FIX	4000
*9000—MRA		
Sates, NJ FIX	Deer Park, NY VORTAC	*4000
*2000—MOCA		
	§ 95.6097 VOR Federal Airway 97	
	Is Amended To Read in Part	
Amapo, GA FIX	*Pratz, GA FIX	**3000
*3000—MRA		
**2000—MOCA		
Atlanta, GA VORTAC	Bappy, GA FIX	*4000
*3000—MOCA		
Bappy, GA FIX	Nello, GA FIX	4800
Nello, GA FIX	Mells, GA FIX	*10000
*5600—MOCA		
Mells, GA FIX	Hinde, TN FIX	7000
	§ 95.6194 VOR Federal Airway 194	
	Is Amended To Read in Part	
Clunk, LA FIX	McComb, MS VORTAC	2200
	§ 95.6212 VOR Federal Airway 212	
	Is Amended To Read in Part	
Lufkin, TX VORTAC	Abbas, LA FIX	*4000
*1900—MOCA		
Abbas, LA FIX	Cocos, LA FIX	*3000
*1700—MOCA		
Cocos, LA FIX	Alexandria, LA VORTAC	2000
	§ 95.6221 VOR Federal Airway 221	
	Is Amended To Read in Part	
Litchfield, MI VORTAC	Jackson, MI VOR/DME	*3000
*2500—MOCA		
	§ 95.6222 VOR Federal Airway 222	
	Is Amended To Read in Part	
La Grange, GA VORTAC	Tiroe, GA FIX	2500
Corce, GA FIX	Foothills, GA VORTAC	3400
Foothills, GA VORTAC	Sunset, SC FIX	4500
	§ 95.6253 VOR Federal Airway 253	
	Is Amended to Read in Part	
Litke, ID FIX	Alkal, ID FIX	
	SE BND	*6000
	NW BND	*9500
*5700—MOCA		
	§ 95.6266 VOR Federal Airway 266	
	Is Amended To Read in Part	
Lawrenceville, VA VORTAC	Mazon, VA FIX	4000
Mazon, VA FIX	Franklin, VA VORTAC	*2000
*1500—MOCA		
Somar, VA FIX	*Drone, NC FIX	8500
*10000—MRA		
	§ 95.6322 VOR Federal Airway 322	
	Is Amended To Delete	
Cape Newenham, AK NDB	King Salmon, AK VORTAC	*5000

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES AND CHANGEOVER POINTS—Continued

[Amendment 375 Effective Date, April 1, 1993]

From	To	MEA
*4300—MOCA		
	§ 95.6373 VOR Federal Airway 373	
	Is Added To Read	
Greensboro, NC VORTAC	Sandhills, NC VORTAC	3600
	§ 95.6494 VOR Federal Airway 494	
	Is Amended To Read in Part	
Squaw Valley, CA VOR/DME	*Vikes, NV FIX	12000
*11000—MCA Vikes FIX, SW BND		

From	To	MEA	MAA
	§ 95.7029 Jet Route No. 29		
	Is Amended To Read in Part		
Lufkin, TX VORTAC	Elm Grove, LA VORTAC	18000	45000
Elm Grove, LA VORTAC	El Dorado, AR VORTAC	18000	45000
El Dorado, AR VORTAC	Memphis, TN VORTAC	18000	45000
	§ 95.7037 Jet Route No. 37		
	Is Amended To Read in Part		
Spartanburg, SC VORTAC	*Sanny, VA FIX	22000	45000
Sanny, VA FIX	Lynchburg, VA VORTAC	18000	45000
Lynchburg, VA VORTAC	Gordonsville, VA VORTAC	18000	45000
	§ 95.7053 Jet Route No. 53		
	Is Amended To Read in Part		
Dougs, FL FIX	Orlando, FL VORTAC	18000	45000
Pulaski, VA VORTAC	Elkins, WV FIX	21000	45000
Elkins, WV FIX	Ellwood City, PA VORTAC	18000	45000
	§ 95.7101 Jet Route No. 101		
	Is Amended To Read in Part		
Lufkin, TX VORTAC	Elm Grove, LA VORTAC	18000	45000
Elm Grove, LA VORTAC	Little Rock, AR VORTAC	18000	45000
	§ 95.7180 Jet Route No. 180		
	Is Amended To Read in Part		
Daisetta, TX VORTAC	El Dorado, AR VORTAC	18000	45000
El Dorado, AR VORTAC	Little Rock, AR VORTAC	18000	45000
	§ 95.7488 Jet Route No. 488		
	Is Added To Read		
Watertown, NY VORTAC	U.S. Canadian Border	#18000	45000
#For that airspace over U.S. territory.			
	§ 95.7559 Jet Route No. 559		
	Is Amended To Read in Part		
Syracuse, NY VORTAC	Watertown, NY VORTAC	18000	45000
Watertown, NY VORTAC	U.S. Canadian Border	18000	45000

§ 95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

Airway segment		Changeover points	
From	To	Distance	From
	V–13		
	Is Amended By Adding		
Lufkin, TX VORTAC	Shreveport, LA VORTAC	64	Lufkin.
	V–23		
	Is Amended To Read In Part		
Paine, WA VOR/DME	Bellingham, WA VORTAC	14	Paine.
	V–113		
	Is Amended By Adding		
Salmon, ID VOR/DME	Coppertown, MT VORTAC	60	Salmon.

§ 95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS—Continued

Airway segment		Changeover points	
From	To	Distance	From
	V-212		
	Is Amended By Adding		
Lufkin, TX VORTAC	Alexandria, LA VORTAC	65	Lufkin.
	V-373		
	Is Amended By Adding		
Greensboro, NC VORTAC	Sandhills, NC VORTAC	43	Greensboro.

[FR Doc. 93-7090 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL INDIAN GAMING COMMISSION

25 CFR Chapter III

Editorial Amendments to the National Indian Gaming Commission's Regulations

AGENCY: National Indian Gaming Commission.

ACTION: Final rule; editorial amendments.

SUMMARY: The National Indian Gaming Commission is establishing this rule to inform the public of organizational and grammatical changes made to regulations previously published by the Commission. This regulation is strictly organizational and does not affect the substantive provisions of the Commission's regulations.

EFFECTIVE DATE: March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Susan Carletta at (202) 632-7003, ext. 34, or by facsimile at (202) 632-7066 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA, or the Act), 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The IGRA established the National Indian Gaming Commission (NIGC, or the Commission). The Commission has promulgated several regulations implementing the IGRA. The purpose of this rule is to organize those regulations into subchapters. The Commission also has made grammatical changes to various sections of the regulations. The revisions contained in this regulation do not change the substance of the regulations.

Editorial Amendments to the Commission's Regulations

The Commission has published six sets of final regulations. On August 19, 1991, the Commission published regulations requiring class II gaming operations to compute and pay to the Commission the annual fees required by section 2717 of the IGRA (56 FR 40702). On April 9, 1992, the Commission published a regulation that defines key statutory terms, notably clarifying the distinctions between class II gaming (regulated by tribes and the Commission) and class III gaming (regulated under negotiated tribal-state compacts) (57 FR 12382).

On January 22, 1993, the Commission published final rules regarding its review and approval of tribal gaming ordinances or resolutions, Privacy Act procedures, compliance and enforcement procedures, and management contract provisions (58 FR 5802).

The regulations are contained in 25 CFR chapter III, parts 500–599. This regulation divides chapter III into subchapters A—I and places parts 500–599 into these subchapters. The Commission believes that organizing chapter III into subchapters will provide readers with easier access to related provisions of the regulations. The Commission also replaced the term "chapter" with "subchapter," where appropriate, clarified and made grammatical changes to the regulations. The Commission also deleted paragraph (b) of § 558.2, which was inadvertently included in the final regulation. For a discussion of § 558.2 see 58 FR 5808–5809 (January 22, 1993). Again, the Commission believes that the revisions contained in this document do not change the substance of the regulations.

Regulatory Matters

Executive Order 12291: Non major.

Regulatory Flexibility Act: No significant impact.

National Environmental Policy Act: Exempt.

Executive Order 12778: Meets the applicable standards.

Dated: March 23, 1993.

Anthony J. Hope,

Chairman, National Indian Gaming Commission.

For the reasons set forth in the preamble and under the authority of 25 U.S.C. 2706(b)(10), 25 CFR chapter III is amended as follows:

1. 25 CFR chapter III is amended by designating parts 501 through 519 as subchapter A and adding a subchapter heading; by designating parts 520 through 529 as subchapter B and adding a subchapter heading; by designating parts 530 through 539 as subchapter C and adding a subchapter heading; by adding and reserving subchapter D consisting of parts 540 through 549; by designating parts 550 through 559 as subchapter E and adding a subchapter heading; by adding and reserving subchapter F consisting of parts 560 through 569; by designating parts 570 through 579 as subchapter G and adding a subchapter heading; by adding and reserving subchapter H consisting of parts 580 through 589 and subchapter I consisting of parts 590 through 599 to read as follows:

SUBCHAPTER A—GENERAL PROVISIONS

Part
501 Purpose and scope of this chapter
502 Definitions of this chapter
503–513 [Reserved]
514 Fees
515 Privacy Act procedures
516–518 [Reserved]
519 Service

SUBCHAPTER B—APPROVAL OF CLASS II AND CLASS III ORDINANCES AND RESOLUTIONS

Part
520 [Reserved]

Part
521 [Reserved]
522 Submission of gaming ordinance or resolution
523 Review and approval of existing ordinances or resolutions
524 Appeals
525–529 [Reserved]

SUBCHAPTER C—MANAGEMENT CONTRACT PROVISIONS

Part
530 [Reserved]
531 Content of management contracts
532 [Reserved]
533 Approval of management contracts
534 [Reserved]
535 Post-approval procedures
536 [Reserved]
537 Background investigations for persons or entities with a financial interest in, or having management responsibility for, a management contract
538 [Reserved]
539 Appeals

SUBCHAPTER D—[RESERVED]

Part
540–549 [Reserved]

SUBCHAPTER E—GAMING LICENSES AND BACKGROUND INVESTIGATIONS FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

Part
550–555 [Reserved]
556 Background investigations for primary management officials and key employees
557 [Reserved]
558 Gaming licenses for key employees and primary management officials
559 [Reserved]

SUBCHAPTER F—[RESERVED]

Part
560–569 [Reserved]

SUBCHAPTER G—COMPLIANCE AND ENFORCEMENT PROVISIONS

Part
570 [Reserved]
571 Monitoring and investigations
572 [Reserved]
573 Enforcement
574 [Reserved]
575 Civil fines
576 [Reserved]
577 Appeals before the Commission
578–579 [Reserved]

SUBCHAPTER H—[RESERVED]

Part
580–589 [Reserved]

SUBCHAPTER I—[RESERVED]

Part
590–599 [Reserved]

PART 502—DEFINITIONS OF THIS CHAPTER

2. The heading of part 502 is revised to read as set forth above.

3. The authority citation for part 502 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710.

PART 522—[AMENDED]

4. The authority citation for part 522 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

5. The heading of § 522.1 is revised to read as follows:

§ 522.1 Scope of this part.

* * * * *

6. Section 522.2 is amended by revising paragraph (h) to read as follows:

§ 522.2 Submission requirements.

* * * * *

(h) Identification of a law enforcement agency that will take fingerprints and a description of procedures for conducting a criminal history check by a law enforcement agency. Such a criminal history check shall include a check of criminal history records information maintained by the Federal Bureau of Investigation.

PART 523—[AMENDED]

7. The authority citation for part 523 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

8. The heading of § 523.1 is revised to read as follows:

§ 523.1 Scope of this part.

* * * * *

PART 537—[AMENDED]

9. The authority citation for part 537 continues to read as follows:

Authority: 25 U.S.C. 81, 2706(b)(10), 2710(d)(9), 2711.

10. Section 537.1 is amended by revising paragraphs (b)(1)(vi), (b)(1)(vii), (c)(2)(v), and (c)(2)(vi) to read as follows:

§ 537.1 Applications for approval.

* * * * *

(b) * * *

(1) * * *

(vi) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(vii) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

* * * * *

(c) * * *

(2) * * *

(v) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(vi) A description of any existing and previous business relationships with the gaming industry generally, including ownership interest in those businesses;

* * * * *

PART 539—[AMENDED]

11. The authority citation for part 539 continues to read as follows:

Authority: 25 U.S.C. 81, 2706(b)(10), 2710(d)(9), 2711.

12. Section 539.1 is revised to read as follows:

§ 539.1 Scope of this part.

This part applies to appeals from the Chairman's decision to approve or disapprove a management contract under this subchapter, except that appeals from the Chairman's decision to require modification of or to void a management contract subsequent to his or her initial approval are addressed in part 577 of this chapter.

PART 556—[AMENDED]

13. The authority citation for part 556 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

14. The heading of § 556.1 is revised to read as follows:

§ 556.1 Scope of this part.

* * * * *

PART 558—[AMENDED]

15. The authority citation for part 558 continues to read as follows:

Authority: 25 U.S.C. 2706, 2710, 2712.

16. The heading of § 558.1 is revised to read as follows:

§ 558.1 Scope of this part.

§ 558.2 [Amended]

* * * * *

17. Section 558.2 is amended by removing the paragraph (a) designation and by removing paragraph (b).

PART 571—[AMENDED]

18. The authority citation for part 571 continues to read as follows:

Authority: 25 U.S.C. 2706(b), 2706(b)(2)(C), 2715, 2716.

19. Section 571.2 is amended by revising the introductory text to read as follows:

§ 571.2 Definitions.

As used in this subchapter, the following terms have the specified meanings:

* * * * *

PART 575—[AMENDED]

20. The authority citation for part 575 continues to read as follows:

Authority: 25 U.S.C. 2705(a), 2706, 2713, 2715.

21. Section 575.9 is amended by revising paragraph (c) to read as follows:

§ 575.9 Final assessment.

* * * * *

(c) The Commission shall transfer civil fines paid under this subchapter to the U.S. Treasury.

[FR Doc. 93-7075 Filed 3-26-93; 8:45 am]

BILLING CODE 7565-01-M

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25 CFR Part 503

Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers and Expiration Dates

AGENCY: National Indian Gaming Commission.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (NIGC, or the Commission) is establishing this rule for the purpose of informing the public of the control numbers and expiration dates assigned to information collection requirements in the regulations of the Commission by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act.

EFFECTIVE DATE: March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Susan Carletta at (202) 632-7003, ext. 34 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Congress enacted the Paperwork Reduction Act of 1980 (the Act), 44 U.S.C. 3501 *et seq.* in an effort to minimize the Federal paperwork burden for individuals, businesses, State and local governments, and other persons. The Act also minimizes the cost to the Federal Government of collecting, maintaining, using, and disseminating information, and creates uniform Federal information policies and practices. Under the Act, federal agencies are required to display current control numbers assigned by the Director of the Office of Management and Budget (OMB), on each agency information collection requirement.

The purpose of this regulation is to inform the public of the control numbers and expiration dates assigned to information collection requirements of the National Indian Gaming Commission (NIGC, or the Commission) by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* This regulation is administrative in nature and is intended to comply with all requirements of the Paperwork Reduction Act of 1980. This part, in particular, displays the current control numbers for information collection requirements of the Commission by OMB, along with the expiration dates of those information collection requirements.

The Indian Gaming Regulatory Act (IGRA), 25 U.S.C. 2701 *et seq.*, was signed into law on October 17, 1988. The IGRA established the Commission to regulate class II gaming and certain aspects of class III gaming conducted on Indian lands. The Commission has published several proposed and final regulations containing information collection requirements.

On August 15, 1991, the Commission published final rules (56 FR 40702) requiring class II gaming operations to compute and pay to the Commission certain annual fees. The fee regulation contains information collection requirements that have been approved by OMB and assigned a control number and expiration date.

On January 22, 1993, the Commission published final rules regarding its review and approval of tribal gaming ordinances and resolutions, Privacy Act procedures, compliance and enforcement procedures, and management contract provisions. (58 FR 5802) These regulations contain information collection requirements that have been approved by OMB and assigned control numbers and expiration dates.

Also, on November 24, 1992, the Commission published a proposed rule regarding Freedom of Information Act procedures. (57 FR 55212) This proposed rule contains information collection requirements approved by OMB and assigned a control number and expiration date.

This rule contains a list of information collection requirements contained in the Commission's regulations along with the OMB control numbers and expiration dates assigned to the requirements.

Regulatory Matters

Executive Order 12291: Non major.

Regulatory Flexibility Act: No significant impact.

National Environmental Policy Act: Exempt.

Executive Order 12278: Meets applicable standards.

Dated: March 23, 1993.

Anthony J. Hope,

Chairman, National Indian Gaming Commission.

List of Subjects in 25 CFR Part 503

Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, title 25 of the Code of Federal Regulations is amended by adding a new part 503 to subchapter A to read as follows:

PART 503—COMMISSION INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS AND EXPIRATION DATES

Sec.
503.1 Purpose of this part.
503.2 Display of control numbers and expiration dates.

Authority: 44 U.S.C. 3501 *et seq.*

§ 503.1 Purpose of this part.

This part displays the control numbers and expiration dates assigned to information collection requirements of the National Indian Gaming Commission (NIGC, or the Commission) assigned by the Director of the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

§ 503.2 Display of control numbers and expiration dates.

Part or section number of title 25 CFR	Currently assigned OMB control numbers	Expiration date
§ 514.1 (submission of fee reports)	3141-0007	6/30/94
§ 515.3 (request for access to records)	3141-0002	10/31/95
§ 515.5 (request for amendment to records)	3141-0002	10/31/95
§ 515.7 (appeals)	3141-0002	10/31/95
Part 519 (designation of agent for service)	3141-0003	10/31/95

Part or section number of title 25 CFR	Currently assigned OMB control numbers	Expiration date
§ 522.2 (submission and approval of new ordinances)	3141–0003	10/31/95
§ 522.3 (amendment)	3141–0003	10/31/95
§ 522.12 (revocation of class III gaming)	3141–0003	10/31/95
§ 523.2 (submission and approval of existing ordinances)	3141–0003	10/31/95
§ 523.4 (amendment)	3141–0003	10/31/95
Part 524 (appeals)	3141–0003	10/31/95
§ 533.3 (approval of management contracts)	3141–0004	10/31/95
§ 533.5 (modifications)	3141–0004	10/31/95
§ 535.1 (post-approval procedures)	3141–0004	10/31/95
Part 537 (background investigations)	3141–0004	10/31/95
Part 539 (appeals)	3141–0004	10/31/95
§ 556.4 (background investigations for class II gaming)	3141–0003	10/31/95
§ 556.5 (background investigations)	3141–0003	10/31/95
Part 558 (gaming licenses)	3141–0003	10/31/95
§ 571.7 (maintenance of records)	3141–0001	7/31/95
§ 571.12 (audits)	3141–0001	7/31/95
§ 571.13 (audits)	3141–0001	7/31/95
§ 571.14 (audit reconciliation)	3141–0001	7/31/95
§ 575.5 (information to Chairman)	3141–0001	7/31/95
§ 575.6 (penalty reduction)	3141–0001	7/31/95
§ 577.3 (notice of appeal)	3141–0001	7/31/95
§ 577.8 (confidentiality)	3141–0001	7/31/95
§ 577.12 (intervention)	3141–0001	7/31/95
§ 577.14 (objections)	3141–0001	7/31/95

[FR Doc. 93–7076 Filed 3–26–93; 8:45 am]

BILLING CODE 7565–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8098]

RIN 1545–AG97

Income Taxes; Returns Relating to Cash Payments In Excess of $10,000 Received in Trade or Business; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting Amendment.

SUMMARY: This document contains a correction to final regulations (T.D. 8098), which were published in the **Federal Register** for Thursday, September 4, 1986 (51 FR 31610). The final regulations related to the requirement of reporting cash in excess of $10,000 received in a trade or business.

EFFECTIVE DATE: September 4, 1986.

FOR FURTHER INFORMATION CONTACT: Philip Scott, (202) 622–4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correcting amendment were added to part 1 of title 26 of the Code of Federal Regulations under section 6050I of the Internal Revenue Code.

Need for Correction

As published, T.D. 8098 contained an error which may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR 1.6031–1 through 1.6060–1

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

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

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

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

Par. 2. In § 1.6050I–1(d)(4)(i), the second sentence is revised to read as follows:

§ 1.6050I–1 Returns relating to cash in excess of $10,000 received in a trade or business.

* * * * *

(d) * * *

(4) * * * (i) * * * An entire transaction consists of both the transaction as defined in paragraph (c)(7)(i) of this section and the receipt of cash by the recipient. * * *

* * * * *

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–7143 Filed 3–26–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Explosives and Blasting Agents

CFR Correction

In title 29 of the Code of Federal Regulations, parts 1900 to 1910 (§§ 1901.1 to 1910.999), revised as of July 1, 1992, on page 301, in the second column, in § 1910.109 (g)(4)(v), the fifth through eighth lines should read as set forth below.

§ 1910.109 Explosives and blasting agents.

* * * * *

(g) * * *

(4) * * *

(v) * * * Table-21 and separation from other blasting agent storage and explosives storage shall be in conformity with Table H–22.

* * * * *

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 165

Recoupment of Nonrecurring Costs on Sales of U.S. Items

AGENCY: Office of the Secretary of Defense, Department of Defense.

ACTION: Final rule.

SUMMARY: Recoupment of nonrecurring costs for items developed with appropriated funds is eliminated on direct commercial sales of Major Defense Equipment sold on or after October 7, 1992. The Arms Export Control Act still requires recoupment of nonrecurring costs for sales of major defense equipment under the foreign military sales program.

This final rule recognizes that requiring contractors to pay a fee to the Government for products and technologies sold to non-U.S. Government parties unnecessarily imposes a financial burden on U.S. industry and an administrative burden on both the Department of Defense and U.S. industry. This final rule will assist the U.S. defense industry to be more competitive on a global basis by reducing contracting costs through economies of scale, pricing incentives, and reduced administrative burdens.

The Arms Export Control Act currently requires the Department of Defense to collect recoupment fees on sales of major defense equipment through the Foreign Military Sales program, which accounts for most major defense equipment sales.

A Major Defense Equipment is any item of significant military equipment on the United States Munitions List having a nonrecurring research, development, test and evaluation cost of more than $50 million or a total production cost of more than $200 million. The definition of Major Defense Equipment is included in the Arms Export Control Act.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. R. Florence, 703–697–0585.

SUPPLEMENTARY INFORMATION: On July 2, 1992, the Department of Defense published a proposed rule, for public comments, of 32 CFR part 165. The DoD contractual language to implement the nonrecurring cost recoupment policies are incorporated into acquisition regulations, which are also published in the **Federal Register** for public comment. The term, "acquisition regulation," refers to the Defense Acquisition Regulation, the Federal Acquisition Regulation (FAR) and the DoD FAR Supplement. The final rule for DoD recoupment policy is to be incorporated into the DoD FAR Supplement and will be published in the **Federal Register** 48 CFR parts 215, 252, and 270.

Executive Order 12291

On November 26, 1991, the Office of Management and Budget advised that this rule was considered to be a major rule under Executive Order 12291. The original regulatory impact analysis prepared in conjunction with the interim rule has been rescinded. It has been amended to conform with the additional changes in policy presented in the final rule. The information set forth below constitutes the new regulatory impact analysis for purposes of Executive Order 12291 and regulatory flexibility analysis for purposes of the Regulatory Flexibility Act (5 U.S.C. 601).

Accordingly, and in response to the Office of Management and Budget's determination, the purpose of this rule is to limit the recoupment charge to "major defense equipment" sold through the foreign military sales program.

The Comptroller, and Chief Financial Officer, Department of Defense has determined that this rule does not impose paperwork requirements or other regulatory burdens of the type Executive Order 12291 and the Regulatory Flexibility Act were intended to minimize. In fact, the economic impact of this rule is a reduction of amounts due to the U.S. Government and a reduction in work load—both paperwork and accounting efforts—to both the Department of Defense and defense contractors. The reductions would occur due to a lessening of payment requirements and reduced administrative burden costs. These reductions will not have an unreasonable impact on defense contractors or the Department of Defense.

Paperwork Reduction Act Information

The rule contains no new information collection requirements requiring the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 32 CFR Part 165

Armed Forces, Commercial Sales, Foreign Military Sales, Foreign trade.

Accordingly, 32 CFR part 165 is revised to read as follows:

PART 165—RECOUPMENT OF NONRECURRING COSTS ON SALES OF U.S. ITEMS

Sec.
165.1 Purpose.
165.2 Applicability and scope.
165.3 Definitions.
165.4 Policy.
165.5 Responsibilities.
165.6 Procedures.
165.7 Waivers (including reductions).

Authority: 31 U.S.C. 9701

§ 165.1 Purpose.

This part updates policy to conform with Public Law 90–629, "Arms Export Control Act," October 22, 1968, as amended for calculating and assessing nonrecurring cost recoupment charges on sales of items developed for or by the Department of Defense to non-U.S. Government customers.

§ 165.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Unified and Specified Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components").

(b) The provisions of this part do not apply to sales of excess property when accountability has been transferred to property disposal activities and the property is sold in open competition to the highest bidder.

(c) The policies and procedures provided for in this part shall apply to all sales on or after January 13, 1993, and supersede application thresholds and charges previously established. Previous versions continue to govern sales made during applicable effective dates. Such previously established nonrecurring cost recoupment thresholds and charges shall be eliminated or revised in accordance with this part.

§ 165.3 Definitions.

(a) *Cost pool.* Represents the total cost to be distributed across the specific number of units. The nonrecurring research, development, test, and evaluation cost pool comprises the costs described in paragraph (f), of this section. The nonrecurring production cost pool comprises costs described in paragraph (e), of this section.

(b) *Foreign military sale.* A sale by the U.S. Government of defense items or defense services to a foreign government or international organization under authority of the "Arms Export Control Act," Public Law No. 90–629 (1968) as amended. Except as waived by the Under Secretary of Defense for Policy,

Foreign Military Sales are the only sales subject to nonrecurring cost recoupment charges.

(c) *Major defense equipment.* Any item of significant military equipment on the United States Munitions List having a nonrecurring research, development, test, and evaluation cost of more than 50 million dollars or a total production cost of more than 200 million dollars. The determination of whether an item meets the major defense equipment dollar threshold for research, development, test, and evaluation shall be based on DoD obligations recorded to the date the equipment is offered for sale. Production costs shall include costs incurred by the Department of Defense. Production costs for the foreign military sales program and known direct commercial sales production are excluded.

(d) *Model.* A basic alpha-numeric designation in a weapon system series; e.g., a ship hull series, an equipment or system series, a airframe series, or a vehicle series. For example, the F5A and the F5F are different models in the same F–5 system series.

(e) *Nonrecurring production costs.* Those one-time costs incurred in support of previous production of the model specified and those costs specifically incurred in support of the total projected production run. Those nonrecurring cost include DoD expenditures for preproduction engineering; rate and special tooling; special test equipment; production engineering; product improvement; destructive testing; and pilot model production, testing, and evaluation. That includes costs of any engineering change proposals initiated before the date of calculations of the nonrecurring costs recoupment charge. Nonrecurring production costs do not include DoD expenditures for machine tools, capital equipment, or facilities for which contractor rental payments are made or waived in accordance with the DoD FAR Supplement.

(f) *Nonrecurring research, development, test, and evaluation costs.* Those costs funded by a research, development, test, and evaluation appropriation to develop or improve the product or technology under consideration either through contract or in-house DoD effort. This includes costs of any engineering change proposal started before the date of calculation of the nonrecurring cost recoupment charges as well as projections of such costs, to the extent additional effort applicable to the sale model or technology is necessary or planned. It does not include costs funded by either procurement or operation and maintenance appropriations.

(g) *Pro rata recovery of nonrecurring costs.* Equal distribution (proration) of a pool of nonrecurring cost to a specific number of units that benefit from the investment so that a DoD Component shall collect from a customer a fair (pro rata) share of the investment in the product being sold. The production quantity base used to determine the pro rata calculation of major defense equipment includes total production.

(h) *Significant change in nonrecurring cost recoupment charge.* A significant change occurs as follows:

(1) A new calculation shows a change of 30 percent of the current system nonrecurring cost charge.

(2) The nonrecurring cost unit charge increases or decreases by 50,000 dollars or more; or

(3) Where the potential for a 5 million dollars change in recoupment exists. The total collections may be estimated based on the projected sales quantities. When potential collections increase or decrease by 5 million dollars, a significant change occurs.

(i) *"Special" research, development, test, and evaluation and nonrecurring production costs.* Costs incurred under a foreign military sale at the request of, or for the benefit of, a foreign customer to develop a special feature or unique or joint requirement. Those costs must be paid by the customer as they are incurred.

§ 165.4 Policy.

It is DoD policy that:

(a) A nonrecurring cost recoupment charge shall be imposed for sales of major defense equipment only as required by Act of Congress (e.g., Arms Export Control Act).

(b) The Under Secretary of Defense for Policy may grant a waiver to recoupment charges in accordance with § 165.7.

(c) Nonrecurring cost charges shall be based on the amount of the DoD nonrecurring investment in an item.

§ 165.5 Responsibilities.

(a) The Comptroller of the Department of Defense shall provide necessary financial management guidance.

(b) The Under Secretary of Defense (Acquisition) shall take appropriate action to revise the DoD Federal Acquisition Regulation Supplement in accordance with this part.

(c) The Under Secretary of Defense for Policy shall:

(1) Monitor the application of this part.

(2) Review and approve nonrecurring cost recoupment charges and nonrecurring cost recoupment charge waiver requests received from foreign countries and international organizations for foreign military sales.

(3) Ensure publication of a listing of items developed for or by the Department of Defense to which nonrecurring cost recoupment charges are applicable.

(d) The Secretaries of the Military Departments and the Directors of the Defense Agencies shall:

(1) Determine the DoD nonrecurring investment in items developed for or by the Department of Defense and perform required pro rata calculations in accordance with this part and financial management guidance from the Comptroller of the Department of Defense.

(2) Validate and provide recommended charges to the Under Secretary of Defense for Policy. Supporting documentation will be retained until the item has been eliminated from the nonrecurring cost recoupment charge listing.

(3) Review approved nonrecurring cost recoupment charges on a biennial basis to determine if there has been a change in factors or assumptions used to compute a nonrecurring cost recoupment charge and, if there is a significant change in a nonrecurring cost recoupment charge, provide a recommended change to the Under Secretary of Defense for Policy.

(4) Collect charges on foreign military sales in accordance with DoD 7290.3–M,[1] "Foreign Military Sales Financial Management Manual" and on other sales, made prior to January 13, 1993, in accordance with DoD 7220.9–M,[2] "DoD Accounting Manual."

(5) Deposit collections to accounts as prescribed by the Comptroller, DoD.

(6) Request guidance from the Under Secretary of Defense for Policy, within 90 days, if an issue concerning a recoupment charge cannot be resolved.

§ 165.6 Procedures.

(a) The nonrecurring cost recoupment charge to be reimbursed shall be a pro rata recovery of nonrecurring cost for the applicable major defense equipment. Recovery of nonrecurring cost recoupment charges shall cease upon the recovery of total DoD costs. Such charges shall be based on a cost pool as defined in § 165.3. For a system that includes more than one component, a "building block" approach (i.e., the sum

[1] Forward written requests to Defense Institute for Security Assistance Management, ATTN: DISAM–DRP, Wright-Patterson Air Force Base, Ohio 45433.

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

of nonrecurring cost recoupment charges for individual components) shall be used to determine the nonrecurring cost recoupment charge for the sale of the entire system.

(b) A nonrecurring cost recoupment charge shall not apply when a waiver has been approved by the Under Secretary of Defense for Policy in accordance with § 165.7 or when sales are financed with U.S. Government funds made available on a nonrepayable basis. Approved revised nonrecurring cost recoupment charges shall not be applied retroactively to accepted foreign military sales agreements.

(c) When major defense equipment are sold at a reduced price due to age or condition, the nonrecurring cost recoupment charge shall be reduced by the same percentage reduction.

(d) The full amount of "special" research, development, test, and evaluation and nonrecurring production costs incurred for the benefit of particular customers shall be paid by those customers. However, when a subsequent purchaser requests the same specialized features that resulted from the added "special" research, development, test, and evaluation and nonrecurring production costs, a pro rata share of those costs may be paid by the subsequent purchaser and transferred to the original customer if those special nonrecurring costs exceed 50 million dollars. The pro rata share may be a unit charge determined by the DoD Component as a result of distribution of the total costs divided by the total production. Such reimbursements shall not be collected after 10 years have elapsed since acceptance of DD Form 1513, "U.S. DoD Offer and Acceptance," by the original customer, unless otherwise authorized by the Under Secretary of Defense for Policy. The U.S. Government shall not be charged any nonrecurring costs recoupment charge if it adopts the features for its own use or provides equipment with such features under a U.S. Grant Aid or similar program.

(e) For coproduction, codevelopment and cooperative development, or cooperative production DoD agreements, the policy set forth in this part shall determine the allocation basis for recouping from the third party purchasers the investment costs of the participants. Such DoD agreements shall provide for the application of the policies in this part to sales to third parties by any of the parties to the agreement and for the distribution of recoupments among the parties to the agreement.

§ 165.7 Waivers (including reductions).

(a) The "Arms Export Control Act," Public Law No. 90–629, as amended, requires the recoupment of a proportionate amount of nonrecurring cost of major defense equipment from foreign military sales customers but authorizes consideration of reductions or waivers for particular sales which, if made, significantly advance U.S. Government interests and the furtherance of mutual defense treaties between the United States and certain countries.

(b) Requests for waivers should originate with the foreign government and shall provide information on the extent of standardization to be derived as a result of the waiver.

(c) Blanket waiver requests should not be submitted and shall not be considered. The term "blanket waiver" refers to a nonrecurring cost recoupment charge waiver that is not related to a particular sale; for example, waivers for all sales to a country or all sales of a weapon system.

(d) A waiver request shall not be considered for a sale that was accepted without a nonrecurring cost recoupment charge waiver, unless the acceptance was conditional on consideration of the waiver request.

(e) Requests for waivers shall be processed expeditiously, and a decision normally made to either approve or disapprove the request within 60 days after receipt. A waiver in whole or in part of the recoupment charge or a denial of the request shall be provided in writing to the appropriate DoD Component.

Dated: March 24, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–7113 Filed 3–26–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5 93–003]

Drawbridge Operation Regulations; St Jones River, DE

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the regulations for the Barkers Landing, drawbridge, mile 4.5, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: These regulations become effective on March 29, 1993.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator-New York, Fifth Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION:

Background and Purpose

In September 1982, a Coast Guard bridge permit was issued to replace the old Barkers Landing bascule bridge with a fixed bridge. The old drawbridge was removed on March 1985.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard certifies under 5 U.S.C. 605(b) that the economic impact is so minimal that a Regulatory Evaluation is unnecessary. This opinion is based on the fact it merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this action will not have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this action will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The drafters of these regulations are Mr. Joe Arca, Jr., Project Manager, and LT Monica Lombardi, Project Counsel, Fifth Coast Guard District, Legal Division.

Collection of Information

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

Federalism

This action has been analyzed in accordance with the principles and

criteria in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant preparation of a federal assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection or copying at Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, NY 10004–5073.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

§ 177.247 [Removed]

2. Section 117.247 is removed.

Dated: March 9, 1993.

W.T. Leland,

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

[FR Doc. 93–7141 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7567]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The effective date of each community's suspension is the third date ("Susp.") listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: James Ross MacKay, Acting Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet the statutory requirement for compliance with program regulations, 44 CFR part 59 *et. seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Suspensions—Minimal Conversions				
Region V				
Illinois: Kincaid, village of, Christian County.	170858	Apr. 7, 1976, Emerg.; Apr. 1, 1993, Reg.; Apr. 1, 1993, Susp.	Apr. 1, 1993	Apr. 1, 1993.
Indiana: La Porte, city of, La Porte County.	180490	Apr. 28, 1983, Emerg.; Apr. 1, 1993, Reg.; Apr. 1, 1993, Susp.	Apr. 1, 1993	Do.
Regular Conversions—Region I				
Maine:				
Sangerville, town of, Piscataquis County.	230413	July 17, 1975, Emerg.; Nov. 15, 1979, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Apr. 2, 1993.
Sebec, town of, Piscataquis County.	230414	Sept. 21, 1981, Emerg.; Sept. 21, 1981, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Do.
Region IV				
North Carolina:				
Dare County, unincorporated area.	375348	Apr. 9, 1971, Emerg.; Oct. 6, 1978, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Do.
Kill Devil Hills, town of, Dare County.	375353	Feb. 4, 1972, Emerg.; May 4, 1973, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Do.
Kitty Hawk, town of, Dare County.	370439	Apr. 9, 1971, Emerg.; Oct. 6, 1978, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Do.
Nags Head, town of, Dare County,.	375356	Dec. 17, 1971, Emerg.; Nov. 10, 1972, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Do.
Region V				
Illinois:				
Will County, unincorporated areas.	170695	Apr. 22, 1974, Emerg.; Apr. 15, 1982, Reg.; Apr. 1, 1993, Susp.	Apr. 2, 1993	Do.
Huntley, village of, McHenry and Kane Counties.	170480	June 6, 1975, Emerg.; Dec. 15, 1992, Reg.; Apr. 1, 1993, Susp.	Dec. 15, 1992 ...	Do.
Michigan: Kawkawlin, township of, Bay County,.	260658	Jan. 29, 1979, Emerg.; Feb. 1, 1979, Reg.; Apr. 1, 1993, Susp.	Apr. 2, 1993	Do.
Region VII				
Missouri: Lincoln County, unincorporated areas.	290869	June 9, 1980, Emerg.; Mar. 15, 1984, Reg.; Apr. 2, 1993, Susp.	Apr. 2, 1993	Do.
Region I				
New Hampshire: Lyme, town of, Grafton County.	330067	July 1, 1975, Emerg.; Apr. 16, 1993, Reg.; Apr. 16, 1993, Susp.	Apr. 16, 1993	Do.
Region V				
Michigan:				
Standish, township of, Arenac County.	260017	May 25, 1973, Emerg.; Aug. 4, 1987, Reg.; Apr. 16, 1993, Susp.	Apr. 16, 1993	Do.
Buchanan, city of, Berrien County.	260554	Feb. 23, 1976, Emerg.; Apr. 16, 1993, Reg.; Apr. 16, 1993, Susp.	Apr. 16, 1993	Do.
Region X				
Idaho: Boise, city of Ada County .	160002	Apr. 14, 1975, Emerg.; Apr. 17, 1984, Reg.; Apr. 16, 1993, Susp.	Apr. 16, 1993	Do.

Code for reading fourth column: Emerg.-Emergency; Reg.-Regular; Susp.-Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: March 23, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93-7106 Filed 3-26-93; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-535; RM-7520 and RM-7633]

Radio Broadcasting Services; Bowling Green and Elizabethtown, KY, and Ferdinand, IN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 252C3 for Channel 253A at Elizabethtown, Kentucky, and modifies the license for Station WQXE(FM) accordingly; substitutes Channel 227A for Channel 252A at Bowling Green, Kentucky, and modifies the license for Station WDNS(FM) to specify Channel 227A; and allots Channel 253A to Ferdinand, Indiana, as a first local FM service, at the request of Hardin County Broadcasting Company, Inc. *See* 55 FR 47895, November 16, 1990, and Supplemental Information, *infra*.

DATES: Effective May 6, 1993. The window period for filing applications for Ferdinand, Indiana, will open on May 7, 1993, and close on June 7, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-535, adopted February 25, 1993, and released March 23, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street NW., room 246, or 2100 M Street NW., suite 140, Washington, DC 20037.

Channel 252C3 can be allotted to Elizabethtown, Kentucky in compliance with the Commission's minimum distance separation requirements with a site restriction 13.8 kilometers (8.6 miles) west, in order to avoid a short-spacing to Station WKQQ(FM), Channel 251C1, Lexington, Kentucky. The coordinates for Channel 252C3 at Elizabethtown are North Latitude 37-40-10 and West Longitude 86-01-00. Channel 227A can be allotted to Bowling Green, Kentucky, at Station WDNS(FM)'s current licensed transmitter site, with a site restriction of 10.3 kilometers (6.4 miles) northeast, in order to avoid a short-spacing to Station WKYQ(FM), Channel 227C1, Paducah, Kentucky. The coordinates for Channel 227A at Bowling Green, Kentucky, are North Latitude 37-02-45 and West Longitude 86-21-53. Channel 253A can be allotted to Ferdinand, Indiana, in compliance with the Commission's minimum distance separation requirements. The coordinates for Channel 253A at Ferdinand are North Latitude 38-09-45 and West Longitude 86-50-15. With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by adding Channel 253A, Ferdinand.

§ 73.202 [Amended]

3. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by removing Channel 252A and adding Channel 227A at Bowling Green, and by removing Channel 253A and adding Channel 252C3 at Elizabethtown.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93-7045 Filed 3-26-93; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-578; RM-7492, RM-7636, RM-7637, RM-7638, RM-7639]

Radio Broadcasting Services; Carlyle, Dix, Flora, and Mount Vernon, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 244A to Carlyle, Illinois, as that community's first local FM service, at the request of Carlyle Broadcasting Company and Carlyle Broadcast Associates (RM-7637, 7638). See 55 FR 49923, December 3, 1990. The coordinates for Channel 244A at Carlyle are North Latitude 38-33-00 and West Longitude 89-21-30. The petition filed by Pathways Broadcasting requesting the allotment of Channel 244A to Mount Vernon, Illinois (RM-7492) is denied. The petition filed by Kenneth W. Kuenzie requesting the allotment of Channel 244A to Dix, Illinois, (RM-7636) and the petition filed by Flora Broadcast Associates requesting the allotment of Channel 243A to Flora, Illinois (RM-7639) are dismissed. With this action, this proceeding is terminated.

DATES: Effective May 6, 1993. The window period for filing applications will open on May 7, 1993, and close on June 7, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-578, adopted February 25, 1993, and released March 23, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1991 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street NW., room 246, or 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Carlyle, Channel 244A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93-7046 Filed 3-26-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-224; RM-8074]

Radio Broadcasting Services; Dardanelle, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 272C3 for Channel 272A at Dardanelle, Arkansas, and modifies the license of Ramsey Communications, Inc. for Station KWKK (FM) as requested. See 57 FR 46839, October 13, 1992. Coordinates for Channel 272C3 at Dardanelle are 35-13-41 and 93-15-20. With this action, the proceeding is terminated.

EFFECTIVE DATE: May 6, 1993.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 92-224, adopted March 2, 1993, and released March 23, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 272A and adding Channel 272C3 at Dardanelle.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93-7047 Filed 3-26-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 80

[PR Docket No. 92-30; FCC 93-118]

Amendment of the Commission's Rules to Add the San Francisco Port Area to the List of U.S. Coast Guard Vessel Traffic Services (VTS) Systems and Designate Marine VHF Channel 14 as the San Francisco Port Area VTS Frequency

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a Report and Order to amend the Commission's Rules to add the San Francisco, California port area to the United States Coast Guard (Coast Guard) designated radio protection areas and establish marine VHF channel 14 (156.7 MHz) as the VTS frequency for the San Francisco port Area. This Report and Order responds to a request by the Coast Guard which has proposed rules that would require certain vessels to participate in a VTS system in the port of San Francisco. The effect of this action is to enhance protection of the marine environment by preventing vessel collisions and groundings.

EFFECTIVE DATE: April 28, 1993.

FOR FURTHER INFORMATION CONTACT: Marc S. Martin, (202) 632-6497, Private Radio Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 93-118, adopted February 26, 1993; and released March 9, 1993. The full text of this Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, 1919 M Street, room 246, Washington, DC 20554, telephone (202) 337-1433.

Summary of Report and Order

1. In response to a request from the Coast Guard, this Report and Order adopts minor amendments to the Commission's Maritime Services Rules to add the San Francisco, California port area to the Coast Guard designated radio protection areas for mandatory Vessel Traffic Services (VTS) and to establish marine VHF channel 14 (156.700 MHz) as the VTS frequency for the San Francisco port area.

2. A VTS system is used as an advisory service to coordinate vessel movement and prevent collisions in large, busy port areas. VTS systems use VHF marine radiotelephone equipment to exchange voice communications on channels dedicated to VTS operations in Coast Guard designated VTS areas. Designating San Francisco as a VTS area will allow the Coast Guard to manage vessel traffic in that area more efficiently and improve the safety of life and property at sea.

3. In addition, this Report and Order also adopts minor editorial clarifications, unrelated to VTS operations, to part 80 of the rules. Because the editorial rule amendments are minor and noncontroversial in nature, we find that there is good cause to not comply with the notice and comment provisions of the Administrative Procedure Act. See 5 U.S.C. 553(b)(B).

4. In accordance with section 605(b) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that the rules would not, if promulgated, have a significant economic impact on a substantial number of small business entities because the type of vessels to which this action applies are not typically owned by small business entities.

5. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520, and found to contain no new or modified form, information collection and/or record retention requirements, and will not increase or decrease burden hours imposed on the public.

6. *Accordingly, it is ordered,* that part 80 of the Commission's Rules is amended as set forth in the amendatory text effective April 28, 1993.

List of Subjects in 47 CFR Part 80

Marine safety.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Amendatory Text

Part 80 of chapter 1 of title 47 of the Code of Federal Regulations is amended to read as follows:

PART 80—STATIONS IN THE MARITIME SERVICES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.5 is amended by adding a new definition, to appear in alphabetical order, to read as follows:

§ 80.5 Definitions.

* * * * *

Underway. A vessel is underway when it is not at anchor, made fast to the shore or aground.

* * * * *

3. Section 80.148 is amended by revising the introductory text to read as follows:

§ 80.148 Watch on 156.8 MHz (Channel 16).

At least one VHF ship station per compulsory vessel while underway must maintain a watch on 156.800 MHz whenever such station is not being used for exchanging communications. The watch is not required:

* * * * *

4. Section 80.361 is amended by revising paragraph (b) to read as follows:

§ 80.361 Frequencies for narrow-band direct-printing (NBDP) and data transmissions.

* * * * *

(b) The following table describes the frequencies and Channel Series with F1B or J2B emission which are assignable to ship stations for NB–DP and data transmissions with other ship stations and public coast stations. Public coast stations may receive only on these frequencies.

* * * * *

5. Section 80.373 is amended by redesignating the second footnote 14 in paragraph (f) as Footnote 15, and redesignating the current footnote 15 as Footnote 16, to read as follows:

§ 80.373 Private communications frequencies.

* * * * *

(f) * * *

* * * * *

[14]Available only in the Puget Sound and Strait of Juan de Fuca.

[15]The frequency 156.525 MHz is to be used exclusively for distress, safety and calling using digital selective calling techniques. No other uses are permitted.

[16]The frequency 156.450 MHz is available for intership, ship and coast general purpose calling by noncommercial vessels, such as recreational boats and private coast stations.

* * * * *

6. Section 80.383 is amended by adding San Francisco to the table in paragraph (a) in the list of geographic areas for the carrier frequency 156.700 MHz, by adding a Footnote 2 below the table in paragraph (a), by revising paragraphs (b)(3) and (b)(4), and by adding new paragraph (b)(5), to read as follows:

§ 80.383 Vessel Traffic Services (VTS) system frequencies.

* * * * *

(a) Assigned frequencies:

VESSEL TRAFFIC CONTROL FREQUENCIES

Carrier frequencies (MHz)	Geographic areas
*	* * * *
156.700	New York, New Orleans [1], Seattle, San Francisco.[2]

[1] Until further notice, this frequency is available for use as permitted by § 80.373(f), notwithstanding the provisions of footnote 3 that are applicable to the VTS system. Availability is a result of the closure of the VTS system for the port area of New Orleans. If the United States Coast Guard reestablishes this system, the Commission may require operations pursuant to such conditional licenses for this frequency to cease, or may choose not to renew such conditional licenses. All licenses for this frequency will be expressly conditioned upon the continued availability of the frequency for non-VTS use.

[2] Private coast station licenses for the use of this frequency will not be renewed beyond November 1, 1997. Continued use until expiration must be on a noninterference basis to Coast Guard VTS communications.

(b) * * *

(3) *Houston.* The rectangle between north latitudes 28 degrees 30 minutes and 30 degrees 20 minutes and west longitudes 93 degrees 30 minutes and 96 degrees;

(4) *Seattle (Puget Sound).* The area encompassed between the United States-Canadian border and a line drawn from 49 degrees North 121 degrees West on the United States-Canadian Border, to 46 degrees 30 minutes North 121 degrees West, then to 46 degrees 30 minutes North 125 degrees West, then to 48 degrees 30 minutes North 125 degrees West, and then east to the United States-Canadian Border; and

(5) *San Francisco.* The rectangle between north latitudes 39 degrees and 37 degrees and west longitudes 120 degrees 50 minutes and 123 degrees 20 minutes.

* * * * *

[FR Doc. 93–7117 Filed 3–26–93; 8:45 am]

BILLING CODE 6712–01–M

Proposed Rules

Federal Register
Vol. 58, No. 58
Monday, March 29, 1993

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–08–AD]

Airworthiness Directives; McDonnell Douglas Model DC–9 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9 series airplanes and C–9 (military) airplanes, that currently requires the implementation of a Structural Inspection Document (SID) program of structural inspections to detect fatigue cracking, and repair or replacement, as necessary, to ensure continued airworthiness as these airplanes approach the manufacturer's original fatigue design life goal. This action would, among other things, revise the existing SID sampling program to require additional visual inspections of all Principal Structural Elements (PSE) on certain airplanes. This proposal is prompted by new data submitted by the manufacturer indicating that certain revisions to the SID program are necessary in order to increase the confidence level of the statistical program to ensure timely detection of cracks in PSE's. The actions specified by the proposed AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

DATES: Comments must be received by May 24, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–08–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 McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90846–1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425.

FOR FURTHER INFORMATION CONTACT: David Hsu, Aerospace Engineer, Airframe Branch, ANM–122L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5323; 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 93–NM–08–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. 93–NM–08–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 6, 1988, the FAA issued AD 87–14–07 R1, Amendment 39–6019 (53 FR 46866, November 21, 1988), to require structural inspections to detect fatigue cracking, reporting of the inspection results, and repair or replacement, as necessary, to ensure continued airworthiness as these airplanes approach the manufacturer's original fatigue design life goal. That action was prompted by new data submitted by the manufacturer indicating that additional inspections and an expanded sample size is necessary to increase the confidence level of the statistical program to ensure timely detection of cracks in Principal Structural Elements (PSE). The requirements of that AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

Since the issuance of that AD, the manufacturer has issued McDonnell Douglas Report No. L26–008, "DC–9 Supplemental Inspection Document (SID)," Volume I, Revision 3, dated April 1991; Volume II–10/20, Revision 3, dated April 1991; Volume II–20/30, Revision 4, dated April 1991; Volume II–40, Revision 3, dated April 1991; Volume II–50, Revision 3, dated April 1991; and Volume III–92, dated July 1992. This revision of the SID revises the sampling program by:

a. Adding visual inspections of all PSE's on certain airplanes listed in the SID planning data, at least once during the interval between the start date (SDATE) and the end date (EDATE) established for each PSE (The additional visual inspections, defined in section 3 of Volume II, are required on airplanes which have not been inspected in accordance with section 2 of Volume II of the SID.);

b. Using a revised inspection reporting form;

c. Reporting the results of the new visual inspections in addition to those required by the existing AD; and

d. Increasing the sample size.

The FAA has reviewed and approved the revised SID and has determined that these revised procedures must be incorporated into the affected operators' SID programs in order to provide an acceptable level of confidence that cracks in PSE's do not exist in the fleet.

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 supersede AD 87–14–07 R1 to require additional visual inspections of all airplanes listed in the SID planning data at least once during each inspection interval, a revision of the reporting form and requirements, and an increase in the sample size. The actions would be required to be accomplished in accordance with the revised SID described previously.

There are approximately 920 Model DC–9 series airplanes and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 586 airplanes of U.S. registry and 19 U.S. operators would be affected by this proposed AD. Incorporation of the SID program into an operator's maintenance program, as required by AD 87–14–07 R1, is estimated to necessitate 1,000 work hours (per operator), at an average labor cost of $55 per work hour. Based on these figures, the cost to the 19 affected U.S. operators to incorporate the SID program is estimated to be $1,045,000.

The incorporation of the additional procedures proposed in this AD action would require approximately 62 additional work hours per operator to accomplish, at an average labor cost of $55 per work hour. Based on these figures, the cost to the 19 affected U.S. operators to incorporate these additional procedures into the SID program into an operator's maintenance program is estimated to be $64,790.

The recurring inspection costs, as required by AD 87–14–07 R1, is estimated to be 341 work hours per airplane per year, at an average labor cost of $55 per work hour. Based on these figures, the recurring inspection costs required by AD 87–14–07 R1 are estimated to be $18,755 per airplane, or $10,990,430 for the affected U.S. fleet.

The recurring inspection procedures added to the program by this proposed AD action would require approximately 21 additional work hours per airplane per year to accomplish. The average labor charge would be $55 per work hour. Based on these figures, the additional recurring inspection cost impact added by this AD on U.S. operators is estimated to be $1,155 per airplane, or $676,830 for the affected U.S. fleet.

Based on the above figures, the total cost impact of this AD is estimated to be $11,732,050 for the first year, and $11,667,260 for each year thereafter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6019 (53 FR 46866, November 21, 1988), and by adding a new airworthiness directive (AD), to read as follows:

McDonnell Douglas: Docket 93–NM–08–AD. Supersedes AD 87–14–07 R1, Amendment 39–6019.

Applicability: Model DC–9–10, –20, –30, –40, –50 series airplanes, and C–9 (Military) airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within one year after December 23, 1988 (the effective date of AD 87–14–07 R1, Amendment 39–6019), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection(s) of the Principal Structural Elements (PSE) defined in McDonnell Douglas Report No. L26–008, "DC–9 Supplemental Inspection Document (SID)," Section 2 of Volume I (All Series) of Revision 1, dated November 1987, in accordance with Section 2 of Volume III–87, dated November 1987, of the SID. The non-destructive inspection (NDI) techniques set forth in Section 2 of Volume II, dated November 1987, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph. All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III–87, dated November 1987, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Note: Volume II, dated November 1987, of the SID is comprised of the following:

Volume designation	Revision level shown on volume
Volume II–10/20	Original.
Volume II–20/30	1.
Volume II–40	Original.
Volume II–50	Original.

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD, with a revision that provides for inspection(s) of the PSE's defined in McDonnell Douglas Report No. L26–008, "DC–9 Supplemental Inspection Document (SID)," Section 2 of Volume I of Revision 3, dated April 1991, in accordance with Section 2 of Volume III–92, dated July 1992, of the SID. Visual inspections of all PSE's on airplanes listed in Volume III–92, dated July 1992, of the SID planning data, are required by the fleet leader-operator sampling (FLOS) program at least once during the interval between the start date (SDATE) and the end date (EDATE) established for each PSE. The visual inspections are defined in Section 3 of Volume II, dated April 1991, of the SID, and are required only for those airplanes that have not been inspected previously in accordance with Section 2 of Volume II, dated April 1991, of the SID. The NDI techniques set forth in Section 2 of Volume II, dated April 1991, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph. All inspection results (negative or positive) must

be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III–92, dated July 1992, of the SID. Information collection requirements contained in this regulation have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

Note: Volume II, dated April 1991, of the SID is comprised of the following:

Volume Designation	Revision level shown on volume
Volume II–10/20	3
Volume II–20/30	4
Volume II–40	3
Volume II–50	3

Note: NDI inspections accomplished in accordance with the following Volume II of the SID provide acceptable methods for accomplishing the inspections required by this paragraph:

Volume designation	Revision level	Date of revision
Volume II–10/20.	3	Apr. 1991.
Volume II–10/20.	2	Apr. 1990.
Volume II–10/20.	1	June 1989.
Volume II–10/20.	Original	Nov. 1987.
Volume II–20/30.	4	Apr. 1991.
Volume II–20/30.	3	Apr. 1990.
Volume II–20/30.	2	June 1989.
Volume II–20/30.	1	Nov. 1987.
Volume II–40	3	Apr. 1991.
Volume II–40	2	Apr. 1990.
Volume II–40	1	June 1989.
Volume II–40	Original	Nov. 1987.
Volume II–50	3	Apr. 1991.
Volume II–50	2	Apr. 1990.
Volume II–50	1	June 1989.
Volume II–50	Original	Nov. 1987.

(c) Any cracked structure detected during the inspections required by paragraph (a) or (b) of this AD must be repaired before further flight, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: Requests for approval of any PSE repair that would affect the FAA-approved maintenance inspection program that is required by this AD should include a damage tolerance assessment for that PSE.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles 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.

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

Issued in Renton, Washington, on March 23, 1993.

Darrell M. Pederson,

Acting Manager Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–7070 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–NM–176–AD]

Airworthiness Directives; Short Brothers Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Short Brothers Model SD3–60 series airplanes, equipped with certain main landing gear (MLG) actuators. This proposal would require replacement of certain MLG actuators. This proposal is prompted by a report of a malformed radius on the locking segment slots in the piston rod of the MLG actuators. The actions specified by the proposed AD are intended to prevent failure of the MLG actuator to unlock, which would prevent the extension of the MLG.

DATES: Comments must be received by May 24, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–176–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 Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–176–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–176–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain Short Brothers Model SD3–60 series airplanes. The CAA advises that it has recently received a report of a malformed radius on the locking segment slots in the piston rod of the main landing gear (MLG) actuator. The radius is located on the rear edge furthest from the seal groove of the four slots that house the locking segments. Damage to the rear edge radius could

result in the locking segments tipping within the slots and subsequently preventing the actuator from unlocking, which would prevent the extension of the MLG.

Dowty Aerospace Gloucester Limited has issued Dowty Aerospace Hydraulics-Cheltenham Service Bulletin 32–69SD, Revision 2, dated January 20, 1993, that describes procedures for replacement of certain MLG actuators having part number 104796004. The removed units are to be returned to Dowty Aerospace Hydraulics-Cheltenham, for production acceptance tests, disassembly, and inspection of the piston rod slots.

This airplane model is manufactured in United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of MLG actuators having part number 104796004 with a serviceable part. Since the malformed units were assembled in June 1986, all units from this batch are required to be replaced with serviceable units. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 6 actuators, installed on airplanes of U.S. registry, would be affected by this proposed AD, that it would take approximately 2 work hours per actuator to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided at no cost to the operator. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $660, or $110 per actuator.

The FAA has been advised that 5 of the 6 actuators have been replaced. Therefore, the future economic cost impact of this rule on U.S. operators is now only $110.

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:

Short Brothers, PLC: Docket 92–NM–176–AD.

Applicability: Model SD3–60 series airplanes; equipped with main landing gear (MLG) actuator part number (P/N) 104796004, having serial number DRG/4729/86, DRG/4730/86, DRG/5057/86, DRG/5059/86, DRG/5060/86, or DRG/5061/86; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the MLG actuator to unlock, which would prevent the extension of the MLG, accomplish the following:

(a) Within 6 months after the effective date of this AD, replace the MLG actuator with a serviceable actuator that is marked "32–69SD" in accordance with Dowty Aerospace Hydraulics-Cheltenham Service Bulletin 32–69SD, Revision 2, dated January 20, 1993.

(b) As of the effective date of this AD, no person shall install on any airplane a MLG actuator P/N 104796004, having serial number DRG/4729/86, DRG/4730/86, DRG/5057/86, DRG/5059/86, DRG/5060/86, or DRG/5061/86, that is not marked "32–69SD."

(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, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Standardization Branch, ANM–113.

(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 March 23, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–7071 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 93–ASO–3]

Proposed Establishment of Transition Area, Boca Raton, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish the Boca Raton, FL Transition Area. A standard instrument approach procedure (SIAP) has been developed to serve the Boca Raton Airport based on the Palm Beach VORTAC. This proposed action would lower the base of controlled airspace from 1200 feet to 700 feet above the surface in vicinity of the airport to provide additional controlled airspace for instrument flight rules (IFR) aeronautical operations. If approved, the operating status of the Boca Raton Airport will change from visual flight rules (VFR) only to include IFR operations concurrent with publication of the SIAP.

DATES: Comments must be received on or before: May 31, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 93–ASO–3, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone (404) 763–7646.

FOR FURTHER INFORMATION CONTACT: Armando Castro, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, view or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Boca Raton, FL Transition Area. A VOR/DME–A SIAP has been developed to serve the Boca Raton Airport. This proposed action would lower the base of controlled airspace from 1200 feet to 700 feet above the surface in vicinity of the airport for IFR aeronautical operations. If approved, the operating status of the airport would change from VFR only to include IFR operations concurrent with publication of the SIAP. The coordinates for this airspace docket are based on North American Datum 83. Transition areas are published in Section 71.181 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The transition area listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.181 Designation

* * * * *

ASO FL TA Boca Raton, FL
Boca Raton Airport, FL
(lat. 26°22'44" N., long. 80°06'26" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Boca Raton Airport, excluding that airspace within the Pompano Beach, FL Transition Area.

* * * * *

Issued in East Point, Georgia, on March 15, 1993.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 93–7097 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–205A]

RIN 1218 AA40

Safety Standards for Scaffolds Used in the Construction Industry

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed Rule; Limited reopening of rulemaking record.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reopening its record on the proposed standard for scaffolds used in the construction industry (subpart L) (51 FR 42680, November 26, 1986) in order to solicit comments on the issues specified herein.

First, the Agency believes, based on comments received in this rulemaking, that additional public comment regarding fall protection and safe means of access for employees erecting or dismantling scaffolds will better enable OSHA to determine what can be done to protect such employees.

Second, the Agency is reopening the record to add information on guardrail systems that incorporate crossbraces. The Agency believes that this

information is relevant to OSHA's decision regarding the extent to which crossbraces may be used as members in guardrail systems. Therefore, it is appropriate to provide an opportunity for public comment on this information.

Third, the Agency is reopening the record to seek information concerning a type of scaffolding (called chimney bracket scaffolds) used in demolishing, repairing, and erecting chimneys, stacks, and similar structures.

OSHA will consider the information and comments elicited by this limited reopening of the record before the Agency finalizes its revisions of the scaffold regulations.

DATES: Written comments on these issues must be postmarked by May 28, 1993.

ADDRESSES: Written comments on the data described below should be submitted in quadruplicate to the Docket Office, Docket No. S–205A, Occupational Safety and Health Administration, Room N–2634, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. Comments and information received may be inspected and copied in the Docket Office.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N–3647, 200 Constitution Ave., NW., Washington, DC 20210, 202–523–8151.

SUPPLEMENTARY INFORMATION: On November 26, 1986, OSHA published a Notice of Proposed Rulemaking (NPRM) on Safety Standards for Scaffolds Used in the Construction Industry (subpart L) (51 FR 42680). The NPRM established a 90-day period, which ended February 23, 1987, during which interested parties could submit written comments or request a hearing regarding the proposal. Several commenters requested an extension of the written comment period based on the complexity of the issues presented. On February 26, 1987, OSHA published a notice (52 FR 5790) extending the comment period to June 1, 1987. Several commenters requested an additional extension of the deadline for the submission of written comments, again because of the complexity of the issues presented. In order to afford the fullest opportunity for the public to comment on the proposal, OSHA extended the comment period a second time to August 14, 1987 (52 FR 20616, June 2, 1987).

In response to the NPRM, OSHA received several requests for a public hearing. Accordingly, pursuant to section 6(b)(3) of the OSH Act, OSHA published a notice of informal public hearing on January 26, 1988 (53 FR 2048). The hearing was held on March 22, 1988, with Administrative Law Judge Joel Williams presiding.

At the close of the hearing, Judge Williams set a period, ending May 9, 1988, for the submission of additional comments and information. On August 11, 1988, Judge Williams certified the rulemaking record, including the hearing transcript and all written submissions to the docket, thereby closing the hearing record for this proceeding.

As discussed below, OSHA has decided to reopen the rulemaking record to receive comments, with supporting information, on the following subjects: the proposed exemption from fall protection requirements and access requirements for employees erecting or dismantling scaffolds; the use of crossbracing in guardrail systems; and the fall protection required for employees working on chimney bracket scaffolds, as well as the requirements for the construction and use of chimney bracket scaffolds.

Fall Protection for Employees Erecting or Dismantling Scaffolds

Proposed paragraph § 1926.451(e)(1) exempted employees from the proposed subpart L fall protection requirements while erecting or dismantling scaffolds. In Issue 8 of the NPRM, OSHA asked whether this proposed exemption should apply to the erection and dismantling of supported scaffolds, but not to suspended scaffolds. While noting that there often is no place on a supported scaffold to which a body belt or body harness system can be attached during scaffold erection or dismantling, the Agency observed that suspended scaffolds are often located so that droplines can be conveniently used to tie-off employees during such operations.

OSHA notes that, while Issue 8 did not explicitly call into question the proposed paragraph (e) exemption for the erection or dismantling of supported scaffolds, several commenters addressed that subject and the need, in general, to protect scaffold erectors and dismantlers from fall hazards. For example, three commenters (Exs. 2–43, 2–45, and 2–497) stated that fall protection should be required during all scaffold erection and dismantling operations. One of these commenters (Ex. 2–45) stated that many structures provide overhead anchorages to which lifelines can be connected to allow vertical and horizontal movement. This commenter added that, during the erection of scaffolds, stone masons use light outrigger scaffold sections on the long sides. These section have guardrails, and can be pushed up the vertical scaffold poles before the employees who erect the scaffolds are exposed to fall hazards at a higher level. (Ex. 2–497) stated that lifelines or perimeter guardrails can be provided even when no overhead anchorage is apparent. The same commenter added that "a bucket truck, manlift or other elevating platform can be used to install lifelines without a fall hazard." The third commenter (Ex. 2–43) stated that "if a fall hazard exists, lifelines or some other fall arrest system should be in place."

In addition, some commenters (Exs. 2–3, 2–12, 2–21 and 2–53) stated that employees erecting or dismantling all types of scaffolds should be exempted from the proposed fall protection requirements of Subpart L. For example, one commenter (Ex. 2–12) stated that fall protection should not be required because, "We have experienced no injuries during this operation. I feel in many instances that certain types of fall protection may actually increase accidents." Another commenter stated that fall protection "would be detrimental to employee safety" because "It would be difficult to attach safety ropes to secure object(s) in most cases, as well as hindering the necessary movement of employees. This practice, if approved, would add a significant cost to all masonry projects." OSHA notes that the factors raised by these commenters apply only when supported scaffolds, not suspended scaffolds, are being erected or dismantled.

Also, four commenters (Exs. 2–29, 2–54, 2–57, and 2–70) indicated that fall protection should be provided where feasible during the erection and dismantling of supported scaffolds. One of these commenters (Ex. 2–57) added that some supported scaffolds can be rigged to provide integral fall protection without undue encumbrance of the work. However, the commenter provided no examples. The same commenter indicated that a broad exemption from fall protection requirements during the erection and dismantling of supported scaffolds would reduce the protection of employees and would discourage future technological developments in this area. An additional commenter (Ex. 2–516) stated that fall protection should be provided unless it creates a greater hazard.

Other commenters (Exs. 2–3, 2–9, 2–15, 2–22, 2–30, 2–69, 2–367, 2–368) indicated that the proposed exemption should apply to supported scaffolds. The SIA (Ex. 2–368) stated that

"individuals erecting or dismantling supported scaffolds do not require fall protection during erection and dismantling." The Scaffolding, Shoring and Forming Institute (SSFI) (Ex. 2–367) stated that safety belts should not be required during the erection and dismantling of supported scaffolds because "there is no appropriate area for safe tie-off, and drop lines would become entangled in the scaffold during the climbing and moving procedures and could pull the erector off the scaffold."

Several commenters (Exs. 2–13, 2–15, 2–29, 2–30, 2–69 and 2–70) stated that the proposed exemption should not apply to suspended scaffolds. For example, one commenter (Ex. 2–13) stated "Persons rigging any suspended scaffold should be protected from the hazard of falling." Another commenter (Ex. 2–29) stated "The regulation should state that fall protection should * * * always be provided when erecting or dismantling suspended scaffolds."

In addition, Department of Labor personnel met (Ex. 18) with representatives of the scaffold industry on May 7, 1992, to discuss the proposed exemption from the proposed fall protection requirements for employees erecting or dismantling scaffolds. The industry representatives stated that it was unnecessary and infeasible to provide fall protection for employees erecting or dismantling scaffolds.

The Agency believes that the input received in response to Issue 8 raises questions about the need for an exemption from fall protection requirements during the erection or dismantling of supported or suspended scaffolds. Therefore, OSHA has reopened the rulemaking, placed the pertinent submissions described below in the record, and has set a comment period for the purpose of receiving comments from interested parties.

Exhibits

[Ex. 18] Record of May 7, 1992, meeting between Department of Labor representatives and scaffold industry representatives. One page with attachment. The industry representatives were D. Victor Saleeby of the Scaffold Industry Association, Joe Puccinelli of Safway Steel Products, and Richard C. Mocny of Patent Scaffolding Co.

The industry representatives stated that providing fall protection for scaffold erectors and dismantlers is neither necessary nor feasible. They provided a document (the attachment) which contained data on the speed of a free-falling body at various fall distances, the amount of time a free-falling body takes to fall various distances, the fall arrest forces on a web lanyard (with and without a shock absorber) for a 220 pound weight falling 6 feet, and the data from two load tests of catenary wire ropes.

[Ex. 19] "Scaffold Erection Fall Arrest Experiments 5/91 & 1/92" (Videotape) from Safway Steel Products (cover letter and tape).

This video tape shows several experiments in which weights were attached to free-standing mobile scaffolds. When the weights were dropped to simulate a falling body, the scaffolds tipped over.

[Ex. 20] State of Washington, Washington Annotated Code WAC 296–155–24510. This regulation requires that employees exposed to a fall hazard of 10 feet or more be protected by fall restraint or fall arrest systems. December 24, 1991.

[Ex. 21] Scaffold Industry Association (SIA) remarks to the Fall Protection Subcommittee of the Construction Advisory Committee for the State of Washington on February 20, 1992, with four attachments providing background information. Thirty-one pages, February, 1992. The SIA ascribed most falls from scaffolds to misuse of equipment, unauthorized alteration of the equipment (particularly removal of guardrail systems), failure to follow safety standards, and lack of training. The SIA stated that the problem of falls from scaffolds lies with users, not with trained scaffold erectors.

The SIA also discussed existing standards, case law, and industry practice. In particular, the SIA stated that requiring tie-off of scaffold erectors is not practical or feasible, will create greater hazards, and is not justified by accident statistics.

The text describes tests performed in which scaffolds were toppled when weights attached by lanyards to free standing rolling scaffold towers were dropped to simulate a falling person.

Attachment A:

An SIA analysis of a Bureau of Labor Statistics survey of scaffold accidents. Regarding Attachment A, the SIA noted, "None of the accidents involved fatalities among 'caffold erectors'."

Attachment B:

An SIA analysis of a survey by the Division of Labor Statistics and Research, State of California, of 114 scaffold fatalities from January, 1964, through June, 1974. Regarding Attachment B, the SIA noted, "None of these accidents were reported as involving scaffold erectors."

Attachment C:

The SIA surveyed its estimated 150 members engaged in the erection and dismantling of scaffolds in order to determine if they had experienced falls by scaffold erectors from 1985 through 1989. Seventy-four members (representing approximately 180 locations) responded. Regarding Attachment C, the SIA noted that a number of the responders were unable to provide information for the earlier years. This survey shows 35 falls and 2 fatalities over the five-year period during which employees worked 10,238,000 hours.

Attachment D:

This is the February 1987 issue of the SIA Newsletter. Photographs on pages 1 and 3 show workers installing scaffolding on the Statue of Liberty without fall protection. Regarding this attachment, the SIA stated that fall protection was not provided or required and that the project was completed without injury to any scaffold erectors.

[Ex. 22] State of Washington, Department of Labor and Industries, Division of Industrial Safety and Health. Cover letter dated June 8, 1992, and minutes of the February 20, 1992, meeting of the State's Construction Advisory Committee's Fall Protection Subcommittee.

The Division of Occupational Safety and Health informed the Subcommittee that the Division would enforce its fall protection standard (see Ex. 20, above) on all employers in the construction industry including those whose employees erect and dismantle scaffolds, except where the employer can demonstrate either that providing fall protection is infeasible or that compliance with the standard creates a hazard greater than that created by non-compliance. The minutes also described efforts by the Division to determine when scaffold industry compliance with the fall protection standard would be infeasible or would pose a greater hazard than non-compliance.

[Ex. 23] OSHA's Office of Management Data Systems, Integrated Management Information System. Abstracts of reports of 42 accidents involving falls during erection or dismantling of supported scaffolds from April 1984 to November 1992. December 10, 1992. OSHA notes that 16 of those accidents resulted in fatalities.

Request for Comments

While OSHA acknowledges that there may be instances where employees erecting or dismantling supported scaffolds cannot be protected from fall hazards, the Agency is considering if, based on the available information, it is appropriate to retain or modify the proposed exemption from fall protection requirements during the erection or

dismantling of supported scaffolds. In particular, the Agency notes that, even without the proposed exemption, employers have the opportunity to raise "impossibility of compliance" and "greater hazard" as defenses against citations for violations of § 1926.451(e). As regards the erection and dismantling of suspended scaffolds, OSHA believes that the rulemaking record supports revision of proposed § 1926.451(e)(1) to remove the proposed exemption.

Accordingly, OSHA requests public comment including supporting information (such as current accident, economic, and engineering data) regarding the following questions:

(1) Should the Agency require employers to provide fall protection for employees erecting or dismantling supported scaffolds, except where the employer can demonstrate that it is not practicable or that it would create a greater hazard than would be created by not providing fall protection?

(2) To what extent are employers able to provide fall protection for employees erecting or dismantling supported or suspended scaffolds?

(3) What procedures and equipment are used to protect employees from fall hazards during the erection or dismantling of supported or suspended scaffolds?

(4) How would the use of fall protection affect the mobility of employees engaged in erecting or dismantling supported or suspended scaffolds?

(5) Would compliance with the proposed fall protection requirement create hazards for employees erecting or dismantling scaffolds? If so, what are those hazards and how could they be prevented?

(6) What criteria should an employer consider in determining if providing fall protection to employees erecting or dismantling supported scaffolds is impracticable or would create a greater hazard than erecting or dismantling supported scaffolds without fall protection? For example, to what extent should the following factors be considered: lack of a structure above or adjacent to the scaffold; height, length, or width of the scaffold, number of employees exposed, duration of employee exposure, and the erection or dismantling procedures followed? Please submit comments and suggestions, with supporting information, regarding any factors that OSHA should consider in drafting the final rule.

(7) If OSHA required employers to provide fall protection, except where it was infeasible or created a greater hazard, what should employers be required to demonstrate in support of their decisions regarding the feasibility of providing fall protection for employees erecting or dismantling scaffolds?

(8) If the Agency retains the proposed exemption from the fall protection requirements for employees erecting or dismantling supported scaffolds, would measures such as fully planking sections on which employees must stand or providing stairway-type ladders inside the scaffold reduce employee exposure to fall hazards?

(9) Should OSHA require fall protection for employees on those sections of supported scaffolds, such as the top level of a multi-level scaffold, that are not being erected or dismantled, while retaining the proposed exemption only for those particular sections that are being erected or dismantled at a particular time?

(10) What would be the impact if OSHA revised § 1926.451(e)(1) to require that employers protect employees erecting or dismantling suspended scaffolds from fall hazards. Please submit supporting information for any comments or suggestions.

Access Requirements for Employees Erecting or Dismantling Scaffolds

Proposed § 1926.451(c) would require that access to and between scaffold platforms more than 2 feet (0.6 m) above or below the point of access be by portable ladders, hook-on ladders, attachable ladders, stairway-type ladders (such as ladder stands), ramps, runways, integral prefabricated scaffold rungs, or equivalent means, or by direct access from another scaffold, structure, personnel hoist, or similar surface. A note to proposed § 1926.451(c) exempted employees erecting or dismantling scaffolds from the proposed access requirements, because OSHA believed at that time that compliance with those proposed requirements would often be infeasible, due to a lack of proper bracing, where a scaffold was being erected or disassembled.

However, OSHA now believes that the concerns raised regarding the proposed exemption from the proposed fall protection requirements of employees erecting or dismantling scaffolds also apply to the proposed exemption from the proposed access requirements. For example, the Agency believes, based on the above-discussed comments received on Issue 8, that the proposed paragraph (c) exemption is unnecessary for employees erecting suspended scaffolds and will not always be necessary for employees erecting or dismantling supported scaffolds. OSHA solicits comments, with supporting information, on this issue.

Request for Comments

The Agency requests comments, including any supporting information (such as current accident, economic, and engineering data), on the following issues:

(1) Should OSHA revise § 1926.451(c) to require that employees erecting or dismantling suspended and/or supported scaffolds have access to and between scaffold platforms that complies with the provisions of proposed § 1926.451(c)?

(2) To what extent are employers able to provide safe access for employees erecting or dismantling supported or suspended scaffolds?

(3) What particular circumstances should OSHA consider in determining if the proposed exemption should be deleted in whole or in part?

(4) Would compliance with the proposed access requirement create hazards for employees erecting or dismantling scaffolds? If so, what are those hazards and how could they be prevented?

(5) If OSHA required employers to comply with the access requirements at all times except where it was infeasible or created a greater hazard, what should employers be required to demonstrate in support of their decisions regarding the feasibility of providing safe access for employees erecting or dismantling scaffolds?

Use of Crossbraces

The NPRM indicated situations where employers would be required to protect employees from fall hazards with guardrail systems. Proposed § 1926.451(e)(4) set guardrail installation criteria, including requirements for toprails and midrails. "Crossbraces" (defined by ANSI A10.8–1988, Scaffolding-Safety Requirements, as "Two diagonal scaffold members joined at their center to form an "X", used between frames or uprights, or both") were not included in the list of acceptable guardrail components. In Issue 13 of the NPRM, OSHA noted that the Scaffold Industry Association (SIA) and other groups supported, within limits, the use of crossbraces as an effective guardrail-type system. Therefore, OSHA requested public comment on the utility of crossbraces for fall protection.

To facilitate comment, Issue 13 presented several sets of criteria which could potentially be applied to crossbraces if they were used in guardrail systems. The criteria covered the height above the work surface at

which braces could cross and provide adequate fall protection in lieu of a midrail (20 to 31 inches or 20 to 30 inches); a toprail (39 to 49 inches, with brace ends no more than 54 inches apart); or in lieu of a midrail and toprail (30 to 48 inches, with brace ends no more than 54 inches apart). Issue 13 also indicated that even if crossbraces were otherwise permitted as guardrails, OSHA was considering whether they should not be permitted to be used in place of either a toprail or a midrail on the top level of any supported scaffold, and whether crossbracing should not be allowed in place of both a toprail and a midrail on the same level of a supported scaffold.

OSHA notes that the American National Standard for Construction and Demolition, Scaffolding Safety Requirements, ANSI A10.8–1988, allows the use of crossbracing in lieu of a midrail when the crossing point of two braces is at least 20 inches, but no more than 30 inches, above the platform (Section 4.5.5). In addition, the ANSI standard provides that crossbracing is acceptable as a guardrail system provided that the crossing point of two braces is between 31 and 48 inches above the work platform and the end points at each upright are no more than 54 inches apart (Section 4.5.6). The ANSI standard does not provide a rationale for the above-cited provisions.

Interested parties have continued to submit information on the use of crossbracing in guardrail systems, even though the record for this rulemaking was formally closed on August 11, 1989. OSHA believes that submissions received subsequent to the closing of the record contain information which would further the resolution of the crossbracing issue. Accordingly, the Agency has determined that it is in the public interest to consider those submissions and to allow the public an opportunity to comment on the contents of those submissions. Therefore, OSHA has reopened the rulemaking record, placed the pertinent submissions described below in the record, and has set a comment period for the purpose of receiving comments from interested parties. The submissions which have been received and inserted into the record are listed and briefly summarized below.

The Scaffold Industry Association (SIA) has stated (Ex. 2–368) that OSHA should permit employers to use crossbracing in lieu of guardrails on fabricated frame scaffolds since such scaffolds are designed to receive crossbracing, but not to receive standard guardrails.

OSHA notes that easily attachable guardrail systems which overcome any such problem are commercially available. For example, there is a system (Ex. 24) that consists of upright members which have connection points for guardrails at the standard heights. These upright members lock in place onto the upright members of the scaffold, leaving the connection points on the frame free for attaching crossbracing. Another system (Ex. 25) consists of guardrail panels which are supported by hooks placed over the horizontal frame members. A third system (Exs. 26 and 27) attaches the midrail to the crossbracing itself, while the toprail attaches to the scaffold uprights by the use of sleeves and also attaches to the crossbrace.

Exhibits

[Ex. 24] Waco Scaffolding and Equipment advertisement on page 13 of the Scaffolding Industry Association Newsletter of May, 1991. This advertisement depicts a scaffold guardrail system in which guardrail posts attach to scaffold uprights. According to the advertisement, this system provides fliplocks to accept both tubular and angle iron guardrails at 21 inches and 42 inches, eliminating the need to attach guardrails to the crossbrace connection points or to tie guardrails to the scaffold frame.

[Ex. 25] Safway Steel Products sectional scaffolding catalogue. 19 pages, undated. Various scaffold guardrail systems are depicted on page 10 of this catalogue. One of those systems attaches to scaffold horizontal members by use of hooks, eliminating the need to attach guardrails to the crossbrace connection points or to tie guardrails to the scaffold frame.

[Ex. 26] Letter and attachment dated October 6, 1989, from Donald E. Nail, Nail Safety Rails, to OSHA regarding a scaffold guardrail system invented by him.

Mr. Nail provided photographs, a drawing, and the patent documents of a scaffold guardrail system in which the toprail attaches to sleeves placed on the scaffold uprights. Each sleeve has a notch that allows it to receive one of the horizontal members connected to each upright. A tab allows each sleeve to be locked in place on a horizontal member. The toprail also attaches to one scaffold crossbrace member by a pivot connection. The midrail attaches directly to the scaffold crossbraces by sliding rings. Mr. Nail noted that, once the guardrails have been attached to a crossbrace assembly, the guardrails remain attached to the assembly in such a manner that they fold up with it for storage.

Mr. Nail noted that the toprail would automatically be positioned for installation after the crossbrace members have been secured during erection of the scaffolding, and actual installation of the toprail involves only placing the sleeves into engagement with the uprights and pivoting them to engage the horizontal members, thus locking the toprail into place. The midrail is automatically positioned as soon as the crossbrace members are connected during the assembly of the scaffolding.

[Ex. 27] Letter and attachment dated July 12, 1990, from Donald E. Nail, Nail Safety Rails. Mr. Nail states that an automatic safety guardrail for scaffolding would be economical and effective. The attachment is a brochure which addresses his automatic safety guardrail, and states that its benefits are as follow: "faster setup of scaffolds, saves money in labor, minimal investment, easy to store, meets OSHA's guidelines, safe work environment".

[Ex. 28] Memorandum from Frank Strasheim summarizing the recommendations of OSHA's Fall Protection Task Force meeting of November 7 and 8, 1989. Three pages, November 27, 1989.

The task force recommended that crossbracing not be accepted as a substitute for a standard guardrail system on scaffolding.

Request for Comments

The Agency requests comments, including any supporting information (such as current accident, economic, and engineering data), on the following issues:

(1) Are the Waco, Safway, or Nail supplemental rail systems feasible to use? Would they provide protection equivalent to that provided by guardrails that comply with proposed subpart L (conventional guardrails)?

(2) To what extent would the use of crossbraces alone provide fall protection equivalent to that provided through the use of either conventional guardrail systems or the supplemental rail systems described above?

(3) Should OSHA permit the use of crossbracing in lieu of a midrail on scaffolding provided that the crossing point of the two braces is at or between 31 inches and 20 inches above the work surface? If so, what should the maximum distance allowed between the end points of the crossbraces at each upright be?

(4) Should OSHA permit the use of crossbracing in lieu of midrails and toprails on scaffolding provided the

cross point of the two braces is at or between 48 inches and 30 inches above the work surface, and the end points of the crossbraces at each upright are not more than 54 inches apart?

(5) Should OSHA permit the use of crossbracing in lieu of a toprail provided the crossing point of the two braces is at or between 39 inches and 49 inches above the work surface, and the end points of the crossbraces at each upright are not more than 54 inches apart?

(6) Should OSHA permit the use of crossbraces in lieu of midrails provided the crossing point of the two braces is at or between 30 inches and 20 inches above the work surface? If so, what should the maximum distance allowed between the end points of the crossbraces at each upright be?

(7) To what extent would the implementation of configuration(s) or design(s) other than those noted above result in crossbracing that adequately protects employees from fall hazards? Please provide detailed descriptions, with supporting information, for any such configuration or design.

(8) Should OSHA prohibit the use of crossbracing in lieu of both a toprail and a midrail on the same level of a scaffold?

(9) Should OSHA prohibit the use of crossbraces in lieu of either a toprail or a midrail on intermediate levels of scaffolding?

(10) Should OSHA prohibit the use of crossbracing in lieu of either a toprail or a midrail on the top level of scaffolding?

Chimney Bracket Scaffolds

Chimney bracket scaffolds consist of platforms supported by brackets which are secured in place by one or more wire ropes placed in an approximately horizontal plane around the circumference of the structure and tensioned by a turnbuckle.

The Agency has recently received information (Exs. 31 and 32) which suggests that the protection of employees working from chimney bracket scaffolds may not be adequately addressed by proposed § 1926.451. For example, OSHA is concerned that proposed § 1926.451(e) may not adequately address chimney bracket scaffold fall hazards.

OSHA is considering whether or not it is necessary to promulgate specific fall protection requirements in Subpart L for protection of employees on chimney bracket scaffolds. The Agency is also considering whether or not it is appropriate to promulgate technical requirements for chimney bracket scaffolds that are more detailed than those proposed for scaffolds in general. Therefore, OSHA believes that it is appropriate to present a series of questions concerning these scaffolds, and to provide an opportunity for public comment on those questions. The record developed on these issues will be used by OSHA in evaluating the need for specific requirements in subpart L for chimney bracket scaffolds, and in determining what those requirements should be.

Exhibits

[Ex. 29] State of Washington, Washington Annotated Code WAC 296-155-485(26). This sets forth the State of Washington's requirements for "chimney, stack and tank bracket scaffolds". Two pages, December 24, 1991.

[Ex. 30] State of Alaska, Alaska Administrative Code, Construction Code, Subchapter 05, paragraph 120(b)(22). This sets forth the State of Alaska's requirements for "chimney and tank bracket scaffolds". Three pages, May 30, 1982.

[Ex. 31] International Chimney Corporation advertisement on page 21 of Demolition Age Magazine of March, 1992.

This advertisement includes a picture of an employee on a chimney bracket scaffold and a picture of other employees on a ladder that provides access to a chimney bracket scaffold.

[Ex. 32] OSHA's Office of Management Data Systems, Integrated Management Information System. Abstracts of reports of 2 accidents involving falls from chimney bracket scaffolds.

One fall occurred when a section of concrete being removed from a 250 foot tall smoke stack fell onto the chimney bracket scaffold, knocking the employee off the scaffold. The employee fell 250 feet to the ground. The other fall occurred when a section of a chimney bracket scaffold fell 46 feet while two employees were raising the safety rope. Neither employee was tied-off although safety belts were present on the scaffold.

Request for Comments

The Agency requests public comment on the following questions, including any supporting information (such as accident, economic, and engineering data), concerning chimney bracket scaffolds:

(1) During which construction activities are chimney bracket scaffolds used?

(2) What are the hazards that are presented by each of these applications?

(3) OSHA has characterized these scaffolds as suspension scaffolds. To what extent is that treatment appropriate?

(4) How are these scaffolds erected or dismantled?

(5) What hazards do employees face during the erection or dismantling of these scaffolds?

(6) To what extent is it feasible to provide fall protection for employees erecting or dismantling these scaffolds? How can such fall protection be provided? Should OSHA require the use of personal fall arrest systems for employees erecting or dismantling these scaffolds?

(7) What procedures are used to raise, lower, or adjust chimney bracket scaffolds?

(8) What hazards do employees face during the raising, lowering, or adjusting of these scaffolds?

(9) To what extent is it feasible to provide fall protection for employees raising, lowering, or adjusting these scaffolds? How can such fall protection be provided? Should OSHA require the use of personal fall arrest systems for these activities?

(10) OSHA is concerned that a fatal accident would be likely to occur if only one wire rope were used to secure the scaffold brackets and that rope were to fail. Should OSHA require that a minimum of two wire ropes be used for securing the brackets in place? Would one wire rope be sufficient if personal fall arrest systems were used?

(11) Should the use of personal fall arrest systems be required once these scaffolds have been secured in place for use, regardless of the number of wire ropes used to support the scaffold?

(12) Should the use of personal fall arrest systems be required, in addition to the use of guardrail systems, once these scaffolds have been secured in place for use?

(13) How can an adequate anchorage be provided for personal fall arrest systems? Should the anchorage be independent of the scaffold in all cases? Can an independent horizontal wire rope around the structure be used as such an anchorage?

(14) Does the number of wire ropes used to secure the brackets in place affect the need for the use of personal fall arrest systems? If so, how?

(15) Are there situations where the use of a personal fall arrest system is not feasible or would create a greater hazard than would arise if employees worked without personal fall arrest systems?

(16) Is it feasible to secure the brackets without using wire ropes? How?

(17) Should crossbracing be required to secure the brackets from lateral or rotational movement? How would

crossbraces be installed to secure the brackets?

(18) What should be the minimum strength requirements for the wire ropes and tensioning devices used to secure the brackets?

(19) What should be the minimum strength requirements for the structure which supports the scaffold?

(20) Should a competent person (as defined in § 1926.32(f)) be required to inspect the supporting structure before scaffold erection begins?

(21) Should a registered professional engineer be required to inspect the supporting structure before scaffold erection begins?

(22) How can employees working below these scaffolds be protected from falling objects?

(23) Should there be a limit on the size or weight of the material removed from the structure in one piece?

(24) Should there be a limit to the size or weight of the material dropped from the scaffold in one piece?

(25) How many different types of chimney bracket scaffolds are there? How do they differ? To what extent do responses to the preceding questions vary according to the type used?

(26) Are there other safety hazards which have not been addressed in the questions above? If yes, what are they, and how can they be abated?

References

A complete set of references is available for examining and copying at the OSHA Docket Office, Docket No. S–205A, Room N–2634, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

Public Participation

Written comments regarding the issues raised in this notice must be postmarked by [insert date 60 days from the date of publication in the Federal Register]. Four copies of these comments must be submitted to the Docket Office, Docket No. S–205A, U.S. Department of Labor, Occupational Safety and Health Administration, Room S–2634, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–7894. All materials submitted will be available for inspection and copying at the above address. Materials previously submitted to the Docket for the Subpart L rulemaking regarding the issues set forth in this notice need not be resubmitted.

Authority

This document was prepared under the direction of David C. Zeigler, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under Section 6(b) of the OSH Act (29 USC 655), Section 107 of CSA (40 USC 333), and 29 CFR part 1911.

Signed at Washington, DC, this 23rd day of March 1993.

David C. Zeigler,

Acting Assistant Secretary of Labor.

[FR Doc. 93–7063 Filed 3–26–93; 8:45 am]

BILLING CODE 4510–26–P

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29 CFR Part 1926

[Docket No. S–206A]

Safety Standards for Fall Protection in the Construction Industry

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Proposed Rule; Limited reopening of the rulemaking record for comments on precast concrete and residential construction issues.

SUMMARY: The Occupational Safety and Health Administration (OSHA) is reopening the comment period for written responses to OSHA's August 5, 1992, (57 FR 34656) limited reopening of the record on fall protection regarding the appropriate fall protection measures for employees engaged in precast concrete construction. Also, OSHA is seeking comments on new issues raised regarding fall protection in residential construction, with particular regard to framing activities.

DATES: Comments on the issues raised in the notice of reopening must be postmarked by May 28, 1993.

ADDRESSES: Comments are to be sent to the Docket Office, Docket No. S–206A, U.S. Department of Labor, room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Occupational Safety and Health Administration, U.S. Department of Labor, room N–3637, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 219–8148.

SUPPLEMENTARY INFORMATION:

I. Background

On November 25, 1986, OSHA proposed to revise the fall protection requirements for construction and to consolidate those provisions in subpart M of part 1926 (51 FR 42718). The Agency held informal public hearings regarding proposed subpart M on March 22–23, 1988, with Administrative Law Judge Joel Williams presiding. At the close of the hearings, Judge Williams set posthearing comment periods which ended on May 9, 1988. On August 11, 1989, the Administrative Law Judge certified the hearing record.

OSHA subsequently received letters from the Precast/Prestressed Concrete Institute (PCI) and Ryland Building Company (Ryland) which raised matters of concern that had not been raised during the public rulemaking process. The issues raised in the late submissions dealt with the appropriate fall protection measures for employees engaged in precast concrete and light residential construction activities. Following is a discussion of those issues, along with questions that solicit information regarding those issues.

Precast Concrete

Proposed subpart M required that employers protect employees from fall hazards primarily through the proper use of "conventional fall protection" (guardrails, safety nets or personal fall arrest systems). In the course of the subpart M rulemaking, OSHA received comments (Exs. 2–44, 2–106 and 2–107) from PCI, an organization representing the manufacturers of precast concrete building materials and both employers and employees in the precast concrete construction industry, which stated that employees who perform the initial connection of concrete structure components need more freedom of movement than the use of conventional fall protection would permit. One comment (Ex. 2–107) suggested that OSHA allow competent persons to monitor the initial connection of hollow core slabs and to warn the connectors of fall hazards, as provided in proposed §§ 1926.501(b)(2), 1926.501(b)(10) and 1926.502(h) for leading edge and built-up roofing work, in lieu of using conventional systems.

In response, OSHA included Issue M–2 in the Notice of informal public hearing for proposed subpart M (53 FR 2054, January 26, 1988), to describe the concerns raised by PCI and to solicit pertinent testimony and information. PCI and a member company, Concrete Erectors, Inc., presented testimony (Tr. 53–82 and 95–100, March 22, 1988) supporting the use of safety monitoring systems to protect precast connectors. PCI also submitted post-hearing comments (Exs. 17 and 19) that reiterated its concerns.

OSHA received several letters from PCI following the close of the subpart M rulemaking record. Those letters provided new information regarding the feasibility of conventional fall protection for precast connectors and suggested ways in which pre-planning

of the erection process could minimize fall hazards.

The Agency determined that it was in the public interest to consider the input from PCI and to allow the public an opportunity to comment on that input. Accordingly, on August 5, 1992, OSHA reopened the rulemaking record for proposed subpart M (57 FR 34656). The notice of limited reopening discussed the new PCI information and suggestions (Exs. 25–1 through 25–6) in detail. The notice also requested comments on the criteria OSHA was considering for precast concrete erectors who seek to establish that conventional fall protection systems would be infeasible for their operations and that they have implemented alternative fall protection measures which adequately protect employees from fall hazards.

The comment period, which ended on November 3, 1992, elicited 10 comments (Exs. 27–1 through 27–10). PCI, which represents employer and employee interests, has requested that OSHA reopen the rulemaking record again so that PCI and its members can more fully respond to the issues raised in the August 5, 1992 notice.

The Agency has determined that it is appropriate to allow additional time for PCI and other interested parties to submit comments, so that OSHA will have a more complete record upon which to base the final rule for subpart M. Therefore, the Agency is reopening the rulemaking record until May 28, 1993, to facilitate the submission of pertinent information and comments on the six issues raised in the August 5, 1992 notice.

Residential Construction

Issue 2 in the preamble to proposed subpart M (51 FR 42729) asked if there were areas or operations which have unique fall protection needs not addressed by the proposed rule. OSHA mentioned carpenters erecting roof trusses during house construction as a possible example. The Agency received no comments on that aspect of Issue 2 during the initial rulemaking period.

After the rulemaking record had closed, OSHA received a letter from Ryland stating that there are no feasible means of protecting employees erecting roof trusses and installing exterior wall panels from fall hazards. In a letter dated December 18, 1992, Ryland stated:

> In light residential construction, erecting roof trusses takes less than two hours on an average roof. The safety standards [§ 1926.104(b)] allow the use of a lifeline and safety belt but then requires that the lifeline be secured to an anchorage above the point of operation. There is no point above the point of operation when installing roof trusses or sheathing, other th[e]n the components being installed. The standards go on to require the anchorage point to withstand a minimum dead load of 5400 pounds[s]. The trusses used in residential construction are not stable enough or str[o]ng enough to meet this requirement.

Ryland also contended that the use of catch platforms, safety nets or scaffolds for roof truss erection would either be infeasible to accomplish or would expose employees to greater hazards for a longer time than would be the case if employers worked without fall protection. Ryland submitted its procedures for both manual and crane installation of roof trusses and the installation of roof sheathing.

OSHA notes that the requirements of proposed subpart M (§ 1926.502(d)(12)) differ from the above-cited requirements of existing § 1926.104(b). In particular, the proposed rule requires that "Body belt/harness systems be secured to anchorages capable of supporting at least twice the potential impact load of an employee's fall."

Regarding fall protection for employees installing exterior wall panels, Ryland stated:

> During the installation of panelized exterior walls the framers for a short time are exposed to a recognized fall hazard. The installation of a guardrail system would in most cases be done by the same employees that would be installing the exterior walls. This would only expose those employees to the same fall hazard three times instead of once. Normally in this type of residential construction the wall panels are installed as soon as the floor sheathing has been installed. The panels themselves become the fall protection after their installation. The installation of any other system would only expose these employees to greater risk. The best protection for employees in this area would be proper training on procedures and the recognition of the hazard.

OSHA believes that Ryland's letter raises issues that should be addressed in the final rule and that the public should have an opportunity to comment on the Ryland submission. Accordingly, the Agency has added the letter to the rulemaking record (Ex. 27–15) and is using this reopening to ask for comments, including any supporting information (such as current accident, economic and engineering data), on the following questions:

(1) What methods of providing fall protection are currently being used by builders to protect employees who are installing walls and erecting roof trusses. In particular, what protection is provided while employees are securing roof trusses to the walls and bracing the roof trusses? If personal fall arrest systems are being used (body belt/harness systems), what are contractors using for an anchorage point?

(2) To what extent is it feasible to protect employees erecting roof trusses (and in particular, when bracing trusses) or installing exterior wall panels from fall hazards through the use of conventional fall protection measures—guardrail systems, safety net systems, or personal fall arrest systems?

(3) If use of conventional fall protection measures is infeasible, to what extent could employers protect employees in residential construction from fall hazards through the implementation of a "fall protection plan" involving compliance with the proposed provisions for control zones (proposed § 1926.502(g)), warning lines (§ 1926.502(f)) or safety monitoring systems (§ 1926.502(h))? What modifications to those provisions, if any, would be necessary?

(4) Do residential construction employers currently use controlled access zones, warning lines or safety monitoring systems to protect employees from fall hazards? What are the costs or other impacts of implementing access restrictions?

(5) What load should an anchorage point be able to withstand for the use of personal fall arrest systems to be feasible in residential construction?

(6) To what extent could employees use ladders or scaffolds to minimize fall hazards while erecting roof trusses or installing exterior wall panels?

(7) What changes in work practices for residential construction would increase protection from fall hazards? For example, requiring a platform or flooring to be placed on the bottom chord of trusses to provide safer footing for the employee or to allow work to be performed from a ladder.

(8) What training and work practices should be required for employees who erect roof trusses or install exterior wall panels? Should such training or work practice requirements be allowed as an alternative for conventional fall protection measures? If yes, under what circumstances?

(9) To what extent could employees installing exterior wall panels be protected from fall hazards through the use of personal fall arrest systems with self-retracting lifelines or horizontal lifelines?

(10) Does the size of a residential construction company (e.g., the number of employees) affect the ability to provide conventional fall protection or to implement a fall protection plan? In what respects?

(11) How many residential structures requiring the erection of roof trusses and the installation of exterior wall panels

are built each year? What are the average number of employees, length of time, and contract value involved in the construction of various type of residential structures? To what extent are such "average" numbers representative of residential construction operations? Insofar as commenters believe that "averages" would not be representative, OSHA requests that those commenters submit project data which would enable the Agency to characterize industry operations accurately.

(12) To what extent do residential construction employers presently develop and implement fall protection plans for each worksite? To what extent do those employers develop generic fall protection plans to cover a number of worksites that have similar circumstances? What is the cost of developing and implementing such plans? What qualifications should the persons who design or implement fall protection plans have?

(13) To what extent do residential construction employers restrict access to areas which pose potential fall hazards? What means are used to restrict access?

(14) To what extent should the fall protection requirements for employees engaging in "residential construction" differ from the requirements for employees engaged in "commercial construction" activities? Should OSHA differentiate between "residential construction" and "light residential construction"? Please explain the basis for any suggested differentiation.

(15) How should OSHA define the term "residential construction" or "light residential construction" for purposes of its requirements if it is determined that different requirements should apply?

II. Public Participation

Comments

Written comments regarding the issues raised in this notice must be postmarked by May 28, 1993. Four copies of these comments must be submitted to the Docket Office, Docket No. S–206A, U.S. Department of Labor, room N–2634, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 219–7894. All materials submitted will be available for inspection and copying at the above address. Materials previously submitted to the Docket for the subpart M rulemaking regarding the issues set forth in this notice need not be resubmitted.

III. Authority.

This document was prepared under the direction of David C. Zeigler, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

It is issued under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), section 107 of the Construction Safety Act (40 U.S.C. 333), and 29 CFR part 1911.

Signed at Washington, DC, this 23rd day of March 1993.

David C. Zeigler,

Acting Assistant Secretary of Labor.

[FR Doc. 93–7062 Filed 3–26–93; 8:45 am]

BILLING CODE 4510–26–P

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AA80

Safety Standards for Operation and Maintenance of Machinery and Equipment in Underground Coal Mines

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Comment period; extension.

SUMMARY: At the request of the mining community, the Mine Safety and Health Administration (MSHA) is further extending the public comment period regarding the Agency's proposed rulemaking on the operation and maintenance of equipment in underground coal mines.

DATES: Written comments must be received on or before May 7, 1993.

ADDRESSES: Send comments to the Office of Standards, Regulations and Variances, MSHA Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, 703–235–1910.

SUPPLEMENTARY INFORMATION: On December 24, 1992, MSHA published a proposed rule (57 FR 61538) to revise its existing safety standard that applies to mechanical work on equipment in underground coal mines (30 CFR 75.1725(c)). The proposed revision would clarify that adding or removing conveyor belting is a maintenance activity covered by the standard. The comment period was scheduled to close on February 22, 1993. The Agency extended the comment period to March 26, 1993 (58 FR 9554) in response to requests from the mining community. The mining community has requested further opportunity for comment. Therefore, the Agency is extending the comment period to May 7, 1993. All interested parties are encouraged to submit comments prior to that date.

Dated: March 22, 1993.

Edward C. Hugler,

Acting Assistant Secretary for Mine Safety and Health.

[FR Doc. 93–7116 Filed 3–26–93; 8:45 am]

BILLING CODE 4510–43–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–4608–3]

Open Meeting on the Definition of Solid Waste and Hazardous Waste Recycling

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) is conducting a public meeting to develop options to revise the regulatory definition of solid waste under the Resource Conservation and Recovery Act (RCRA). The revisions are intended to simplify the regulations and to eliminate disincentives to recycling while maintaining full protection of human health and the environment. They also are intended to reduce any possible current underregulation of hazardous waste recycling. The meeting will include presentations by EPA and small group discussions among attendees. All interested parties are welcome to attend. Any person wishing to participate in small group discussions must respond by April 14, 1993 to Mr. K.C. Lincoln of ERM New England at (617) 742–8228 with the name of the organization and the number of participants. Written materials will be available after April 14. For information about obtaining a copy of these materials, call the RCRA Hotline at 1–800–424–9346 or 703–920–9810.

DATES: The meeting will take place on April 28, 1993 from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will take place at the Omni Shoreham Hotel at 2500 Calvert St., NW., Washington, DC 20008, (202) 234–0700.

FOR FURTHER INFORMATION CONTACT: For additional information on the meeting, please contact Marilyn Goode of EPA's Office of Solid Waste at (202) 260–8104.

Dated: March 24, 1993.

Deborah Dalton,

Deputy Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–7108 Filed 3–26–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–47, RM–8188]

Radio Broadcasting Services; Camden, Latta and Marion, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Winfas of Belhaven, Inc., seeking the substitution of Channel 232C3 for Channel 232A at Marion, South Carolina, the reallotment of Channel 232C3 from Marion to Latta, South Carolina, and the modification of Station WWPD's license to specify Latta as its community of license. Channel 232C3 would provide Latta with its first local aural transmission service. To accommodate the allotment of Channel 232C3 at Latta, Winfas of Belhaven also requests the substitution of Channel 274A for Channel 232A at Camden, South Carolina, and the modification of Station WPUB–FM's license to specify the alternate Class A channel. Channel 232C3 can be allotted to Latta in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.7 kilometers (6.6 miles) northwest to avoid a short-spacing to unoccupied but applied-for Channel 231A, Kingstree, South Carolina, and Station WZKB, Channel 232A, Wallace, North Carolina, at coordinates North Latitude 34–25–33 and West Longitude 79–29–57. Channel 274A can be allotted to Camden at Station WPUB–FM's licensed transmitter site, 7.8 kilometers (4.8 miles) southwest, at coordinates 34–13–31; 80–40–44.

DATES: Comments must be filed on or before May 13, 1993, and reply comments on or before May 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Gary S. Smithwick, Esq., Smithwick & Belendiuk, P.C., 1990 M Street, NW., suite 510, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–47, adopted February 25, 1993, and released March 23, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93–7043 Filed 3–26–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–49, RM–8193]

Radio Broadcasting Services; Los Lunas and Espanola, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Elliott McDowell seeking the substitution of Channel 273C for Channel 273C2 at Los Lunas, New Mexico, and the modification of Station KOYT to specify operation on the higher class channel. To accommodate the upgrade at Los Lunas, the Commission also proposes to substitute Channel 225C3 for Channel 272C3 at Espanola, New Mexico, and to modify of Station KIOT's license to specify the alternate Class C3 channel. Channel 273C can be allotted to Los Lunas in compliance with the Commission's minimum distance separation requirements with a site restriction of 51.8 kilometers (32.2 miles) northeast to accommodate petitioner's desired transmitter site, at coordinates North Latitude 35–12–42 and West Longitude 106–26–57. Channel 225C3 can be allotted to Espanola with a site restriction of 16.2 kilometers (10.1 miles) northeast to avoid short-spacings to Stations KRST, Channel 222C, KKOB–FM, Channel 227C, Albuquerque, and KRWN, Channel 225C1, Farmington, New Mexico, at coordinates 36–04–41; 105–56–16. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in the use of Channel 273C at Los Lunas or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before May 13, 1993, and reply comments on or before May 28, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Barry D. Wood, Esq., Jones, Waldo, Holbrook & McDonough, P.C., 2300 M Street, NW., Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–49, adopted March 2, 1993, and released March 23, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 93-7044 Filed 3-26-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216, 218 and 222

[Docket No. 920 106-2006]

RIN 0648-AD30

Approaching Marine Mammals

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

ACTION: Withdrawal of proposed rule.

SUMMARY: NMFS announces that it is withdrawing its proposed regulations and guidelines for approaching marine mammals.

FOR FURTHER INFORMATION CONTACT: Patricia Montanio, Acting Division Chief, Protected Species Management Division, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: On August 3, 1992, NMFS published proposed regulations (57 FR 34101) and draft guidelines (57 FR 34121) that would provide greater protection for marine mammals by specifying, among other actions, minimum distances that people, vessels and aircraft should maintain from these animals to avoid harming them. To provide opportunity for public response to these proposals, NMFS conducted 10 public hearings and extended the comment period to December 31, 1992 (57 FR 47606).

Because NMFS intends both to conduct a comprehensive evaluation of the numerous comments received and to consider alternatives for addressing the problem of close approach of marine mammals by vessels/persons, it is withdrawing the proposed regulations. If the alternative selected by NMFS involves rulemaking, a new proposed rule will be published in the **Federal Register.**

Authority: 16 U.S.C. 1361-1407 and 1531-1543.

Dated: March 18, 1993.

Nancy Foster,

Acting Assistant Administrator for Fisheries.

[FR Doc. 93-7038 Filed 3-26-93; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 625

Mid-Atlantic Fishery Management Council; Public Hearing

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearing on Amendment 4 to the Fishery Management Plan for the Summer Flounder Fishery.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold a public hearing to allow for input on Amendment 4 to the Fishery Management Plan for the Summer Flounder Fishery.

(FMP). Amendment 4 is intended to amend commercial landings data for summer flounder in the State of Connecticut which would result in revised quotas.

DATES: Written comments will be accepted until 12 April 1993.

The hearing will be held on April 13, 1993 at 7 p.m.

ADDRESSES: Send comments to John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, DE 19901.

The hearing will be held at the Grand Hotel, Oceanfront and Philadelphia Ave., Cape May, NJ 08204.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, (302) 674-2331).

SUPPLEMENTARY INFORMATION: Amendment 2 to the FMP, as adopted by the Council and approved by NMFS, included a formula to allocate the commercial summer flounder quota to the states based on their share of commercial landings for the period 1980-1989. Subsequent to approval and implementation of Amendment 2, the member states of the Atlantic States Marine Fisheries Commission (ASMFC) agreed there was underreporting from the early to mid-1980's of Connecticut's commercial landings. The underreporting was due in part to Connecticut's inability to collect data and to the absence of any NMFS port agents. Amendment 4, requested by the ASMFC, would result in a proxy for underreported landings in the State of Connecticut, which would result in revised quotas. The current and revised quota shares, by state, are shown in the following table:

STATE-SPECIFIC QUOTA SHARES (PERCENT) BASED ON CURRENT AND AMENDED LANDINGS DATA

State	Current	Amended	Difference
ME	0.0482	0.0476	-0.0006
NH	0.0005	0.0005	0
MA	6.9111	6.8205	- 0.0906
RI	15.8914	15.6830	-0.2084
CT	0.9532	2.2571	+1.3039
NY	7.7486	7.6470	-0.1016
NJ	16.9473	16.7250	-0.2223
DE	0.0180	0.0178	-0.0002
MD	2.0662	2.0391	-0.0271
VA	21.6001	21.3168	-0.2833
NC	27.8155	27.4458	-0.3697

Source: CT Departmental Memo 11/6/92.

The public hearing is scheduled for 13 April 1993, at the Grand Hotel, Oceanfront and Philadelphia Avenue, Cape May, NJ 08204. The hearing will begin at 7 p.m. and will be tape recorded, with the tapes filed as the official transcript of the hearing.

Dated: March 19, 1993.

David S. Crestin,

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

[FR Doc. 93-6994 Filed 3-26-93; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 58, No. 58
Monday, March 29, 1993

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

Animal and Plant Health Inspection Service

[Docket No. 92-190-3]

Animal Damage Control Program; Availability of Supplement to the Draft Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: We are extending the time period for the public to comment on a supplement to the draft environmental impact statement (EIS) for the Animal Damage Control program. The draft EIS, prepared in June 1990, evaluated environmental impacts associated with wildlife damage control activities. This extension will provide interested persons with additional time to prepare and submit written comments.

FOR FURTHER INFORMATION CONTACT: Mr. William Clay, Director, Operational Support Staff, Animal Damage Control, APHIS, USDA, room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8281.

DATES: Consideration will be given only to comments received on or before April 28, 1993.

ADDRESSES: Please send an original and three copies of your comments to William Clay, Director, Operational Support Staff, Animal Damage Control, APHIS, USDA, room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 92-190-2. 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. Persons wishing to inspect comments are encouraged to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

Copies of the supplement to the draft environmental impact statement (EIS) are available for review at the following locations: 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; Operational Support Staff, Animal Damage Control, APHIS, USDA, room 819, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; Denver Wildlife Research Center, Building 16, Denver Federal Center, Denver, CO 80225; Eastern Regional Office, Animal Damage Control, APHIS, USDA, Suite 370, 7000 Executive Center Drive, Brentwood, TN 37027; and Western Regional Office, Animal Damage Control, APHIS, USDA, 12345 W. Alameda Parkway, Suite 313, Lakewood, CO 80228. Written requests for copies can be sent to Mr. William Clay at the address provided under "FOR FURTHER INFORMATION CONTACT."

SUPPLEMENTARY INFORMATION:

Background

Animal Damage Control (ADC) of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, in cooperation with the Bureau of Land Management of the U.S. Department of the Interior, and the Forest Service of the U.S. Department of Agriculture, is preparing an EIS for the ADC program.

On February 12, 1993, we published in the **Federal Register** (58 FR 8252, Docket No. 92-190-2) a notice advising the public that we had prepared a supplement to the draft EIS for the ADC program. We requested public comment on the supplement to the draft EIS. Comments were due on or before March 29, 1993.

Because of the size and complexity of the document, and in response to a number of requests, we are extending the comment period for our notice, Docket No. 92-190-2, for 30 days. We will consider all written comments on the supplement to the draft EIS that are received on or before April 28, 1993. This action will give interested persons additional time to prepare and submit comments.

It has come to our attention that certain information provided in the supplement to the draft EIS requires clarification or correction.

Specifically, Appendix N ("responses to comments," page N-23), contains a statement that ADC has accepted a 24-hour trap check. This is true only in States that require this mitigation. It is ADC policy that traps will be checked as often as possible, but no less often than required under State law. Appendix N (page N-41) also contains the erroneous statement that ADC will establish minimum husbandry requirements before providing services. This is identified as a "potential" mitigation in chapter 5.

Further, the amounts in Tables 3-18 and 3-19 are in dollars, not thousands of dollars. In Table I-1, the "Destroyed" and "Released" columns are reversed.

Done in Washington, DC, this 23rd day of March 1993.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93-7111 Filed 3-26-93; 8:45 am]

BILLING CODE 3410-34-P

[Docket No. 92-110-3]

Veterinary Services Programmatic Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are announcing the final scope of study for a programmatic environmental impact statement to be prepared for our Veterinary Services Program. Following a review of comments to an earlier notice of scope of study, we have determined to expand the scope of study to include an additional program activity area.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Sweeney, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 828, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8565; or Dr. Harless McDaniel, Veterinary Services, APHIS, USDA, room 268, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7207.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture, intends to prepare a programmatic environmental impact statement (PEIS) on the

Veterinary Services Program. We are preparing the environmental document for the following reasons: (1) To enable the agency to take an overall look at important environmental issues associated with the delivery of essential services in an ongoing Veterinary Services Program; (2) to explore less environmentally stressful strategies and means for delivering those essential services; and (3) to establish procedures that will enable us to respond to future site-specific needs for services in a way that is in compliance with all applicable laws. Many actions associated with the delivery of essential services in an ongoing Veterinary Services Program are of an emergency nature requiring immediate attention.

A Notice of Intent was published in the **Federal Register** on July 23, 1992 (57 FR 32771–32772, Docket No. 92–110–1), and a notice of the proposed scope of study was published in the **Federal Register** on October 9, 1992 (57 FR 46532–46534, Docket No. 92–110–2). In response to the scoping notice, we received more than a dozen comments by the requested November 23, 1992, deadline. We have fully considered the information, views, and suggestions contained in these comments, and they have prompted us to expand the previously published scope of study.

Program Activities

The initial scoping notice identified several program activity areas designed to deal with communicable diseases of livestock and poultry that had the potential to affect environmental quality. These included disease prevention and surveillance practices, as well as disease eradication and control strategies. We are adding laboratory and operational facilities as another program activity area. These laboratory and operational facilities also support other program activities but are sufficiently distinct for purposes of this inquiry to warrant separate consideration.

The PEIS need not develop at length each of the program activity areas identified above, at least from the standpoint of the potential to affect environmental quality. The program activity itself does not have the potential to affect environmental quality; rather, it is the strategies and means used to achieve each activity's objective that require evaluation under the National Environmental Policy Act (NEPA). For example, pesticides and chemicals may be used in several different program activity areas, including prevention, eradication, and control. It is appropriate in the context of a PEIS to examine such programmatic tools that have the potential to adversely affect environmental quality, as well as alternative means that would reduce or avoid such a potential or that would affect the environment in a somewhat different manner.

Issues

Listed below are the major impact-generating issues that will be developed at length in the PEIS.

(1) Pesticides and other chemical agents—

• Availability, use, storage, and disposal.

• Alternatives that would avoid or reduce reliance on and/or risks associated with pesticides and chemical agents.

• Consistency with Federal, State, or local laws or requirements imposed for the protection of the environment.

(2) Depopulation, including disposal of carcasses, contaminated manure, and debris—

• Available alternatives.

• Consistency with Federal, State, or local laws or requirements imposed for the protection of the environment.

(3) Future site-specific activities—

• Defining the timeframe of need for program delivery, especially in "emergency" situations.

• Establishing a procedural mechanism that will meet the timeframe of need and satisfy applicable environmental review requirements to the fullest extent possible and be consistent with Federal, State, or local laws or requirements imposed for the protection of the environment.

(4) Laboratory and operational facilities—

• Compliance with E.O. 12088 (Federal compliance with pollution control standards).

Other issues that will be considered in the PEIS include the following:

(1) Potential for the transmission of diseases between domestic animals and wildlife;

(2) Executive Order No. 11987 (Exotic organisms);

(3) Mitigation; and

(4) Compatibility of available technologies with environmental quality objectives.

Although area or regional "scoping" meetings have been requested, no issues have been referred to us that have not been adequately developed and treated on the basis of the written record. Accordingly, we are not planning to hold any scoping meetings. The public will have another opportunity to address issues and analyses when the draft PEIS is issued. Notice of the availability of that document and an invitation to comment will be published in a subsequent **Federal Register**.

This notice is issued in accordance with: (1) NEPA (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Done in Washington, DC, this 23rd day of March 1993.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 93–7110 Filed 3–26–93; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: DOC—(Administration).

Title: Solicitations: Request for Proposals (RFP) or Invitation for Bids (IFB).

Agency Form Number: Standard Form 33 revised for DOC.

OMB Approval Number: 0605–0010.

Type of Request: Reinstatement.

Burden: 108,000 hours.

Number of Respondents: 2,700.

Avg Hours Per Response: 40 hours.

Needs and Uses: Solicitations are used to request offers to compete for a DOC contract. Federal law requires that solicitations be distributed to the widest number of potential sources. The forms and format of the solicitations are required by the Federal Acquisition Regulation (FAR), the government-wide acquisition regulation required to be followed by all Federal agencies. The costs and burdens imposed by the DOC solicitations are not additional to those imposed by the FAR and Federal acquisition laws.

Affected Public: Businesses or other for-profit institutions; non-profit institutions; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Gary Waxman, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC

Forms Clearance Officer, (202) 482-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 23, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93-7109 Filed 3-26-93; 8:45 am]

BILLING CODE 3510-CW-F

National Oceanic and Atmospheric Administration (NOAA)

Endangered Species; Incidental Take Permits

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

ACTION: Notice of receipt of application for incidental take permit.

Notice is hereby given that the Idaho Department of Fish and Game (IDFG) has applied in due form for a Permit to incidentally 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 parts 217-227).

The applicant requests authorization to implement its state-authorized resident fish stocking program. IDFG requests to stock: (1) Catchable (20-30 cm) hatchery rainbow trout in waters of the upper Salmon River and the Stanley Basin lakes; (2) catchable cutthroat trout in the Stanley Basin lakes, reducing rainbow stocking by the same number; and (3) subcatchable (13-18 cm) rainbow trout into the Salmon and Clearwater Rivers. Rainbow and cutthroat trout may affect juvenile endangered sockeye salmon (*Oncorhynchus nerka*), threatened spring/summer chinook (*O. tshawytscha*), and threatened fall chinook (*O. tshawytscha*) through predation, competition, and transmission of disease.

The applicant has submitted a conservation plan which specifies the anticipated impact of Idaho's fish stocking program on listed salmonids and their habitat; the steps taken to monitor, minimize and mitigate such impacts; the alternatives actions to the activity that were considered; and a list of all sources of data used in preparation of the plan.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, NMFS, 1335 East-West Hwy., room 8268, Silver Spring, Maryland 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.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, NOAA, 1335 East-West Hwy., SSMC#1, room 8268, Silver Spring, Maryland 20910, Contact: Marta Nammack, TEL: 301/713-2322;

Environmental and Technical Services Division, NMFS, NOAA, 911 North East 11th Ave., room 620, Portland, Oregon 97232, Contact: Karen Holtz, TEL: 503/230-5400.

Dated: March 22, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93-7072 Filed 3-26-93; 8:45 am]

BILLING CODE 3510-22-M

Endagered Species; Permits

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

ACTION: Notice of receipt of applications for scientific research and enhancement permit (P211E, P507D).

Notice is hereby given that the Oregon Department of Fish and Wildlife (ODFW) and the Washington Department of Fisheries (WDF) have applied in due form for scientific research and enhancement permits to take endangered and threatened species as authorized by the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531-1543) and the National Marine Fisheries Service (NMFS) regulations governing endangered fish and wildlife permits (50 CFR part 217-227). These applications involve the artificial propagation of Pacific salmon species listed under the ESA.

Artificial Propagation of Pacific Salmon Under the ESA

In determining whether to issue Pacific salmon enhancement permits, NMFS will rely heavily on Technical Memorandum NMFS-NWFSC-2, Pacific Salmon and Artificial Propagation under the ESA, October 1992. The memorandum provides guidance on the use of artificial propagation in the conservation of listed Pacific salmon species. The use of artificially propagated Pacific salmon in recovery programs depends on available information regarding the similarity of the naturally and artificially propagated fish in genetic, phenotypic, and life-history traits, and in habitat characteristics. Artificial propagation of listed salmon species for recovery must attempt to avoid risks by preserving the genetic and ecological distinctiveness of the listed species. Artificial propagation of the listed salmon species is not a substitute for eliminating the factors causing or contributing to the species' decline.

Because there is, at present, considerable uncertainty about artificial propagation as a means to conserve natural salmon populations, and because artificial propagation may have profound consequences for the viability of natural salmon populations, consideration of its use should be based on an objective assessment of genetic and ecological risks, balancing the potential for deleterious effects against risk to the population of irreversible harm or extinction if artificial propagation is not implemented.

Genetic problems that may arise through artificial propagation are of three general types. First, taking wild broodstock may contribute directly to the decline of the natural population. A severe reduction in population size may in turn lead to erosion of genetic variability and reduced fitness due to inbreeding depression—both factors that are believed to increase the risk of extinction face by a population. Second, in addition to contributing to the loss of within-population genetic variability, artificial propagation can substantially reduce genetic differences between populations. For example, hatchery fish often stray at a higher rate than natural fish. Breeding between hatchery strays and local, natural fish may erode adaptive genetic differences between populations that are the result of long years of natural selection. Transfers of fish among hatcheries or transplanting fish outside their native area often exacerbate this problem. Finally, adaptation to hatchery conditions can lead to domestication. Because the hatchery environment differs in many ways from that encountered in the wild, the selective pressures experienced by the two types of fish also differ markedly. The general result is genetic change in a hatchery population relative

to its natural ancestors, and such changes may reduce the ability of the population to survive and reproduce in the wild. Moreover, changes that occur during culture magnify the adverse consequences of interbreeding between hatchery and wild fish that results from straying or stock transfers.

Artificial propagation may also pose a variety of ecological risks to salmon populations. These risks include increased competition and predation, displacement of natural fish, altered migratory and spawning behavior, and disease transfer. For example, the release of large numbers of hatchery fish can elevate levels of competition for food, habitat, or mates and may lead to displacement of natural fish from their habitat. Attendant reductions in the size of natural populations may increase the risk of local extinction if abundance or density falls below threshold levels necessary for persistence. Hatchery juveniles are often larger than natural juveniles of the same age and may use resources that are otherwise available to natural fish. The intensity of completion is likely to be an increasing function of the number of hatchery fish released. Predators attracted to concentrations of hatchery fish may also prey on fish from natural populations, which may not be able to sustain the increased predation rates. A similar phenomenon occurs when harvest levels in mixed-stock fisheries are increased to take advantage of abundant hatchery fish. A high abundance of hatchery fish in migration corridors may also alter the migratory behavior of natural fish. Finally, diseases may be transferred between hatchery and natural salmon populations, and the risk of this occurring increases with the number of infected hatchery fish released into the wild.

These genetic and ecological risks of artificial propagation can pose serious threats to natural salmon populations. The viability of natural populations depends on their genetic and ecological diversity, and the use of artificial propagation to restore salmon abundance should not be allowed to erode this diversity.

Use of Hatchery Populations Under ESA Enhancement Permits

Whether a natural population is considered distinct and hence a "species" under the ESA is determined solely by the two criteria that define an evolutionarily significant unit (ESU)—its reproductive isolation and its contribution to the biological species' evolutionary legacy. Genetic resources important to the species' evolutionary legacy may reside in hatchery fish as well as in natural fish, in which case the hatchery fish can be considered part of the biological ESU in question.

If available information indicates that existing hatchery fish can be considered part of the biological ESU, then these hatchery fish could be considered for use in recovery efforts. In this case, integration of natural broodstock of the listed species into the existing hatchery population is possible under and enhancement permit. If the hatchery population is managed for purposes other than ESA recovery efforts, directed take of natural fish from the listed species for broodstock would be prohibited.

If available information indicates that either (1) the hatchery population in question is of a different genetic lineage than the listed natural populations, (2) artificial propagation has produced appreciable changes in the hatchery population in characteristics that are believed to have a genetic basis, or (3) there is substantial uncertainty about the relationship between existing hatchery fish and the natural population, the existing hatchery fish will not be considered part of the biological ESU. In this case, direct take of fish from the listed species for broodstock would not be permitted.

Summary of Applications

The ODFW requests authorization to continue its Imnaha River research and enhancement spring chinook hatchery program for 5 years (P211E). NMFS has made a preliminary determination that the Lookingglass (Imnaha River stock) hatchery population can be considered part of the biological ESU and therefore can be considered for use in enhancement programs (Schiewe, 1993). The ODFW requests a take of no more than 264 adults (both hatchery and natural origin) per year for broodstock purposes. The ODFW plans to spawn the adults at the Imnaha River Facility, using random split-cross mating protocol, transfer the eggs to Lookingglass Hatchery, near the resulting progeny to smolt size, transfer the smolts to the advanced rearing pond on the Imnaha River, acclimate them for 30 days, and release them into the Imnaha River as yearlings.

The WDF has submitted an application to continue for 5 years its Tucannon River spring chinook research and enhancement program (P507D). NMFS has made a preliminary determination that the Tucannon River hatchery population can be considered part of the biological ESU and therefore can be considered for use in enhancement programs (Schiewe, 1993). WDF plans to handle up to 650 adult and jack spring chinook per year, of which it would take up to 50 natural and 50 hatchery origin fish for broodstock purposes. Adults would be captured at the Tucannon River weir and held at Lyons Ferry Hatchery. The WDF plans to limit matings to natural/natural and hatchery/hatchery crosses. Resulting progeny would be reared to yearling stage and released into the Tucannon River. The WDF plans to capture up to 12,000 natural juvenile outmigrants and up to 4,000 hatchery outmigrants; types of take include capture and release, PIT tags, sacrifice, and electrofishing.

Written data or views, or requests for a public hearing on these applications, should be submitted to the Director, Office of Protection Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 8268, Silver Spring, Maryland 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 any of these particular applications would be appropriate. The holding of such hearings is at the discretion of the Assistant Administrator for Fisheries. Statements and opinions contained in these applications summaries include those of the Applicants and do not necessarily reflect the views of the NMFS.

Documents submitted in connection with the above applications, the NMFS Technical Memorandum, NMFS–NWFSC–2, Pacific Salmon and Artificial Propagation under the ESA (October 1992), and NMFS' preliminary determinations on the relationship of the hatchery populations to the natural population in the ESU of the listed species (Schiewe, 1993) are available for review by interested persons in the following offices by appointment:

Office of Protection Resources, National Marine Fisheries Services, 1335 East-West Hwy., suite 8268, Silver Spring, Maryland 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, Oregon 97232 (503/230–5400).

Dated: March 19, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–7073 Filed 3–26–93; 8:45 am]

BILLING CODE 3510-22-M

Endangered Species; Incidental Take Permits

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

ACTION: Notice of receipt of application for incidental take permit

Notice is hereby given that the Idaho Department of Fish and Game (IDFG) has applied in due form for a Permit to incidentally 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 parts 217–227).

The applicant requests authorization to operate its sport fishing program for 5 years (1993–1997) which may incidentally take Snake River sockeye (*Oncorhynchus nerka*), Snake River spring/summer chinook (*O. tshawytscha*) and Snake River fall chinook (*O. tshawytscha*). Activities included in the incidental take permit application are: (1) Idaho sport fishing program covered under IDFG General Fishing Regulations; (2) chinook salmon sport fishing program directed at surplus spring/summer chinook returning to Rapid River Hatchery and Dworshak National Fish Hatchery and covered under IDFG Anadromous Salmon Regulations; and (3) summer steelhead fishing program during fall and spring seasons, covered under IDFG Steelhead Fishing Regulations.

The applicant has submitted a conservation plan which specifies the anticipated impact of Idaho's sport fishing program on listed salmonids and their habitat; the steps taken to monitor, minimize and mitigate such impacts; the alternatives actions to the activity that were considered; and a list of all sources of data used in preparation of the plan.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 8268, Silver Spring, Maryland 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.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, NMFS, NOAA, 1335 East-West Hwy., SSMC#1, room 8268, Silver Spring, Maryland 20910, Contact: Laurie Sullivan, TEL: 301/713–2322;

Environmental and Technical Services Division, NMFS, NOAA, 911 North East 11th Ave., room 620, Portland, Oregon 97232, Contact: Karen Holtz, TEL: 503/230–5400.

Dated: March 22, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–7074 Filed 3–26–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits

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

ACTION: Issuance of permit; The Fish Passage Center (P500B).

On November 6, 1992, notice was published in the **Federal Register** (57 FR 53096) that an application had been filed by the Fish Passage Center, to take Snake River sockeye salmon (*Oncorhynchus nerka*), Snake River fall chinook salmon (*O. tshawytscha*), and Snake River spring/summer chinook salmon (*O. tshawytscha*) for the purposes of scientific research as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the regulations governing endangered fish and wildlife (50 CFR parts 217–222).

Notice is hereby given that on March 15, 1993 as authorized by the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 was based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this Permit; (3) is consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The application, Permit and supporting documentation are available for review by interested persons in the following offices by appointments:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Avenue, room 620, Portland, OR 97232 (503/230–5400).

Dated: March 15, 1993.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 93–7039 Filed 3–26–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

March 23, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 30, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 60175, published on December 18, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 23, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 11, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1993 and extends through January 31, 1994.

Effective on March 30, 1993, you are directed to amend the directive dated December 11, 1992 to reduce the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and People's Republic of Bangladesh:

Category	Adjusted twelve-month limit [1]
338/339	873,323 dozen.
347/348	1,471,900 dozen.
351/651	449,395 dozen.
635	212,667 dozen.
638/639	1,130,250 dozen.
847	468,120 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93-7060 Filed 3-26-93; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

March 23, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6704. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 24597, published on June 10, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 23, 1993.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on June 5, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on July 1, 1992 and extends through June 30, 1993.

Effective on March 25, 1993, you are directed to amend further the directive dated June 5, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
219	6,357,779 square meters.
300/301	2,942,500 kilograms.
314	43,268,812 square meters.
334/335	175,859 dozen.
338/339	990,640 dozen.
340/640	1,177,000 dozen.
341	721,095 dozen.
347/348	1,177,000 dozen.
359-C/659-C [2]	750,000 kilograms.
359-S/659-S [3]	603,390 kilograms.
604-A [4]	318,386 kilograms.
613/614/615	18,136,500 square meters.
634/635	214,000 dozen.
638/639	1,129,207 dozen.
641	1,526,967 dozen.
Group II 200, 201, 218, 220, 222-224, 226, 227, 229, 237, 239, 330, 332, 333, 349, 350, 352-354, 359-O [5], 360-363, 369-O [6], 400, 410, 414, 431, 432, 433, 434, 435, 436, 438, 439, 440, 442, 444, 447, 448, 459, 464, 465, 469, 603, 604-O [7], 606, 607, 621, 622, 624, 630, 632, 633, 643, 644, 649, 650, 652-654, 659-O [8], 665, 666, 669-O [9], 670-O [10], 831-836, 838, 839, 840, 842-846, 850-852, 858 and 859, as a group.	64,121,921 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after June 30, 1992.

[2] Category 359-C: only HTS numbers 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 359-S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005; Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[4] Category 604-A: only HTS number 5509.32.0000.

[5] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.3034, 6104.62.1020, 6104.69.3010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025; 6211.42.0010 (Category 359–C); 6112.39.0010, 6112.49.0010, 6211.11.2010, 6211.11.2020, 6211.12.3003 and 6211.12.3005 (Category 359–S).

[6] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S).

[7] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A)

[8] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.3038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.3014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.4015, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[9] Category 669–O: all HTS numbers except 6305.31.0010, 6305.31.0020 and 6305.39.0000 (Category 669–P).

[10] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 (Category 670–L).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–7061 Filed 3–26–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Base Closure Commission and Realignment Commission, Meetings

AGENCY: Defense Base Closure Commission and Realignment Commission.

ACTION: Change of Washington, DC, March 29th hearing location and announcement of regional hearings.

SUMMARY: Pursuant to Public Law 101–510, as amended, the Defense Base Closure and Realignment Commission announces a change of the location of the March 29, 1993 investigative hearing published in the **Federal Register** on March 12 (58 FR 15329) concerning base disposal and reuse, budget impact, and base closure accounting.

The new hearing location is SD50, Dirksen Senate Office Building, corner of First Street and Constitution Avenue, Washington, DC. Start time remains 10 a.m. for this planned half-day session.

Additionally, the Commission has approved the following schedule of regional hearings:

April 20 and 21: National Capitol Region, Northern Virginia.
April 25, 26: Oakland, California.
April 27: San Diego, California.
May 1 and 2: Charleston, South Carolina.
May 3: Orlando, Florida.
May 4: Birmingham, Alabama.
May 9 and 10: New York City, New York.
May 11: Boston, Massachusetts.
May 12: Detroit, Michigan.

Times and Locations will be announced at a later date.

Finally, at the March 29 hearing the Commission may vote whether to consider additional bases to include McClellan AFB CA and Presidio of Monterey, CA, both of which were removed from consideration by the Secretary of Defense. The Commission will hold a classified hearing on March 29 at 2 p.m. concerning issues surrounding the Presidio of Monterey.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Houston, Director of Communications at (703) 696–0504. Please contact the Commission to confirm last minute changes in dates, times, and locations of all upcoming hearings.

Dated: March 23, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison, Department of Defense.

[FR Doc. 93–7033 Filed 3–26–93; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary of Defense

DOD Advisory Group on Electron Devices; Notice of Advisory Committee Meeting

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 9 a.m., Wednesday, 7 April 1993.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc. 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Walter Gelnovatch, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II § 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: March 23, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–7034 Filed 3–26–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Teleconference Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Amendment to notice.

SUMMARY: Notice is hereby given of an amendment to the notice of the teleconference meeting of the Executive Committee of the National Assessment Governing Board scheduled for April 7, 1993, at 800 North Capitol Street, NW., suite 825, Washington, DC, as published in the **Federal Register** on March 23, 1993, Vol. 58, No. 54, page 15491. The teleconference meeting has been rescheduled for April 22, 1993, at 11 a.m.

Dated: March 24, 1993.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 93–7115 Filed 3–26–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Financial Assistance; Lake County, ID

AGENCY: U.S. Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy, Idaho Field Office, announces that pursuant to the DOE Financial

Assistance Rules 10 CFR 600.7, it intends to award a new start Grant Number DE–FG07–93ID13257 to the County of Lake. The objective of the work to be performed under this grant is to provide funds for engineering design and environmental work on a plan to use treated wastewater effluent for injection as a means of increasing the recovery of energy from the Geysers geothermal field. The County of Lake would use this grant to augment County funds in the preparation of engineering designs for the effluent pipeline and to prepare an environmental impact statement of the project after the designs are available. The Federal Domestic Catalog Number is 81.087.

FOR FURTHER INFORMATION CONTACT: Ginger L. Sandwina, or Kathleen M. Stallman, U.S. Department of Energy, Idaho Field Office, 785 DOE Place, MS 1221, Idaho Falls, Idaho 83401–1562, (208) 526–8698 or (208) 526–7038 respectively.

SUPPLEMENTARY INFORMATION: The statutory authority for the proposed award is the Geothermal Energy Research, Development & Demonstration Act (Pub. L. 93–410); the Department of Energy Organization Act (Pub. L. 95–91); and the Energy and Water Development Appropriation Bill of 1993 (Pub. L. 102–377). The proposal meets the criteria for "non-competitive" financial assistance as set forth in 10 CFR 600.7(b)(2)(i)(C). The applicant represents a unit of government and the activity to be supported is related to the performance of a government function within the subject jurisdiction. The County of Lake is the leader of this project and is the appropriate agency to prepare the environmental impact statement and do the design work since they will be the owner and operator of the pipeline carrying the effluent from the county wastewater treatment plant to The Geysers. The anticipated total project period to be awarded is twelve (12) months. The Office of Utility Technologies will provide the DOE funds for this grant to be cost shared by DOE for $450,000 and the County of Lake for $15,000 for a total project cost of $465,000.

Issued March 18, 1993.

Dolores J. Ferri,

Director, Contracts Management Division.

[FR Doc. 93–7138 Filed 3–26–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER93–449–000, et al.]

Western Resources, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Western Resources, Inc.

[Docket No. ER93–449–000]

March 18, 1993.

Take notice that on March 12, 1993, Western Resources, Inc. (WRI) tendered for filing a proposed change to its FERC Electric Service Tariff No. 206 between WRI and the City of Horton, Kansas (City). WRI states that the proposed change is a ten year Electric Power Supply Agreement that shifts the City from a full requirements municipal to a partial requirements municipal. This proposed change is requested to be effective June 1, 1993.

Copies of the filing have been served upon the City of Horton and the Kansas Corporation Commission.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Western Resources, Inc.

[Docket No. ES93–23–000]

March 18, 1993.

Take notice that on March 12, 1993, Western Resources, Inc., (Western) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue not more than 2.5 million additional shares of common stock, $5.00 per value, pursuant to a customer stock purchase plan.

Comment date: April 12, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Co.

[Docket No. ER93–224–000]

March 18, 1993.

Take notice that on March 12, 1993, Public Service Company of New Hampshire (PSNH) tendered for filing supplemental information regarding various interconnection agreements.

PSNH states that the information was filed in response to a request from the Commission.

PSNH states that copies of this information have been mailed or delivered to each of the affected parties.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. The Connecticut Light and Power Co.

[Docket No. ER93–222–000]

March 18, 1993.

Take notice that on March 15, 1993, The Connecticut Light and Power Company (CL&P) submitted additional information in this Docket.

CL&P states that copies of its submission have been mailed or delivered to the affected parties.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Ohio Power Co.

[Docket No. ER93–197–000]

March 18, 1993.

Take notice that Ohio Power Company (OPCo), on March 15, 1993, tendered for filing, information requested by the Staff of the Commission which supports the charges made by OPCo to the City of Clyde, Ohio (Clyde), in connection with a Contributions in Aid of Construction Agreement filed in the referenced docket.

A copy of this filing has been sent to the Public Utilities Commission of Ohio and Clyde.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Northern States Power Co. (Minnesota), Northern States Power Co. (Wisconsin)

[Docket No. ER92–343–003]

March 18, 1993.

Take notice that on March 15, 1993, Northern States Power Company (NSP) tendered for filing its Second Supplement to its Compliance Filing dated September 23, 1992 in Docket No. ER92–343–003. The Second Supplement withdraws certain proposed rate sheets to correct an inadvertent error in NSP's initial Supplement dated December 31, 1992. NSP states that the Supplement proposes to withdraw certain rate sheets NSP proposed to make effective November 1, 1992 for five transmission service customers.

NSP again requests that the reduction in NSP's transmission service loss factors be accepted for filing effective May 1, 1992, and November 1, 1992, and requests waiver of the Commission's notice requirements in order for the loss factor rate changes to be accepted for filing on the date requested.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Co.

[Docket No. ER93-445-000]

March 18, 1993.

Take notice that on March 11, 1993, Portland General Electric Company (PGE) tendered for filing an amended Exhibit D to the General Transfer Agreement Between the Bonneville Power Administration (BPA) and PGE. This amendment will permit BPA to compensate PGE for the actual costs of a distribution level 13 kV feeder line that PGE constructed at BPA's request to accommodate BPA's wholesale power service to the Canby Utility Board. PGE requests waivers and a March 12, 1993 effective date.

Copies of this agreement have been served on BPA.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Iowa Electric Light and Power Co.

[Docket No. ER93-444-000]

March 18, 1993.

Take notice that Iowa Electric Light and Power Company (Iowa Electric), on March 11, 1993, tendered for filing an Interchange and Interconnection Agreement dated January 27, 1993, between Associated Electric Cooperative, Inc. (AEC) and Iowa Electric.

The Interchange and Interconnection Agreement provides for coordinated interconnection operation including the interchange of Power and Energy under Emergency Service, Unit Participation, Firm, Short Term, Economy Energy, Excess Energy, System Participation, and Term Energy Schedules. The proposed effective date for the Agreement is the closing date of the sale agreements between the parties and Union Electric.

Copies of this filing have been sent to Associated Electric Cooperative, Inc. and to the Iowa State Utilities Board.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. The United Illuminating Co.

[Docket No. ER93-452-000]

March 18, 1993.

Take notice that on March 15, 1993, The United Illuminating Company (UI) tendered for filing a rate schedule for a short-term, coordination transaction involving the sale of capacity entitlements to Town of Braintree Electric Light Department (Braintree). The rate schedule corresponds to a letter agreement, dated March 9, 1993, between UI and Braintree. The commencement date for service under the agreement is March 15, 1993. UI proposes that the rate schedule commence on this date.

The service provided under the agreement is the provision of capacity entitlements and associated energy from UI's New Haven Harbor Station.

Copies of the filing were mailed to Braintree.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Public Service Corp.

[Docket No. ER93-450-000]

March 18, 1993.

Take notice that on March 15, 1993, Wisconsin Public Service Corporation (WPSC) tendered for filing with the Federal Energy Regulatory Commission a Negotiated Capacity and Energy Agreement with Manitowoc Public Utilities (MPU). WPSC and MPU request an effective date of 60 days after the date of filing.

WPSC states that a copy of the filing has been provided to MPU and also to the State Commissions where WPSC and MPU serve at retail.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Frank A. Olson

[Docket No. ID-2768-000]

March 18, 1993.

Take notice that on March 15, 1993, Frank A. Olson (Applicant) tendered for filing a supplemental application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Commonwealth Edison Company
Director, Cooper Industries, Inc.

Comment date: April 2, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Idaho Power Co.

[Docket No. ER93-455-000]

March 19, 1993.

Take notice that on March 16, 1993, Idaho Power Company (IPC) tendered for filing the Load Control Energy Exchange Agreement executed on January 12, 1993 between Montana Power Company and Idaho Power Company. The Agreement has an initial term of one year and renews for successive one-year terms until terminated by either Party.

Comment date: April 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of Colorado

[Docket No. ER93-458-000]

March 19, 1993.

Take notice that on March 17, 1993, Public Service Company of Colorado (Public Service) filed with the Commission an initial rate schedule governing economy energy sales to PacifiCorp. Rates for economy energy sales under the proposed rate schedule are based on Public Service's incremental costs.

Public Service requests that the rate schedule be effective May 1, 1993. Accordingly, Public Service has requested waiver of the Commission's notice requirements, for good cause.

Copies of the filing have been served on PacifiCorp, the Colorado Public Utilities Commission, and the Colorado Office of Consumer Counsel.

Comment date: April 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. Appalachian Power Co.

[Docket No. ER93-200-000

March 19, 1993.

Take notice that on March 5, 1993, Appalachian Power Company (APCO) tendered for filing amendments to its November 18, 1992 filing of the following agreements relating to contributions-in-aid-of-construction (CIAC):

(1) Letter Agreement among APCO, the City of Bedford, Virginia and The Wheelabrator Corporation, dated November 14, 1985;

(2) Letter Agreement between APCO and the City of Radford, Virginia, dated February 5, 1979;

(3) Letter Agreement between APCO and the City of Salem, Virginia, dated August 12, 1982; and

(4) Letter Agreement between APCO and the City of Danville, Virginia, dated June 22, 1977.

The amendments contain certain additional information requested by the Commission Staff in a January 5, 1993 deficiency letter.

Copies of the filing were served upon each of the parties to the above-referenced agreements, the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

Comment date: April 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Power, Inc.

[Docket Nos. ER2-611-001, ER 92-664-001, ER92-843-001, and ER93-45-001]

March 19, 1993.

Take notice that Entergy Power, Inc. (EPI), on March 15, 1993 tendered a

compliance filing which amends interchange agreements filed in the subject dockets. EPI requests that the effective date for these amendments be concurrent with the effective dates of the interchange agreements.

Comment date: April 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of Colorado

[Docket No. ER93–442–000]

March 19, 1993.

Take notice that on March 11, 1993, Public Service Company of Colorado tendered for filing, in accordance with 18 CFR 35.13(a)(2)(ii) of the Commission's Rules of Practice and Regulations, modifications to its transmission service to Western Area Power Authority (WAPA). The firm and nonfirm transmission service provided by Applicant to WAPA and the corresponding rates were described in Docket No. ER91–219–000 which contains FERC Electric Tariff No. 47. The proposed modifications to transmission service result in an additional $496 of revenue from jurisdictional service based on the twelve month period ended December 31, 1993.

Copies of the filing were served upon the Western Area Power Authority Loveland Office, the Town of Oak Creek, Colorado, Yampa Valley Electric Association, Inc. and to state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado's Office of Consumer Counsel.

Comment date: April 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. The Union Light, Heat and Power Company

[Docket No. ER93–456–000]

March 19, 1993.

Take notice that The Union Light, Heat and Power Company (ULH&P) on March 17, 1993, tendered for filing proposed changes in its FERC Electric Tariff, Original Volume No. 1 which cancel and supersede the rate schedules in said tariff. The proposed changes would increase revenues from jurisdictional sales and service by approximately $381,956 based on the 12 month period ending December 31, 1992.

The reason stated by ULH&P for the change in rate schedule is primarily to recover the cost of the increased purchased power costs to the Company.

Copies of the filing were served upon the City of Williamstown, Kentucky and the Kentucky Public Service Commission.

Comment date: April 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

18. Montaup Electric Co.

[Docket No. ER93–402–000]

Errata

(March 22, 1993)

Notice of Filing

(March 8, 1993)

Take notice that the Notice of Filing issued on March 8, 1993 should be extended from March 22, 1993 to June 7, 1993.

19. Boston Edison Co.

[Docket No. ER93–437–000]

Errata

(March 22, 1993)

Notice of Filing

(March 16, 1993)

Take notice that the Notice of Filing issued on March 16 1993 in the above-referenced docket should not have been issued.

20. Public Service Company of Oklahoma

[Docket Nos. ER93–435–000 and EC93–11–000]

Errata

(March 22, 1993)

Notice of Filing

(March 12, 1993)

Take notice that the Notice of Filing issued on March 12, 1993 in Docket No. ER93–435–000 should have also included Docket No. EC93–11–000.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7121 Filed 3–26–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–240–000, et al.]

Natural Gas Pipeline Company of America, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Natural Gas Pipeline Company of America

[Docket No. CP93–240–000]

March 18, 1993.

Take notice that on March 10, 1993, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP93–240–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon the daily withdrawal quantity (dwq) of 6,856 Mcf of firm storage service authorized in Docket No. CP75–274 under Natural's Rate Schedule MS–1 for Iowa-Illinois Gas and Electric Company (Iowa-Illinois), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural states that pursuant to a Rate Schedule MS–1 storage service agreement between Natural and Iowa-Illinois dated March 17, 1975, Natural provided firm storage of dwq of 6,856 Mcf for Iowa-Illinois (the route that the gas moves into and out of storage is quite involved and is fully described in the application). Natural further states that by a letter from Iowa-Illinois to Natural dated March 1, 1993, Iowa-Illinois requested that Natural abandon its storage service performed under Natural's Rate Schedule MS–1 for Iowa-Illinois. Therefore, Natural states if requested authorization in the present application to abandon the dwq of 6,856 Mcf of firm storage service provided by Natural for Iowa-Illinois authorized in Docket No. CP75–274.

Comment date: April 8, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Colorado Interstate Gas Co.

[Docket No. CP93–250–000]

March 18, 1993.

Take notice that on March 16, 1993, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No.

CP93-250-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a meter station for the delivery of natural gas to the facilities of Overland Trail Transmission Company (Overland) in Sweetwater County, Wyoming, under CIG's blanket certificate issued in Docket No. CP83-21-000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG proposes to construct and operate the Bar-X Meter Station in order to connect its facilities to those of Overland. It is stated that CIG will use the meter station for the delivery of interruptible transportation volumes up to 15,000 Mcf of natural gas per day. It is asserted that the gas transported to the Bar-X Meter Station will be delivered to the Patrick Draw Processing Plant in Sweetwater County. It is estimated that the cost of installing the meter station is $182,600. CIG states that the deliveries would have no impact on its peak day or annual deliveries. It is asserted that CIG's tariff does not prohibit the addition of the new meter station.

Comment date: May 3, 1993, in accordance with Standard Paragraph G at the end of this notice.

3. Ormat Inc.

[Docket No. CP93-254-000]

March 19, 1993.

Take notice that on March 15, 1993, Ormat Inc. (Ormat), 980 Greg Street, Sparks, Nevada 89431, filed in Docket No. CP93-254-000 a petition for a Commission order declaring that the Commission lacks jurisdiction pursuant to the Natural Gas Act and the Natural Gas Policy Act of 1978 and the regulations promulgated to implement those laws over the construction, maintenance and operation of Ormat's proposed installation of Ormat Pressure Conversion (OPC) Systems proximate to interstate pipelines, or a request for a limited jurisdiction blanket certificate in the event that the Commission determines that the facilities are jurisdictional, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Ormat requests that the Commission declare that the OPC systems are exempt from Commission jurisdiction because, like gas processing plants, they are not essential to the interstate transportation of natural gas or they qualify as auxiliary installations pursuant to section 2.55(a) of the Commission's regulations. In the alternative, if the Commission determines that the facilities are jurisdictional, Ormat requests that the Commission waive the requirement that individual projects be certificated and that it be issued a blanket certificate to construct and operate any future OPC systems. Ormat also requests waiver of the accounting and reporting requirements imposed on fully-regulated pipelines.

Ormat proposes to develop and install systems to utilize the energy created at pressure reduction sites on interstate natural gas pipelines to generate electricity. It is indicated that Ormat's proposed OPC Systems would be driven by the mechanical energy inherent in high pressure natural gas pipelines, *i.e.*, the waste energy made available by depressurization of high pressure transmission gas on interstate pipelines required to deliver low pressure gas delivered to distribution systems and to direct industrial end-users. It is also indicated that, in most instances, such systems would be operated by a host pipeline pursuant to an operating and maintenance agreement under which the pipeline would be compensated by the owner of the OPC system. Ormat asserts that customers of the host pipelines would not be charged any costs or fees as a result of the construction and operation of an OPC system.

Ormat states that it would commit to each host pipeline to (1) operate the OPC system in a manner consistent with the terms and conditions of the pipeline's own Section 7 certificates; (2) comply with the Commission's regulations and order applicable to the pipeline in question which may affect the operation of the OPC system; and (3) abide by the Commission's environmental terms and conditions applicable to the construction and operation of facilities at a given meter and regulating station. It is indicated that these contractual undertakings would ensure that a host pipeline's certificate requirements, and the Commission's environmental and other regulations applicable to such certificate, are in no way diminished by the construction and operation of an OPC system.

Comment date: April 19, 1993, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Northern Natural Gas Co.

[Docket No. CP93-257-000]

March 19, 1993.

Take notice that on March 17, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP93-257-000 a request pursuant to sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point under its blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to install a new delivery point to accommodate deliveries of natural gas to West Texas Utilities Company (WTU) in Irion County, Texas, under Northern's transportation rate schedules for use at WTU's San Angelo Power Station, an electric generating plant. Northern advises that peak day and annual equivalent volumes are estimated to be 33,000 MMBtu and 10,220,000 MMBtu, respectively. Northern estimates that the cost of the metering facilities would be $85,000. Northern explains that non-jurisdictional dehydration facilities would also be installed.

Comment date: May 3, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Co.

[Docket No. CP93-251-000]

March 19, 1993.

Take notice that on March 16, 1993, Northern Natural Gas Company (Northern) 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP93-251-000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to abandon two compressor units, the Beaver Unit #7 and the Beaver County Unit #5, in Beaver County, Oklahoma, which are no longer required because of declining production from the attached gas reserves, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the Beaver Compressor Station consists of twenty-one compressor units. Northern requests authority to abandon Unit #7, a 1,515 Horsepower (HP) horizontal reciprocating compressor which was installed in 1950 and certificated in Docket No. G-1183, 9 FPC 401. It is stated that gas volumes produced from various fields upstream of the Beaver Station have declined due to depletion of field reservoirs and the associated lower wellhead pressures, thus reducing

the throughput of this station from 370 MMcfd to 200 MMcfd.

It is stated that the Beaver County No. 5 compressor Station consists of three compressor units. Northern requests authority to abandon Unit #5, a 200 HP compressor unit installed in 1978 in Docket No. CP78-188, 3 FERC ¶ 61,056. Northern states that gas volumes produced from Tonkowa field have declined due to a normal process of depletion without any new wells connected, thus reducing throughput of this station from 2.5 MMcfd at peak production to 1.9 MMcfd currently.

According to Northern, these units have not been utilized for some time because compression had not been needed to maintain deliveries. It is stated that compression from the remaining units at the Compressor Stations provides all the compression required for current production. Therefore, Northern states that abandonment of these units will not result in abandonment of service to any of its existing customers or producers, nor will the proposed abandonment adversely affect capacity since this compression is no longer needed to maintain system supply.

Comment date: April 9, 1993, in accordance with Standard Paragraph F at the end of the notice.

6. Colorado Interstate Gas Co.

[Docket No. CP92-470-001]

March 22, 1993.

Take notice that on March 18, 1993, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP92-470-001 a petition to amend the certificate of public convenience and necessity issued December 8, 1992, in Docket No. CP92-470-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, CIG proposes to add a delivery point on its Enterprise Lateral to Snyder Oil Corporation (Snyder) at Snyder's Roggen processing facility in Weld County, Colorado.

The estimated cost of the facilities is $23,000.

No other changes from the original authorization are proposed.

Comment date: April 12, 1993, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

7. Mojave Pipeline Co.

[Docket No. CP93-259-000]

March 22, 1993.

Take notice that on March 17, 1993, Mojave Pipeline Company (Mojave), located at 5001 E. Commercenter Drive, Bakersfield, California 93309, filed in Docket No. CP93-259-000 a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations for authorization to construct a sales tap under Mojave's blanket certificate issued in Docket Nos. CP89-001 and CP89-002, as more fully set forth in the request that is on file with the Commission and open to public inspection.

Mojave states that it proposes to deliver 50,000 MMBtu of natural gas per day to Southern California Gas Company (SoCal) at the proposed sales tap, which will be located in San Bernardino County, California. Mojave will transport the gas pursuant to its existing blanket transportation certificate under existing rate schedules.

Comment date: May 6, 1993, in accordance with Standard paragraph G at the end of this notice.

8. Alabama-Tennessee Natural Gas Co.

[Docket No. CP93-256-000]

March 22, 1993.

Take notice that on March 17, 1993, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) Post Office Box 918, Florence, Alabama 35631, filed in Docket No. CP93-256-000 a request pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new sales tap to Monsanto Company (Monsanto) under Alabama-Tennessee's blanket certificate issued in Docket No. CP85-359-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Alabama-Tennessee asserts that Monsanto is an end user of natural gas presently served indirectly by Alabama-Tennessee through the municipally owned facilities of the City of Decatur, Alabama.

Alabama-Tennessee states that it proposes to add a sales tap on its system in Morgan County, Alabama in order to provide direct natural gas transportation deliveries to Monsanto. Alabama-Tennessee further states that it would deliver up to 6,000 dekatherms of natural gas per day to Monsanto.

Alabama-Tennessee asserts that the proposed service will have no impact on its peak day and annual deliveries.

Comment date: May 6, 1993, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 an 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an

application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-7122 Filed 3-26-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-237-000]

Alabama-Tennessee Natural Gas Co.; Informal Settlement Conference

March 23, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on March 31, 1993, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214) (1992).

For additional information, please contact Irene E. Szopo at (202) 208-1602, or David R. Cain at (202) 208-0917.

Lois D. Cashell,

Secretary.

[FR Doc. 93-7055 Filed 3-26-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER93-468-000]

Century Power Corp.; Notice of Filing

March 23, 1993.

Take notice that on March 19, 1993 Century Power Corporation (Century), in connection with its proposed sale of a 41.8% ownership interest in San Juan Unit 3 to Southern California Public Power Authority (SCPPA), filed an Assignment and Assumption Agreement assigning its power sale agreement with Nevada Power Company (Nevada) dated April 14, 1992 (FERC Rate Schedule No. 14) to SCPPA. Century requests that the Assignment and Assumption Agreement be made effective as of the closing date of the sale of Century's 41.8% interest in the unit.

Century requests waiver of the 60 day notice requirement to permit the Commission to act upon the filing by April 23, 1993, but if such waiver is not granted, it requests that the Commission act no later than May 24, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before April 2, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-7057 Filed 3-26-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP93-262-000]

Northern Natural Gas Co.; Notice of Request Under Blanket Authorization

March 23, 1993.

Take notice that on March 19, 1993, Northern Natural Gas Company (Northern), P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP93-262-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to upgrade an existing delivery point to accommodate increased natural gas deliveries to Midwest Natural Gas Company (Midwest), under the blanket certificate issued in Docket No. CP82-401-000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern proposes to upgrade an existing delivery point (Coon Valley #2 town border station) located in LaCrosse County, Wisconsin to accommodate increased natural gas deliveries to Midwest under Northern's currently effective rate schedules. Midwest has requested increased service to commence June 1, 1993, due to the growth of residential and commercial markets served by Midwest in the area. Northern estimates increased peak day and annual volumes through the upgraded town border station of 150 Mcf and 17,465 Mcf, respectively. It is indicated that Midwest's current firm entitlement is sufficient to serve this increased load. Northern estimates a cost of upgrading the delivery point of $24,500 and indicates that Midwest would make a contribution in aid of construction of the total amount.

Northern advises that the total volumes to be delivered to the customer after the request do not exceed the total volumes authorized prior to the request. Also, it is indicated that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Northern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc 93-7056 Filed 3-26-93; 8:45 am]

BILLING CODE 6717-01-M

[RS92-23-005 RP91-203-206 RP92-132-028 (Consolidated, in part)]

Tennessee Gas Pipeline Co.; Telephone Technical Conference

March 23, 1993.

Take notice that a telephone conference will be held beginning at 10 a.m., eastern standard time on Monday April 5, 1993. The only issue to be discussed at the conference is the facts the Commission relied upon in arriving at its determination regarding cost shifts among small customers as a result of Tennessee's use of SFV rate design. Parties to the above captioned proceeding may attend the conference at either of the following two locations: the offices of Fulbright & Jaworski, 1301 McKinney Street, Houston, TX, 42nd floor, south wing conference room or at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC. Parties wishing to attend at the former location should contact Mike Manning at (202) 662-4550. Persons wishing to attend at the FERC offices should contact Sharon

Dameron at (202) 208–2017 or Mary Doyle at (202) 208–0927.

Lois D. Cashell,

Secretary.

[FR Doc. 93–7054 Filed 3–26–93; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

March 22, 1993.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, Suite 140, Washington, DC 20037, (202) 857–3800. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 623–7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–4814.

OMB Number: 3060–0443.

Title: Conditional Temporary Authorization to Operate a Part 90 Radio Station.

Form Number: FCC Form 572–C.

Action: Extension of a currently approved collection.

Respondents: Individuals or households, state or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: Recordkeeping requirement.

Estimated Annual Burden: 17,023 recordkeepers; .10 hours average burden per recordkeeper; 1,702 hours total annual burden.

Needs and Uses: Applicants are required to complete FCC Form 572–C to have immediate authorizations to operate 2-way radio equipment in Part 90 radio services below 470 MHz or in the 929–930 MHz band. Applicants may use this form as a conditional temporary authorization to operate their equipment during the processing of an application for license or grant.

OMB Number: 3060–0107.

Title: Private Radio Application for Renewal, Reinstatement and/or Notification of Change to License Information.

Form Number: FCC Form 405–A.

Action: Revision of a currently approved collection.

Respondents: Individuals or households, state or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting.

Estimated Annual Burden: 2,700 responses; .33 hours average burden per response; 891 hours total annual burden.

Needs and Uses: In accordance with FCC Rules, radio stations licensees are required to apply for renewal of their radio station authorization every five years. The Commission issues computer generated renewal notices, however, this form will serve as a short form alternative for licensees who fail to receive that notice for whatever reason. This form is also provided for Land Mobile, General Mobile, Aviation Ground and Marine Coast licensees who wish to cancel their authorization, or file a name and/or address change.

This form is revised to accommodate Land Mobile licensees who wish to make notification of a change in the number of mobiles/pagers at the time of renewal as specified in PR Docket 92–78. Commission personnel will use the data to determine eligibility for an authorization renewal or reinstatement, and issue a radio station license. Data is also used by Compliance personnel in conjunction with field engineers for enforcement purposes and for authorization cancellations.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–7119 Filed 3–26–93; 8:45 am]

BILLING CODE 6712–01–M

Advisory Committee on Advanced Television Service Planning Subcommittee Meeting; Notice of Change in Location

The meeting of the Planning Subcommittee scheduled for April 2, 1993 at 2:00 p.m. will be held at 2000 L Street NW., room 258, Washington, DC.

Questions regarding this meeting should be directed to William Hassinger at (202) 632–6460.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–7120 Filed 3–26–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Public Information Collection Requirements Submitted to OMB for Review

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following public information collection requirements for review and clearance in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

DATES: Comments on this information collection must be submitted on or before May 28, 1993.

ADDRESSES: Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: The FEMA Information Collections Clearance Officer at the address below; and to Gary Waxman, Office of Management and Budget, 3235 New Executive Office Building, Washington DC 20503, (202) 395–7340, within 60 days of this notice.

FOR FURTHER INFORMATION CONTACT: Copies of the above information collection request and supporting documentation can be obtained by calling or writing Linda Borror, FEMA Information Collections Clearance Officer, Federal Emergency Management Agency, 500 C Street, SW., Washington DC 20472, (202) 646–2624.

Type: Extension of 3067–0077.

Title: Post Construction Elevation Certificate/Floodproofing Certificate.

Abstract: The Elevation Certificate/Floodproofing Certificate is an adjunct to the application for flood insurance and is required for proper rating of post-Flood Insurance Rate Map (FIRM) structures, which are buildings constructed after publication of the FIRM, for flood insurance in Special Flood Hazard Areas. The Elevation Certificate is also needed for pre-FIRM structures being rated under post-FIRM flood insurance rules. The standardized formats of the Elevation Certificate (FEMA Form 81–31) and Floodproofing Certificate (FEMA Form 81–65) provide community officials and others documents which they may use to readily record needed information.

The forms are completed by a surveyor, other professional, or owner to record essential building information to establish the basis for charging property owners actuarial insurance rates and/or for use by the community.

Type of Respondents: Individuals or households, State or local governments,

Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.

Estimate of Total Annual Reporting and Recordkeeping Burden: 3,008 Hours.

Number of Respondents: 15,040.

Estimated Average Burden Time per Response: 12 Minutes.

Frequency of Response: Other—once per building.

Dated: March 22, 1993.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 93-7112 Filed 3-26-93; 8:45 am]

BILLING CODE 6718-01-M

Open Meeting, Board of Visitors for the National Fire Academy

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, FEMA announces the following committee meeting.

NAME: Board of Visitors for the National Fire Academy.

DATES OF MEETING: May 13–14, 1993.

PLACE: National Emergency Training Center, National Fire Academy, Building H, Conference Room, Emmitsburg, MD 21727.

TIME: May 13, 1993, 9 a.m.–5 p.m.; May 14, 1993, 9 a.m.–12 noon.

PROPOSED AGENDA: May 13: Quarterly meeting—review current, approved, and proposed budgets. May 14—Agenda completion.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with seating available on a first-come, first-served basis. Members of the general public who plan to attend the quarterly meeting should contact the Office of the Superintendent, National Fire Academy, U.S. Fire Administration, 16825 South Seton Avenue, Emmitsburg, MD 21727. (301) 447–1117, on or before April 30, 1993.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Administrator, U.S. Fire Administration, Federal Emergency Management Agency, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: March 19, 1993

Edward M. Wall,

Deputy Administrator, U.S. Fire Administration.

[FR Doc. 93-7105 Filed 3-26-93; 8:45 am]

BILLING CODE 6718-01-M

GENERAL SERVICES ADMINISTRATION

Steering Committee for the African Burial Ground, New York, NY; Meeting

Notice is hereby given that the Steering Committee for the African Burial Ground, New York, NY, (Steering Committee) will have a special meeting on Monday, April 12, 1993 at 6 p.m. in the 2nd floor archives of the Schomburg Center for Research in Black Culture, New York Public Library, 515 Malcolm X Boulevard (at 135th Street), New York, NY.

The meeting will consider (1) the adoption of recommendations to GSA for a budget for Steering Committee; (2) the adoption of recommendations to GSA for rules of procedure for the Steering Committee as contained in a report of the Steering Committee's subcommittee on rules; and such other matters properly coming before the Steering Committee under its charter and its rules and regulations.

Additional meetings of the Steering Committee will be held at the same time and place on April 26, May 24, and June 28, 1993. Meetings may be continued to the following day(s), if necessary, and shall be so announced during the meeting. Seating may be limited. Please call (212) 264–0456 prior to each meeting to confirm the date, time, and location of the meeting.

All meetings will be open to the public. Members of the public at large, as may be recognized by the Chairman of the Steering Committee, will be able to speak at the meetings at designated times as provided in the resolutions of the Steering Committee. In addition, written comments by any person may be directed to any aspect of the Steering Committee's mission and other questions regarding the Steering Committee's meetings may be directed to: Chairman Howard Dodson, Chief, Schomburg Center for Research in Black Culture, New York Public Library, 515 Malcolm X Boulevard, New York, NY 10037–1801, Tel: (212) 491–2200.

Copies of such written comments may be sent to Robert W. Martin, Acting Regional Administrator, General Services Administration, Region 2, 26 Federal Plaza, New York, NY 10278.

Dated: March 23, 1993.

Robert W. Martin,

Acting Regional Administrator.

[FR Doc. 93-7223 Filed 3-26-93; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HP (Agency for Health Care Policy and Research), of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (55 FR 12286–89, April 2, 1990, as amended at 57 FR 32999, July 24, 1992) is amended to delete the title and statement for the Office of Scientific Review and revise the statement for the Office of Management within the Agency for Health Care Policy and Research.

Agency for Health Care Policy and Research

Under *Section HP-20, Functions,* within the statement for *Office of Planning and Resource Management (HPA2),* the *Office of Management (HPA22),* following item (7) add "(8) provides leadership and coordination in the assignment and peer review of grant applications for the purpose of advising the Administrator, AHCPR, on the scientific and technical merits of these applications and subsequent recommendations for approval or disapproval;" and renumber items (8) through (12) as (9) through (13).

Following the statement for *Office of Planning and Resource Management (HPA2), Office of Program Development (HPA23),* delete the title and statement in its entirety for the *Office of Scientific Review (HPA24).*

Dated: March 22, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93-7103 Filed 3-26-93; 8:45 am]

BILLING CODE 4160-90-P

Centers for Disease Control and Prevention

Preapplication Videoconference Workshop—Cooperative Agreements for Minority Community-Based Organization(s) Human Immunodeficiency Virus (HIV) Prevention Project—Program Announcement Number 303

The National Center for Prevention Services (NCPS) of the Centers for Disease Control and Prevention (CDC) announces the following preapplication videoconference workshop.

Name: Preapplication Videoconference Workshop—Cooperative Agreements for Minority Community-Based Organization(s) (CBOs) HIV Prevention Project—Program Announcement Number 303.

Time and Date: 11 a.m.–5 p.m. EDT, April 28, 1993.

Status: Open to the public, limited only by the space available; seating preference will be given to minority CBOs.

Place: Contact the CDC National AIDS Clearinghouse at 1–800–458–5231 for the location in your area.

Purpose: To provide information concerning programmatic and business aspects of preparing an application for funding under Program Announcement Number 303.

Eligibility: Congress has authorized funds to provide direct financial and technical assistance so that minority CBOs may work in their own communities to reduce the risky behaviors that lead to HIV transmission. Under Program Announcement Number 303, nonprofit minority CBOs are eligible. A nonprofit minority CBO is a public or private nonprofit organization that has: a governing board composed of more than 50 percent racial or ethnic minority members; a significant number of minorities in key program positions; and an established record of service to a racial or ethnic minority community or communities. A local affiliate of an organization that has a national governing board composed of more than 50 percent racial or ethnic minority members, a significant number of minorities in key program positions, and an established record of service to racial or ethnic minority communities, is also eligible.

Eligible applicants must be nonprofit corporations or associations whose net earnings in no part accrue to the benefit of any private shareholder or person. Governmental or municipal agencies, their affiliate organizations or agencies (e.g., health departments, school boards, public hospitals), and private or public universities and colleges are ineligible.

Minority CBOs requesting funds under Program Announcement Number 303 will be categorized into two groups: (1) High prevalence metropolitan statistical areas (MSAs); or (2) lower prevalence geographic areas. High prevalence MSAs are defined by (1) cumulative reports of 1,000 or more acquired immunodeficiency syndrome (AIDS) cases through June 30, 1992; (2) cumulative reports of 300 or more AIDS cases occurring in racial/ethnic minorities (African-Americans, Alaskan Natives, American Indians, Asian Americans, Latinos/Hispanics, and Pacific Islanders) through June 30, 1992; or (3) those MSAs that were previously eligible for funding under Program Announcement Number 202. Eligible high prevalence MSAs are the following:

Arizona: Phoenix
California: Los Angeles-Long Beach, Oakland, Orange County, Riverside-San Bernardino, Sacramento, San Diego, San Francisco, San Jose
Colorado: Denver
Connecticut: Hartford-New Britain, New Haven-Waterbury-Bridgeport
District of Columbia-Maryland-Virginia: Washington, D.C.
Florida: Ft. Lauderdale-Hollywood-Pompano Beach, Ft. Pierce, Jacksonville, Miami-Hialeah, Orlando, Tampa-St. Petersburg-Clearwater, West Palm Beach-Boca Raton-Delray Beach
Georgia: Atlanta
Illinois: Chicago
Louisiana: New Orleans
Maryland: Baltimore
Massachusetts: Boston-Lawrence-Salem
Michigan: Detroit
Missouri-Kansas: Kansas City
Missouri-Illinois: St. Louis
New York: Dutchess County
New York-New Jersey: New York
North Carolina: Greensboro-Winston Salem-High Point, Raleigh-Durham
North Carolina-South Carolina: Charlotte-Gastonia-Rock Hill
Ohio: Cleveland
Pennsylvania-New Jersey: Philadelphia
Puerto Rico: Caguas, Mayaguez, Ponce, San Juan
Tennessee-Arkansas-Mississippi: Memphis
Texas: Austin, Dallas, Ft. Worth-Arlington, Houston, San Antonio
Virginia: Norfolk-Virginia Beach-Newport News, Richmond-Petersburg
Washington: Seattle

Minority CBOs not located in the above list of high prevalence MSAs will be categorized as lower prevalence geographic areas.

Availability of Funds: In fiscal year 1993, CDC expects up to $8,000,000 to be available for funding minority CBOs in high prevalence MSAs and up to $1,000,000 to be available for funding minority CBOs in lower prevalence geographic areas. Program expansion to support activities in lower prevalence areas emanates from the transfer of the HIV/AIDS Prevention Education Grant Program from the Public Health Service's Office of Minority Health to CDC. Funding under Program Announcement Number 303 is for the purpose of supporting minority CBOs that represent and serve minority persons and meet the criteria outlined in the above section entitled "Eligibility."

Matters to be Discussed: CDC staff will discuss programmatic and business aspects related to the development and submission of applications for funding under Program Announcement Number 303. Program consultants will provide information concerning the four priority areas for funding (Street Outreach Programs, Risk Reduction Programs, Community Intervention Programs, and HIV Prevention Case Management Programs) outlined in Program Announcement Number 303.

General Information: This videoconference is expected to last approximately 6 hours (11 a.m.–5 p.m. EDT). You are encouraged to bring two persons (a business representative and a program representative) to the workshop.

CDC staff will address the integration of and provide information on other related programs (e.g., tuberculosis, preschool immunization, sexually transmitted diseases, national and regional organization, women and infants, substance abuse, and the Community Demonstration Projects).

Because regional and national minority organizations often provide technical assistance and other support to minority CBOs, they are encouraged to attend this videoconference.

For More Information Contact: The CDC National AIDS Clearinghouse may be called at 1–800–458–5231 or fax 1–301–738–6616 after March 26, 1993, for information on the location of videoconference sites in your area and registration procedures. Copies of this videoconference will be available from the CDC National AIDS Clearinghouse on May 5, 1993, for a nominal fee (approximately $12 per copy).

Dated: March 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention.

[FR Doc. 93–7067 Filed 3–26–93; 8:45 am]

BILLING CODE 4160–18–M

Consultation on Human Immunodeficiency Virus (HIV) Counseling Standards, Guidelines, and Options: Meeting

The National Center for Prevention Services (NCPS) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Consultation on HIV Counseling Standards, Guidelines, and Options.

Times and Dates: 1 p.m.–5 p.m., April 12, 1993. 8:30 a.m.–3 p.m., April 13, 1993.

Place: J.W. Marriott Hotel at Lenox, 3300 Lenox Road, NE., Atlanta, Georgia 30326, telephone 404/262–3344.

Status: Open to the public, limited only by space available.

Purpose: Consultants are composed of State Health Department staff, HIV counselors, HIV trainers, program staff from community-based organizations, a representative from the National Institute on Drug Abuse, and representatives from various national HIV organizations. Invited participants have expertise in HIV counseling and will discuss CDC's proposed HIV Counseling Standards, Guidelines, and Options. Participants will review the proposed guidelines and give their individual recommendations to CDC. CDC will use this information to produce expert guidance in the area of counseling and testing.

Matters to be Discussed: The consultants will focus on a number of important public

health issues within the proposed guidelines, such as:

• What standard messages should be included in HIV counseling?

• What standard procedures should be included in HIV/Sexually Transmitted Diseases programs regarding HIV counseling?

Contact Person for More Information: Carl H. Campbell, Jr., Chief, Program Development and Technical Support Section, NCPS, CDC, MS–E44, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639–0800.

Dated: March 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention.

[FR Doc. 93–7066 Filed 3–26–93; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics (NCVHS) Executive Subcommittee: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: NCVHS Executive Subcommittee.

Time and Date: 8:30 a.m.–5 p.m., April 14, 1993.

Place: Columbia Square, Seventh Floor, 555 Thirteenth Street, NW., Washington, DC 20004–1109.

Status: Open.

Purpose: The purpose of this meeting is for the Executive Subcommittee to review the work plans of NCVHS and other subcommittees. The Executive Subcommittee will plan the June 8–10, 1993, NCVHS meeting.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: March 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention.

[FR Doc. 93–7069 Filed 3–26–93; 8:45 am]

BILLING CODE 4160–18–M

Centers for Disease Control and Prevention (CDC)

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Ambulatory and Hospital Care Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: NCVHS Subcommittee on Ambulatory and Hospital Care Statistics.

Time and Date: 9:30 a.m.–5 p.m., April 15, 1993.

Place: Room 703A–729A, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Status: Open.

Purpose: The subcommittee will consider responses to its proposed revision of the Uniform Hospital Discharge Data Set (UHDDS), review the status of the Interagency Task Force on the UHDDS, and consider other issues included in its charge.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: March 23, 1993.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–7068 Filed 3–26–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 93N–0029]

Draft Revised "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft revision of the "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food" ("Redbook"). FDA is making available the draft version of the revised "Redbook" for public comment before developing a final version.

DATES: Written comments by July 27, 1993.

ADDRESSES: Submit written requests for single copies of the revised "Redbook" to the Center for Food Safety and Applied Nutrition, Division of Product Policy (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the revised "Redbook" to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Requests and comments should be identified with the docket number found in brackets in the heading of this document. The draft revised "Redbook" and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dennis M. Keefe, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft revision of the "Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food" ("Redbook"). This revised "Redbook" is intended to provide guidance to petitioners regarding criteria used by FDA for toxicological safety assessment of direct food additives and color additives, and in the agency's evaluation of the generally recognized as safe (GRAS) status of food ingredients.

In 1982, the Center for Food Safety and Applied Nutrition published the "Redbook" to clarify the criteria used by the agency to evaluate the toxicological safety of direct food additives, GRAS ingredients, and color additives used in food. In revising the "Redbook," FDA is taking into account developments in toxicological testing, as well as comments received from the scientific community and the public on the 1982 edition of the "Redbook." The center's goal in revising the "Redbook" is to make it more useful and practical, and to address areas of toxicological safety assessment not covered in the 1982 edition. In addition to conventional toxicological testing procedures, the revised "Redbook" contains new or significantly expanded sections on metabolism and pharmacokinetics, immunotoxicology, neurobehavioral toxicology, alternatives to whole animal testing, unique and specialized additives, pathology considerations, statistical considerations, human testing, epidemiological studies, and risk assessment.

Interested persons may, on or before July 27, 1993, submit to the Dockets Management Branch (address above) written comments on the draft revision of the "Redbook." Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in the brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will announce the availability of the final

version of the "Redbook" in the **Federal Register**.

Dated: March 23, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-7058 Filed 3-26-93; 8:45 am]

BILLING CODE 4160-01-F

National Institutes of Health

Meeting; Alternative Medicine Program

The Office of Alternative Medicine in the Office of the Associate Director for Science Policy and Legislation, National Institutes of Health (NIH), announces a meeting of an Ad Hoc Panel on Alternative Medicine. The meeting is scheduled for April 1 and 2, 1993, from 8:30 a.m. until 5 p.m., Renaissance Hotel, Washington/Dulles International Airport, Sully Road (Route 28) at McLearen Road, 13869 Park Center Road, Herndon, VA 22071. This meeting will be open to the public. However, attendance may be limited by seat availability.

There will be an open public session on Friday, April 2, from 8:30 a.m. to 9:30 a.m. Any person wishing to make a presentation at this session should notify the contact person by March 30, 1993. A brief summary of the presentation should accompany the request.

Comments received at the meeting will be used by the Ad Hoc Panel to identify and frame the issues and develop the agenda for a proposed program advisory committee meeting to follow in June 1993. Scheduled agenda items include a discussion of the role and activities of the Office of Alternative Medicine and its relationship with the Division of Research Grants (DRG), the Small Business Innovation Research (SBIR) Program, and the Office of Medical Applications of Research (OMAR) at NIH.

Written requests to participate should be sent to the attention of Ms. Susan Shelton of EEI, 66 Canal Center Plaza, suite 200, Alexandria, Virginia 22314-1538, 703-684-2116, 703-683-4915 (FAX).

For additional information, contact Joseph J. Jacobs, M.D., M.B.A., Director, Office of Alternative Medicine, National Institutes of Health, 9000 Rockville Pike, Building 31, Room B1-C35, Bethesda, MD 20892, 301-402-2466.

Dated: March 23, 1993.

Susan K. Feldman,

NIH Committee Management Officer.

[FR Doc. 93-7208 Filed 3-26-93; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Office of the Assistant Secretary for Health; Privacy Act of 1974; Addition of Routine Uses to an Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notice of addition of new routine uses to an existing system of records.

SUMMARY: The Public Health Service (PHS) is publishing notice of its intent to add 2 new routine uses for the disclosure of information from the following Privacy Act system of records: 09-15-0044, "Health Education Assistance Loan Program (HEAL), Loan Control Master File, HHS/HRSA/BHPr."

DATE: PHS invites public comments on the new routine uses on or before April 28, 1993. These routine uses will become effective without further notice 30 days after the date of publication unless PHS receives comments which would result in a contrary determination.

ADDRESSES: Please address comments to the Privacy Act Officer, Health Resources and Services Administration (HRSA), Parklawn Building, Room 14A-20, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3780. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Chief, HEAL Branch/Division of Student Assistance, Bureau of Health Professions, HRSA, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-1173. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: HRSA maintains system of records 09-15-0044, "Health Education Assistance Loan Program (HEAL), Loan Control Master File, HHS/HRSA/BHPr," to (1) identify students participating in the HEAL Program; (2) determine eligibility of loan applicants and to compute insurance premiums for Federal insurance; (3) monitor the loan status of HEAL recipients, which includes the collection of overdue debts owed under the HEAL Program; and (4) compile and generate managerial and statistical reports.

HRSA is proposing to add 2 new routine uses to permit the following disclosures: (1) Publication in the **Federal Register** of HEAL defaulter's name, city and state (address if it is a matter of public record) and amount of debt; and (2) Disclosure to Federal agencies, schools, school associations, professional and specialty associations, state licensing agencies, hospitals, and any other relevant organizations, of a HEAL defaulter's name, home and business addresses, social security number, and the amount, status, and history of the debt.

The purpose of these disclosures is to obtain assistance in the enforcement of the terms and conditions of HEAL loans. The Agency is directed to make these disclosures by 42 U.S.C. 292h(c) (1 and 2).

These routine uses are compatible with the purpose for which the records were collected.

Dated: March 19, 1993.

Wilford J. Forbush,

Director, Office of Management.

09-15-0044

SYSTEM NAME:

Health Education Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr.

New routine uses, numbers 16 and 17, are added as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

16. In accordance with the directive in 42 U.S.C. 292h(c)(1), the names of HEAL borrowers who are in default will be published in the **Federal Register** by city and State along with the amounts of their HEAL debts. The individual's address also may be published if the address is a matter of public record as a result of legal proceedings having been filed concerning the individual's HEAL debt.

17. In accordance with the directive in 42 U.S.C. 292h(c)(2), disclosure may be made to relevant Federal agencies, schools, school associations, professional and specialty associations, State licensing boards, hospitals with which a HEAL defaulter may be associated and other similar organizations, of a HEAL defaulter's name, home and business addresses, Social Security number, and the amount, status and history of the debt.

* * * * *

[FR Doc. 93-7059 Filed 3-26-93; 8:45 am]

BILLING CODE 4160-15-M

Social Security Administration

Questionnaire To Determine the Status of Automation in the State DDSs

Questionnaire to Determine the Status of Automation in the State DDSs; 0960-NEW; The information on form SSA-54-BK will be used by the Social Security Administration (SSA) to determine what automated services are

now available in the State offices which make disability determinations for SSA. The respondents will be staff members of these offices.

Number of Respondents: 54
Frequency of Responses: 1
Average Burden Per Response: 5 hours
Estimated Annual Burden: 270 hours
OMB Desk Officer: Laura Oliven.

Copy of SSA–54 and instructions attached.

Social Security Administration DDS Automation Survey

Questionnaire Instructions

Task Order No. 1, under contract No. 600–92–0101, requested the contractor to "develop a questionnaire that can be distributed to the State Disability Determination Services (DDSs) to provide data for determining statistical correlations between the degree of baseline automation within the DDSs and previously identified measures of success." The attached questionnaire was produced in fulfillment of the task order. Following are some general comments and specific instructions for its completion.

Per this objective, a major part of the questionnaire is to ascertain the extent of automation in DDS offices. Based on responses to these questions, a scale of automation will be constructed to be used to develop statistical correlations with "success" or performance as measured by such regularly reported indicators as Productivity Per Work Year (PPWY), Processing Time (PT) and Accuracy.

At the same time it is recognized that automation does not take place in a vacuum. Each DDS site operates in an environment comprised of varying degrees of urban density or rural sparseness, predominately English speaking or multi-lingual. Each provides services in a complex of structural characteristics and management initiatives. Some have no unions, others have several. Some are under the auspices of the Department of Labor; others, Education, or Health or Social Services. Some are centralized, others not. All of these attributes contribute to a profile unique to each site. To understand and adequately control for this variation a significant portion of the questionnaire is devoted to achieving a profile of each DDS office. This information will be used in the analysis to logically group or cluster the DDSs.

The questionnaire is designed to be completed in three parts:

Part 1—Administrative, is designed for completion by the DDS Administrator. In decentralized states, the top administrators for the state and for each branch office are asked to respond. The questions should be answered for the full organization over which you have administrative responsibility.

Part 1 includes questions about staff composition, numbers and types of employees, personnel and organizational issues. Several of these questions may require some prior data collection. Data needed to complete the questionnaire include contractor hours, leave time, staff longevity, non-English languages spoken by claimants, district office errors, and C/E scheduling delays. Please look at the following questions before beginning to complete the questionnaire to determine if data must be gathered before responding: 1.3, 1.5, 1.14, 1.15, 1.24, 1.25, 1.27, 1.28, 1.30.

Part II—Operations, is intended to be completed by an examiner unit supervisor, section manager or lead examiner, and also by a support staff supervisor. This section seeks information about the manner in which work is conducted. Responses should reflect activities and operations for the *entire* office, not the individual respondent.

Part III—Systems, should be completed by the lead systems or data processing person. It seeks information about the extent of automated capabilities at a very detailed level. Information is also sought regarding when systems were implemented and the extent to which they are used. In large, decentralized DDSs, a state-level systems person may be either a key resource or lead authority in completing the several site-specific responses.

Unless otherwise stated, data for fiscal year 1992 (October 1, 1991–September 30, 1992) should be supplied.

Please note: This survey and the analysis that will follow depends on your full participation. Accuracy is also very important. With these two prerequisites fulfilled, the resulting information will benefit all involved.

A significant portion of the data to be used in analysis will come from management and other reports at Social Security headquarters. This was seen as being easier than requesting the data on this questionnaire. In order to link the data to questionnaires, it is necessary to know the DDS state and branch or location.

Because different people (administrators, examiners, support staff, systems) will be completing the questionnaire, it is also necessary to know which employment classification each respondent represents. Although it is not necessary to sign your name, your position must be included. However, it would be most appreciated if you would also provide your name, so that follow up for any additional information needs may be more easily accomplished.

Please feel free to annotate the questionnaire as you work through it, or include detailed comments in the space provided at the end of each section of the questionnaire.

If any questions arise while completing the questionnaire, please call either of the two contacts listed below for clarification:

Victor Van De Moortel, Planning Analysis Corporation, (703) 448–4477
Linda Jenks, Williams, Adley and Company, (410) 965–6382.

Thank you for your contribution to this important study!

Privacy Act and Paperwork Act Notice: The Social Security Act (section 221 (42 U.S.C. 421), as appropriate), authorizes the collection of information on this form. The form will be used to elicit organizational and management information and the extent of office automation in the disability determination services (DDS); to determine the extent to which automation has contributed to DDS performance improvements and to what extent additional automation can be expected to result in further improvements. This information is required to plan and execute the national DDS modernization effort; and, failure to complete the form could result in incorrect measurements, and ultimately incorrect modernization requirements, for the non-responding DDS. Because of the limited scope of information being collected, it is unlikely that the form responses will be disclosed to any other party. These responses constitute only the raw data of this survey. It is more likely that if any data are released to any other government agency, it would be the completed analysis and recommendations.

Time it Takes to Complete This Form

We estimate that it will take between 2 and 5 hours to complete this form. This includes the time it will take to read the instructions, gather the necessary facts and fill out the form. If you have any comments or suggestions and how long it takes to complete this form or any other aspect of this form, write to the Social Security Administration, ATTN: Reports Clearance Officer, 1–A–21 Operations Bldg., Baltimore, MD 21235, and to the Office of Management and Budget, Paperwork Reduction Project (0960–0512), Washington, DC 20503. *Do not send competed forms or information concerning this survey to these offices.*

DDS AUTOMATION SURVEY PART 1—ADMINISTRATIVE

1.1 At your site, what is the maximum number of levels of management or supervision, including yourself, between the top administrator, and any employee in your organization? *(For example, an office in which there is a typing support staff supervisor, examiner, manager, and administrator, would have three levels of supervision, assuming the manager is at a higher level than the supervisor and the examiner has no supervisory responsibilities. You may also wish to provide an organization chart.)* _____

1.2 How many distinct types of operational units do you have? *(Examples would include C/E scheduling or word processing, but multiple examiner units should be counted only once.)* _____

1.3 How many FTEs (*not* employees) were used by the DDS in FY 92? *(If any of these job categories include contracted or volunteer services, e.g. word processing, data processing, please estimate the number of FTEs based on the number of employees replaced or the level of effort represented by the contract or volunteer agreement. If services were provided through indirect costing arrangements with the parent organization, include these estimates with contract FTEs. Compute FTEs by dividing the total number of hours worked in FY 92 by the hours in the work week multiplied by 52, i.e. FTE = total hours/(work week × 52). Do NOT include overtime hours.)*

	FTEs on staff	Contract FTEs	Volunteer FTEs
a. Administrative	_____	_____	_____
b. Examiner	_____	_____	_____
c. Para-professional	_____	_____	_____
d. Clerical	_____	_____	_____
e. Data processing	_____	_____	_____
f. Medical Consultant	_____	_____	_____
g. All Other	_____	_____	_____
Total	_____	_____	_____

1.4 If yours is a decentralized DSS, how many FTEs (*not* number of staff) are dedicated to state-level as opposed to site-specific activities? *(In some of the larger, decentralized states, activities of a core group of staff are dedicated to state-wide or external (e.g. legislative, advocacy) issues. The operation of specific sites is left to another level of administrative management. Often these headquarters staff are located at a physically separate office. This question seeks to know the number of FTE employees who fit this description. Answer N/A if not decentralized.)*

_____

1.5 What was the average number of leave days (e.g. sick, annual, holiday or other time off with or without pay) taken per employee in FY 92? *(Sum the total number of days in each category and divide by the total FTEs as computed in question 1.3 for staff only.)*

_____

1.6 Does your DDS process any state or other non-federal claims? *(Note that this question does not consider claims processing for another state.)*

a. Yes _____
b. No _____

1.7 During FY 92 was it necessary for another state, branch, or federal component to assist in processing your agency's federal claims

a. Yes _____
b. No _____

1.8 Are any employees represented by a collective bargaining agreement? *(Employee organizations are considered unions only if they collect dues and bargain on behalf of their members).*

a. Yes _____
b. No _____(go to 1.13)

1.9 If yes, which employees?

a. Clerical _____
b. Examiners _____
c. Supervisors _____
d. Managers _____
e. Other (who?)_____

1.10 Did you experience any strikes or work stoppage actions in FY 92?

a. Yes _____
b. No _____(go to 1.13)

1.11 If yes, how many employees were involved? _____

1.12 How many days did the work stoppage last? _____

1.13 Are staff trained in functions other than those regularly assigned for back up purposes? *(For example, a support staff who closes cases also knows how to schedule C/Es.)*

a. Yes _____
b. No _____

1.14 How many years, on average, have your examiners been performing adjudicative work? *(Sum their total number of years service through 9/30/92 and divide by the total number of examiners.)* _____

1.15 How many years, on average, have your support staff been performing DDS-related work? *(Sum their total number of years service through 9/30/92 and divide by the total number of support staff.)* _____

1.16 How frequently is program-related training other than initial training offered to your staff? *(Do not include regularly scheduled meetings.)*

	Examiners	*Support Staff*
a. More than once per year	_____	_____
b. Once per year	_____	_____
c. Less than once per year	_____	_____

1.17 What reference materials are available to assist examiners in performing their work? *(Please identify resources developed in addition to those "official" publications and documents provided by SSA.)*

a. POMS extracts, summaries _____
b. Up-to-date procedure manuals _____
c. DOT and current job descriptions _____
d. Merck Manual/medical dictionaries _____
e. Other (please specify) _____

1.18 Do any incentive arrangements exist for employees? *(Some examples are given in question 1.20 below. Raises given solely due to the passage of time (annual, cost of living adjustments) should not be considered an incentive arrangement.)*

a. Yes _____
b. No _____ (go to 1.21)

1.19 If yes, with whom? *(Check if governed by a collective bargaining agreement.)*

	Incentives	*In CBA*
a. Medical Consultants	_____	_____

	Incentives	In CBA
b. Examiners	_____	_____
c. Support staff	_____	_____
d. Other (specify)	_____	_____

1.20 What type of incentive arrangements are available for employees? (*Please attach an additional sheet describing incentive arrangements if they differ for different groups of employees.*)

a. Merit pay increase _____
b. Performance bonus _____
c. Time off with pay _____
d. Recognition _____
e. Other _____

1.21 Are productivity goals such as defining specific numbers of cases to be processed set for any of your employees?

a. Yes _____
b. No _____ (go to 1.24)

1.22 If yes, which employees?

a. Medical Consultants _____
b. Examiners_____
c. Clerical staff_____
d. Quality Assurance staff_____
e. Other (specify) _____

1.23 Are performance reviews and/or increases tied to productivity goals? (*Answer yes only if the linkage is direct and understood by both the employee and supervisor.*)

a. Yes _____
b. No _____

1.24 What percent of claimants serviced by your site are non-English speaking? _____

1.25 Please indicate the number of foreign languages spoken by claimants for which the case volumes represent 5% or more of your total cases in FY 92. (*Answer 0 if only English is spoken.*)

_____

1.26 Does your state and/or local jurisdictions provide any welfare benefits which might be available to claimants? (*You may wish to comment regarding level of benefits, eligibility.*)

a. Yes _____
b. No _____

1.27 For how many claims received from SSA district offices in FY 92 was processing delayed due to incomplete or erroneous information? _____

1.28 How many FY 92 cases had to be returned to the district offices for further information or corrections prior to initiating work on the claim? (*Use actual counts if possible.*) _____

1.29 Are there any C/E exams for which the average wait time is over 30 days due to limited availability of certain specialty physicians or other providers in the claimant's area of residence?

a. Yes _____
b. No _____(go to 1.32)

1.30 How many total claimants were affected by these delays?_____

1.31 Please list the physician specialties (or other provider types) for whom delays occurred and estimate the average wait time (in days) for appointments.

	Specialty	Wait time
a.	_____	_____
b.	_____	_____
c.	_____	_____
d.	_____	_____

1.32 Do you have any "block time" arrangements with physicians for C/Es? (*These are contractual arrangements for the performance of a certain number of examinations or other services at an agreed to price, for a guarantee of a minimum number of occasions of service.*)

a. Yes _____
b. No _____(go to 1.35)

1.33 If yes, who is responsible for scheduling exams? (*Check all that apply.*)

a. DDS _____
b. Physician _____
c. Contractor _____
d. Claimant _____
e. Other _____

1.34 Who is responsible for follow up?

a. DDS _____
b. Physician _____
c. Contractor _____
d. Other _____

1.35 Is the physician paid for "no shows"? (*A no show is when the person neither cancels the appointment nor meets it.*)

a. Yes _____
b. No _____

1.36 Do you ever use copy services for MER?

a. Yes _____
b. No_____

1.37 Do examiners or support staff ever copy records from treating sources?

a. Yes _____
b. No _____(go to 1.41)

1.38 How many staff were involved copying records in FY 92? _____

1.39 From how many treating sources were records copied in FY 92?

_____

1.40 What percent of total claims involved copying records in FY 92?

_____

1.41 Of those staff who have adequate access to the system, what percent use system capabilities relevant to their jobs?_____

1.42 What percent of determination documents, e.g. Personalized Disability Notices, are generated through the examiner's use of automated capabilities or word processing (direct keying), dictaphone and/or transcribed written notes? (*Please estimate as accurately as possible the proportion generated in each of the different ways. Consider all examiners when making this estimate.*)

a. Direct keying _____
b. Dictaphone _____
c. Written notes _____

Respondent Name _____
Title _____
Phone Number _____
Location _____

If you wish to provide any explanatory notes or substantiating information relating to any of the above questions, please include them on this and as many additional pages as needed. Thank you!

DDS AUTOMATION SURVEY

PART 2—OPERATIONS

2.1 How is mail associated with case files?

a. Clerical staff delivers, files _____
b. Mail delivered to examiners to file

_____

c. Mail delivered to examiner unit for support staff to file _____
d. Some other method (Describe)

_____

2.2 Is mail distributed on the same day it arrives?

a. Yes _____(% of time) _____
b. Sometimes _____(% of time) _____
c. No _____(% of time) _____

2.3 What is the earliest time of day an examiner may see the day's mail?

_____

2.4 In FY 92, for how many claims received from SSA district offices was processing delayed due to incomplete or erroneous information? _____

2.5 How many cases had to be returned to the district offices for further information or corrections prior to initiating work on the claim? (*Use actual counts if possible.*) _____

2.6 Prior to assigning a new case to an examiner, what type of pre-development work takes place on the file and who does it (clerical, para-professional, examiner)? (*Please indicate if any pre-development work on the claim takes place and if so, by whom).*

	Activity Type	Staff Type
a. No development work done	_____	_____
b. Technical review	_____	_____
c. MER requested	_____	_____

	Activity Type	Staff Type
d. C/E's scheduled ..	_____	_____
e. Other (Describe) ..	_____	_____

2.7 After a case is assigned to an examiner, where does the file reside when not in active use?

a. At the examiner's workstation _____
b. Somewhere else (Where?) _____

2.8 How many times, on average, do file folders change physical locations during the course of DDS case processing (e.g. to the C/E area, the payment area, etc.)?_____

2.9 Are phone calls from claimant screened, and simple inquiries answered by support staff before referring to the examiner?

a. Yes_____ %_____
b. Some_____ %_____
c. No_____ %_____

2.10 What percent of follow-ups are done by phone or FAX as opposed to mail? (*Please consider carefully the proportion of phone follow up by each examiner, and average. Include all examiners and others who might perform follow up activities.*)

	By examiners	By support staff
a. 1st follow-up	_____	_____
b. Subsequent follow-ups	_____	_____

2.11 Who is responsible for most of the follow up done in your office?

a. Examiner _____
b. Support staff _____
c. Other (Who?) _____

2.12 Are bills paid as they come in or are they batched for processing?

a. Individually _____
b. Batched _____

2.13 Are cases determined by the examiner without input from a medical consultant prior to the phsycian's final review?

a. Always _____ About what percent of the time? _____
b. Sometimes _____ About what percent of the time? _____
c. Never _____ About what percent of the time? _____

2.14 If a case is selected for quality review *within* the DDS, and no quality issue is identified, how many days does this add to processing time? _____

2.15 How frequently do staff attend program-related training other than initial training? (*Do not include regularly scheduled meetings.*)

	Examiners	Support Staff
a. More than once per year	_____	_____
b. Once per year ..	_____	_____
c. less than once per year	_____	_____

2.16 What reference materials are available to assist examiners in performing their work? (Please identify resources developed in addition to those "official" publications and documents provided by SSA.)

a. POMS extracts, summaries _____
b. Up-to-date procedure manuals _____
c. DOT and current descriptions_____
d. Other (Please specify) _____

2.17 Is up-to-date user documentation available for automated systems? (*If you do not have an automated system, please go to question #2.25.*)

a. Yes _____
b. No _____

2.18 On a scale of 1 to 10, rate your system's ease-of-use, with 10 being the greatest ease of use. _____

2.19 What is the response time for your online functions? (*Please state unit of measurement e.g. minutes, seconds.*)

a. On average _____
b. Longest_____What type of function?_____

2.20 How often is the system "down" or inaccessible during normal business hours due to hardware or software errors, and maintenance? (*Please state total amount of time for the past year in hours.*) _____

2.21 What is the total number of staff with hardware and access adequate to use the system to perform their job functions? _____

2.22 How many of those identified above in Question 2.21 have received complete training in how to use the system to perform their job functions? _____

2.23 Of those whose training is incomplete (not accounted for by Question 2.22) how much training would you estimate they have received to date? (0% being no training, 100% being complete)? _____

2.24 Please rate the quality of support provided to the system user for day-to-day operational needs (not major enhancements).

a. Good _____(*Need met within five minutes 80% of the time.*)
b. Adequate _____(*What percent of time.*)
c. Poor _____(*A routine problem takes more than one day to resolve.*)

2.25 What percent of determination documents, e.g. Personalized Disability Notices, are generated through the examiner's use of automated capabilities or word processing (direct keying), dictaphone and/or transcribed written notes? (*Please estimate as accurately as possible the proportion generated in each of the different ways. Consider all examiners when making this estimate.*)

a. Direct keying _____
b. Dictaphone _____
c. Written notes_____

Respondent Name _____
Title _____
Phone Number _____
Location _____

If you wish to provide any explanatory notes or substantiating information relating to any of the above questions, please include them on this and as many additional pages as needed. Thank you!

DDS AUTOMATION SURVEY

PART 3—AUTOMATION

A. SYSTEM DESIGN, ACCESS and PERFORMANCE

3.1 Are all applications or components of the system integrated by a common menu?

a. Yes _____
b. No _____

3.2 Can data entered in one screen be used by all other screens or functions without re-keying? (*Answer yes if this is true more than 90% of the time.*)

a. Yes _____
b. No _____

3.3 Does the system provide on-line, context-sensitive help? (*E.g. can a user press a help key at any point on a screen and get information specific to the item in question?*)

a. Yes _____
b. No _____

3.4 Does the system provide full text translation of coded values, and allow their selection from a menu, with automatic value insertion?

a. Yes _____
b. No _____

3.5 Does the system permit multiple sessions or windowing between applications? (*Answer no if it is necessary to close and exit one application before opening another.*)

a. Yes _____
b. No _____

3.6 Does the system provide word processing capabilities (e.g. assembling blocks of text)?

a. Yes _____
b. No _____

3.7 Can authorized users perform online ad hoc queries of system data? (*Answer no if a programming language*

such as COBOL must be used to obtain information from the system or if only standard, pre-formatted reports are available. Answer yes if a fourth-generation language such as SQL can be used "on-the-ly" to query the data.)

a. Yes _____
b. No _____

3.8 Do authorized users have query access from their workstations to relevant SSA system data? *(Answer no if the user would have to go to a terminal in a different physical location.)*

a. Yes _____
b. No _____

3.9 What percentage of examiners have a terminal or PC at their desk with which to access the system? _____

3.10 What percentage of support staff have a terminal or PC at their desk with which to access the system? _____

3.11 Are staff able to access all system functions necessary in the performance of their job?

a. Yes _____
b. No _____ Why not? _____

3.12 What is the total number of staff with hardware and access adequate to use the system to perform their job functions? _____

3.13 How many of those identified above in Question 3.12 have received complete training in how to use the system to perform their job functions? _____

3.14 Of those whose training is incomplete (not accounted for by Question 3.13) how much training would you estimate they have received to date? (0% being no training, 100% being complete)? _____

3.15 How is user support provided? *(Check all that apply.)*

a. In-house _____
b. Vendor _____
c. Parent agency _____
d. None provided _____
e. Other (Describe) _____

3.16 Of those staff who have adequate access to the system, what percent use system capabilities relevant to their jobs? _____

3.17 Is current data available on the system when needed? If not, state the cause (e.g. batch updates). *(Answer no if you must wait for a system event to occur before you can complete a task.)*

a. Yes _____
b. No _____ Why not? _____

3.18 What is the response time for your online functions? *(Please state unit of measurement e.g. minutes, seconds.)*

a. On average _____
b. Longest _____ What type of function? _____

3.19 How long does it take to move from one application to another? *(Please state unit of measurement e.g. minutes, seconds.)*

a. On average _____
b. Longest _____ What type of function? _____

3.20 How often is the system "down" or inaccessible during normal business hours due to hardware or software errors, back-up and maintenance? *(Please state total amount of time for the past year in hours.)* _____

3.21 What percent of the system's potential is currently being realized? *(Please take into account hardware constraints, extent of staff training and other factors inhibiting maximization of the system's capabilities.)* _____

3.22 At what percent of full capacity is your computer now operating? *(Please answer in terms of % disk capacity and CPU capacity being used.)*

a. Disk capacity _____%
b. CPU capacity _____%

3.23 Are you able to exchange messages and documents electronically (e.g. E-Mail, FAX gateway) within the office, among state sites (if decentralized), with the SSA district offices and/or with providers?

	Intra-office	*Inter-office*	*DO's*	*Providers*
a. Yes	____	____	____	____
b. No	____	____	____	____

3.24 At what baud rate is data transmitted?

a. 4800 or less _____
b. 9600 or above _____
c. Other _____
d. N/A _____

3.25 What other forms of automation do you use that contribute to claims processing productivity and/or accuracy?

a. Envelope stuffer _____
b. Voice mail _____
c. Barcoding _____
d. Teledictation _____
e. Other (Please describe) _____

B. SYSTEM CAPABILITIES

Please complete the following matrix regarding the availability and use of automated capabilities on your system. For the purpose of this section of the questionnaire, "system" is defined as the group of interrelated computer applications which support the disability determination process. Unless specifically customized and integrated with this system, do not consider generic capabilities such as word processing and spreadsheet applications to be part of the "system."

"Automated capabilities" refer to functions that are performed automatically as a result of some other activity occurring, or as the result of entering a "key" field. For example, duplicate and concurrent claims data are automatically displayed as a result of entering the claimant SSN. Generating a letter by keying in all of the text should be considered a manual, not an automated function.

For each capability described below use the following codes in the "AVAILABLE?" column to indicate how it is implemented in your environment:

A=Provided by the system and *A*vailable for use by staff
M=Provided by the system but performed *M*anually
N=*N*ot provided by the system and performed manually
NA=*N*ot *A*pplicable—function not performed

If the capability is provided by the system, *and was installed within the last two years*, indicate in the "DATE IMPLEMENTED" column when it was implemented (MM/YY).

In the "# POTENTIAL USERS" column, indicate how many staff have access to and might logically make use of the automated capability described.

In the "# ACTUAL USERS" column, indicate how many staff are actually using the capability.

Functions resulting in batch processing would be expected to result in the number of Potential Users being equal to the number of Actual Users unless there is some reason not to use the batch output.

Automated capability	Available?	Date implemented	# potential users	# actual users
MANAGE CASE				
Query claim history				

Automated capability	Available?	Date implemented	# potential users	# actual users
Cross-reference aliases, duplicates, concurrent claims				
Assign unique identifier to case				
Assign unique identifier to documents that are to be returned to the DDS (e.g. vendor voucher).				
Select incoming cases for assignment				
Assign case to examiner by type, workload, schedule				
Transfer/reassign cases(s) to other examiner(s)				
Report caseload by examiner, unit, type, priority, age				
Review of case online by supervisor				
Print case folder label				
Track case movement within office				
Log case-related action performed by system (e.g. transmittal of closure data).				
Log case-related action performed manually (e.g. phone call to claimant)				
Log and tickle Congressional inquiries				
Query case status				
Generate follow-up action tickler based on parameters set by the system or user.				
Allow user override of follow-up date				
Display current follow-up actions				
Display future follow-up actions				
Sort follow-up actions by case or vendor				
Produce case development summary form				
Transmit receipt data to NDDSS				
COLLECT MEDICAL EVIDENCE				
Retrieve vendor data from vendor database/file				
Cross-reference affiliated providers				
Supply standard text for request letter				
Produce voucher for provider				
Obligate funds for MER or CIE to financial system				
Automatic generation of follow-up letter or alert				
Cancel follow-up actions as a result of logging receipt of evidence				
Cancel request for evidence				
List expired MER requests				
Log invoice receipt				
Group invoices by vendor				
Address copies of correspondence for third parties				
Batch bulk mailings to specific vendors				
Accept electronic/facsimile transfer of medical evidence				
Post receipt of evidence				

Automated capability	Available?	Date implemented	# potential users	# actual users
Create payment authorization for financial system				
SCHEDULE CONSULTATIVE EXAM				
Initiate CE request				
Queuing of CE requests (if centrally scheduled)				
CE appointment approval				
Identify specialist by claimant location				
Identify interpreter by claimant location				
Compute travel costs				
Produce travel voucher				
Schedule/reschedule block time appointment				
Select procedure-related fee from fee schedule				
Produce appointment notice for vendor				
Produce appointment notice for claimant				
Address copy of appointment notice for third party				
Cancel appointment				
Prompt for non-attending physician justification				
MAKE DETERMINATION				
Online reference tools: (Directories, etc.)				
Electronically transfer probable allowance alert to DO				
Record case notes and decision rationale				
Select PDN boiler plate based on REG-BASIS code				
Cite medical sources on PDN				
Generate 831				
Address copy of 831 for third party				
Transmit closure data to NDDSS				
REVIEW QUALITY				
Select cases by type, level, body system, determination, examiner, unit, medical consultant, CE vendor, reg-basis, diagnosis, or random.				
Report QA results by body system, medical consultant, examiner, decision, etc.				
Identify and assign returned Federal samples				
Maintain error findings, rates				
CREATE MANAGEMENT REPORTS				
Pending caseload				
Cleared cases				
Aged cases				
Cases by type				
Presumptive determination analysis				
Pending hearings				
Examiner performance				

Automated capability	Available?	Date implemented	# potential users	# actual users
Medical consultant performance				
Hearing officer performance				
Vendor performance				
Support staff usage				
MER and/or CE obligation summary				
Payment summary				
SAOR statistics				
CEMS statistics				
Cost per case				
TRACK HEARINGS				
Schedule hearing				
Produce claimant notification letter				
Produce reminder letter				
Produce re-schedule letter				
Produce cancellation letter				
Address copies of correspondence for third parties				
OTHER CAPABILITIES				

Respondent Name _____
Title _____
Phone Number _____
Location _____

If you wish to provide any explanatory notes or substantiating information relating to any of the above questions, please include them on this and as many additional pages as needed. Thank you!

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: March 22, 1993.

Carolyn Hunt,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 93-6993 Filed 3-26-93; 8:45 am]

BILLING CODE 4190-29-M

Social Security Ruling

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Rescission of Social Security Ruling (SSR) 82-54, Titles II and XVI: Mental Deficiency—Intelligence Testing.

SUMMARY: The Principal Deputy Commissioner of Social Security gives notice of the rescission of SSR 82-54.

EFFECTIVE DATE: March 29, 1993.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1711.

SUPPLEMENTARY INFORMATION: Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

SSR 82-54 was published in 1982 and appears in the 1981-1985 Cumulative Edition of the Rulings on page 342. This Ruling stated the policy and described the standardized intelligence test requirements for evaluating disability in mental retardation cases (adult and childhood) under Title II (Federal Old-Age, Survivors and Disability Insurance) and Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled) of the Social Security Act (the Act).

Social Security Administration (SSA) regulations published on August 28, 1985, at 50 FR 35038 revised the Listing of Impairments regarding the medical evaluation criteria SSA uses to evaluate mental disorders in adults under title II and title XVI of the Act. On June 8, 1992, at 57 FR 24186, SSA extended the expiration date of these regulations for one year, to August 27, 1993. Regulations published on December 12, 1990, at 55 FR 51208, revised the

medical evaluation criteria in the Listing of Impairments used by SSA to evaluate mental disorders in children under age 18 under title II and title XVI of the Act. These revisions reflect advances in medical knowledge, treatment and methods of evaluating mental disorders and provide up-to-date medical criteria for the evaluation of disability claims based on mental disorders. Consequently, SSR 82-54, which was issued prior to these regulations, is obsolete and is rescinded.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income.)

Dated: March 16, 1993.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

[FR Doc. 93-7123 Filed 3-26-93; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-93-3578; FR-3424-N-01]

NOFA for the Traditional Indian Housing Development Program for Fiscal Year 1993

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year 1993.

SUMMARY: A. This notice announces the availability of funding for Fiscal Year (FY) 1993 for the development of new Indian housing (IH) units and provides the applicable criteria, processing requirements and action timetable. There will be no separate Family Self Sufficiency (FSS) competition this Fiscal Year. Low rent units awarded as a part of the competition described in this NOFA may be considered FSS units. (FSS Program guidelines published in PIH Notice 92-26, June 26, 1992, should be reviewed for program guidance.) All Indian Housing Authorities (IHAs) which have not been determined to be administratively incapable, in accordance with 24 CFR 905.135, are invited to submit applications for Indian housing developments in accordance with the requirements of this NOFA.

B. In this body of this document is information concerning: the purpose of the NOFA; eligibility; available amounts; the procedures that an IHA must follow to apply for new Indian housing units. The procedures for rating, ranking, and funding IHA applications are also in this NOFA.

DATES: Applications must be physically RECEIVED by the Indian field office (FO) having jurisdiction over the applicant on or before 4:15 p.m. (FO local time) May 13, 1993 for new Indian housing units. The applicant shall submit its application(s) for new housing units on Form HUD-52730 with all supporting documentation required by Appendix 2, and for demolition or disposition in accordance with 24 CFR part 905, subpart M.

FOR FURTHER INFORMATION CONTACT: Applicants may contact the appropriate Indian FO for further information. Refer to Appendix 1, for a complete list of FOs and telephone numbers.

SUPPLEMENT INFORMATION: Paperwork Reduction Act Statement: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), the information collection requirements contained in these application procedures for development funds were reviewed by the Office of Management and Budget and assigned OMB control number 2577-0030.

I. New Development

A. Authority

1. Statutory Authority: Secs. 5 and 6, U.S. Housing Act of 1937 (42 U.S.C. 1437c, 1437d), as amended; U.S. Department of Housing and Urban Development and Independent Agencies' Appropriations Act for Fiscal Year 1993. Sec. 23, U.S. Housing Act of 1937, as added by sec. 554, Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Indian housing regulations. Indian housing development regulations are published as a final rule (57 FR 28240) at 24 CFR part 905.

B. Development Allocation Amount

The FY 1993 VA-HUD Appropriations Act (P.L. 102-389) made available $257,320,000 of budget authority for the traditional Indian Housing Development grants program (new Indian Housing units). However, the appropriated funds have been reduced by $7,176,321 to $250,143,679 due to a prorated reduction of $236,300,000 in anticipated recaptured budget authority to make up the full level of the enacted Annual Contributions account in 1993. With the addition of $290,649 in carryover funds from FY 1992, a total of $250,434,328 is currently available for allocation. Up to $10,000,000 of this amount will be made available by the Department in order to provide funds needed to replace units approved for demolition/disposition. Any portion of the $10,000,000 that is not designated for demolition/disposition replacements by July 1, 1993, as well as any amounts of actual recaptures that are realized and reallotted to the program, will be made available to the OIPs on the same basis as the amounts allocated for new units.

Each of the six Office of Indian Program jurisdictions has been designated at the smallest practical area for the allocation of assistance. Funds available for new units will be assigned to the OIPs consistent with 24 CFR 791.403.

The competitive process, described in section 5, page 7, will be used to select IHA applications to be funded for new Indian Housing units. Departmental compliance with the metropolitan/non-metropolitan provisions of section 213(d) of the Housing and Community Development Act of 1974 may require the selection of lower rated metropolitan applications over higher rated non-metropolitan applications. The table below indicates the amount of grant authority available for new units in FY 1993 for the six OIPs; the indicated amounts are inclusive of funds to meet off-site sewer and water requirements.

Chicago	$58,838,600
Oklahoma City	33,922,000
Denver	33,059,000
Phoenix	70,310,979
Seattle	10,646,049
Anchorage	33,657,700
Total	$240,434,328

C. Eligibility for New Housing Units

All IHAs which have not been determined to be administratively incapable in accordance with 24 CFR 905.135, have been organized in accordance with 24 CFR 905.125 and 905.126, and have the required Tribal and/or local cooperation agreements as required by the U.S. Housing Act of 1937, as amended, are invited to submit applications for new Indian housing units.

All IHAs that have developments assisted under the U.S. Housing Act of 1937, as amended, and meet the requirements of 24 CFR 905 subpart M, may apply for funds for demolition or disposition, whether eligible for new units or not.

D. Development Award Application Process

1. Application due date: An IHA may submit an application(s) for a project at any time after the PUBLICATION DATE of this NOFA, to the Indian FO having jurisdiction over the IHA applicant on or before 4:15 p.m., FO local time, May 13, 1993 for new Indian housing units. The application(s) shall be submitted on Form HUD–52730 and shall be accompanied by all the legal and administrative attachments required by the form and the items specified in the checklist. Where the provisions for the necessary local government cooperation are not contained in the ordinance or other enactment creating the IHA, the IHA shall submit an executed cooperation agreement (or a copy of an existing one) for the location involved, which is sufficient to cover the number of units in the application. A FAX of the application will NOT constitute physical delivery.

The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is not received on or before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

2. Application kit. Application Form HUD–52730 for new IH units and for the FSS program may be obtained from any Indian FO listed in Appendix 1, or from the Indian Housing Development Handbook 7450.1, Chapter 2.

3. Submittal of complete application. Completed applications must be submitted to the Indian FO having jurisdiction of the IHA applicant at the address/location listed in Appendix 1.

4. Action on application. When the application is received by HUD, HUD will provide written notification to the IHA showing the date and time the application was received in the HUD office. The FO will begin review of the application within 14 calendar days after the application deadline. The application must be complete, and the IHA must not have been disqualified for funding of new projects, as determined in accordance with § 905.135. If it is evident that any application fails to satisfy these technical requirements, the HUD FO will immediately return the application and will identify, in writing, the deficiencies. The IHA will be allowed to cure minor technical deficiencies within 14 calendar days of written notification by HUD. All responses must be in writing and received within 14 calendar days of the date HUD issues a written notification of deficiency. Under no circumstances may an applicant submit information which would affect the rating of the application after the original due date for application submission.

E. Ranking Factors and Selection Criteria

1. Rating and Ranking

Rating and ranking of applications from IHAs for new IH units will be done in accordance 24 CFR 905.220. Applications from new IHAs, or, in the case of an umbrella IHA that has added a new tribe, the application from the new tribe, will receive 100 points. If an IHA that serves more than one tribal government, or, in the case of Alaska, more than one village, submits applications for housing units in several of the communities, each application will be treated separately, for purposes of the number of points awarded.

For each Region, the rankings will be based on awarding points to each application for the following categories:

a. The relative unmet IHA need for housing units compared to the other eligible applications for that program type (i.e., low rent (LR) or mutual help (MH)), based on IHA waiting lists and the total number of units in management and in the development pipeline. There should be a separate waiting list for each program type. This need will be measured for each program type by dividing the number of families on the waiting list, by the IHA's total number of units in management and under development. If the result of this division is greater than 1.00, the points for this category shall be 40. Otherwise, the result of this division shall be multiplied by 40. If the IHA has 500 or more families on the waiting list, it is awarded the 40 points. The maximum number of points an IHA can receive is 40 points.

b. The relative IHA occupancy rate compared to the occupancy rates of other eligible IHA applications for that program type. The occupancy rate for an IHA shall be derived from the most recent data entered in the HUD Management Information Retrieval System (MIRS) national data base, which reports total units available and total units occupied based on information supplied by IHAs on forms submitted periodically to HUD. For all IHA projects in management, the total number of units occupied is divided by the total number of units available, multiplied by 100. This occupancy rate for an IHA will then be divided by the highest occupancy rate of any IHA (never to exceed 97%, in any event), and this ratio shall be multiplied by 20 to calculate an IHA's points for this category. The maximum number of points that an IHA can receive is 20 points.

c. Length of time since the last Program Reservation date. The number of days from January 1, 1993 to the date of the last Program Reservation for an IHA shall be divided by the longest time, in number of days, since the last Program Reservation for any IHA. This ratio shall be multiplied by 20 to calculate an IHA's points for this category. The maximum number of points that an IHA receive is 20 points. FSS fund reservations for FY 1991 or FY 1992 and units received for demolition/disposition purposes will not be counted for rating and ranking purposes for new Indian housing units in FY 1993.

d. Current IHA development pipeline activity. The maximum number of points available for this factor is 20 and each IHA will start with 20 points. For each IHA development that was not completed (submittal of the ADCC documents) on January 1, 1993, points will be deducted as follows:

(1) For each IHA development which, within the past 24 months from the date this application was submitted, has not submitted an approvable Development Program within one year from the Program Reservation date for conventional and 18 months for turnkey development methods, 2 points may be deducted at the discretion of the OIP Director up to a maximum deduction of 20 points.

(2) For each IHA development which, within the past 24 months from the date this application was submitted, has not achieved construction start within 30 months from the date of the Program Reservation (not counting days under statutory exclusions), 2 points may be deducted at the discretion of the OIP up to a maximum deduction of 20 points.

(3) For each IHA development not meeting HUD requirements (during the past 24 months from the date of this application) for administration of development contracts as set forth in the regulations and handbooks, 2 points may be deducted at the discretion of the OIP Director up to a maximum deduction of 20 points.

(4) Computation. Scores for ranking shall be carried out to two decimal places. (xx.xx).

2. Selection Criteria

a. The ranking process will produce an ordered list of IHA applications by Region that may receive funding. The

order is established by the total number of points the application received in the rating process. If any funds remain after the initial funding cycle within the Region, the funds will be provided to more fully fund applications that were reduced due to the Maximum Units Award table shown in paragraph b. below.

b. The number of units awarded shall be based upon the following table to ensure a more equitable distribution and meaningful competition based on need. Exceptions to the maximum number of units awarded based on the table shall be made and approved by the Field Office Director upon proper justification.

Total of all units IHA requested in application(s) by program type	Maximum units awarded (subject to availability)
1,000 and above	300
750 to 999	200
500 to 749	150
400 to 499	100
300 to 399	80
200 to 299	60
199 or fewer	40

If an IHA that serves more than one tribal government, or in the case of Alaska, more than one village, submits applications for housing units in several of the communities, each application will be treated separately, for purposes of the number of units awarded.

7. Tie breaker. In the case of ties, priority will be given to the application that has the highest ratio of units to:

a. Pre-approved sites, and, if there is still a tie,

b. BIA approved leases for the proposed project site(s).

8. IHA applications for replacement housing. IHA applications for demolition or disposition may require a commitment for replacement housing units on a one-for-one replacement to comply with requirements of Section 18 of the U.S. Housing Act, as amended. IHAs are to process requests for Demolition or Disposition in accordance with 24 CFR 905, Subpart M.

9. FSS Program Guidelines

Since some or all low rent units awarded in accordance with this NOFA may be considered FSS units by the IHAs, they and other interested parties must consult PIH Notice 92–26 and 56 FR 49592 dated September 30, 1991 to acquaint themselves fully with the operational details of the FSS program.

F. Requests for Amendment Funds

1. Amendment funds may not be used for FY '93 approved projects. However, this will not restrict the availability of amendment funds in future years to those applicants approved in FY 93.

2. Amendment funds will not be distributed to FOs on the same basis as funds for new units. Instead, they will be distributed by HUD Headquarters on the basis of (1) emergency requests from FOs, (2) amendment funds related to the impact of the change in calculation to Total Development Cost calculations mandated by Public Law 101–144 (103 Stat. 846), or (3) in response to amendment money need surveys submitted by the FOs as requested. Requests that are not emergency requests and that are not in response to the change in Total Development Cost calculations will be evaluated using the following order of priority:

a. Projects under construction with HUD-approved litigation settlement payable.

b. Projects that require a cost increase to cover immediate HUD-approved correction of a safety or health hazard that is not associated with off-site sewer and water needs.

c. Projects under construction with a cost increase needed to cover a HUD-approved off-site sewer and water component.

d. Projects under construction that require nominal HUD-approved change orders.

e. Projects with active Invitation to Bid or Request for Proposal status that require a nominal HUD-approved cost increase to execute construction contract or contract of sale.

f. Projects with an active Indian Health Service project summary that require a HUD-approved cost increase before a memorandum of agreement can be executed.

g. Projects that require a HUD-approved nominal cost increase to achieve project close-out.

h. Projects that require a HUD-approved cost increase for any reason not listed above.

II. Other Matters

A. Corrections to Deficient Applications

Upon receipt of the application, HUD will note the date and time and provide written acknowledgement to the applicant indicating the date and time the application was received. The FO will begin review of the application within 14 calendar days after the application deadline. The application must be complete, must demonstrate legal sufficiency, and the IHA must not have been disqualified for funding of new projects, as determined in accordance with § 905.135. If it is evident that any application fails to satisfy these technical requirements, the FO will immediately return the application and will identify in writing the deficiencies. The IHA will be allowed to cure minor technical deficiencies within 14 calendar days of written notification by the FO. All responses must be in writing and received within 14 calendar days of the date the FO issues a written notification of deficiency. Under no circumstances may an applicant submit information which would affect the rating of the application after the original due date for application submission. A minor technical correction is one which will not affect the point score which the application receives in the rating process and which is not a threshold requirement. The 14 days begin on the date the FO issues a written notification. An application that does not meet the applicable threshold requirements and all other requirements of this NOFA after the 14 day technical deficiency correction period will be rejected from processing and determined to be unapprovable.

B. HUD Reform Act

1. Required Disclosures by Applicants

a. Disclosures. All applicants are required to disclose information with respect to any additional funds that can reasonably be expected to be received by them as assistance in excess of $200,000 (in the aggregate) during the Fiscal Year that will be related to the project.

Disclosure must be made relative to any related assistance from the Federal Government (agencies or instrumentalities other than HUD), a state, or a unit of general local government that is expected to be made available with respect to the project for which the applicant is seeking assistance.

The assistance shall include but not be limited to any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

b. Updates. The IHA applicant shall update this disclosure within 30 days of any substantial change. This update is required during the period when an application is pending or assistance is being provided.

2. Prohibited Disclosures by HUD Employees

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That

regulation, codified as 24 CFR part 4, applies to this funding competition. The requirements of the rule continue to apply until the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR Part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her FO counsel, or headquarters counsel for the IH development program.

C. Lobbying

Section 319 of the Department of the Interior and Related Agencies Appropriations Act (Pub. L. 101–121), hereafter referred to as the "Byrd amendment," prohibits grantees from using any federally appropriated funds to influence federal employees, members of Congress, and congressional staff regarding specific grants or contracts. The Department has determined that the requirements of the Byrd amendment do not apply to IHAs established by a Tribal government exercising its sovereign powers with respect to expenditures specifically permitted by other Federal law. The Byrd amendment requires all IHAs established under state law to submit the following documents for applications for grants exceeding $100,000.

1. Certification

A certification that no federal appropriated funds will be used for lobbying purposes. The certification shall be submitted on the Form entitled "Certification for Contracts, Grants, Loans and Cooperative Agreements," and

2. Disclosure Document

A document disclosing any lobbying activities (on Standard Form—LLL, "Disclosure of Lobbying Activities"), where any funds other than federally appropriated funds will be or have been used to influence federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

D. Conversions

Project conversion between program type (LR or MH) may only be considered where:

1. An IHA submitted projects for mutual help (MH) and low rent (LR), each scored high enough to be funded, and the IHA has the waiting list to support the conversion, or

2. If only one application was submitted and approved, the application upon re-ranking in the other program has to score at least 0.01 higher than the number of points achieved by the highest rated application from any IHA which was not funded. If neither circumstance exists, the request to convert will not be approved.

E. Errors in Ranking and Rating FY 1992

1. Errors made by a FO during the 1992 fiscal year's rating and ranking that resulted in a change of rank order detrimental to an IHA may be corrected as follows:

a. The FO will construct a hypothetical distribution that would have existed if the error had not been made, and

b. The FO will determine what the unit award/funding would have been for the IHA subject to the funds that were available at the time.

2. Remedial action will be taken for errors made by a FO as follows:

a. The FO will deduct any funds needed from the FY 93 fair share assigned to that FO before any FY 93 rating and rankings are completed.

b. A correction of an error for an IHA will not adversely affect the IHA participation on the FY 93 rating and ranking process. The IHA's application will be rated and ranked on the same basis as other applications and as if no error had been made.

F. Environment

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Dated: February 16, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

Appendix 1. Listing of Indian Field Offices

1. Region V—Chicago

Chicago Office of Indian Programs, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois 60606–3507, (312) 353–1282 or (800) 735–3239

2. Region VI—Oklahoma

Oklahoma City Indian Programs Division, Murrah Federal Building, 200 N.W. 5th Street, Oklahoma City, Oklahoma 73102–3202, (405) 231–4101

3. Region VIII—Denver

Denver Office of Indian Programs, Executive Tower Building, 1405 Curtis Street, Denver, Colorado 80202–2349, (303) 844–2963

4. Region IX—Phoenix

Indian Programs Office, Two Arizona Center, 400 North Fifth Street, Suite 1650, Phoenix, Arizona 85004–2360, (603) 379–4156

Region IX—Albuquerque

Indian Program Office, 421 Gold Avenue S.W., Room 304, P.O. Box 1128, Albuquerque, New Mexico 87103, (505) 766–1372

5. Region X—Seattle

Seattle Office of Indian Programs, 1321 Second Avenue, Seattle, Washington 98101–2054, (206) 442–5298

6. Region X—Anchorage

Anchorage Indian Housing Division, 701 C Street, Box 64, Anchorage, Alaska 99513–7537, (907) 271–4170

Appendix 2. New Indian Housing Units. Development Application Submission Checklist

It is the Responsibility of the IHA To Meet the Requirements of the Check List

1. Application Form HUD–52730:

_____Complete application on Form HUD–52730.

_____Attach all exhibits and tables as required.

2. IHA Resolution(s): Each application *must* be accompanied by an IHA Resolution which contains the following, or it will be considered non-responsive. (To correct minor technical deficiencies, refer to section II, A)

_____A statement that authorizes the submission of the application for units.

_____A statement explaining how solid waste disposal for the proposed development will be addressed.

_____A statement regarding the planned access to public utility services and a listing of any official commitment(s) for these utility services for the development.

_____The IHA Resolution *must* advise HUD of any persons with a pecuniary interest in the proposed development. Persons with a pecuniary interest in the development shall include but not be limited to any developers, contractors, and consultants involved in the application, planning, construction or implementation of the development. During the period when an application is pending or assistance is being provided, the applicant shall update the disclosure required within thirty days of any substantial change.

3. Certifications: Each application *must* contain the following certifications provided by the Executive Director on IHA letterhead. (To correct minor technical deficiencies, refer to section II A.)

_____Certification Regarding Drug-Free Workplace Requirements as directed by 24 CFR 24.630(b).

_____Certification that the IHA will comply with 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.

_____Certification that the IHA will comply with Uniform Relocation Assistance and Real Property Acquisition Policies act of 1970, as amended.

_____Certification that there is insufficient extisting housing in such neighborhood to undertake the development of housing through acquisition of existing housing or rehabilitation.

_____Certification that the IHA will adhere to the Uniform Accessibility Standards/ Architectural Barriers Act of 1968.

_____For IHAs established under state law, a certification that no federal appropriated funds will be used for lobbying purposes. (Form entitled "Certification for Contracts, Grants, Loans and Cooperative Agreements.")

_____Where applicable, and only for IHAs established under state law, a statement disclosing lobbying activities using other than federal appropriated funds. (Standard Form—LLL, "Disclosure of Lobbying Activities.")

4. Letters: Each IHA application *must* be accompanied by a letter of support signed by the CEO of the general local government indicating (To correct minor technical deficiencies, refer to section II A.):

_____Support for the proposed application and development.

_____An authorization to apply for planning funds for the development.

_____Where applicable, assurance to HUD that access road needs will be identified by Tribal Resolution (with BIA concurrence) and entered on the BIA Indian Reservation Roads prioritization schedule used by BIA for resource allocation (25 CFR 170; 57 BIAM 4 and Supplement 4; and 24 CFR Part 905 B, appendix I, Item 6).

5. Supporting Documentation: Each application *must* be accompanied by the following supporting documentation:

_____Disclosure of additional assistance from other sources that will be used in association with the project for which the applicant is seeking assistance.

_____Demonstration of Financial Feasibility for the proposed development—that there is a market, and that the required annual operating subsidy corresponds to the performance funding system annual expense level.

_____Statement about the overall and relative need in the area.

_____Waiting List of applicant families by program type (LR or MH) and with a certification that the waiting list is supported by current applications from eligible families.

_____Identify sites in the application in accordance with sections 905.230, 905.245 and 905.407.

6. Items that should be submitted, if not previously submitted:

_____Certified copy of the Transcript of Proceedings containing the IHA resolution pursuant to which the Application is being made.

_____IHA Organization Transcript or General Certificate.

_____Tribal Ordinance.

_____Cooperation Agreements. Where the provisions of the necessary local government cooperation are not contained in the ordinance or other enactment creating the IHA, the IHA shall submit an executed cooperation agreement (or copy of an existing one) for the location involved, which is sufficient to cover the number of units in the application.

7. Optional Items:

_____Preliminary Site Reports indicating pre-approved sites, and BIA approved leases for the proposed project site(s), if any.

[FR Doc. 93–7139 Filed 3–26–93; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–4230–05, F–14952–A and F–14952–B]

Alaska Native Claims Selections; Unalakleet Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Unalakleet Native Corporation for approximately 296.84 acres. The lands involved are in the vicinity of Unalakleet, Alaska and are located within Tps. 18 S., Rs. 10 & 11 W. and Tps. 19 S., Rs. 10 & 11 W., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Nome Nugget. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until April 28, 1993 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Carolyn A. Bailey,

Lead Land Law Examiner, Branch of Doyon/ Northwest Adjudication.

[FR Doc. 93–7035 Filed 3–26–93; 8:45 am]

BILLING CODE 4310–JA–M

[AZ–050–03–4210–03; AZA 27305]

Availability of Long-Term Recreation Concession Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is announcing the availability of an existing recreation concession for long-term lease. The concession is located on public lands on the lower Colorado River near Yuma, Arizona. The BLM is seeking a concessioner to redevelop and upgrade the concession.

DATES: Applications will be accepted only at the BLM Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365, from April 1, 1993, to May 15, 1993. Section of the successful applicant will be made by June 15, 1993. Lease issuance will occur by August 15, 1993.

FOR FURTHER INFORMATION CONTACT: Supervisory Lands and Minerals Specialist Joy Gilbert or Resource Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, (602) 726–6300.

SUPPLEMENTARY INFORMATION: The BLM has terminated a long-term recreation

concession contract for a facility formerly known as Imperial Oasis. The facility is located on the lower Colorado River near Yuma, Arizona, and immediately northeast of Imperial Dam. The existing concession consists of a 267-space trailer park, boat-launching and fueling facilities, a marina, gasoline and propane sales facilities, a building which housed a store and restaurant, a laundromat, storage yards, restrooms with shower facilities, and other related facilities.

The existing facilities are substandard. A considerable amount of redevelopment and upgrading must be done to bring the concession up to acceptable standards and to a level consistent with Federal and State, and County codes and regulations. The focus of the redevelopment will be to provide products, facilities, and visitor services for the enhancement of recreational visitors' used and enjoyment.

A long-term lease is available to a qualified applicant who presents a Plan of Development acceptable to the BLM, and which offers a diversity of opportunities and services to the recreating public. The lease term is negotiable (it could range from 20 to 40 years) and will be based on the Plan of Development, the Timetable for Development, and the capital investment involved. The term of the lease is for an extended use of the public lands for development purposes and will provide a reasonable amortization of capital investment.

The concession lease will be offered through a competitive process. The land use authorization will be awarded on the bases of: (1) The public benefits to be provided, (2) a Plan of Development acceptable to the BLM, (3) the financial and technical capability of the bidder to undertake the project, (4) feasibility of the proposal, (5) impacts on the environment, (6) assessment of applicants through the use of established applicant criteria, and (7) the bid offered. No applications will be considered for less than 4 percent of the total gross receipts to be derived annually from products and services offered at the concession. The high bid is part of the criteria for selecting a successful applicant, but it is not an overriding consideration.

The terminated contract requires that the previous concessioner be compensated for existing improvements. The compensation amount is $460,000.00, which must be paid in full by August 15, 1993. Details regarding method, place, and time of payment are contained in a prospectus which is available from the BLM Yuma District Office.

Lease issuance will not be simultaneous with final selection but will occur by August 15, 1993, after the term and other items have been agreed upon by the BLM and the selected applicant.

Applicants may be required to present their plans for the concession before a review committee.

All applications must include a reference to this Notice and a complete description (Plan of Development) of the proposed facilities and services to be offered. Such a Plan of Development must be in sufficient detail to allow evaluation of the feasibility of the proposed land use, impacts on the environment, public benefits from the land use, and the approximate cost of the proposal. This can be accomplished by providing: (1) Details of the proposed use and activities; (2) a description of all facilities and access needs; (3) a map of sufficient scale to be legible; (4) a legal description of the proposed project location, including acreage; (5) schedule of facility construction; and (6) any other information (such as an analysis of projected performance) that may aid in evaluating the proposal. Applicants must furnish evidence satisfactory to the BLM that they have or, prior to commencement of construction, will have the technical and financial capability to construct, operate, maintain, and discontinue the authorized land use.

For more details of application content, refer to title 43, Code of Federal Regulations, subpart 2920, copies of which are available at the BLM Yuma District Office. Also available is a prospectus containing more detailed information about application content, such as parameters and constraints relating to development of the concession.

This Notice of Realty Action is published under the authority of title 43, Code of Federal Regulations, subpart 2920, section 4(c).

Dated: March 18, 1993.

Herman L. Kast,

District Manager.

[FR Doc. 93–7042 Filed 3–26–93; 8:45 am]

BILLING CODE 4310–32–M

[AZ–921–03–5410–10–A023; AZA 27169]

Arizona, Application for Conveyance of Mineral Interests

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction to FR October 7, 1992.

SUMMARY: 57 FR 46191, October 7, 1992, served notice of receipt of application from Stewart Title and Trust of Tucson, an Arizona Corporation, as Trustee under Trust No. 3411, to purchase the mineral estate for the following described lands in Santa Cruz County:

Gila and Salt River Meridian, Arizona,

T. 20 S., R. 13 E.,
Sec. 12, N½N½, N½SE¼, SE¼SE¼.
Containing 280 acres.

The SE¼NW¼ of the same section has been added to the application, increasing the acreage to 320. This 40 acres is segregated from the public land laws, including the mining laws and the mineral leasing laws, effective the date of this publication. The segregation shall terminate upon issuance of a patent, rejection of the application, or two years from the date of filing of the application. The date of application for the entire 320 acres is changed from August 5, 1992, to August 3, 1992.

FOR FURTHER INFORMATION CONTACT: Evelyn Stob, Land Law Examiner, Arizona State Office, P.O. Box 16563, Phoenix, AZ 85011–6563, (602) 640–5534.

Mary Jo Yoas,

Chief, Branch of Lands Operations.

[FR Doc. 93–7032 Filed 3–26–93; 8:45 am]

BILLING CODE 4310–84–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Revision and Renewal of BIFADEC Charter

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given that the Administrator of the Agency for International Development (A.I.D.) and the Chairman of the Board for International Food and Agriculture Development and Economic Cooperation (BIFADEC) have approved the revision and renewal of the Charter of BIFADEC and its subcommittee, the Joint Committee on Research and Development (JCORD), which replaces the Joint Committee on Agriculture Research and Development (JCARD). JCORD will serve as the technical arm of BIFADEC in providing advice to international development and economic cooperation, and to help mobilize U.S. university resources toward that end in all important aspects of development.

C. Stuart Callison will serve as the Designated Federal Officer for BIFADEC, and William Frederick

Johnson will serve as the Designated Federal Officer for JCORD.

Dated: March 10, 1993.

C. Stuart Callison,

Deputy Executive Director, BIFADEC.

[FR Doc. 93-7031 Filed 3-26-93; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32270]

Exemption; Connecticut Rail Systems, Inc.; Trackage Rights Exemption; Danbury Terminal Railroad Co.

Danbury Terminal Railroad Company (DTRR) has agreed to grant to Connecticut Rail Systems, Inc. (CRSI) overhead and local trackage rights over DTRR's so-called Danbury Secondary Line from approximately milepost 104.8±, at or near Derby Junction, CT, to approximately milepost 76.9±, at or near Danbury, CT, to and through Danbury Yard and to the connection between Danbury Yard and the Danbury Branch, a distance of approximately 27.9 miles. The trackage rights became effective on March 17, 1993.[1]

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information the exemption is void *ab initio*. Petition to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Terence M. Hynes, 1722 Eye Street, NW., Washington, DC 20006.

As condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: March 22, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-7104 Filed 3-26-93; 8:45 am]

BILLING CODE 7035-01-M

[1] On March 5, 1993, CRSI filed a notice of exemption for its acquisition of an approximately 10.2-mile line from Consolidated Rail Corporation, along with 74 miles of incidental overhead trackage rights and freight service rights in Connecticut. See Finance Docket No. 32233, Connecticut Rail Systems, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation. CRSI expected to consummate the transaction after March 12, 1993, the effective date of that notice.

DEPARTMENT OF JUSTICE

Information Collections Under Review

March 24, 1993.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the items) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jefferson B. Hill on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514-4115 or facsimile: (202) 514-1534. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Hate Crime Incident Report. Quarterly Hate Crime Report.

(2) Form 11-1. Form 11-2. Federal Bureau of Investigation.

(3) Monthly. Quarterly.

(4) State or local governments. These forms will be used to collect bias motivation of selected offenses. Resulting statistics are published annually.

(5) 64,000 annual responses at .17 hours per response.

(6) 10,880 annual burden hours.

(7) Not applicable under 3504(h).

(1) Age, Sex, Race and Ethnic Origin of Persons Arrested.

(2) 4-924, 4-924A. Federal Bureau of Investigation.

(3) Monthly.

(4) State or local governments. The forms are needed to collect the age, sex, race and ethnic origin of persons arrested. The resulting statistics are published in the annual publication, "Crime in the United States".

(5) 121,776 annual response at .5 hours per response.

(6) 60,888 annual burden hours.

(7) Not applicable under 3504(h).

Public comment on these items is encouraged.

Dated: March 24, 1993.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 93-7134 Filed 3-26-93; 8:45 am]

BILLING CODE 4410-10-M

Notice of Lodging of an Amendment to a Consent Decree Pursuant to the Toxic Substances Control Act and the Rivers and Harbors Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Amendment to the Consent Decree (the "Amendment") soon will be lodged in *United States* v. *Boliden Metech, Inc.*, Civil Action No. 88-280-T, a case pending in the United States District Court for the District of Rhode Island. The Amendment partially resolves claims of the United States against the defendant in the above-referenced action under the Toxic Substances Control Act ("TSCA") and the Rivers and Harbors Act ("RHA"). The complaint in the case alleges that the defendant violated a number of provisions of TSCA and RHA with respect to its operation of a metal shredding plant in Providence, Rhode Island (the "Facility"). On January 10, 1991, the Court entered a partial consent decree that, among other things, required Boliden first to characterize piles of shredded metal present at the Facility for PCB content, and then to dispose of any piles containing PCBs in accordance with regulations under TSCA governing such disposal. The characterization has been completed.

Under the proposed Amendment, Boliden may export a portion of the PCB-contaminated shredded metal to Sweden for the purpose of smelting it at a smelter operated by Boliden Mineral AB in Skelleftehamn. The Statens Naturvardsverk of Sweden has issued to Boliden Mineral AB a permit to import and smelt the PCB-contaminated shredded metal.

The proposed Amendment may be examined at the Office of the United States Attorney, 10 Dorrance Street, Providence, Rhode Island 02903; at the Region I Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts; and at the Environmental Enforcement Section Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, (202) 624-0892. A copy of the Amendment may be obtained in person or by mail from the Consent Decree Library.

The Department of Justice will receive written comments relating to the proposed Amendment until fourteen days after the publication date of this notice or until April 14, 1993, which ever is later. Comments should be addressed to Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Boliden Metech, Inc.*, (DOJ Reference No. 90-5-1-1-3096).

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93-7083 Filed 3-26-93; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Immigration Nursing Relief Advisory Committee; Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration, the Secretary of Labor has determined that the renewal of the Immigration Nursing Relief Advisory Committee is in the public interest in connection with the performance of duties imposed on the Department by Public Law 101-238, Immigration Nursing Relief Act of 1989.

The Committee will advise the Secretary of Labor on the effectiveness of the Immigration Nursing Relief Act of 1989 (INRA) and on needed changes to that legislation. The Committee will use its expertise to assess: the impact of the INRA on the nursing shortage; programs that medical institutions implement to recruit and retain nurses who are U.S. citizens, or immigrants authorized to perform nursing services; the formulation of State recruitment and retention plans under the INRA; and the advisability of extending the provisions of INRA beyond the 5-year period specified in the Act.

In carrying out its duties, the Committee will:

1. Design and implement effective evaluation methodologies to measure the impact of immigrant nurse employment on retention rates, wages and working conditions of U.S. nurses.

2. Identify and evaluate innovative programs designed to retain and attract greater numbers of U.S. citizens into the nursing profession.

3. Analyze and assess appropriate levels of continued immigrant nurse employment through evaluation of qualifications as well as length of continued employment in the nursing profession once granted immigration under INRA.

The Committee was designed to complete its work within approximately four years and will report its findings to the Secretary of Labor. During the course of the Committee's work, the Secretary of Labor will consult with the Secretary of Health and Human Services, reviewing the Committee's progress and soliciting ideas and insights on issues relevant to retention and increased employment of U.S. registered nurses. The Secretary of Labor will share the Committee's preliminary findings and recommendations with and solicit advice from the Secretary of Health and Human Services and the Attorney General.

The Committee will convene approximately two times per year. The Office of the Assistant Secretary for Policy of the Department will provide the necessary support for the Committee.

The Committee will include representatives of the U.S. Department of Health and Human Services, the Attorney General, hospitals, labor organizations representing registered nurses, and other pertinent organizations. Members not employed by the Federal Government shall not be compensated but may be reimbursed for travel expenses, subsistence and accommodations as allowed by current regulations. These members shall not be deemed to be employees of the United States.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act fifteen (15) days from the date of this publication.

Interested persons are invited to submit comments regarding the renewal of the Immigration Nursing Relief Advisory Committee. Such comments should be addressed to: Mr. Gary B. Reed, Director, Office of Program Economics, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-2114, Washington, DC 20210, Telephone: (202) 219-6026.

Signed at Washington, DC this 16 day of March, 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93-7136 Filed 3-26-93; 8:45 am]

BILLING CODE 4510-23-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. Consolidation Coal Company

[Docket No. M-93-28-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Arkwright Mine (I.D. No. 46-01452) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, certain areas of the intake aircourse cannot be safely traveled. The petitioner proposes to establish check points to monitor the quantity and quality of air 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.

2. Consolidation Coal Company

[Docket No. M-93-29-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Loveridge No. 22 Mine (I.D. No. 46-01433) located in Marion County, West Virginia. Due to deteriorating roof conditions, certain areas of the return aircourse cannot be safely traveled. The petitioner proposes to establish airway check points to monitor the quantity and quality of air 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.

3. Powderhorn Coal Company

[Docket No. M-93-30-C]

Powderhorn Coal Company, P.O. Box 1430, Palisade, Colorado 81526 has filed a petition to modify the application of 30 CFR 75.380(d) (escapeways; bituminous and lignite mines) to its Roadside Mine (I.D. No. 05-00281) located in Mesa County, Colorado. The petitioner requests a modification to allow the already established and constructed secondary escapeway points to remain in place under the provision of former application of standard 30 CFR 75.1704-1 (1991). The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

4. Black Beauty Coal Company

[Docket No. M-93-31-C]

Black Beauty Coal Company, P.O. Box 312, Evansville, Indiana 47702-0312 has filed a petition to modify the application of 30 CFR 75.1700 (oil and gas wells) to its Air Quality No. 1 Mine (I.D. No. 12-02010) located in Knox County, Indiana. 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.

5. Keystone Coal Mining Corporation

[Docket No. M-93-32-C]

Keystone Coal Mining Corporation, P.O. Box 729, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.380(d)(4) escapeways; bituminous and lignite mines) to its Urling No. 1 Mine (I.D. No. 36-04852) located in Indiana County, Pennsylvania. The petitioner proposes to continue using the four foot wide passable portion of the escapeway for approximately 70 feet in the No. 4 Entry of the 10 East Section which has been the case since experiencing a cave-in in August 1992 when it was determined that it would be unsafe to bolt the area. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

6. Consolidation Coal Company

[Docket No. M-93-33-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Osage No. 3 Mine (I.D. No. 46-01455) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, certain areas of the return aircourse cannot be safely traveled. The petitioner proposes to establish check points to monitor the quantity and quality of air in 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.

7. Target Industries, Inc.

[Docket No. M-93-34-C]

Target Industries, Inc., P.O. 376, Carmichaels, Pennsylvania 15320 has filed a petition to modify the application of 30 CFR 75.364(b)(2) and (c)(2) (weekly examination) to its Target Mine (I.D. No. 36-06873) located in Greene County, Pennsylvania. Due to deteriorating roof conditions, certain areas of the return aircourse cannot be safely traveled. The petitioner proposes to establish check points to test for methane and quantity of air in 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.

8. Consolidation Coal Company

[Docket No. M-93-35-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Osage No. 3 Mine (I.D. 46-01455) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, the South side of the Main West entries from the Dolls Portal to the No. 1 Check Point cannot be safely traveled. The petitioner proposes to establish check points 1, 4, 5, 6 and 7 in the affected area and have a certified person test for methane and the quantity of air at check points 1, 4, 5 and 6, and have pressure readings taken at check point 7 at a track overcast along the mainline haulage. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

9. Consolidation Coal Company

[Docket No. M-93-36-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Blacksville No. 2 Mine (I.D. No. 46-01968) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, certain areas of the return aircourse cannot be safely traveled. The petitioner proposes to establish check points to monitor the quantity and quality of air 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.

10. Consolidation Coal Company

[Docket No. M-93-37-C]

Consolidation Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241-1421 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Dilworth Mine (I.D. No. 36-04281) located in Greene County, Pennsylvania. Due to deteriorating roof conditions, the petitioner proposes to have a certified person continue weekly examinations in the Left return aircourse except for the intersection of 41 crosscut and No. 2 parallel entry for a distance of 30 feet in each direction, and have a certified person travel the affected area only to test for methane and quantity of air. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

11. Maple Meadow Mining Company

[Docket No. M-93-38-C]

Maple Meadow Mining Company, 315 70th Street, Charleston, West Virginia 25304-2909 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Maple Meadow Mine (I.D. No. 46-03374) located in Raleigh County, West Virginia. Due to deteriorating roof conditions in the return aircourse, the area cannot be safely traveled. The petitioner proposes to establish a monitoring station inby and outby the affected area to monitor the quantity and quality of air. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

12. Martinka Coal Company

[Docket No. M-93-39-C]

Martinka Coal Company, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Tygart River Mine (I.D. No. 46-03805) located in Marion County, West Virginia. Due to deteriorating roof conditions, certain areas of the intake aircourse cannot be safely traveled. The petitioner proposes to establish evaluation points to monitor the quantity and qualify of air entering and leaving the affected area and have

a certified person examine the evaluation points on a weekly basis. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

13. Sea "B" Mining Company

[Docket No. M-93-40-C]

Sea "B" Mining Company, P.O. Box 4000, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.364(b)(4) (weekly examination) to its Seaboard No. 1 Mine (I.D. No. 44-02253) located in Tazewell County, Virginia. Due to a fall outby the seal in the No. 3 entry, the petitioner proposes to install a tube across the fall into the entry immediately outby the seal to allow air samples to be taken at the seal without exposing the mine examiner to the hazardous roof conditions. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, 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 April 28, 1993. Copies of these petitions are available for inspection at that address.

Dated: March 22, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93-7137 Filed 3-26-93; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-461]

Illinois Power Co., et al., Clinton Power Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-62, issued to the Illinois Power Company (the licensee), for operation of the Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would consist of revisions to 10 CFR part 20 references to recognize the new section numbers, revise definitions to ensure consistency with 10 CFR part 20, and change administrative controls for recordkeeping to maintain compliance with the new part 20. The changes ensure compliance with 10 CFR 50.36a and 10 CFR 50, appendix I, and result in levels of radioactive materials in effluents being maintained as low as reasonably achievable. The revision to the high radiation area controls and dose measurement distance will ensure areas are conservatively posted as high radiation areas in compliance with 10 CFR 20.1601(a)(1) and provide controls to ensure individuals are not overexposed. In addition, the changes revise the limitations on concentrations of radioactive material released in liquid effluents and the limitations on the dose rate resulting from radioactive material released in gaseous effluents, and reflect the relocation of the prior 10 CFR 20.106 requirements to the new 10 CFR 20.1302.

The proposed action is in accordance with the licensee's application for amendment dated October 16, 1992, as supplemented February 17, 1993.

The Need for the Proposed Action

The proposed action is needed in order to retain operational flexibility consistent with 10 CFR part 50, appendix I, concurrent with the implementation of the revised 10 CFR part 20.

Environmental Impacts of the Proposed Action

The proposed revision, in regards to the actual release rates as referenced in the Technical Specifications (TS) as a dose rate to the maximally exposed member of the public, will not increase the types or amounts of effluents that may be released offsite, nor increase individual or cumulative occupational radiation exposures. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendment.

With regard to potential nonradiological impacts, the proposed changes do not affect nonradiological effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed amendment to the TS, any alternative to the amendment will have no significantly different environmental impact nor greater environmental impact. The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts as a result of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to the operation of the Clinton Power Station, Unit 1, dated May 1982.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

For further details with respect to this action, see the application for amendment dated October 16, 1992, as supplemented February 17, 1993, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 23rd day of March 1993.

For the Nuclear Regulatory Commission.

James E. Dyer,

Director, Project Directorate III-2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93-7082 Filed 3-26-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-315 and 50-316]

Indiana Michigan Power Co., Donald C. Cook Nuclear Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR part 50, appendix E, to Indiana Michigan Power Company (the licensee), for the operation of the Donald C. Cook Nuclear Plant, Units 1

and 2, located in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the schedular requirements of appendix E to 10 CFR part 50. On May 24, 1991, the licensee requested an exemption from section IV.F.3, which requires that each licensee at each site shall exercise emergency plans with offsite authorities such that the State and local government emergency plans for each operating reactor site are exercised biennially, with full or partial participation by State and local governments, within the plume exposure pathway emergency planning zone (EPZ). On September 4, 1991, the Commission granted an exemption from this requirement, with the stipulation that such an exercise be completed by June 1, 1993. On January 15, 1993, the licensee requested an extension of this requirement until June 30, 1993.

The Need for the Proposed Action

The proposed exemption is needed because the Federal Emergency Management Agency (FEMA) has requested that the State of Michigan and the licensee schedule the offsite participation portion of the annual emergency exercise for D.C. Cook Nuclear Plant on June 30, 1993. This date was necessitated by constraints established by FEMA, the State of Michigan, and the other utilities in FEMA Region V. The date was agreed upon by all parties during a scheduling conference on November 12–13, 1992, in order to balance the workload on the FEMA Region V office and the State of Michigan.

Environmental Impacts of the Proposed Action

The proposed exemption will move the date of the emergency plan exercise involving the State and Berrien County from May 1993 until June 30, 1993. The previous full participation emergency preparedness exercise was conducted on April 3, 1990. The next biennial full participation exercise was to have been in November 1992. This is the exercise that moved to May 1993 as a result of the licensee's exemption request of May 24, 1991.

This is a minor schedule adjustment that is supported by the State of Michigan. The NRC's rating of licensee performance during previous emergency exercises at D.C. Cook have generally been good and there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

Accordingly, the exemption does not appear to adversely affect either the probability or the consequences of an accident, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption does not affect a change in the installation or use of a facility component located within the restricted area as defined by 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested schedular change. This would not reduce environmental impacts of plant operation and would result in increased operational burden on FEMA Region V.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Commission's Final Environmental Statement for the Donald C. Cook Nuclear Plant, Units 1 and 2, dated August 1973.

Agencies and Persons Consulted

By letter dated April 15, 1991, the State of Michigan documented the need of FEMA Region V Office and the support of FEMA headquarters for the exemption that resulted in the original date of the exercise being moved to May 1993. At that time, the State of Michigan further indicated that neither they nor the affected local jurisdiction, Berrien County, objected to the proposed schedule change. Also, all the principal parties involved in the conduct of the exercise agreed to a June 30, 1993, date during the scheduling conference held November 12–13, 1992. This information was considered by the NRC in the evaluation of the proposed exemption.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see (1) the licensee's letter dated May 24, 1991, with the State of Michigan letter dated April 15, 1991, attached, (2) the exemption granted by the Commission dated September 4, 1991, and (3) the licensee's letter dated January 15, 1993, requesting an extension of the previous exemption. These documents are available for public inspection at the Commission's Public Document Room, 2121 L Street, NW, Washington, DC 20555 and at the local public document room located at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 16th day of March 1993.

For the Nuclear Regulatory Commission.

Ledyard B. Marsh,

Director, Project Directorate III-1, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–7079 Filed 3–26–93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50–344]

Portland General Electric Co., Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from the emergency preparedness requirements of 10 CFR part 50, appendix E, section IV.F.2. This exemption would be granted to the Portland General Electric Company (PGE or the licensee) for the Trojan Nuclear Plant, a pressurized water reactor, located in Columbia County, Oregon, on the banks of the Columbia River.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant a one-time exemption, for calendar year 1992, from the annual emergency preparedness requirements of 10 CFR part 50, appendix E, section IV.F.2, which requires each licensee at each site to annually exercise its emergency plan.

PGE requested this exemption in their letter of February 15, 1993.

The Need for the Proposed Action

The Trojan Nuclear Plant shut down on November 9, 1992, when a leak in the "B" steam generator was detected. On January 4, 1993, the Directors of Portland General Electric Company voted to accept the recommendation by the PGE management to permanently cease power operations at the Trojan Nuclear Plant. PGE began defueling the reactor on January 23, 1993, and completed the movement of all fuel elements to the spent fuel pool on January 27, 1993. In a letter dated January 27, 1993, the licensee informed the staff that PGE had decided to permanently cease operations. By letter dated February 17, 1993 the licensee committed to not moving fuel back into the containment building without prior NRC approval, thereby precluding any future power operations or a reactor criticality.

The licensee currently has an emergency plan as required by 10 CFR part 50, appendix E. The emergency plan is designed for use by licensees in attaining an acceptable state of emergency preparedness for a variety of radiological accidents including accidents at full power. 10 CFR part 50, appendix E, section IV.F.2, states that each licensee at each site shall annually exercise its emergency plan. Due to the November 9, 1992 steam generator leak and subsequent shut down at the Trojan Nuclear Plant, the initial scheduled date for the exercise of November 17, 1992 was deferred until December 15, 1992. However, as a result of the continued forced outage, the 1992 annual exercise could not be practicably performed on December 15, 1992. The licensee stated that ongoing outage activities would be hampered by the conduct of an exercise at that time. The plant was not expected to resume operations until after January 1, 1993. By letter dated December 11, 1992, the licensee requested an exemption from 10 CFR part 50, appendix E, section IV.F.2, which would defer conducting its 1992 annual emergency plan exercise, scheduled for December 15, 1992, until the first quarter of 1993. On December 29, 1992, the staff approved the one-time scheduler exemption to defer the 1992 annual emergency plan exercise until the first quarter of 1993.

In a letter dated February 15, 1993, the licensee requested that they be exempted from the requirement in 10 CFR part 50, appendix E, section IV.F.2. for 1992 to conduct an exercise of their emergency plan. The basis for this request is that it would allow the licensee to better allocate available resources in the development of a revised emergency plan that better reflects the permanently shutdown and defueled condition of the Trojan Nuclear Plant. The licensee stated that compliance with this requirement resulting in a full scale exercise would not serve the underlying purpose of the rule requiring the annual emergency plan exercise. PGE concluded that the level of emergency planning and preparedness necessary to provide adequate protection of public health and safety in a permanently shutdown and defueled condition is significantly less than that provided by the current Trojan emergency plan. The licensee submitted on March 8, 1993, a copy of their Permanent Defueled Emergency Plan for NRC staff review. The licensee currently plans to conduct an exercise of their revised plan during the summer of 1993.

Environmental Impact of the Proposed Action

The proposed action is needed to remove the requirement to conduct an annual exercise for the calendar year 1992 by March 31, 1993. The proposed exemption does not have any effect on accident risk and the potential for an environmental impact is remote. The commitment by the licensee to permanently cease operations and to not move fuel into the reactor building without prior NRC approval has significantly reduced the likelihood of an accident resulting in offsite releases which would exceed the current U.S. Environmental Protection Agency protective action guides (PAG) threshold. Until the staff completes its review of the revised emergency plan for the Trojan Plant, the current plan is still in effect. The exemption only exempts the licensee from the requirement to exercise the current plan for 1992. Therefore, the proposed exemption does not increase the probability or consequences of any accidents, no changes are made in the types of any radioactive effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure onsite.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the exemption. This would not reduce environmental impacts of the facility and would not enhance the protection of the environment nor public health and safety.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the Trojan Nuclear Plan, dated August 1973

Agencies and Persons Consulted

The NRC staff discussed the request for exemption with representatives of the U.S. Federal Emergency Management Agency (FEMA) and the State of Oregon Department of Energy. Neither FEMA nor the State of Oregon provided any comments on the proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the February 15, 1993, application for exemption by the licensee, which are available for public inspection at the Commission Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, DC 20555 and at the Local Public Document Room at the Branford Price Millar Library, Portland State University, 834 SW. Harrison Street, P.O. Box 1151, Portland, Oregon 97202.

Dated at Rockville, Maryland, this 23rd day of March 1993.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93-7080 Filed 3-26-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-250 and 50-251]

Florida Power & Light Co., Turkey Point Nuclear Generating Plant; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that, on October 23, 1992, Mr. James P. Riccio submitted a petition to the U.S. Nuclear Regulatory Commission (NRC) pursuant to 10 CFR 2.206 about the nuclear units at the Turkey Point Nuclear Generating Plant of the Florida Power & Light Company (FPL or licensee). The petition was submitted on behalf of Public Citizen, Greenpeace, Nuclear Information & Resource Service, and the Safe Energy Communication Council (petitioners). The petition was referred to the Office of Nuclear Reactor Regulation for a response and appropriate action.

The petitioners alleged a number of deficiencies with emergency planning at Turkey Point Nuclear Units 3 and 4 because of the effects of Hurricane Andrew and requested that the NRC issue an order to show cause to the licensee as to why the nuclear units at Turkey Point should not remain closed or have their operating licenses suspended by the NRC unless and until such time as the licensee demonstrates full compliance with the NRC's emergency planning regulations. The Notice of Petition for Director's Decision under 10 CFR 2.206 was published in the **Federal Register** on December 9, 1992 (57 FR 58264).

The Director of the Office of Nuclear Reactor Regulation has determined that the petition should be denied for the reasons explained in the "Director's Decision under 10 CFR 2.206" (DD-93-04), which is available for public inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the Turkey Point plant located at Florida International University, University Park, Miami, FL 33199.

A copy of this Director's Decision will be filed with the Secretary for the Commission to review in accordance with 10 CFR 2.206(c). As provided in this regulation, the decision will constitute the final action of the Commission 25 days after the date of the issuance of the decision, unless the Commission on its own motion institutes a review of the decision within that time.

Dated at Rockville, Maryland, this 23rd day of March, 1993.

For the Nuclear Regulatory Commission.

Thomas E. Murley,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 93-7078 Filed 3-26-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket 150-00030; General License EA 92-216]

Order Imposing Civil Monetary Penalty

In the Matter of Western Technologies, Inc., Phoenix, Arizona

I

On October 28, 1992, Western Technologies, Inc. (WTI) conducted radiography activities pursuant to the general license authorized by the Nuclear Regulatory Commission (NRC or Commission) in 10 CFR 150.20. The general license authorizes the performance of radiography in accordance with the terms and conditions specified in a specific license issued by an Agreement State and with the NRC regulations listed in 10 CFR 150.20(b).

II

An inspection of WTI activities in NRC jurisdiction was conducted on October 28, 1992, at White Sands Missile Range in New Mexico. The results of this inspection indicated that WTI had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon WTI by letter dated December 28, 1992. The Notice described the nature of the violations, the provisions of the NRC's requirements that WTI had violated, and the amount of the civil penalty proposed for one of the violations.

WTI responded to the Notice in a letter dated January 26, 1993. In its response, WTI admitted the violation which resulted in the proposed civil penalty, but requested full mitigation for reasons that are summarized in the Appendix to this Order.

III

After consideration of WTI's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

WTI pay a civil penalty in the amount of $8,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

WTI may request a hearing within 30 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing," and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If WTI fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event WTI requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether, on the basis of the violation admitted by WTI, this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 22nd day of March 1993.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Material Safety, Safeguards and Operations Support.

Appendix

Evaluation and Conclusion

On December 28, 1992, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection. Western Technologies, Inc., (WTI) responded to the Notice on January 26, 1993. WTI admitted the violation that resulted in the proposed civil penalty, but requested full mitigation. The NRC's evaluation and conclusion regarding WTI's request are as follows:

Restatement of Violation

I. Violation Assessed a Civil Penalty

10 CFR 34.33(a) requires, in part, that: (1) A licensee not permit any individual to act as a radiographer or a radiographer's assistant unless, at all times during radiographic operations, the individual wears a direct reading pocket dosimeter, an alarm ratemeter, and either a film badge or a thermoluminescent dosimeter (TLD); and (2) pocket dosimeters be recharged at the start of each shift.

Contrary to the above, on October 28, 1992, two radiographers employed by Western Technologies, Inc. (Licensee), did not wear alarm ratemeters while conducting radiographic operations at the White Sands Missile Range, New Mexico, and did not recharge their direct reading pocket dosimeters at the start of the shift.

This is a Severity Level II violation (Supplement VI). Civil Penalty—$8,000.

Summary of WTI's Request for Mitigation

In its January 26, 1993, letter, WTI admitted the above violation but requested full mitigation of the penalty, citing the following reasons: (1) There was no radiation hazard to persons in the area and no harm was done to any person; (2) The involved radiographers were disciplined and all radiographers were reminded that they are not to operate without required safety equipment; (3) This is the only violation that Western Technologies, Inc. has received and the company has an excellent record in the state of Arizona; (4) This was an isolated occurrence and the company's audit programs have not identified any other infractions; (5) The company has spent considerable money to investigate and ensure against a recurrence, including the cost of attending the NRC enforcement conference; and (6) The NRC's announcement of its enforcement action has done considerable damage to the company's reputation and should count as a monetary value against the fine.

NRC Evaluation of WTI's Request for Mitigation

The NRC's evaluation of WTI's arguments for mitigation follows:

1. The NRC agrees with WTI that no actual harm was done. However, the severity level of the violation and the civil penalty amount were determined in accordance with the NRC's Enforcement Policy and the enforcement action was consistent with action taken for similar violations. The NRC has placed great importance on wearing alarm ratemeters because they are designed to prevent significant radiation exposures to radiographers and persons in the vicinity of radiography work. Thus the violation is of significant regulatory concern and given its willful nature was properly categorized at Severity Level II.

2. The NRC recognized the corrective actions taken by WTI and gave WTI the maximum amount of credit permitted by the Enforcement Policy, i.e., a reduction in the penalty by 50 percent of the base value.

3. Regarding WTI's regulatory performance in the Agreement State of Arizona, the guidance in the Enforcement Policy, Section VI.B.2.(c), does provide that mitigation of the base civil penalty may be appropriate where past regulatory performance has been good. However, given the willful nature of the violation, the NRC staff, as an exercise of discretion, did not find that there was an adequate basis for mitigation of the penalty based on the licensee performance factor. The exercise of such discretion in cases involving willfulness is permitted under the Enforcement Policy in Section VII, and is intended to reflect the level of NRC's concern regarding the willful violation and ensure that the enforcement action conveys the appropriate message to the licensee.

4. WTI argues that it has an audit program and that this was an isolated occurrence. However, the central fact in applying the factor for identification is that the NRC inspector identified the violation to the involved radiographers. The NRC escalated the penalty by 50% in accordance with its Enforcement Policy, which provides for such an increase when violations are identified by the NRC, to emphasize that licensees should be identifying and correcting their own violations. By definition (10 CFR 34.2), a radiographer is an individual who is responsible to the licensee for assuring compliance with the requirements of the Commission's regulations. In the case at hand, the radiographers knew that they did not have the required alarm ratemeters; however, they conducted the operation anyway.

5. The NRC recognizes that Western Technologies, Inc., has spend money to investigate the incident, develop corrective actions and attend the enforcement conference. However, corrective actions are expected and required and, as discussed above, were considered in applying the civil penalty adjustment factors. With regard to the expense of attending the enforcement conference, development of corrective actions, and licensee investigation of violations, the Enforcement Policy does not provide for using such expenses as a factor in determining the amount of a civil penalty.

6. The NRC announced its proposed enforcement action consistent with NRC practices for keeping the public informed of regulated activities. While the NRC understands that such announcements may possibly harm a licensee's reputation, this may provide an additional incentive to take lasting corrective action. The NRC Enforcement Policy does not provide for considering the impact of negative publicity as a factor in determining the amount of a civil penalty.

NRC Conclusion

The NRC has concluded that neither an adequate basis for a reduction of the severity level of the violation nor for mitigation of the civil penalty was provided by WTI. Consequently, the proposed civil penalty in the amount of $8,000 should be imposed.

[FR Doc. 93–7081 Filed 3–26–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Clearance of Revised Form OPM 2809

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for clearance of a revised information collection. OPM Form 2809, Health Benefits Registration Form, is used by annuitants and former spouses to elect, cancel, or change health benefits enrollment during periods other than the Federal Employee Health Benefits Open Season.

Approximately 34,800 OPM 2809 forms are completed annually. It takes approximately 45 minutes to complete this form. The estimated annual burden is 26,100 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Retirement and Insurance Group, Operations Support Division, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief, Administrative Management Branch, (202) 606–0616.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

[FR Doc. 93–7040 Filed 3–26–93; 8:45 am]

BILLING CODE 6325–01–M

POSTAL RATE COMMISSION

[Docket No. A93-13]

Notice and Order Accepting Appeal Under 39 U.S.C. 404(b)(5) and Establishing Date for Postal Service Response

March 23, 1993.

In the matter of: Ithaca, New York 14850 (Benjamin Nichols, et al., Petitioners).

Before Commissioners: George W. Haley, Chairman; John W. Crutcher; W.H. "Trey" LeBlanc III; H. Edward Quick, Jr.; Wayne A. Schley.

On March 10, 1993, Benjamin Nichols, the Mayor of Ithaca, New York, filed a "Complaint of Services Not In Conformity With 39 U.S.C. 404(b)(1),(3),(4)." In paragraph V of the complaint, Mr. Nichols asserts that the Postal Service has consolidated the post office formerly serving Ithaca with that of Lansing without following the procedure established in 39 U.S.C. 404(b). Mr. Nichols requests that the Commission enjoin the Service's actions and direct it to reinstate the services previously provided by the Ithaca post office pending the completion of the required procedure for consolidating a post office.

On March 12, 1993, Michael J. Oates, on behalf of the American Postal Workers Union, Central New York Area Local, filed a "39 U.S.C. Section 404(b)(1),(3),(4) Appeal," complaining of the same action by the Postal Service and seeking identical relief.

Section 404(b) of title 39 of the United States Code establishes the notice and comment procedure which must be followed before the Postal Service can consolidate a post office. It also lists factors which the Postal Service must consider in making a determination to consolidate a post office. Section 404(b)(5)(C) gives the Commission the authority to suspend the effectiveness of a determination pending the disposition of an appeal, and these requests constitute a plea for suspension.

Consistent with our rule 3001.114 (39 CFR 3001.114), we are giving the Postal Service ten days from the day this Order is issued to respond to the Petitioners' request for suspension. At the same time, the Postal Service should answer the Petitioners' assertion that it has consolidated the Ithaca, New York, post office without observance of the procedures required by law. 39 U.S.C. 404(b)(5)(B). Any further procedural schedule that is required will be established after the Postal Service files its answer.

The Commission orders:

1. The Postal Service is to respond to the Petitioners' assertion that it has consolidated the Ithaca, New York, post office without observance of the procedures required by law, and to the request for a suspension ten days from the day this Order is issued.

2. The Secretary shall publish this Notice and Order in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 93-7065 Filed 3-26-93; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-32036; File No. SR-NASD-93-7]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. to Section 3 of Part II to Schedule D of the NASD By-Laws Relating to Initial Inclusion Requirements

March 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 15, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

Schedule D to the NASD By-Laws, Part II Qualification Requirements for NASDAQ Securities

Sec. 3 Suspension or Termination of Inclusion of a Security and Exceptions to Inclusion Criteria

* * * * *

(f) Securities issued in connection with the merger, [or] consolidation, *or other type of acquisition* of at least one issuer of qualifying securities shall be promptly included in the NASDAQ System, provided that the conditions of Sections (1)(c) or 2(e) for securities that have already been included are satisfied. *The Association shall require a NASDAQ issuer to comply with all applicable requirements for initial inclusion under Part II to Schedule D and shall require a NASDAQ National Market System issuer to comply with all applicable requirements for initial inclusion under Parts II and III to Schedule D in the event that such issuer enters into a merger, consolidation, or other type of acquisition with a non-NASDAQ entity, which results in a change of control and either a change in business or change in the financial structure of the NASDAQ or NASDAQ National Market System issuer.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Since the adoption of new Nasdaq SmallCap Market ("Nasdaq SmallCap") maintenance requirements on August 30, 1991,[2] which became effective March 2, 1992, the NASD has noted a marked increase in the mergers, consolidations, or acquisitions of Nasdaq SmallCap companies in connection with non-Nasdaq System[3] companies. A number of such transactions have involved "backdoor listings" wherein a Nasdaq SmallCap issuer that is failing to meet the Nasdaq SmallCap maintenance requirements will sell itself and its listing on Nasdaq SmallCap to a non-Nasdaq System company in a reverse merger transaction that results in the securities of the Nasdaq SmallCap issue remaining outstanding. In such backdoor listings,

[1] The NASD amended the proposed rule change once subsequent to its original filing on February 18, 1993. This amendment clarifies the initial inclusion criteria applicable to Nasdaq NMS issuers and clarifies the distinction among Nasdaq SmallCap securities, Nasdaq NMS securities and non-Nasdaq securities. The substance of this amendment is included in this notice.

[2] Securities Exchange Act Release No. 29638 (August 30, 1991), 56 FR 44108 (September 6, 1991).

[3] The Nasdaq System is comprised of both Nasdaq SmallCap and the Nasdaq National Market System ("Nasdaq NMS") securities. Initial inclusion requirements for Nasdaq SmallCap issuers are contained in Part II of Schedule D to the NASD By-Laws. Nasdaq NMS issuers must comply with both Nasdaq SmallCap initial inclusion requirements contained in Part II and the Nasdaq NMS initial inclusion requirements contained in Part III of Schedule D.

the Nasdaq SmallCap issuer often has minimal assets and/or operations while the non-Nasdaq System company is often a company with a more substantial asset base and some type of ongoing business. Upon merging with the Nasdaq SmallCap issuer, the non-Nasdaq System company becomes listed on the Nasdaq SmallCap Market without having to comply with Nasdaq SmallCap initial inclusion requirements.

The NASD believes that a Nasdaq SmallCap issuer or Nasdaq NMS issuer should be required to comply with applicable initial inclusion criteria in the Nasdaq System in the event such issuer completes a merger, consolidation or other type of acquisition with a non-Nasdaq System entity[4] and NASD staff have determined that the business combination has the characteristics of a backdoor listing. Upon review, the NASD believes most backdoor listings are characterized by a change of control and change in the business of the surviving issuer, or by a change in control and change in the financial structure of the surviving issuer. The NASD, therefore, proposes to amend section 3(f) of Part II to Schedule D of the NASD By-Laws to require a Nasdaq SmallCap issuer to comply with all applicable requirements for initial inclusion under Part II to Schedule D[5] and to require a Nasdaq NMS issuer to comply with all applicable requirements for initial inclusion in the Nasdaq System[6] in the event that the issuer enters into a merger, consolidation, or other type of acquisition[7] with a non-Nasdaq System entity, which results in a change in control and either a change in business or change in the financial structure of the Nasdaq SmallCap or Nasdaq NMS issuer.[8]

The NASD also proposes to add the phrase "or other type of acquisition" to the first sentence of section 3(f) to Part II of Schedule D of the NASD By-Laws to conform with new language contained in the proposed rule change.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act which requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest in that proposed rule change requires a Nasdaq SmallCap or Nasdaq NMS issuer to comply with all applicable initial inclusion requirements in connection with a merger, consolidation or other type of acquisition with a non-Nasdaq System issuer if NASD staff has determined that there has been a change of control and either a change in the business or change in the financial structure of the surviving issuer of the business combination. Initial inclusion requirements of the Nasdaq System provide protection for investors and the public interest, but concern has been raised regarding backdoor listings, wherein a non-Nasdaq System entity may avoid the initial inclusion requirements of the Nasdaq System by purchasing the listing of a Nasdaq System issuer. The proposed rule change protects investors and the public interest by eliminating such backdoor listings.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 19, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–7124 Filed 3–26–93; 8:45 am]

BILLING CODE 8010–01–M

[4] For purposes of this rule filing, the NASD defines the term "entity" to include domestic and foreign corporations and limited partnerships.

[5] Sections 1 and 3 of Part II to Schedule D contain initial inclusion criteria for domestic and Canadian securities traded on Nasdaq SmallCap. Sections 2 and 3 to Part II of Schedule D contain initial inclusion criteria for non-Canadian foreign securities and American Depositary Receipts traded on Nasdaq SmallCap.

[6] As noted in Footnote 2 to this proposed rule change, the Nasdaq System is comprised of both Nasdaq SmallCap and Nasdaq NMS securities. To comply with initial inclusion criteria in the Nasdaq System, Nasdaq NMS issuers must comply with Sections 1, 2, 3 and 5 of Part III to Schedule D of the NASD By-Laws and with all applicable initial inclusion criteria contained under Part II to Schedule D of the NASD By-Laws. *Id*

[7] For purposes of this proposed rule change, the phrase "merger, consolidation, or other type of acquisition" is intended to be broadly interpreted to encompass most business combinations.

[8] NASD staff provide determinations regarding issuer compliance with Nasdaq SmallCap and Nasdaq NMS qualifications criteria, which staff determinations are subject to appeal pursuant to Article IX of the NASD's Code of Procedure. For purposes of this proposed rule change, a determination that there was a "change of control" would require a staff review of both direct and indirect equity ownership and control, as well as the composition of the issuer's board of directors. A determination that a "change of business" had occurred would be based on a staff review of the issuer's periodic disclosure statements including both the issuer's own description of its business and its financial statements. A determination that there was a "change in the financial structure" would require a staff review of the company's financial statement, including but not limited to a determination of significant change in the issuer's assets, capitalization, debt structure or revenue.

[Release No. 34-32038; File No. SR-NASD-93-14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Deletion of Part V to Schedule D of the NASD By-Laws Regarding Publication and Dissemination of Quotations to the News Media

March 23, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 18, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Below is the text of the proposed rule change. Proposed deletions are in brackets.

Schedule D to the NASD By-Laws [Part V Publication and Dissemination of Quotations to the News Media]

[The Information Committee shall recommend lists of quotations of NASDAQ securities for dissemination by the news media. The criteria for such lists shall be determined by the Information Committee in light of the space available for publication and the information desired by the news media and the investing public.]

[The criteria shall be based on a combination of the following:

A. Securities outstanding;
B. Market value of securities outstanding;
C. Price;
D. Net worth of the issuer;
E. Net income of the issuer;
F. Operating history of the issuer;
G. Dollar value of securities traded.]

[The Information Committee may, under appropriate circumstances, grant exceptions to its established criteria if it determines that it is in the public interest to do so.]

[Criteria for Inclusion in Quotation Lists]

[I. Bankruptcy and/or Liquidation

A security shall not be included in the National List if the issuer shall have filed under any of the sections of the Bankruptcy Act or announced that liquidation has been authorized by its Board of Directors and that the company is committed to proceed.]

[II. Composition of the Lists

There shall be two recommended lists of NASDAQ securities provided to the media: The "National List" and the "Additional List." Inclusion on the lists shall be determined semi-annually on the basis of information available to the Association on the selection date. All quotations released shall be Level I quotations.]

[III. National Lists

A. Domestic Common Stock

1. Initial Inclusion Criteria: The financial criteria for domestic common stock are separated into two alternative categories detailed below. Issuers which meet either one of the alternative criteria will be included in the National List regardless of their dollar volume. Alternative No. 1 includes a net income requirement while Alternative No. 2 has no income requirement but establishes higher financial requirements for those development companies which have no operating income:]

[Alternative No. 1
1. 350,000 Publicly Held Shares
2. Market Value of Publicly Held Shares of $2,000,000
3. Minimum Bid Price of $3.00
4. Net Income of $300,000 in the previous fiscal year or in two of the last three fiscal years.]

[Alternative No. 2
1. 800,000 Publicly Held Shares
2. Market Value of Publicly Held Shares of $8,000,000
3. Net Worth of $8,000,000
4. Incorporated for 4 Years]

[2. Maintenance Criteria: Upon inclusion in the National List under either of the alternative sets of initial inclusion criteria, issuers must satisfy the maintenance criteria set forth below to remain eligible for inclusion in the National List.

1. 200,000 Publicly Held Shares
2. Market Value of Publicly Held Shares of $2,000,000
3. Either Annual Net Income of $200,000 for the previous fiscal year or in two of the last fiscal years or Net Worth of at least $1,000,000.]

[B. Foreign Securities

Foreign issues and American Depositary Receipts (ADR's) registered pursuant to Section 12(g) under the Securities Exchange Act of 1934, as well as issues for which all relevant information has been filed with the Securities and Exchange Commission pursuant to rule 12g3-2, shall meet the same criteria as domestic common stock except that the publicly held shares requirement for ADR's shall be determined by the number of ADR's outstanding.]

[C. Warrants

Common stock of issuer must be in the National List and all criteria for domestic common stock apply except that the publicly held shares requirement is replaced with 450,000 warrants publicly held at the time of the initial distribution.]

[D. Convertible Debentures

Common stock of issuer must be in the National List and $100 million of the issue must be outstanding.]

[E. Units

All criteria for domestic common stock apply except that the publicly held shares requirement is replaced with 350,000 publicly held units at time of initial distribution.]

[F. Rights

Automatically included if common stock of issuer is quoted in the National List.]

[G. Preferred Stock, Shares or Certificates of Beneficial Interest of Trusts, Limited Partners Interests, Real Estate Investment Trusts and Closed End Funds

Same criteria as domestic common stock.]

[H. New Issues

Securities that meet the above criteria immediately following an initial distribution or secondary offering will be added to the National List on the day of the distribution.]

[IV. Additional List

All positions in the Additional Lists will be filed on the basis of dollar value of daily volume. To be eligible for the Top Additional List an issue must have current bid price of $1.00 or higher.]

Parts VI to XIV of Schedule D are renumbered Parts V to XIII respectively and the NASD will amend any references to those Parts of Schedule D to reflect the renumbering of the provisions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Part V to Schedule D of the NASD By-Laws ("Schedule D") provides that an Information Committee (the "Committee") shall recommend two lists of quotations of Nasdaq securities for dissemination to the news media. The Committee is authorized to recommend a "National List" based on specified initial inclusion criteria and maintenance criteria, and an "Additional List" based on a dollar value of daily volume and a minimum bid price of $1. Part V also specifies that inclusion on the two lists shall be determined semi-annually on the basis of information available to the Association on the selection date.

The NASD has reviewed Part V to Schedule D and has determined that it is no longer applicable to the current NASD practice of disseminating quotations of issuers in the Nasdaq System [1] to the news media. The NASD no longer utilizes an Information Committee and no longer provides recommendations to the news media regarding National List and Additional List securities. Under current practice, the NASD provides certain new media organizations and other market data vendors with two electronic data lines on information regarding all Nasdaq NMS securities and Nasdaq SmallCap securities contained in the Nasdaq System. One data line provides bid/ask quotes for all Nasdaq System securities, and the other data line provides last sale information for all Nasdaq System securities. Most news media organizations currently receive quotation information regarding all Nasdaq System securities from a media organization or market data vendor that has access to the NASD data lines. Determinations regarding customized publication lists of Nasdaq SmallCap and Nasdaq NMS securities are currently made by individual news media organizations based on their respective publication criteria. The NASD, therefore, proposes to delete Part V, in its entirety, from Schedule D to the NASD By-Laws.

The NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act which requires that the rules of a national securities association be designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that the proposed rule change deletes outdated rule language regarding the NASD practice of disseminating securities in the Nasdaq System to news media. Deletion of such rule language reflects the NASD's determination to end the practice of only disseminating certain securities to the news media in favor of the current practice whereby two electronic data lines disseminate information on all Nasdaq System securities to media organizations and market data vendors, which information is then disseminated to the public to facilitate transactions in Nasdaq System securities. The NASD's electronic data lines provide greater market information to the public than the procedures provided for under Part V to Schedule D. The dissemination of quotations over the NASD electronic data lines, therefore, help perfect a free and open market and national market system, and help to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by April 19, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–7125 Filed 3–26–93; 8:45 am]

BILLING CODE 8010–01–M

[1] The Nasdaq System is comprised of both Nasdaq SmallCap Market ("Nasdaq SmallCap") and Nasdaq National Market System ("Nasdaq NMS") securities.

[Release No. 34–32031; File No. SR–NYSE–93–18]

Self-Regulatory Organizations; Filing and Order Granting Temporary Accelerated Approval to Proposed Rule Change by New York Stock Exchange, Inc., Relating to Extension of its Pilot Program for Stopping Stock Under Amendments to Rule 116.30

March 22, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 18, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend amendments to Rule 116.30 for an additional year until March 21, 1994.[1] The amendments permit a specialist, upon request, to grant a stop in a minimum variation market for any order of 2,000 shares or less, up to a total of 5,000 shares for all stopped orders.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The practice of "stopping" stock by specialists on the Exchange refers to a guarantee by the specialist that an order the specialist receives will be executed at no worse a price than the contra side price in the market when the specialist receives the order, with the understanding that the order may in fact receive a better price.

Formerly, Exchange Rule 116.30 permitted a specialist to stop stock only when the quotation spread was at least twice the minimum variation (*i.e.*, for most stocks, at least a ¼ point), with the specialist then being required to narrow the quotation spread by making a bid or offer, as appropriate, on behalf of the order that is being stopped.

On March 21, 1991, and again on March 16, 1992, the Commission approved, on a one-year pilot basis each time, amendments to the rule which permit a specialist to stop stock in a minimum variation market (generally referred to as an "⅛th point market").[2] The Exchange sought these amendments on the grounds that many orders would receive an improved price if stopping stock in ⅛th point markets were permitted. The amendments to Rule 116.30 permit a specialist, upon request, to stop individual orders of 2,000 shares or less, up to an aggregate of 5,000 shares when multiple orders are stopped, in an ⅛th point market. A specialist may stop an order pursuant to a specified larger order size threshold, or a specified larger aggregate share threshold, after obtaining Floor Official approval.

On February 12, 1993, the Exchange requested that the Commission grant permanent approval to the amendments to Rule 116.30.[3] On March 16, 1993, Commission staff requested that the Exchange extend the rule changes to allow the Commission more time to consider the Exchange's request to make the amendments to Rule 116.30 permanent.[4] For this reason, the Exchange is now proposing to extend the effectiveness of the amendments to Rule 116.30 for an additional year.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5) that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange proposal to extend amendments to Rule 116.30 is consistent with these objectives in that it permits the Exchange to better serve its customers by enabling specialists to execute customer orders at improved prices.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–18 and should be submitted by April 19, 1993.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b)(5)[5] and Section 11(b)[6] of the Act. The Commission believes that the amendments to Rule 116.30 should further the objectives of Section 6(b)(5) and Section 11(b) through pilot program procedures designed to allow stops, in minimum variation markets, under limited circumstances that provide the possibility of price improvement to customers whose orders are granted stops.[7]

[1] The NYSE received approval to amend Rule 116.30, on a pilot basis, in Securities Exchange Act Release No. 28999 (March 21, 1991), 56 FR 12964 (March 28, 1991) (File No. SR–NYSE–90–48) ("1991 Approval Order"). The Commission subsequently extended the NYSE's pilot program in Securities Exchange Act Release No. 30482 (March 16, 1992), 57 FR 10198 (March 24, 1992) (File No. SR–NYSE–92–02) ("1992 Approval Order"). Commission approval of these amendments to Rule 116.30 expires on March 21, 1993. The Exchange seeks accelerated approval of the proposed rule change in order to allow the pilot program to continue without interruption. *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated March 17, 1993

[2] See 1991 and 1992 Approval Orders, *supra*, note 1.

[3] See File No. SR–NYSE–93–11.

[4] Telephone conversation between Donald Siemer, Director, Market Surveillance Division, NYSE, and Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, on March 16, 1993.

[5] 15 U.S.C. 78f (1988).

[6] 15 U.S.C. 78k (1988).

[7] For a description of NYSE procedures for stopping stock in minimum variation markets, and of the Commission's rationale for approving those procedures on a pilot basis, see 1991 Approval Order, *supra*, note 1. The discussion in the aforementioned order is incorporated by reference into this order.

In its orders approving the pilot procedures,[8] the Commission asked the NYSE to study the effects of stopping stock in a minimum variation market. Specifically, the Commission expressed interest in (1) the percentage of stopped orders executed at the stop price, versus the percentage of such orders receiving a better price; (2) market depth, including a comparison of the size of stopped orders to the size of the opposite side of the quote and to any quote size imbalance, and including an analysis of bid versus offer disparity; (3) whether limit orders on the specialist's book were being bypassed due to the execution of stopped orders at a better price (and, to this end, the Commission requested that the NYSE conduct a one-day review of all book orders in the ten stocks receiving the greatest number of stops); and (4) specialist compliance with the pilot program's procedures.

On February 13, 1992, and November 5, 1992, the Exchange submitted to the Commission monitoring reports concerning the amendments to Rule 116.30.[9] Based on the NYSE's experience, the Commission believes that it is reasonable to extend the pilot program for an additional twelve months. The Commission's rationale for doing so is set forth in more detail below.

First, the November monitoring report indicates that 42% of eligible orders (*i.e.*, orders for 2,000 shares or less) stopped in minimum variation markets received price improvement. The Commission, therefore, believes that the pilot procedures provide a benefit to investors by offering the possibility of price improvement to customers whose orders are granted stops in minimum variation markets. According to the NYSE reports, moreover, 97% of the stopped orders were for 2000 shares or less. In this respect, the amendments to Rule 116.30 should mainly affect small public customer orders, which the Commission envisioned could most benefit from professional handling of their orders by the specialist. During the pilot extension, the Commission requests that the NYSE continue to monitor the percentage of stopped orders executed at the stop price as compared to the percentage of such orders receiving a better price. The Commission requests that the NYSE report its findings on this matter by September 30, 1993.

In terms of market depth, the NYSE's monitoring reports suggest that stock tends to be stopped in minimum variation markets where there is a disparity between the number of shares bid for and the number offered.[10] The NYSE reports also suggest that, given the depth of the contra side of the market, orders affected by the Rule 116.30 pilot tend to be relatively small.[11] For about 95% of stops granted, the size of stopped order was less than, or equal to, 25% of the size of the opposite side quote. Based on such data, the NYSE concludes that the imbalances on the opposite side of the market from the orders stopped were of sufficient size to suggest the likelihood of price improvement to customers.[12]

The Commission, however, remains concerned that Rule 116.30 only be implemented when it is clear that the imbalance on the opposite side of the market from the order being stopped is of sufficient size to suggest the likelihood of price improvement. The Commission believes that the requirement of a sufficient market imbalance is a critical aspect of the pilot program.[13] Such a requirement should ensure that stops are only granted in a minimum variation market, when the benefit (*i.e.*, price improvement) to orders being stopped far exceeds the harm to orders on the specialist's book.[14] To evaluate how this standard is being applied in practice, the Commission requests that the NYSE continue to monitor market depth. As it has done in the past, the NYSE should compare the size of the stopped order to the size of the opposite side of the quote and to any quote size imbalance. In so doing, the NYSE should break individual orders down as follows: 2,000 shares or less; 2,001 to 5,000 shares; 5,001 to 10,000 shares; and over 10,000 shares. The NYSE should provide the requested information for each of the above order size ranges. Furthermore, when a Floor Official approves a stop that causes the total number of stopped shares to exceed 5,000 shares, the NYSE should provide the Commission with information comparing the aggregate size of all orders stopped to the size of the opposite side of the quote and to any quote size imbalance. Finally, in its next monitoring report, the NYSE should calculate, as of the time a stop is granted, the ratio of bid size to offer size.[15] The Commission requests that the NYSE report its findings on this matter by September 30, 1993.

Third, the NYSE does not believe that the amendments to Rule 116.30 significantly disadvantage customer limit orders existing on the specialist's book.[16] This conclusion is based on the Exchange's review of limit orders against which market orders receiving price improvement were stopped. As part of this review, the NYSE determined how often such limit orders were executed by the close of the day's trading.[17] Nevertheless, the NYSE's monitoring could not determine precisely how many book orders were

[8] See, *supra*, note 1.

[9] See letters from Robert J. McSweeney, Senior Vice President, Market Surveillance, NYSE, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated February 13, 1993 ("First Monitoring Report"), and to Diana Luka-Hopson, Branch Chief, Division of Market Regulation, SEC, dated November 5, 1992 ("Second Monitoring Report"). The discussion of the First Monitoring Report in the 1992 Approval Order and the discussion of the Second Monitoring Report in File No. SR-NYSE-93-11 are incorporated by reference into this order.

[10] As part of its initial proposed rule change, the NYSE provided the following example illustrating the relationship between quote size imbalance and the likelihood of price improvement: Assume that the market for a given stock is quoted 30 to 30⅛, with 1,000 shares bid for and 20,000 shares offered. The large imbalance on the offer side of the market suggests that subsequent transactions will be on the bid side. Accordingly, the NYSE states that it might be appropriate to stop a market order to buy, since the delay might allow the specialist to execute the buyer's order at a lower price. After granting such a stop, the specialist would be required to increase his quote by the size of the stopped buy order, thereby adding depth to the bid side of the market.

[11] A relatively large order might begin to counteract the pressure the opposite side of the market is putting on the stock's price. Accordingly, it might not be as appropriate to stop such an order.

[12] The NYSE has stated, both to the Commission and to its members, that specialists should only stop stock in a minimum variation market when an imbalance exists on the opposite side of the market and such imbalance is of sufficient size to suggest the likelihood of price improvement. See, *e.g.*, letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Mary N. Revell, Branch Chief, Division of Market Regulation, SEC, dated December 27, 1990; NYSE information memo #1809, dated September 12, 1991.

[13] For a discussion of the relationship between quote size imbalance and the likelihood of price improvement, see *supra*, note 10.

The Commission, when approving a comparable proposal by the American Stock Exchange, re-emphasized the critical nature of the sufficient size standard. See Securities Exchange Act Release No. 30603 (April 17, 1992), 57 FR 15340 (April 27, 1992) (File No. SR-Amex-91-05).

[14] See, *infra*, text accompanying notes 16–18.

[15] In its 1992 Approval Order, the Commission requested that the NYSE analyze bid versus offer disparity. By this, the Commission meant the ratio of bid size to offer size. This ratio measures the quote size imbalance in relative terms.

[16] When stock is stopped, book orders on the other side of the market entitled to immediate execution lose their priority. If a stopped order then receives an improved price, limit orders at the stop price are bypassed and, if the market turns away from that limit, may never be executed.

As for book orders on the same side of the market as the stopped stock, the Commission believes that, where a substantial imbalance exists on the opposite side, it is unlikely that these limit orders would not be executed. The stock would probably trade away from a large imbalance, resulting in the execution of orders on the book.

[17] The Exchange did this for stocks generally and for the ten stocks receiving the greatest number of stops, with roughly comparable results (approximately 30% executed, 70% cancelled or unexecuted).

entitled to, but did not receive, immediate execution.

The Commission has historically been concerned that orders on the specialist's book get bypassed when stock is stopped.[18] Because the Exchange's data has been inconclusive thus far, the Commission requests that the NYSE continue to monitor the overall impact of the Rule 116.30 pilot program on customer limit orders. In addition, the NYSE should conduct another one-day review of all book orders in the ten stocks receiving the greatest number of stops, and should submit both raw data and the final results to the Commission. The Commission requests that the NYSE report its findings on this matter by September 30, 1993.

Finally, the NYSE's reports describe its compliance efforts (*e.g.*, automated surveillance, review of Floor Official records, information memos, continuing education etc.). The Commission believes that these programs provide specialists with adequate notice of their responsibilities. Similarly, the Exchange has sufficient means to determine whether a specialist complied with the amendments' order size and aggregate share thresholds and, if not, whether he obtained Floor Official approval for larger parameters. During the pilot extension, the Commission expects that the NYSE will continue to monitor closely specialist compliance with the pilot procedures. In particular, the NYSE should determine how often orders requiring Floor Official approval to be stopped do not receive such approval, either because the specialist did not ask for permission or because it was denied (and, if so, on what grounds). The Commission requests that the NYSE report its findings on this matter by September 30, 1993.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. This will permit the pilot program to continue on an uninterrupted basis. In addition, the procedures the Exchange proposes to continue using are the identical procedures that were published in the **Federal Register** for the full comment period and were approved by the Commission.[19]

[18] See, e.g., SEC, Report of the Special Study of the Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess. Pt. 2 (1963).

[19] No comments were received in connection with the proposed rule change which implemented these procedures. See 1991 Approval Order, *supra*, note 1.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NYSE–93–18) is approved for a one year period ending on March 21, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–7126 Filed 3–26–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–32037; File No. SR–PSE–92–24]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to Proposed Amendments to Rule 12, Arbitration, of the Rules of the PSE

March 23, 1993

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 13, 1992, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On September 1, 1992, the PSE submitted to the Commission Amendment No. 1 to the proposed rule change to clarify certain language in the proposed amendments relating to simplified arbitration for public customers, initiation and adjournment of arbitration proceedings, and pre-dispute arbitration agreements.[1] On November 10, 1992, the PSE submitted to the Commission Amendment No. 2 to the proposed rule change to make further clarifications in the proposed amendment regarding initiation of proceedings.[2] On December 4, 1992, the PSE submitted to the Commission Amendment No. 3 to the proposed rule change to correct clerical errors in Amendment No. 2 regarding consolidation of claims.[3] On February 26, 1993, the PSE submitted to the Commission Amendment No. 4 to the proposed rule change further relating to consolidation of claims.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[20] 15 U.S.C. 78s(b)(2) (1988).

[21] 17 CFR 200.30–3(a)(12) (1991).

[1] See letter from Rosemary A. MacGuinness, Senior Counsel, PSE, to Betsy Prout, Staff Attorney, Commission, dated August 26, 1992, amending the text of proposed PSE Rules 12.2, 12.13, 12.18, and 12.34.

[2] See letter from Rosemary A. MacGuinness, Senior Counsel, PSE, to Betsy Prout, Staff Attorney, Commission, dated November 4, 1992, amending the text of proposed PSE Rule 12.13.

[3] See letter from Rosemary A. MacGuinness, Senior Counsel, PSE, to Betsy Prout, Staff Attorney, Commission, dated November 20, 1993.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE, pursuant to Rule 19b–4 of the Act, submits this rule filing to amend Rule 12, *Arbitration*, of the Rules of the PSE.[5]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The following is a summary of the rule changes:

Rule 12.1(d)—Referral of claims to a different forum with claimant's consent

Rule 12.1(e)—Disposition of class action claims

Rule 12.2(b)(ii)&(iii)—Discovery in simplified cases

Rule 12.13(c)—Filing with Director of Arbitration to be same date as service on other parties

Rule 12.13(d)—Power of Director of Arbitration to make preliminary determination regarding consolidation

Rule 12.13(d)(2)—Requirement that preliminary determinations regarding consolidation be considered subsequent to the filing of all responsive pleadings

Rule 12.18(b)—Power of Director of Arbitration to waive adjournment fee and provision for refund if request for adjournment not granted.

Rule 12.23—Power of arbitrators to take action to obtain compliance with arbitrator rulings

Rule 12.34—Requirement that customer agreement include a statement regarding the ineligibility of class actions for submission to arbitration.

[4] See letter from Rosemary A. MacGuinness, Senior Counsel, PSE, to Sharon Lawson, Assistant Director, Commission, dated February 26, 1993.

[5] See discussion below for a description of the amendment.

All of these rule changes reflect amendments to the Uniform Code of Arbitration ("Uniform Code") approved by the Securities Industry Conference on Arbitration ("SICA"). The objective in making these amendments is to make PSE Rule 12, *Arbitration*, consistent with the Uniform Code. The Uniform Code is designed to make arbitration procedures uniform in securities aribitration at the self-regulatory organizations ("SROs").

Rule 12.1(d) *Referral of Claims*

Proposed new subsection (d) of Rule 12.1 would permit the Exchange to refer a claim, with the claimant's consent, to the SRO where the subject transaction occurred. This amendment is proposed to enable the Exchange to more evenly distribute cases to the SRO where the transactions occurred.

Rule 12.1(e), 12.34(5) *Class Action Claims*

The proposed Rule relating to class actions provides that class actions are ineligible for submission to arbitration. The proposal enables brokerage customers to pursue class action claims against their broker-dealers in court notwithstanding any arbitration agreement they might have signed. The proposed Rule also provides that any claim filed by a member or members of a putative or certified class action is also ineligible for arbitration at the Exchange if the claim is encompassed by a putative or certified class action filed in federal or state court, or is ordered by a court to a non self-regulatory organization arbitration forum for classwide arbitration. However, the proposed Rule provides that such claims shall be eligible for arbitration in accordance with the proposed Rule or pursuant to parties' contractual agreement, if any, if a claimant demonstrates that it has elected not to participate in the putative or certified class action or, if applicable, has complied with any conditions for withdrawing from the class prescribed by the court.

Proposed Rule 12.34(5) will require that all new pre-dispute arbitration agreements with customers include a statement regarding the ineligibility of class actions for submission to arbitration in accordance with the provision of proposed Rule 12.1(e).

Proposed Rules 12.1(e) and 12.34(5) were approved by SICA on January 7, 1992.

Rule 12.2 *Discovery in Simplified Arbitration Cases*

Currently there are no separate provisions dealing with discovery of Simplified Cases, (claims under $10,000). The proposed amendment refers the parties to Rule 12.14, *General Provisions Governing Pre-Hearing Procedures*, for cases in which an oral hearing has been requested and provides shorter time frames for cases administered on the basis of the pleadings alone.

Rule 12.3(c) *Service and Filing with the Director of Arbitration*

This amendment would ensure that parties send their documents to the Exchange at the same time that they are sent to the other parties.

Rules 12.13(d)(3) and 12.13(d)(2) *Consolidation*

This amendment would codify and clarify the Director of Arbitration's power to make a preliminary determination regarding consolidation of claims. In addition, the amendment would provide that such determinations will be considered subsequent to the filing of all responsive pleadings.

Existing Rule 12.13(d)(3) will be renumbered as Rule 12.13(d)(4). Amendments to this subsection will require the arbitration panel to make further determinations with respect to joinder or consolidation, and will substitute the word "joinder" in the place of "joining."[6]

Rule 12.18(a) *Adjournments*

The rule concerning fees for adjournments has been amended to conform to changes made by SICA to provide that the Director of Arbitration can waive the fee, that the arbitrators can also waive or order a refund of the fee, and that the fee would be returned if the adjournment is not granted. Waivers would be considered on a case by case basis.

Rule 12.23 *Interpretation of Rule 12 and Enforcement of Arbitration Rulings*

This amendment codifies and clarifies the arbitrators' existing power to take action to enforce their rulings in the event of non-compliance by a party.

Currently, sanctions for non-compliance are not always ordered or requested because arbitrators and parties may be unaware of an arbitrator's power. The Uniform Code is silent with respect to this issue. The amendment will apply mainly in the area of failure to comply with discovery requests. This amendment was approved by SICA on January 7, 1992.

[6] The title of Rule 12.13(d) would be amended to change "Joining" to "Joinder" and to include reference to "Multiple Parties."

2. Statutory Basis

The proposed filing is consistent with section 6(b)(5) in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by ensuring that members and member organizations and the public have an impartial forum for resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were received from members, participants or others.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–92–24

and should be submitted by April 19, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-7127 Filed 3-26-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19347; 811-3795]

Reserve Equity Trust; Application for Deregistration

March 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Reserve Equity Trust.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on March 5, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 19, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 Fifth Street, NW., Washington, DC 20549. Applicant, 810 Seventh Avenue, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Felicia H. Kung, Senior Attorney, at (202) 504-2803, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (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.

Applicant's Representations

1. Applicant is a Massachusetts business trust and is registered as an open-end non-diversified management investment company under the Act. On July 26, 1983, applicant filed a notification of registration under section 8(a) of the Act. On that same date, applicant filed a registration statement under the Securities Act of 1933 and section 8(b) of the Act. Applicant's registration statement was declared effective on February 16, 1984. Applicant's initial public offering commenced immediately thereafter.

2. At a meeting held on September 23, 1992, applicant's board of trustees approved and adopted a plan of dissolution, liquidation and termination (the "Liquidation Plan"). The board considered the small amount of assets in, and the expense ratios of, each of applicant's funds, and the substantial amount of fees waived by the investment adviser in deciding to liquidate applicant. In recommending liquidation to its shareholders, applicant also stated that, as a result of the small size of the funds, the income available to promote the funds and increase sales is minimal.

3. In December 1992, applicant mailed to its shareholders proxy materials relating to the proposed liquidation. As of December 24, 1992, there were 247,795 shares of beneficial interest of applicant, consisting of 192,186 shares of the Contrarian Portfolio and 55,610 shares of the Growth Portfolio. Each share of the Contrarian Portfolio had a net asset value of $13.388, and each share of the Growth Portfolio had a net asset value of $10.361. At a Special meeting held on December 22, 1992, applicant's shareholders approved the Liquidation Plan.

4. On December 24, 1992, pursuant to the Liquidation Plan, applicant's assets were completely liquidated and the proceeds were distributed to its shareholders on a *pro rata* basis.

5. All expenses incurred in connection with the Liquidation Plan, consisting of accounting, printing, administrative, and certain legal expenses and which are estimated to be approximately $10,000, will be paid by Reserve Management Company, Inc., applicant's investment adviser.

6. At the time of the application, applicant had no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

7. Applicant intends to file a Certificate of Dissolution with the Massachusetts Secretary of State upon the granting of the requested order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-7128 Filed 3-26-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended March 19, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48707
Date filed: March 17, 1993
Parties: Members of the International Air Transport Association
Subject: Comp Mail Vote 625 (Charge for PTA Services)
Proposed Effective Date: June 1, 1993
Docket Number: 48708
Date filed: March 17, 1993
Parties: Members of the International Air Transport Association
Subject: TC2 Mail Vote 626 (Lebanon-Europe fares)
Proposed Effective Date: April 1, 1993
Docket Number: 48709
Date filed: March 17, 1993
Parties: Members of the International Air Transport Association
Subject: TC3 Mail Vote 627 (China-Japan Fares)
Proposed Effective Date: April 15, 1993

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93-7129 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended March 19, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a

tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48702
Date filed: March 15, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 12, 1993
Description: Application of Fine Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity seeking authority to conduct scheduled service of property and mail authority between Miami, Florida and Santo Domingo, Dominican Republic

Docket Number: 48703
Date filed: March 16, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 13, 1993
Description: Application of Aeromextour, S.A. De C.V., pursuant to section 402 of the Act and subpart Q of the Regulations, applies for a foreign air carrier permit authorizing it to engage in charter foreign air transportation of persons, property and mail between points in Mexico and points in the United States pursuant to Annex II of the Air Transport Agreement between the United States and the United Mexican States dated August 15, 1960, as amended

Docket Number: 48712
Date filed: March 19, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 16, 1993
Description: Application of Continental Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Act requests renewal of the Spokane-Vancouver authority in its Route 548 certificate for a period of five years.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 93–7130 Filed 3–26–93; 8:45 am]
BILLING CODE 4910–62–M

Coast Guard

[CGD 93013]

New York Harbor Traffic Management Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting (correction).

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the New York Harbor Traffic Management Advisory Committee to be held on April 14, 1993, in Captain Of The Port Conference Room Building 108, First Floor, Governors Island, New York, beginning at 10 a.m.

The agenda for this meeting of the New York Harbor Traffic Management Advisory Committee is as follows:

1. Introductions.
2. Update of Marine Events.
3. Update of dredging operations in New York harbor.
4. Update on Vessel Traffic Service.
5. Update on Coast Guard regulatory initiatives.
6. 40 foot channel through the Kill Van Kull and Newark Bay.
7. "P.O.R.T.S." update.
8. Charter renewal update.
9. Topics from the floor.
10. Review of agenda topics and selection of date for next meeting.

The New York Harbor Traffic Management Advisory Committee has been established by Commander, First Coast Guard District to provide information, consultation, and advice with regard to port development, maritime trade, port traffic, and other maritime interests in the harbor. Members of the Committee serve voluntarily without compensation from the Federal Government.

Attendance is open to the interested public. With advance notice to the Chairperson, members of the public may make oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director no later than one day before the meeting. Any member of the public may present a written statement to the Committee at any time.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander J. P. Benvenuto, USCG, Executive Secretary, NY Harbor Traffic Management Advisory Committee, Vessel Traffic Service, Building 108, Governors Island, New York, NY 10004–5070; or by calling (212) 668–7429.

L. L. Hereth,
Commander, U.S. Coast Guard, Alternate Captain of the Port New York, NYHTMAC Executive Director.
[FR Doc. 93–7142 Filed 3–26–93; 8:45 am]
BILLING CODE 4910–14–M

Federal Aviation Administration

[Docket No. 27218]

Report to Congress on the Effects of Airport Noise, Pursuant to the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992

AGENCY: Federal Aviation Administration, (DOT).

ACTION: Request for comment and information.

SUMMARY: This notice requests comment and information on a requirement of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 that the Federal Aviation Administration (FAA) conduct a noise study and report the results to the Congress. This study will analyze the social, economic, and health effects of airport noise. The study also will include an evaluation of single event noise on populations. This notice solicits information and comment on specific issues and questions that will be considered in the report to Congress.

DATES: Comments must be received on or before April 28, 1993.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to the Federal Aviation Administration (FAA), Office of the Chief Counsel, Attn: Rules Docket (AGC–10), Docket No. 27218, 800 Independence Avenue, SW., room 915G, Washington, DC 20591. Comments may be inspected in Room 915G between 8:30 a.m. and 5 p.m., weekdays, except Federal holidays.

Commenters who wish the FAA to acknowledge the receipt of their comments must submit with their comments a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27218." The postcard will be date-stamped by the FAA and returned to the commenter.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Connor, Technology Division (AEE–100), Office of Environment and Energy, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8933, facsimile (202) 267–5594.

SUPPLEMENTARY INFORMATION:

Background

Section 123 of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 (49 U.S.C. app. 2102 note; Pub. L. 102–581) requires the FAA to conduct a noise study and report the results to Congress not later than October 31, 1993. This study will analyze the social,

economic, and health effects of airport noise within the Day-Night Average A-weighted Sound Level (DNL) 55, 60, and 65 decibel (dB) contours to determine the actual level at which noise adversely impacts populations. It also will include an evaluation of single event noise analysis on populations. The purpose of the study is to examine whether existing noise impact criteria should be redefined. As part of this process, the FAA must provide notice and an opportunity for public comment before submitting the report to Congress. The FAA is requesting comments at this time so that the report can be published by the statutory deadline. The FAA will publish a notice of availability when the report is complete.

The FAA recently participated in a similar study conducted by the Federal Interagency Committee on Noise (FICON). As a member of the Technical Subgroup, the FAA reviewed technical and scientific matters related to the adequacy of current data and methodology for use in environmental impact analysis of airport operations. This subgroup prepared a technical report that summarized the results of this evaluation and provided the scientific basis for work by other subgroups. The technical report addressed current practices, use of DNL as the principal environmental noise metric, supplemental noise evaluation metrics, single event analysis, ambient sound, relationship of ambient sound levels to lifestyles, scientific research, comparing aircraft DNL to background DNL, summary, and conclusions. Because of its FICON experience, the FAA will be using the FICON's research and recommendations to help fulfill the statutory requirement to conduct a noise study.

The FICON was formed in December 1990, at the request of the Environmental Protection Agency (EPA) and the FAA. Its basic charter was to review specific elements of the assessment of airport noise impacts contained in documents prepared pursuant to the National Environmental Policy Act (NEPA), to review the relationship of Federal Aviation Regulation (FAR) part 150 to NEPA, and to make recommendations regarding potential improvements. The FICON was composed of representatives from the Departments of Transportation (Office of the Secretary and the FAA), Defense, Justice, Veterans Affairs, EPA, Housing and Urban Development, and the Council on Environmental Quality (CEQ). The FICON has issued its report, which contains technical findings, conclusions, and policy recommendations. A copy of the FICON report, "Federal Agency Review of Selected Airport Noise Analysis Issues," is available by submitting a written request to Spectrum Sciences and Software, Inc., Code FAA, 242 Vicki Leigh Road, Fort Walton Beach, Florida 32547; Fax No. (904) 862–3031 and Voice No. (904) 862–8111.

The FICON review focused primarily on:

(a) The manner in which noise impacts are determined, including whether airport noise impacts are fundamentally different from other transportation noise impacts;

(b) The manner in which noise impacts are described;

(c) The extent of impacts outside of DNL 65 dB that should be reviewed in a NEPA document;

(d) The range of the FAA-controlled mitigation options analyzed (e.g., noise abatement and flight track procedures); and

(e) The relationship of the part 150 process of the Federal Aviation Regulations (FAR) to the NEPA process; including effect on the NEPA process if they are separate, and exploration of the means by which either or both of the two processes can be handled to maximize benefits.

The FICON was organized into three subgroups focusing on the technical, legal, and policy issues associated with the assessment of airport noise impacts. The Technical Subgroup reviewed the scientific methodologies and metrics to assess airport noise impacts that have evolved since the 1980 meetings of the FICUN. The Policy Subgroup reviewed Federal policies that are used to assess airport noise impacts. The Legal Subgroup reviewed the legal aspects of current and proposed Federal policies to assess airport noise impacts. The Technical Subgroup's products were used as a basis for the policy findings, conclusions, and recommendations in the FICON report.

The FICON recommended establishment of "a Federal interagency committee to assist agencies in providing adequate forums for discussion of public and private sector proposals, identifying needed research, and in encouraging the conduct of Research and Development (R&D) in these areas." The FICON recommends the initial agenda include:

(a) Research into community reactions to aircraft noise, including sleep disturbance, research on nonauditory health effects, speech interference, as well as the development of improved assessment criteria for these efforts;

(b) Investigation of the differences in perceptions of aircraft noise, ground transportation noise (highways and railroads), and general background noise. There should be further R&D on the "masking" effects of various types of non-aircraft noise when compared to aircraft noise; and

(c) Evaluation of potential modifications to the 1980 Federal Interagency Committee on Urban Noise (FICUN) land use compatibility table to improve its usefulness for both routine land use planning and planning for noise-sensitive land uses.

The FAA fully supports these recommendations and is working with the FICON participants to establish the standing committee. Since the standing committee's R&D effort will be a long-term process, the FAA will include a progress report in its report to Congress.

Request for Information

In supplementing the FICON findings, the FAA is seeking comment and information regarding the following six specific questions. A discussion of each will be incorporated into the FAA report to Congress on the Effects of Airport Noise scheduled for submission by October 1993. Additional comments regarding any of the issues requested by Congress are also invited. Other Federal agencies will review and provide comments on these questions and other relevant issues. For each question, the FAA has provided a paragraph on either its current policy or its viewpoint for future policy and the FICON findings.

Question 1

How should airport noise be measured to determine the effects on people (cumulative and/or single event)?

The FAA uses and recommends continued use of the DNL cumulative metric as the principal means to describe long-term noise exposure for aircraft operations. When appropriate, the FAA supplements cumulative noise analysis with single event noise metrics.

FICON Findings

(a) There are no new descriptors or metrics of sufficient scientific standing to substitute for the present DNL cumulative metric to describe long-term noise exposure for civil and military aircraft operations;

(b) The methodology using DNL as the noise exposure metric and appropriate dose-response relationships (primarily the Schultz curve for "Percent Highly Annoyed") to determine noise impacts on populations is considered the appropriate method for civil and military aviation in the general vicinity of airports;

(c) DNL analysis is supplemented on a case-by-case basis by single event analysis using other metrics, such as

Equivalent Sound Level (Leq), time above a specified level (TA), maximum A-weighted Sound Level (LAmax), Sound Exposure Level (SEL), and Sound Pressure Level (SPL); and

(d) Although single event metrics such as A-weighted Maximum Sound Level are easily understood, they are useful only to analyze responses to single events, not the cumulative effect of multiple events.

Question 2

What are the social effects of airport noise exposure in residential communities?

The FAA has found that the dose-response relationship, as represented by DNL and "Percent Highly Annoyed" (%HA), remains the best available approach to analyze total health and welfare impacts for the vast majority of transportation noise analysis situations.

FICON findings:

(a) Complaints are an inadequate indicator of the full extent of noise effects on a population;

(b) Annoyance is a summary measure of the general adverse reactions of people living in noisy environments, such as speech interference, sleep disturbance, desire for tranquil environment, and interference with hearing telephone, radio, or television satisfactorily;

(c) The dose-response relationship, as represented by the %HA, at a given DNL remains the best available approach to analyze total health and welfare impacts for the vast majority of transportation noise analysis situations;

(d) The 10 dB nighttime adjustment (each event is multiplied by 10) of DNL during the 10 p.m. to 7 a.m. period is designed specifically to account for the intrusiveness of any noise source during this period, and the potential impact on sleep. There are no new data that justify changing this adjustment;

(e) If supplemental analysis for sleep disturbance is desired, an interim dose-response model may be used (developed by the United States Air Force Armstrong Laboratories (FICON Vol. II, Sec. 3.2.2.3), which uses SEL); and

(f) Public health and welfare effects of aircraft noise below DNL 60 dB have not been established, but are assumed to decrease according to the decrease in percent of people highly annoyed.

Question 3

What are the economic effects of airport noise exposure in residential communities?

To quantify the economic impact associated with a decrease in property values, the FAA uses a case study approach to provide a benchmark of the expected benefits over extended periods of time. On the basis of a review of several statistical studies on changes in property values as they relate to airport noise, the FAA has assumed, for evaluation purposes, that property values increase one-half on one percent for every decibel decrease in DNL.

FICON findings:

The FICON report does not directly address the economic effects of airport noise exposure in residential communities. It does contain a discussion on the requirements of airport noise compatibility planning under FAR part 150 and some mitigation actions such as soundproofing, which affects the value of a residence.

(a) The FAA and the Department of Defense aircraft noise criteria for compatible land use around airports is the same criteria used in Housing and Urban Development's (HUD) regulatory guidance for this purpose. A noise level of DNL 55 dB to 65 dB is defined as the area of moderate impact, and is considered compatible for residential use. A noise level of DNL 65 dB to 75 dB is defined as the area of significant impact, which is not compatible for residential use without appropriate sound attenuation measures. And, a noise level of DNL exceeding 75 dB is defined as the area of severe impact, which is not compatible for residential use even with sound attenuation; and

(b) There is a need to update portions and enhance public understanding of the application and interpretation of Federal land use compatibility guidelines.

Question 4

What are the auditory and nonauditory health effects of airport noise exposure in residential communities?

The FAA is aware of a number of isolated studies contending that aircraft noise has nonauditory health effects at high levels; however, none contain sufficient definitive evidence to establish exposure criteria apart from current Federal guidelines for compatible land use around airports. The FAA agrees that additional research is needed to determine if such criteria are appropriate, and if so, at what exposure level.

FICON findings:

(a) The EPA recommended an annual average daily exposure of 70 dB or less to protect hearing for exposures of 40 years or more. Guidelines issued by the Committee on Hearing, Bioacoustics and Biomechanics (CHABA) of the National Academy of Science indicate a level of DNL 75 dB is adequate to protect hearing;

(b) No definitive evidence of nonauditory health effects from aircraft noise was found, particularly at levels below DNL 70 dB; and

(c) Research will continue on community reactions to aircraft noise, including sleep disturbance, nonauditory health effects, speech interference, as well as the development of improved assessment criteria for these effects.

Question 5

What is the role of ambient noise in assessing the effects of airport noise on people?

The FAA considers it appropriate to address ambient noise in circumstances where evidence suggests it will have either a positive or negative effect on community response to aircraft noise.

FICON findings:

(a) Although ambient or background noise effects likely modify community response to aircraft noise exposure, through both masking and enhancement, no specific analysis procedures can be recommended with confidence; and

(b) Additional research to develop an approach for inclusion of ambient sound levels in current aviation noise assessment methodologies is recommended.

Question 6

What level of airport noise creates an adverse impact on people?

The extent of airport noise impacts is associated with the compatibility of existing and planned land uses in the vicinity of the airport. The FAA criteria mirror HUD's regulatory guidance on compatible land use around airports. A level of DNL 65 dB or less is considered compatible for residential use; DNL 65 dB to 75 dB is not compatible without appropriate sound attenuation measures; and DNL exceeding 75 dB is not compatible under any circumstances. The FAA threshold of significant noise impact for a proposed agency action is an increase of DNL 1.5 dB or greater in areas with noise sensitive uses at exposure levels of DNL 65 dB or greater.

FICON findings:

(a) Predicting %HA, is a reasonable measure of the impact of noise on humans at a specified level of DNL;

(b) The DNL methodology takes into account that some people will be highly annoyed at relatively low levels of noise;

(c) Currently, technical knowledge cannot support inference of a causal or consistent relationship, or a quantitative

does-response model, between residential aircraft noise exposure and health consequences. Thus, no technical means are available for predicting extra-auditory health effects of noise exposure. Current findings indicate that further rigorous studies, such as an appropriately designed prospective epidemiological study, are urgently needed; and

(d) Acceptable levels of impact are not clearly defined by scientific research, and are largely policys based in part on community standards.

The FAA encourages public participation in this opportunity to comment to comply with the requirements of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992. The data received from this request will be considered in preparing the report to Congress.

Issued in Washington, DC on March 22, 1993.

Louise E. Maillett,

Director, Office of Environment and Energy.

[FR Doc. 93-7098 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee ; Parts Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of the Parts Working Group.

SUMMARY: Notice is given of the establishment of the Parts Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on aircraft certification procedures issues.

FOR FURTHER INFORMATION CONTACT: Mr. William J. (Joe) Sullivan, Assistant Executive Director, Aviation Rulemaking Advisory Committee, Aircraft Certification Service (AIR-3), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-9554; FAX: (202) 267-5364.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230; February 19, 1993). One area of the ARAC deals with is aircraft certification procedures (57 FR 39267; August 28, 1992). These issues involve the procedures for aircraft certification found in parts 21, 39, and 183 of the Federal Aviation Regulations (FAR), and Special Federal Aviation Regulation No. 36 (SFAR 36), which are the responsibility of the FAA Director of Aircraft Certification. By this notice, these issues are expanded to include advice on requirements relating to parts found in FAR parts 43, 45, and 145.

Section 601 of the Federal Aviation Act of 1958 provides, among other things, statutory authority for the Administrator to set minimum standards governing the design, materials, workmanship, construction, and performance of aircraft, aircraft engines, and propellers (referred to below as "products"), and for parts for these products. Under this authority, the FAA regulates the manufacture, maintenance, and modification of these products, as well as the design and production of parts used in the manufacture, maintenance, and modification of those products.

Replacement and modification parts are approved in several ways. Parts used during the original manufacture of the product are approved under the type and production certificates, or a technical standard order approval for that product. Thus, a part purchased from the holder of a production certificate or technical standard order approval is approved by virtue of those certificates. An owner-operator may produce parts for maintaining or altering his or her own product. Standard parts such as nuts and bolts which conform to an established industry or U.S. specification are considered to be approved parts. Any replacement or modification part which does not fall into any of the above categories must be produced under the procedures for a Parts Manufacturer Approval (PMA).

The holder of a PMA is authorized to produce replacement and modification parts for sale for installation on aviation products. Regulations in subpart K of FAR part 21, FAR part 43, and FAR part 45, prescribe requirements for obtaining, and the responsibilities of holding a PMA. The regulations governing PMA have remained essentially unchanged since their inception. However, the original intent and scope of the PMA rules no longer respond to industry needs. Today, parts produced under PMA account for a significant portion of all aviation parts sold. There also have been fundamental changes in the aviation industry in the production and distribution of replacement parts. The Parts Working Group is being formed to review and recommend changes to the rules governing PMA, and replacement and modification parts.

Specifically, the Parts Working Group's task is the following:

Task: The Parts Working Group is charged with making recommendations to the ARAC concerning the need for new or revised rules governing Parts Manufacturer Approvals, and for replacement or modification parts in Subpart K of FAR Part 21, FAR part 43, and FAR part 45 (specifically section 45.15) and Part 145. The Parts Working Group will submit recommendations to the ARAC, which will determine whether to forward them to the FAA.

Reports: A. Recommend time line(s) for completion of the task, including rationale, for consideration at the ARAC meeting to consider aircraft certification procedures issues held following publication of this notice.

B. Give a detailed conceptual presentation on the proposed recommendations to the ARAC before proceeding with the work stated in Item C, below.

C. Develop a Notice of Proposed Rulemaking (NPRM) proposing the new or revised rules for PMA holders and for replacement and modification parts, a supporting economic and other required analysis, advisory and guidance material, and any other collateral documents the Working Group determines to be needed. Present these recommendations to the ARAC for further consideration and disposition.

D. Given a status report on the task at each meeting of the ARAC held to consider aircraft certification procedures issues.

The Parts Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A Working Group member need not be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should write the person listed under "FOR FURTHER INFORMATION CONTACT" expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with Chairs of the ARAC Issue Group and the Parts Working Group; and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the information and use of the ARAC is necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Parts Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to

participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC, on March 19, 1993.

William J. Sullivan,

Assistant Executive Director for Aircraft Certification Procedures Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93-7088 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee; Delegation System Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of the delegation system working group.

SUMMARY: Notice is given of the establishment of the Delegation System Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on aircraft certification procedures issues.

FOR FURTHER INFORMATION CONTACT: Mr. William J. (Joe) Sullivan, Assistant Executive Director, Aviation Rulemaking Advisory Committee, Aircraft Certification Service (AIR-3), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-9554; FAX: (202) 267-5364.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230; February 19, 1993). One area of the ARAC deals with is aircraft certification procedures (57 FR 39267; August 28, 1992). These issues involve the procedures for aircraft certification found in parts 21, 39, and 183 of the Federal Aviation Regulations (FAR), and Special Federal Aviation Regulation No. 36 (SFAR 36), which are the responsibility of the FAA Director of Aircraft.

Section 314 of the Federal Aviation Act of 1958 provides, among other things, authority for the Administrator to delegate to any properly qualified private person any functions respecting the examination, inspection and testing necessary to the issuance of certificates under Title VI of that Act, and the issuance of such certificates under Title VI of that Act in accordance with standards established by the Administrator. Under this authority, the FAA has established a system of delegations to private persons, including companies, to perform certain aircraft certification functions. Persons holding these delegations are commonly referred to as "Representatives of the Administrator." Federal Aviation Regulations have been promulgated and codified in FAR parts 21 and 183, and SFAR 36 to prescribe the delegations relative to aircraft certification functions. These presently include:

- Delegation Option Authorizations (FAR part 21, subpart J).
- Designated Alteration Station Authorization (FAR part 21), subpart M).
- Designated Engineering Representatives (FAR 183.29).
- Designated Manufacturing Inspection Representatives (FAR 183.31).
- Designated Airworthiness Representatives (FAR 183.33).
- Companies that hold SFAR 36 authority (SFAR 36).

The present system of delegations to private organizations has evolved over the past 41 years of aircraft certification experience and regulatory development. During this period the FAA has not experienced any significant difficulties that would cause the FAA to believe that the high level of safety or the quality of approvals processed by these organizations is any less than the safety or quality of approvals actually processed by FAA aviation safety engineers or aviation safety inspectors. Thus, an opportunity exists to expand the applicability of these delegation concepts to persons, including organizations, that are not presently eligible. This would reduce the cost of the certification process to both industry and the public. This would also provide a permanent replacement regulation for the temporary SFAR 36.

Specifically, the Delegation System Working Group's task is the following:

Task: The Delegation Systems Working Group is charged with reviewing the current system of delegations to perform aircraft certification functions to determine what would improve the safety, quality and effectiveness of the system, and making recommendations to the ARAC concerning new or revised rules and advisory, guidance and other (including legislative and training) collateral materials. The FAA Aircraft Certification Service is seeking a comprehensive, up-to-date, systematic approach for delegating aircraft certification functions to both individuals and organizations, a smooth transition from the delegation systems currently used to the system recommended, and a system as compatible as practicable with the systems used by the civilian aviation authorities of other countries. The Delegation System Working Group will submit recommendations to the ARAC, which will determine whether to forward them to the FAA.

Reports

A. Recommend time line(s) for completion of the task, including rationale, for consideration at the ARAC meeting held to consider aircraft certification procedures issues following publication of this notice.

B. Give a detailed conceptual presentation on the proposed recommendations to the ARAC before proceeding with the work stated in Item C, below. If the task assigned requires the development of more than one Notice of Proposed Rulemaking, identify what proposed amendments will be included in each notice.

C. Develop one or more Notices of Proposed Rulemaking (NPRM) proposing the new or revised rules for delegating aircraft certification functions to both private individuals and organizations supporting economic and other required analysis, advisory and guidance material, and any other collateral documents the Working Group determines to be needed. Present these recommendations to the ARAC for further consideration and disposition.

D. Give a status report on the task at each meeting of ARAC held to consider aircraft certification procedures issues.

The Delegation System Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A Working Group member need not be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should *write* the person listed under **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with Chairs of the Issues Group and the Delegation System Working Group; and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the information and use of the Aviation Rulemaking Advisory Committee is necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the ARAC will be open to the public, except as authorized by Section 10(d) of the Federal Advisory Committee Act. Meetings of the Delegation System Working Group will not be open to the public except to the extent that individuals with an interest and

expertise are selected to participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC, on March 19, 1993.

William J. Sullivan,

Assistant Executive Director for Aircraft Certification Procedures Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93-7086 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee; Production Certification Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of the production certification working group.

SUMMARY: Notice is given of the establishment of the Production Certification Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on aircraft certification procedures issues.

FOR FURTHER INFORMATION CONTACT: Mr. William J. (Joe) Sullivan, Assistant Executive Director, Aviation Rulemaking Advisory Committee, Aircraft Certification Service (AIR-3), 800 Independence Avenue SW., Washington, DC 20591, Telephone: (202) 267-9554; FAX (202) 267-5364.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230; February 19, 1993). One area of the ARAC deals with is aircraft certification procedures (57 FR 39267; August 28, 1992). These issues involve the procedures for aircraft certification found in parts 21, 39, and 183 of the Federal Aviation Regulations (FAR), and Special Federal Aviation Regulation No. 36 (SFAR 36), which are the responsibility of the FAA Director of Aircraft Certification.

The FAA has established four kinds of production approvals: Production Certificates, Approved Production Inspection Systems, Technical Standard Order Authorizations, and Parts Manufacturer Approvals. The regulations governing each kind of production approval evolved separately over the years, so each has different quality assurance and procedural requirements. As a result, persons producing the same aviation product or part to the same airworthiness design standards may meet different production requirements depending on the kind of production approval held. These inconsistencies result in different levels of surveillance of the products and parts produced. The differences also create standardization and interpretation problems for both the commercial aviation manufacturing industry and the FAA in administering the production approval system. This has resulted in longstanding industry and FAA concerns with the regulatory structure for the production of aircraft products and parts. A need exists for a single production approval with a single set of cost-effective quality assurance requirements. This production approval regulatory structure needs to adjust to the size and complexity of the manufacturing activity the approval holder engages in, and to respond to the most modern and up-to-date manufacturing practices.

The FAA has also received recommendations concerning the establishment of internal audit systems by the production approval holders. Many production approval holders maintain an internal audit system. There is no regulatory requirement to maintain one, however, and there are no regulatory standards to assure their effectiveness. The wisdom of such internal audit systems was demonstrated to the FAA in Operation Snapshot, a nationwide review of existing quality assurance systems of aviation product and parts manufacturers. The Production Certification Working Group is established to address these issues.

Specifically, the Production Certification Working Group's task is the following:

Task: The Production Certification Working Group is charged with making recommendations to the ARAC concerning the modernization of requirements applicable to production approval holders in subparts F, G, H, J, K and O of FAR Part 21. These recommendations involve streamlining the rules to establish a more modern, standardized set of production approval requirements more responsive to current industry production practices. The Production Certification Working Group will submit recommendations to the ARAC, which will determine whether to forward them to the FAA.

Reports

A. Recommend time line(s) for completion of the task, including rationale, for consideration at the ARAC meeting held to consider aircraft certification procedures issues following publication of this notice.

B. Give a detailed conceptual presentation on the proposed recommendations to the ARAC before proceeding with the work stated in Item C, below.

C. Develop a Notice of Proposed Rulemaking (NPRM) proposing the new standards for production approval holders, supporting economic and other required analysis, advisory and guidance material, and any other collateral documents the Working Group determines to be needed. Present these recommendations to the ARAC for further consideration and disposition.

D. Give a status report on the task at each meeting of the ARAC held to consider aircraft certification procedures issues.

The Production Certification Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A Working Group member need not be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should write the person listed under "FOR FURTHER INFORMATION CONTACT" expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with Chairs of the Issue Group and the Production Certification Working Group; and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the information and use of the ARAC is necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Production Certification Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC, on March 19, 1993.

William J. Sullivan,

Assistant Executive Director for Aircraft Certification Procedures Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93-7087 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee; Emergency Locator Transmitter Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of the Emergency Locator Transmitter Working Group.

SUMMARY: Notice is given of the establishment of the Emergency Locator Transmitter Working Group of the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of the ARAC on aircraft certification procedures issues.

FOR FURTHER INFORMATION CONTACT: Mr. William J. (Joe) Sullivan, Assistant Executive Director, Aviation Rulemaking Advisory Committee, Aircraft Certification Service (AIR-3), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-9554; FAX: (202) 267-5364.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has established the Aviation Rulemaking Advisory Committee (ARAC) (56 FR 2190, January 22, 1991; and 58 FR 9230; February 19, 1993). One interest area of the ARAC is aircraft certification procedures (57 FR 39267; August 28, 1992). These issues involve procedures for aircraft certification found in parts 21, 39, and 183 of the Federal Aviation Regulations (FAR), which are the responsibility of the FAA Director of Aircraft Certification. By this notice, these issues are expanded to include advice on requirements for automatic emergency locator transmitters (ELT) found in FAR part 91, and for survival ELT found in FAR parts 25, 29, 121, 125, and 135.

ELT approved under Technical Standard Order (TSO) C91 during the 1970s and 1980s experienced generally unsatisfactory performance. To deal with the problem, the FAA issued Notice 90-11 (55 FR 12316, April 2, 1990). This notice contained four basic proposals: (1) ELT approved under recently adopted and improved TSO-C91a, or a later issued TSO for ELT, would be required for all newly-manufactured airplanes and for the replacement of existing ELT which became unusable or unserviceable; (2) Newly issued TSO-C126 for 406 MHz ELT (adopted in December 1992) would also constitute compliance with the existing and proposed rules requiring an ELT; (3) Improved standards would be established for survival ELT (although most of the unsatisfactory field experience had been with automatic ELT); and (4) The manufacture of ELT under TSO-C91 would be terminated simultaneously with issuance of the final rule based on Notice 90-11.

In addition to the proposals outlined above, the FAA solicited comments on the need for a fleet-wide ELT replacement program. The FAA is developing a document disposing of the rulemaking proposals in Notice No. 90-11. However, the FAA has chosen to ask the ARAC to consider the issues raised in the comments on that notice dealing with fleet-wide ELT replacement program. This will be accomplished by the Emergency Locator Transmitter (ELT) Working Group whose recommendations will be considered and disposed of by the ARAC Aircraft Certification Procedures Interest Group.

Specifically the ELT Working Group's tasks are the following:

Task 1: The ELT Working Group is charged with reviewing the comments received on FAA Notice of Proposed Rulemaking 90-11 dealing with a fleet-wide ELT replacement program. The review should address at least the following issues: (1) Whether automatic ELT should be installed (retrofit) on all transport and commuter category airplanes; (2) Whether survival ELT should be installed (retrofit) on all aircraft operating over water or in remote areas; (3) Whether all ELT now installed on airplanes should be replaced (retrofit); and (4) Whether ELT to be installed on newly manufactured airplanes or as replacements, or under items (1)-(3), above, should be either the improved 121.5/243 megahertz (TSO-C91a) or the 406 megahertz (TSO-C126) variety, or only the letter. After completing that review, present a report of findings and recommendations to the ARAC for consideration.

Task 2: Based on the results of task 1 and the guidance received from the ARAC, develop recommendations for rulemaking on the subject of ELT installations and the variety or varieties to be used. If rulemaking is not recommended in whole or in part, develop a report recommending disposition of the comments in Notice 90-11, including the issues identified above, and recommending rulemaking not be pursued in whole or in part. In either event, present the working group's final work product to the ARAC for review and final disposition.

Reports

A. Recommend time line(s) for completion of each task, including rationale, for consideration at the ARAC meeting to consider aircraft certification procedures issues held following publication of this notice.

B. Give a detailed presentation on conclusions and recommendations in the report for Task 1 to the ARAC, and receive ARAC approval, before proceeding with the work stated in Item C, below.

C. Develop a Notice of Proposed Rulemaking (NPRM) proposing the new standards for emergency locator transmitters, supporting economic and other required analysis, advisory and guidance material, and any other collateral documents the Working Group determines to be needed. Alternatively, develop a report that recommends disposition of the comments on Notice 90-11, including the specific issues identified, and recommends rulemaking not be pursued. Present these recommendations to the ARAC for further consideration and disposition.

D. Give a status report on the tasks at each meeting of the ARAC held to consider aircraft certification procedures issues.

The ELT Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A Working Group member need not be a representative of one of the member organizations of the ARAC. An individual who has expertise in the subject matter and wishes to become a member of the Working Group should write the person listed under "FOR FURTHER INFORMATION CONTACT" expressing that desire, describing his or her interest in the task, and the expertise he or she would bring to the Working Group. The request will be reviewed with the Chairs of the Issue Group and the ELT Working Group; and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the information and use of the ARAC is necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the ELT Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of Working Group meetings will be made.

Issued in Washington, DC, on March 19, 1993.

William J. Sullivan,

Assistant Executive Director for Aircraft Certification Procedures Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93-7102 Filed 3-26-93; 8:45 am]

BILLING CODE 4910-13-M

Intent To Prepare an Environmental Impact Statement (EIS) for an Instrument Landing System (ILS) on Runway 11 at Newark International Airport, Newark, NJ

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this Notice to advise the public, local and State governments, and all interested agencies that an Environmental Impact Statement (EIS) will be prepared to assess the potential effects of constructing and operating an Instrument Landing System (ILS) facility on Runway 11 at Newark International Airport, Newark, New Jersey. The purpose of this proposed action is to reduce delays to the aircraft and passengers utilizing Newark International Airport and to provide more efficient use of the existing runways.

ADDRESSES: Comments may be submitted in writing and be mailed or hand delivered to the FAA at the following address: Mr. Herbert Ross (AEA–401), Assistant Manager, Airway Facilities Division, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hom or Mr. Frank Cruz of the Federal Aviation Administration at (718) 553–1508.

SUPPLEMENTARY INFORMATION: An FAA evaluation concluded that the installation of an ILS on Runway 11 at Newark International Airport would reduce aircraft and passenger delays and provide for greater efficiency in the use of the existing runways. The FAA, in cooperation with the Port Authority of New York and New Jersey (PANYNJ), began the preparation of an Environmental Assessment (EA) for an Instrument Landing System/Microwave Landing System (ILS/MLS).

An initial public hearing was held on September 19, 1991 to receive the comments regarding the Draft Environmental Assessment (EA) for the proposed Runway 11 ILS/MLS at Newark International Airport. Both verbal and written comments were received. These comments will be incorporated in the Draft EIS. An MLS is no longer part of the proposed action.

Several alternatives to the proposed action will be evaluated in the EIS, including: Shifting the demand to other airports; restricting aircraft operations during peak operating hours; installing a precision instrument landing system on another runway; and no action.

An analysis of the data used to develop the Environmental Assessment that led to the recommendation to conduct an Environmental Impact Statement (EIS) for the proposed installation of an ILS on Runway 11 at Newark International Airport, shows that this project is separate from the current EIS that is being studied for the Expanded East Coast Plan (EECP). The Runway 11 precision approach is not considered a component of the EECP, rather it is a stand alone project needed to reduce operating delays to Newark International Airport. Thus, the need to prepare a separate EIS is reasonable and appropriate.

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 Federal, State, and local agencies, and all other interested parties. Comments or questions concerning this proposed action should be directed to the FAA at the addresses provided above.

Issued in Jamaica, New York, on March 19, 1993.

Herbert Ross,

Assistant Manager, Airway Facilities Division, FAA Eastern Region.

[FR Doc. 93–7096 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–15]

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 April 19, 1993.

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 March 18, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 22469.

Petitioner: St. Louis University/Parks College.

Sections of the FAR Affected: 14 CFR 141 appendices A, C, D, and F.

Description of Relief Sought: To extend the termination date of Exemption No. 3495, which expires August 31, 1993, and which allows Parks College to train students to a performance standard in lieu of the minimum flight experience requirements. This exemption does not allow a reduction of the minimum flight experience requirements for solo-cross country flight.

Docket No.: 25974.

Petitioner: Air Transport Association.

Sections of the FAR Affected: 14 CFR 91.27 and 47.49.

Description of Relief Sought: To extend the termination date of Exemption No. 5318, which expires July 30, 1993, and which grants Air Transport Association the authority to temporarily operate registered, airworthy aircraft within the United States without the actual registration or airworthiness certificates on board.

Docket No.: 26847.

Petitioner: Flight Safety International.
Sections of the FAR Affected: 14 CFR 141.65.
Description of Relief Sought: To amend Exemption No. 5528 to allow Flight Safety International to recommend graduates of its approved certification courses for flight instructor certificates without having to take the Federal Aviation Administration written or flight tests.

Docket No.: 27093
Petitioner: Mr. John R. Salomone.
Sections of the FAR Affected: 14 CFR 121.547.
Description of Relief Sought: To allow Mr. Salomone to gain access to the forward observer's seat on the flight deck of an air carrier aircraft to observe operations for educational purposes.

Docket No.: 27112.
Petitioner: Rex D. Bentley.
Sections of the FAR Affected: 14 CFR 65.91(c)(1).
Description of Relief Sought: To allow Mr. Rex D. Bentley to take the Inspection Authorization exam after holding an airframe and powerplant (A & P) certificate for one and one half years (in lieu of three years), in addition to having acquired 22 years experience in naval aviation.

Docket No.: 27121
Petitioner: Tower Air, Inc.
Sections of the FAR Affected: 14 CFR 121.434(e).
Description of Relief Sought: To allow Tower Air, Inc., to use flight attendants who have operating experience on the same aircraft type with a foreign carrier, without those attendants receiving the 5 hours of supervised initial operating experience on the petitioner's aircraft.

Docket No.: 27132.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 61.57(e)(1)(i) and 121.683(a)(1).
Description of Relief Sought: To allow member airlines of the Air Transport Association and similarly situated part 121 operators relief from the 6-month instrument experience and record keeping requirements for pilots serving as pilot in command.

Docket No.: 27161.
Petitioner: Air Transport Association.
Sections of the FAR Affected: 14 CFR 121.417(c)(2)(ii)(B).
Description of Relief Sought: To relieve member airlines of Air Transport Association from the requirement to train crewmembers, initially and every 24 calendar months, on the transfer of aircraft slide/raft packs from one door to another.

Dispositions of Petitions

Docket No.: 26503.
Petitioner: ABX Air, Inc.
Sections of the FAR Affected: 14 CFR 121.623(a) and (d), 121.643, and 121.645(e).
Description of Relief Sought/ Disposition: To extend the termination date of Exemption No. 5307, which expires May 31, 1993, and which allows ABX Air, Inc., to conduct operations in accordance with the requirements applicable to a domestic air carrier, even though ABX Air, Inc., is a supplemental air carrier.

GRANT, March 11, 1993, Exemption No. 5307A

Docket No.: 27023.
Petitioner: Boeing Commercial Airplane Group.
Sections of the FAR Affected: 14 CFR 25.1415(c) and 121.339(c).
Description of Relief Sought/ Disposition: To allow Boeing Commercial Airplane Group to keep stowed those survival kits that are stowed separately from their designated attachment points on the slide/rafts until after a ditching has occurred, and to attach them only after slide/raft deployment.

GRANT, March 5, 1993, Exemption No. 5613

Docket No.: 27086.
Petitioner: Bombardier, Inc.
Sections of the FAR Affected: 14 CFR 61.55(b)(2); 61.56(b)(1); 61.57(c) and (d); 61.58(c)(1) and (d); 61.63(c)(2), (d)(2), and (d)(3); 61.67(d)(2); 61.157(d)(1) and (2), and (e)(1) and (2); and appendix A of part 61.
Description of Relief Sought/ Disposition: To allow Bombardier, Inc., to use FAA-approved simulators to meet certain training and testing requirements of part 61 of the FAR.

GRANT, March 11, 1993, Exemption No. 5617

Docket No.: 27156.
Petitioner: World Airways, Inc.
Sections of the FAR Affected: 14 CFR 121.411(a)(2), (3), and (4), and 121.413(a).
Description of Relief Sought/ Disposition: To permit World Airways, Inc. (World), to use Douglas Aircraft Corporation (DAC) MD–11 check airmen to provide operating experience to World's pilots during World's Hadj operations, without DAC's check airmen meeting all of the applicable training requirements of part 121, subpart N.

GRANT, March 11, 1993, Exemption No. 5615

[FR Doc. 93–7100 Filed 3–26–93; 8:45 am]
BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration's Aviation Rulemaking Advisory Committee to discuss transport airplane and engine issues.

DATES: The meeting will be held on April 21, 1993 at 9 a.m. Arrange for oral presentations by April 7, 1993.

ADDRESSES: The meeting will be held at the Hilton Inn, Garden Room, University and Manuel Streets, Albuquerque, NM 87110.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Ball, Aircraft Certification Service (AIR–1), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8235.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. II), notice is given of a meeting of the Aviation Rulemaking Advisory Committee to be held on April 21, 1993, at the Hilton Inn, University and Manuel Streets, Albuquerque, NM 87110. The agenda for the meeting will include:

- Opening Remarks.
- Review of Action Items.
- Reports of working groups.
- Discussion of harmonization and working group schedules.
- Status of harmonization activities and organization of working groups.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 7, 1993, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine Issues or by bringing the copies to him at the meeting. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, DC, on March 22, 1993.

William J. Sullivan,

Assistant Executive Director for Transport Airplane and Engine Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–7091 Filed 3–26–93; 8:45 am]
BILLING CODE 4910–13–M

Proposed Modification of the Terminal Control Area at Miami, FL; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meetings.

SUMMARY: This notice announces two fact-finding informal airspace meetings to solicit information from airspace users and others concerning a proposal to modify the Miami, FL, Terminal Control Area (TCA), and to provide interested persons an opportunity to discuss the proposal. The TCA modification is being considered due to the increased volume of traffic arriving and departing the Miami and Fort Lauderdale International Airports. All comments received during these meetings will be considered prior to the issuance of a Notice of Proposed Rulemaking.

TIME AND DATE: These meetings will be held from 7 p.m. to 10 p.m., on Wednesday, May 12 and Thursday, May 13, 1993. Comments must be received on or before July 12, 1993.

Date: Wednesday, May 12, 1993.
Place: Miami International Airport, Concourse "B" Auditorium, Miami, FL.

Date: Thursday, May 13, 1993.
Place: Broward Community College—South Campus, Auditorium (room 133), Pembroke Pines, FL, (Adjacent to North Perry Airport).

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASO–500, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

CONTACT PERSON FOR MORE INFORMATION: Jimmy C. Mills; Manager, Airport Traffic Control Tower; Miami International Airport; Miami, FL 33152; telephone: (305) 871–2670.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) These meetings will be informal in nature and will be conducted by a representative of the Administrator, FAA Southern Region. Each participant will be given an opportunity to make a presentation, although a time limit may be imposed.

(b) These meetings will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate.

(c) Any person wishing to make a presentation to the panel will be asked to sign in and estimate the amount of time needed for such presentation so that timeframes can be established. This will permit the panel to allocate an appropriate amount of time for each presenter. The panel may allocate the time available for each presentation in order to accommodate all speakers. These meetings will not be adjourned until everyone on the list has had an opportunity to address the panel. These meetings may be adjourned at any time if all persons present have had the opportunity to speak.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted. Participants wishing to submit handout material should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) These meetings will not be formally recorded. However, a summary of the comments made at these meetings will be filed in the docket.

Agenda for Each Meeting

Opening Remarks and Discussion of Meeting Procedures
Briefing on Background for Proposal
Public Presentations
Closing Comments

Issued in Washington, DC, on March 18, 1993.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 93–7094 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at McGrath, AK; Change in Facility Operations

Notice is hereby given that on or about April 3, 1993, the Flight Service Station at McGrath, Alaska will be closed. Services to the general aviation public formerly provided by this facility will be provided by the Automated Flight Service Station at Kenai, Alaska. Beginning May 1, 1993, the McGrath FSS will reopen and operate as a seasonal part-time Flight Service Station from May 1 through Sept. 30 annually. This information will be reflected in the FAA Organization Statement the next time it is reissued. Sec. 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Anchorage, Alaska on March 19, 1993.

David F. Morse,

Deputy Regional Administrator, Alaskan Region.

[FR Doc. 93–7089 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Philadelphia International Airport, Philadelphia, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Philadelphia International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 28, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Manager, Harrisburg Airports District Office, 3911 Hartzdale Drive, suite 1, Camp Hill, Pennsylvania 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James DeLong, Director of Aviation of the City of Philadelphia at the following address: Department of Commerce, Division of Aviation, 3751 Island Avenue, Philadelphia, Pennsylvania 19153.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Philadelphia, Division of Aviation, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Drive, suite 1, Camp Hill, Pennsylvania 17011, (717 782–4548). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Philadelphia International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 18, 1993, the FAA determined that the application to use the revenue from a PFC submitted by The City of Philadelphia, Division of Aviation, was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 20, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1992.

Proposed charge expiration date: July 1, 1995.

Total estimated PFC revenue: $76,169,000.

Brief description of proposed project(s): Rescue Boat Facility, Upgrade Airfield Signage, Fire Alarm System Expansion, Ground Transportation Improvements, Moving Sidewalks.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All Air Taxi/commercial operators filing FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT" and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Philadelphia, Division of Aviation.

Issued in Jamaica, New York on February 25, 1993.

Peter A. Nelson,

Assistant Manager, Airports Division, Eastern Region.

[FR Doc. 7101 Filed 3–26–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 22, 1993.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0057.

Form Number: IRS Form 1024.

Type of Review: Revision.

Title: Application for Recognition of Exemption Under Section 501(a) or for Determination Under Section 120.

Description: Organizations wanting to be exempt from Federal income tax under section 501(a) as an organization described in most paragraphs of section 501(c), or a legal service plan described in section 120 must apply to IRS for a determination or ruling letter. The information collected is used to determine whether the organization qualifies for exempt status.

Respondents: Non-profit institutions.

Estimated Number of Respondents/Recordkeepers: 13,532.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to IRS
1024	52 hrs., 51 min.	2 hrs., 23 min.	3 hrs., 22 min.
1024 Part IV	58 min.	35 min.	38 min.
1024, Sch. A	58 min.	18 min.	19 min.
1024, Sch. B	1 hr., 40 min.	18 min.	20 min.
1024, Sch. C	58 min.	12 min.	13 min.
1024, Sch. D	4 hrs., 4 min.	18 min.	22 min.
1024, Sch. E	1 hr., 40 min.	18 min.	20 min.
1024, Sch. F	2 hrs., 9 min.	6 min.	8 min.
1024, Sch. G	1 hr., 55 min.	6 min.	8 min.
1024, Sch. H	1 hr., 40 min.	6 min.	8 min.
1024, Sch. I	5 hrs., 30 min.	30 min.	37 min.
1024, Sch. J	2 hrs., 23 min.	6 min.	8 min.
1024, Sch. K	3 hrs., 21 min.	6 min.	10 min.
1024, Sch. L	3 hrs., 7 min.	24 min.	28 min.
1024, Sch. M	1 hr., 26 min.	12 min.	14 min.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 834,418 hours.

OMB Number: 1545–0134.

Form Number: IRS Form 1128.

Type of Review: Revision.

Title: Application to Adopt, Change, or Retain a Tax Year.

Description: Form is needed in order to process taxpayers' requests to change their tax year. All information requested is used to determine whether the application should be approved. Respondents are taxable and nontaxable entities including individuals, partnerships, corporations, estates, tax-exempt organizations and cooperatives.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Farms, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 20,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to IRS
Parts I and II	9 hrs., 20 min.	2 hrs., 35 min.	2 hrs., 51 min.
Parts I and III	13 hrs., 52 min.	3 hrs., 58 min.	4 hrs., 22 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 354,800 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–7133 Filed 3–26–93; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 58
Monday, March 29, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

FCC To Hold Open Commission Meeting, Thursday, April 1, 1993

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, April 1, 1993, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—Private Radio—Title: Amendment of the Commission's Rules to Modify Signature Requirements for License Applications in the Private Radio Services. Summary: The Commission will consider adoption of an *Order* concerning application signature requirements to facilitate electronic filing of applications in the private radio services.

2—Office of Plans and Policy—Title: Inquiry into Encryption Technology for Satellite Cable Programming (PP Docket No. 92-234). Summary: The Commission will consider adoption of a *Report* concerning competition in the provision of encryption equipment for satellite cable programming and related technological issues.

3—Mass Media—Title: Implementation of Sections 3, 9, and 14 of the Cable Television Consumer Protection and Competition Act of 1992—Rate Regulation Provisions (MM Docket No. 92-266). Summary: The Commission will consider the adoption of rules to implement the rate regulation provisions of the Cable Act.

4—Mass Media—Title: Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992—Program Access Provisions (MM Docket No. 92-265). Summary: The Commission will consider the adoption of rules to implement the program access provisions of the 1992 Cable Act.

5—Mass Media—Title: Network Television Financial Interest and Syndication Rules (MM Docket No. 90-162). Summary: The Commission will consider the adoption of a *Report and Order* regarding the network television financial interest and syndication rules and its response to the decision of the Court of Appeals in Schurz Communications, Inc., et al., v. FCC.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632-5050.

Issued: March 25, 1993.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93-7351 Filed 3-25-93; 3:31 pm]

BILLING CODE 6712-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 15521—dated March 23, 1993.

AMENDED AGENDA ITEM 6:

6. Amended FY 1993 Expenditure Plan, amended FY 1994 Budget Request, and FY 1995 Authorization Request.

In conformity with 19 CFR § 201.37(b), Commissioners Nuzum, Crawford, Brunsdale, Rohr, Watson, and Newquist determined by circulation of an action jacket that Commission business required the amendment to the agenda for the meeting of March 30, 1993, to include in item 6 the amended FY 1993 Expenditure Plan, and affirmed that no earlier notice of the change was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Paul R. Bardos, Acting Secretary, (202) 205-2000.

Dated: March 25, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93-7294 Filed 3-25-93; 3:30 pm]

BILLING CODE 7020-02-M

NATIONAL COUNCIL ON DISABILITY

Quarterly Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability. Notice of this meeting is required under Section 522b of the Government in the Sunshine Act, (P.L. 94-409).

DATES: April 26-28, 1993, 8:30 a.m. to 5:00 p.m.

LOCATION: Sheraton Manhattan Hotel, Seventh Avenue and 52nd Street, New York, New York 10019, (212) 581-1000.

FOR INFORMATION CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 800 Independence Avenue, SW, Suite 814, Washington, DC 20591, (202) 267-3846, (202) 267-3232 (TDD).

The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. It was established in 1978 as an advisory board within the Department of Education. The Rehabilitation Act Amendments of 1984 transformed the Council into an independent agency. The mission of the National Council on Disability is to provide leadership in the identification of emerging issues affecting people with disabilities and in the development and recommendation of disability policy to the President and the Congress.

The quarterly meeting of the National Council shall be open to the public. The proposed agenda includes:

Release of the report, *Meeting the Unique Needs of Minorities with Disabilities*
Report from the Chairperson and the Executive Director
Update on the release of the report, *ADA Watch—Year One*
Update on the release of the reports on access to health insurance, education of students with disabilities, and the financing of assistive technology
Committee Meetings and Committee Reports
Unfinished Business
New Business
Announcements
Adjournment

Records shall be kept of all National Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on March 24, 1993.

Andrew I. Batavia,

Executive Director.

[FR Doc. 93-7211 Filed 3-25-93; 8:55 am]

BILLING CODE 6820-BS-M

federal register

Monday
March 29, 1993

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 121
Protective Breathing Equipment; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 27219; Notice No. 93-2]

RIN 2120-AD74

Protective Breathing Equipment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise the Federal Aviation Regulations (FAR) governing portable protective breathing equipment (PBE) required for crewmembers' use in combatting in-flight fires. In response to a petition from the Air Transport Association (ATA), the FAA proposes, for cargo-only operations, to reduce the number of portable PBE units that are required for the cargo area of the airplane to one unit. For operators of passenger-carrying airplanes, the proposal would eliminate the need for PBE units for cargo compartments and also clarify that a separate PBE unit is required for each required hand fire extinguisher. Lastly, this notice would eliminate the requirement that PBE units indicate the quantity of the gas supply and that a crewmember check the PBE unit to see that it is fully charged. By eliminating unnecessary costs to carriers, this action should accommodate the needs of the air carrier industry while still protecting public safety.

DATES: Comments must be received on or before May 28, 1993.

ADDRESSES: Comments on the proposals may be delivered or mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 27219, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked "Docket No. 27219." Comments may be examined in the Rules Docket, room 915G, weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary Davis, Project Development Branch, AFS-240, Air Transportation Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8096.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments as they may desire. Comments relating to the potential economic, environmental, energy, or federalism impact of the proposals contained in this notice are also invited.

The comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received on or before the closing date for comments will be considered by the Administrator before action is taken on the proposed amendments, and the proposals contained in this notice may be changed in light of comments received. All comments received, as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection both before and after the closing date for submitting comments. The FAA will acknowledge receipt of a comment if the commenter submits with the comment a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27219." When the comment is received, the postcard will be dated, time stamped, and returned to the commenter.

Availability of the NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Requests should be identified by the NPRM number or docket number of this proposed rule. Persons interested in being placed on a mailing list for future proposed rules should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The PBE requirements that specifically apply to part 121 certificate holders are found in § 121.337 of the FAR (14 CFR 121.337). The current form of this regulation was established by FAR Amendment No. 121-193 (52 FR 20956; June 3, 1987), which became effective on July 6, 1987, and FAR Amendment No. 121-212 (55 FR 5551; February 15, 1990).

The PBE required by § 121.337 fall into two categories. The first such category consists of PBE for use by flight crewmembers (i.e., pilots, flight engineers, and flight navigators) at their assigned duty stations on the flight deck. See § 121.337(b)(8). These units may be either fixed or portable; the important thing is that they be easily accessible for immediate use by the flight crewmembers at their duty stations. This type of PBE must be approved to meet the standards in Technical Standards Order (TSO) C-99.

The second category of required PBE, the subject of this NPRM, consists of portable PBE units which are intended for use by all crewmembers (i.e., not just pilots, flight engineers, and flight navigators, but flight attendants also) when they investigate and combat fires throughout the aircraft. See § 121.337(b)(9). This type of PBE must be approved to meet the standards in TSO C-116 and is identified as "portable PBE."

This NPRM deals with both cargo-only operations and passenger-carrying operations. In regard to cargo-only operations, this NPRM discusses the following issues:

(1) Should the regulations continue to require portable PBE units in the cargo area of airplanes that carry only cargo, or are the PBE units on the flight deck sufficient?

(2) If PBE is still needed in the cargo area of cargo-only operations, should the regulations continue to require a separate PBE unit for each individual Class A, B, or E cargo compartment?

As for passenger-carrying operations, this NPRM discusses the following issues:

(1) Should one portable PBE unit be required for each hand fire extinguisher in the passenger compartments of transport category airplanes, or should it be permissible to have one PBE for every two hand fire extinguishers as long as both of the fire extinguishers are within 3 feet of the PBE?

(2) Should the regulations require that there be portable PBE units in the cargo areas of passenger-carrying operations in addition to those in the passenger compartments?

Cargo-Only Operations

Section 121.337(b)(9)(i) requires that one PBE unit with a portable breathing gas supply be easily accessible and conveniently located for immediate use in each Class A, B, and E cargo compartment that is accessible to crewmembers in the compartment during flight. (For definitions of the various classes of cargo compartments, see 14 CFR 25.857).

Under § 121.337(b)(9)(i), a separate PBE unit is required for each Class A, B, and E cargo compartment; thus, if there are a total of seven such compartments, then seven portable PBE units would be required under the current provision.

On behalf of six member airlines operating cargo-only aircraft, ATA

petitioned the FAA on August 14, 1989, for a permanent exemption from § 121.337(b)(9)(i). In its petition, the ATA argued that the current requirement to install a portable PBE unit for each Class E cargo compartment should be eliminated. (A Class E cargo compartment is one on airplanes used only for the carriage of cargo. See § 25.857(e), containing this and further requirements for a compartment to be classified as a Class E cargo compartment.)

In support of its petition, the ATA argued that Class E cargo compartments are generally inaccessible in flight and that established crewmember procedures are to land the aircraft as soon as possible and to combat a fire in the compartment only as a last resort. According to the ATA, the portable PBE unit on the flight deck, as required by § 121.337(b)(9)(iii), would suffice in the unlikely event that a crewmember would have to combat an in-flight fire.

The FAA agreed with the ATA that the PBE requirements for cargo-only airplanes deserved further consideration through the rulemaking process. The agency therefore extended the compliance date for certificate holders operating cargo-only airplanes to install portable PBE units for use in Class A, B, or E cargo compartments from January 31, 1990, to February 18, 1992,[1] and invited interested persons to submit comments on this subject to Docket No. 24792. See FAR Amendment No. 121–212 (55 FR 5548; February 15, 1990), which became effective on February 15, 1990.

The Air Line Pilots Association (ALPA), Airborne Express, and Mid-Pacific Air Corporation responded to the request for public comment set forth in FAR Amendment No. 121–212. Each of the commenters took the position that the portable PBE unit already required on the flight deck by § 121.337(b)(9)(iii) was adequate for investigating and combatting fires in Class E cargo compartments.

The FAA, however, does not agree. While the FAA believes that the current requirement for a separate portable PBE unit for each Class A, B, or E cargo compartment can safely be eliminated, the agency does not agree that the portable PBE unit on the flight deck is sufficient for cargo-only airplanes. Rather, in the FAA's view, safety requires that an additional portable PBE unit be available for possible use in the cargo area of cargo-only airplanes. The FAA thinks it advisable to continue to require a separate PBE unit for each intended use: One for the flight deck, and one for the cargo compartment. An added benefit is that each of these units can serve as a back-up for the other.

Regarding the location of the second portable PBE unit, the proposed amendment would require that it be located in a position that is approved by the Administrator as appropriate to each airplane and the specific type of operation being conducted. This will ensure that the unit is easily accessible and conveniently located for use in the cargo area of the plane.

If a fire is detected in a Class E cargo compartment, the likely source of this warning would be a smoke or fire detector in the compartment that sets off a warning signal at the pilot or flight engineer station. In this situation, the required PBE unit on the flight deck would be immediately available for a crew member to investigate or fight the fire. On the other hand, if the fire is detected by a means other than the warning system, the person making the discovery would have the PBE unit near the cargo compartment, where the discovery occurred, for immediate availability in fighting the fire.

Passenger-Carrying Operations

This NPRM also addresses several issues concerning PBE requirements for passenger-carrying operations. The first issue involves the number of portable PBE units that are required in passenger compartments of transport category airplanes. In its current form, § 121.337(b)(9)(iv) requires a portable PBE to be located "in each passenger compartment, one located within 3 feet of each hand fire extinguisher required by § 121.309 of this part * * *." At least one air carrier has interpreted this provision to mean that one portable PBE would satisfy the requirement for 2 required hand fire extinguishers as long as both of those fire extinguishers are within 3 feet of the PBE. The FAA never intended such a result as evidenced in the preamble to the final rule. In response to several comments regarding the number of PBE required, the FAA stated that one PBE device at each hand fire extinguisher location required by § 121.309 will provide an adequate level of coverage and will avoid any confusing in locating the equipment since it will be near a hand fire extinguisher. Under the proposed change to the rule, the Agency's original intent would be more clearly reflected.

In the FAA's view, safety requires that each hand fire extinguisher be paired with a separate portable PBE. If only one PBE were required for every 2 required hand fire extinguishers, then a crewmember attempting to respond to an in-flight fire might obtain a fire extinguisher from one location, but still be forced to proceed to a different location to obtain a PBE unit to use with the fire extinguisher. Since time is of the essence in responding effectively to fire, this could unduly delay the crewmember, resulting in increased danger to the crew and aircraft. To preclude this possibility, the FAA proposes that the rule clearly state that one portable PBE is required for each required hand fire extinguisher. However, if a carrier chooses to provide an additional fire extinguisher in excess of the number of fire extinguishers required by § 121.309, the carrier is not required to provide an additional PBE unit to be paired with it.

The second issue involving passenger-carrying operations is whether the PBE currently required in the cargo areas of passenger-carrying operations can safely be eliminated. The current § 121.337(b)(9)(i), which requires one portable PBE unit "for use in each Class A, B, and E cargo compartment * * * that is accessible to crewmembers in the compartment during flight," applies to both cargo-only and passenger-carrying operations. (Class E cargo compartments can only be found in cargo-only aircraft, since they are expressly defined by § 25.857 as compartments on airplanes used only for the carriage of cargo. In contrast, Class A and B cargo compartments are not so limited and may be found in both cargo-only and passenger-carrying aircraft.)

The proposed amendment would revise § 121.337(b)(9)(i) so that its requirement of portable PBE units for the cargo area of transport category airplanes would no longer apply to passenger-carrying and cargo-only operations alike but would instead be limited to cargo-only operations. Thus, the effect of this amendment would be to eliminate the current requirement of a portable PBE unit for each Class A and B cargo compartment in passenger-carrying airplanes. The FAA believes that this would not compromise safety since the regulation already requires a portable PBE on the flight deck (§ 121.337(b)(9)(iii)) and a portable PBE for each hand fire extinguisher in passenger compartments (§ 121.337(b)(9)(iv)). In the FAA's view, certificate holders should not be required to have additional portable units located in the cargo areas of passenger-carrying planes since there are sufficient numbers of both fire extinguishers and PBE units already located in the passenger compartment to

[1] Exemption No. 5407, issued to Air Transport Association on February 18, 1992, further extended the date of compliance for cargo only carriers until February 18, 1993. Exemption No. 5407A extended the date of compliance until February 18, 1994.

handle any potential in-flight fire in a cargo compartment.

Serviceability of PBE

When § 121.337 was drafted, portable PBE units had quantity gauges or some other means of determining whether the gas supply was fully charged.

In contrast, the newer portable PBE designs approved by the FAA do not have gauges indicating quantity or charge. They do, however, have vacuum seals and/or tamper-evident seals that allow the user to determine whether the gas supply is fully charged. The user is able to determine whether the unit is in a ready-to-use state (fully charged) based upon whether the seal on the newer designs has been broken. The purpose of the quantity gauges and charges on the old design was not specifically to determine the amount of gas in the portable PBE units as it was to allow a user to determine whether the units were fully charged. However, the vacuum seals and tamper-evident seals now replace the quantity gauges and charges, making them unnecessary by accomplishing basically the same objective.

This change in portable PBE design necessitates two changes in the rule. The first proposed change concerns § 121.337(b)(7)(iii), which requires a means for allowing the crew to readily determine, during flight, the quantity of breathing gas in a portable PBE unit. This provision is no longer needed since the newer PBE designs do not have a quantity gauge. The FAA therefore proposes to delete this section and reserve it for later use.

The second proposed change involves § 121.337(c)(2). This provision requires that a designated crewmember check each portable PBE unit before his or her first trip of the day to ensure that it is properly stowed and serviceable, and, for other than chemical oxygen generator systems, that the breathing supply is fully charged. The FAA proposes to delete the words "and, for other than chemical oxygen generator systems, the breathing gas supply is fully charged."

In the FAA's view, these proposed changes in the rule are needed to reflect the changes in portable PBE design; they will not adversely affect safety, since portable PBE units must still meet the standards of TSO C–116 before they will be approved for use.

Economic Assessment

The FAA finds that the set of proposals in this NPRM are not "major" within the meaning of Executive Order 12291 or the DOT Regulatory Policies and Procedures. In regard to cargo-only operations, the proposed rule would no longer require a separate portable PBE for each Class A, B, and E cargo compartment; instead, it would require only one portable PBE for use in the cargo area of cargo-only airplanes (in addition to the portable PBE already required on the flight deck for use throughout the aircraft).

The proposed rule would eliminate the pending requirement that cargo-only aircraft must have a PBE unit for each of its cargo compartments. An adequate level of safety is met with the existing level of PBE units onboard. Without this proposed rule, the FAA would require about 450 cargo aircraft to add one or more portable PBE units to its onboard equipment. The cost of each unit is approximately $450. The proposed rule would prevent the imposition of more than $200,000 in costs. Hence, the proposal relieves the industry of an unnecessary potential cost burden.

As for passenger-carrying operations, the proposed rule does two things. First, it clarifies the present rule so that air carriers understand that the requirement is not met by one portable PBE for every two hand fire extinguishers if those fire extinguishers are within 3 feet of the PBE. Thus, the amended rule would clearly indicate, in accordance with the FAA's original intent, that there must be one portable PBE unit for each required hand fire extinguisher in the passenger compartments. Since the total number of required portable PBE units would not change as a result of this clarification, it yields no costs or benefits to quantify nor any economic consequences to evaluate.

Second, without the proposed rule, the FAA would require a PBE unit within the cargo areas of passenger-carrying planes. Eliminating this requirement should not reduce passenger or crew safety. The PBE equipment in the passenger compartments and on the flight deck would be sufficient to meet all FAA safety requirements. As with the all cargo aircraft, this proposed rule would relieve the airline industry of an unnecessary potential cost.

The FAA has determined that the proposed rule would result in some small cost reduction because it would prevent the imposition of additional costs on the industry resulting from existing requirements for PBE, i.e., the purchase of additional PBE units to furbish newly acquired aircraft. The FAA, however, has no data on which to estimate this small cost savings. In addition, the FAA has determined that the proposed rule would have a minimal impact on existing airline safety. Because the NPRM would have minimal effect on existing costs and airline safety, the FAA has not prepared a full regulatory evaluation for the docket. The FAA solicits specific cost savings information from commenters.

International Trade Impact Analysis

The FAA finds that this proposed amendment would have no impact on international trade.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to specifically review rules that may have a "significant economic impact on a substantial number of small entities."

This NPRM would impact entities regulated by part 121. The FAA's criteria for "a substantial number" are a number which is not less than 11 and which is more than one third of the small entities subject to this rule. For air carriers, a small entity has been defined as one which owns, but does not necessarily operate, nine or fewer aircraft. The FAA's criteria for "a significant impact" are as follows: At least $4,150 per year for an unscheduled air carrier, $59,100 per year for a scheduled carrier having airplanes with only 60 or fewer seats, and $105,700 per year for a scheduled carrier having an airplane with 61 or more seats.

Using these criteria, the FAA has determined, and therefore certifies, that the proposed amendments to § 121.337, if promulgated, would not have a significant economic impact on a substantial number of small entities. None of the proposed amendments would have a significant affect on air carrier costs. Therefore, the FAA has determined that the proposed amendments to § 121.337, if promulgated, would not have a significant economic impact on a substantial number of small entities.

Federalism Implications

The changes proposed by this NPRM would not have a substantial direct effect 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 the proposed amendments would not have federalism implications requiring the preparation of a Federalism Assessment

Conclusion

The FAA has determined that the proposals in this amendment are not major under Executive Order 12291 since they would not impose any additional costs. However, because they concern a matter in which there is a substantial public interest, the FAA has determined that this action is significant under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

The proposed amendments would have little or no impact on trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States. In addition, the amendments, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the RFA.

The proposals in this amendment would have no additional economic impact on the public. In fact, in the case of cargo-only operators and passenger-carrying operators with Class A, B, or E cargo compartments, they would relieve costs. The FAA has determined that the expected impact of the amendment is so minimal that it does not warrant a full Regulatory Evaluation.

List of Subjects in 14 CFR Part 121

Air carriers, Air Safety, Air transportation, Airplanes, Aviation safety, Safety, Transportation.

The Proposed Rule

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 121 of the Federal Aviation Regulations (14 CFR part 121) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Section 121.337 is amended by deleting the text of (b)(7)(iii) and reserving the paragraph; and by revising paragraphs (b)(9)(i), (b)(9)(iv), and (c)(2) to read as follows:

§ 121.337 Protective breathing equipment.

* * * * *

(b) * * *

(7) * * *

(iii) [Reserved]

(9) * * *

(i) One for cargo-only operations, in addition to the requirement of paragraph (b)(9)(iii) of this section. This unit must be located in a position that is approved by the Administrator as appropriate to each airplane and the specific type of operation being conducted.

* * * * *

(iv) In each passenger compartment, one for each hand fire extinguisher required by § 121.309 of this part, to be located within 3 feet of each required hand fire extinguisher, except that the Administrator may authorize a deviation allowing locations of PBE more than 3 feet from required hand fire extinguisher locations if special circumstances exist that make compliance impractical and if the proposed deviation provides an equivalent level of safety.

(c) * * *

(2) Each item of PBE located at other than a flight crewmember duty station must be checked by a designated crewmember to ensure that it is properly stowed and serviceable. Each certificate holder, in its operations manual, must designate at least one crewmember to perform those checks before he or she takes off in that airplane for his or her first flight of the day.

* * * * *

Issued in Washington, DC, on March 19, 1993.

William J. White,

Acting Director, Flight Standards Service.

[FR Doc. 93–7099 Filed 3–26–93; 8:45 am]

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Monday
March 29, 1993

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing

Revised Notice of Funding Availability for the Urban Revitalization Program

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-93-3557; FR-3412-N-02]

Revised Notice of Funding Availability (NOFA) for the Urban Revitalization Demonstration—Revised Procedures to Reduce Burdens on Applicants

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (HUD, or the Department).

ACTION: Revised Notice of funding availability for Fiscal Year 1993.

SUMMARY: In response to discussions with a number of interest groups and public housing agencies (PHAs), the Department has decided to modify certain portions of the Notice of Funding Availability for Fiscal Year 1993 to address issues and concerns raised. This revised NOFA repeats the original NOFA with modifications, italicized within the text of the republished NOFA to facilitate review, that will serve to expand eligibility for funding and make technical clarifications.

BACKGROUND: The modifications address the following areas:

1. The original NOFA required that applications be submitted by April 5, 1993. In light of the fact that the statute allows for an expanded period of time for application submission and, in recognition of concerns expressed by PHAs, the application submission deadline is extended to May 5, 1993. Additionally, if the required local governing body's certification allowing replacement housing, if applicable, cannot be submitted by May 5, 1993, this certification may be submitted separately but not later than August 4, 1993.

2. The original NOFA required that the provisions of section 412 of the National Affordable Housing Act, 1990, that amended section 18 of the U.S. Housing Act of 1937 (opportunity to purchase where demolition or disposition is proposed), be applied to PHA-wide resident councils. Section 116(a) of the Housing and Community Development Act of 1992 limits this requirement to offer to purchase by the resident management corporation, resident council, or resident cooperative of the development that is to be demolished or disposed of. Accordingly, notification of the right to purchase by PHA-wide resident councils will not be required for applications submitted under this NOFA.

3. The original NOFA stated that no city could receive more than one grant under this NOFA. Since no such limitation exists in the statute, language has been changed to allow a city to receive both an implementation and a planning grant. However, in no case will the total funding exceed $50 million for any one city. Grants will be awarded in up to 15 cities.

4. In light of misunderstandings regarding the extent of the local government certification in the case of replacement housing where demolition or disposition is involved, clarification is provided to note that the certification extends only to *permitting* the replacement of units. Approval of the *actual* replacement housing plan will be done in accordance with section 18 of the Act, as modified by the Appropriations Act of 1993 (see section I.E.5.b. of the NOFA as published below).

5. This NOFA changes the requirement for submission of an implementation schedule, as part of the application for implementation grants to submission of a plan for implementation approved by the local governing body within six months from the date of grant approval. Submission of the approved plan for implementation is not an application requirement, however, submission, or failure to submit, by July 20, 1993 will affect the rating of the factor "extent and involvement of local public and private entities". (See section III.C.1.e.)

6. This NOFA removes the requirement for local governing body approval of the application and instead requires, in connection with implementation grants only, local governing body approval of the plan for implementation within six months from the date of grant approval.

7. This NOFA adds the requirement for a letter from the Mayor in support of the application at the time of submission of the application.

8. This NOFA clarifies that the 500-unit limitation is applicable only to implementation grants, since the statutory language does not impose a unit limitation for planning grants. Planning grants, however, are limited to one development per grant.

9. Where a PHA contemplates unit conversion, the application must contain a description and justification in accordance with Handbook 7486.1.

10. This NOFA sets forth modifications to the required PHA Board Resolution by making the language more applicable to the Urban Revitalization Demonstration (URD) program.

11. Language has been added to allow the Department to consult with a panel of experts when reviewing the planning grant application. This addition conforms with the selection process prescribed for the implementation grants already in the NOFA.

12. This NOFA expands section I.E.5. to include a description of the program requirements for demolition, disposition and conversion activities as well as replacement housing.

13. This NOFA makes a technical correction to sections II.C.4. and III.C.4. by changing the word "may" to "must" to conform to the statute and ensure that each applicant has approval of the Community Service component of the application before grant funds are released.

14. This NOFA removes the requirement that the PHA report on the Cooperation Agreement.

15. This NOFA adds introductory language to section II.B., and clarifies the introductory language to section III.B., in regard to the application submission requirements, to clarify that all applicable program requirements set forth in section I.E. must be included in the application submission and to add certain items which were contained in the program requirements, but were inadvertently left out of the application submission requirements.

16. This NOFA clarifies the requirement to provide a list of developments which the PHA considers severely distressed. The requirement is limited to the PHA providing the number of severely distressed developments, not the actual names and addresses of the developments.

17. This NOFA changes the certification by the local governing body that replacement housing will be permitted to a certification to that effect by the mayor.

Accordingly, the Department's funding notice published January 5, 1993 entitled "Funding Availability for Urban Revitalization Demonstration" is republished, with revisions, to read as follows:

SUMMARY: This NOFA announces the availability of $300 million in funding for implementation and planning grants under the Urban Revitalization Demonstration (URD), which is authorized by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (the 1993 Appropriations Act) (Pub. L. 102-389, approved October 6, 1992.) The Urban Revitalization Demonstration was

created for the purpose of revitalizing severely distressed or obsolete public housing developments. The activities in the program include funding of the capital costs of major reconstruction, rehabilitation and other physical improvements, the provision of replacement housing, management improvements, planning and technical assistance, implementation of community service programs and supportive services or the planning of such activities.

This Notice contains information on: eligible applicants, program requirements, rating factors, selection criteria, and contents of applications. In carrying out this demonstration, the Department of Housing and Urban Development (HUD) has chosen to exercise the authority granted in the 1993 Appropriations Act to conform certain program standards and criteria with those set forth in subsequent authorization legislation. For this purpose, the Department has chosen to incorporate certain provisions of sec. 24 of the 1937 Housing Act, as added by sec. 120 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) (Revitalization of Severely Distressed Public Housing). The Demonstration is limited to public housing agencies (PHAs) in up to 15 cities, which will be chosen in accordance with the requirements set forth in this NOFA.

DATES: Applications must be received on or before 4 p.m. Eastern Standard Time on May 5, 1993, at the HUD Headquarters Office, 451 Seventh St., SW., room 4138, Washington, DC 20410. Attention: Director, Office of Construction, Rehabilitation, and Maintenance. Applications may be hand-delivered or mailed to the above address. Applications sent by facsimile will not be accepted. If the local government certification required under I.E.8.a.iii. cannot be submitted by the application deadline date of May 5, 1993, said approval and certification may be submitted to HUD Headquarters not later than 4 p.m. E.S.T. on August 4, 1993, without causing the application to be considered deficient under IV.B.1. Failure to submit certification by said time on August 4, 1993 will result in the application being disqualified. HUD will not waive these deadlines for any reason.

ADDRESSES: An original and two copies of the completed application must be submitted to the HUD Headquarters office at the address indicated under "DATES" above. Failure to submit an application to the HUD Headquarters office so that it is received by the deadline date and time will result in the application being disqualified.

FOR FURTHER INFORMATION CONTACT: Janice D. Rattley, Director, Office of Construction, Rehabilitation and Maintenance, Department of Housing and Urban Development, 451 Seventh Street, NW., room 4138, Washington, DC 20410. Telephone (202) 708–1800 (This is not a toll free number). Hearing or speech impaired individuals may call HUD's TDD number 1–800–877–TDDY, which is a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

The challenge of successfully revitalizing the nation's most severely distressed public housing is a very difficult one. In launching this demonstration, the Department recognizes that there is no one prescription for the ills that affect these developments, and each development will require its own solution. It is the intent of this demonstration to allow the greatest degree of flexibility on the part of the PHA in determining the approach likely to be most successful in treating the development it has selected. The approach selected must be consistent with the overall mandate of providing modestly designed housing for low-income persons and cost-effectiveness in the management of such housing, but should incorporate boldness and creativity in addressing difficult issues such as high density, crime, poor structural design, and oppressive social and economic conditions. PHAs are encouraged to seek a broad spectrum of participation and assistance from local and state governments, neighborhood organizations, business, nonprofit corporations, social service agencies, and residents of the developments.

Paperwork Reduction Act Statement

The information collection requirements contained in this document have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the Federal Register.

Public reporting burden for the collection of information requirements contained in this document are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the heading, Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410–0500; and to the Office of Information and Regulatory Affairs, Office of Mangement and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

I. Purpose and Substantive Description

A. Authority

The funding made available under this NOFA is authorized by the 1993 Appropriations Act (Pub. L. 102–389 approved on October 6, 1992).

B. Allocation Amounts

The 1993 Appropriations Act made available $300,000,000 of budget authority for this Program.

C. Definitions

1. Targeted Units

The units for which funds are requested by a single applicant in a single city, whether they represent a part of a development, all of a development, or more than one development.

2. Revitalization Plan

All the activities described in the application which are necessary to address the distress in the targeted units and distress in the surrounding area which has a significant effect on the targeted units, whether those activities are proposed to be funded from the grant or from other sources.

3. Plan for Implementation

The document prepared by the PHA in connection with the implementation grant (or application) which summarizes, and establishes a schedule for, the major activities to be undertaken pursuant to the revitalization plan. The plan for implementation must specify, at a minimum, the following anticipated dates: when the first A/E Contract is to be let, when the bid advertisement for the first contract award will be placed, the date by which all contracts will be awarded, and when all contracts will be completed.

D. Eligible Applicants

Applications may be filed by the following PHAs (See appendix A):

1. PHAs located in the 40 most populous United States cities based on 1990 Census data; or

2. PHAs on the Department's Troubled Housing Authority list as of 3/31/92, except that any such PHA will not be eligible if the Secretary certifies to the Congress that the PHA is not making substantial progress to eliminate its troubled status in accordance with section 6(j) of the Housing Act of 1937. The following troubled PHAs will be considered to have made substantial progress:

a. PHAs which have been removed from the troubled list after 3/31/92, or

b. PHAs which have made improvement of at least 5 nonhandicapped points (on a zero-to-one-hundred point scale) in their most recent assessment under the Public Housing Management Assessment Program (PHMAP), as compared to their assessment completed on April 16, 1992.

c. If PHAs have not made at least 5 nonhandicapped points (on a zero-to-one-hundred point scale) improvement in their PHMAP scores, PHAs which can demonstrate to the satisfaction of the Secretary, that they are making substantial progress by a narrative describing actions that have been taken to address deficiencies identified by PHMAP, by the PHA's Memorandum of Agreement with the Department, or by Departmental reviews, audits or surveys, or

d. PHAs which have a binding commitment from another public or private entity to act as administrator of the grant on behalf of the PHA. The alternative administrator must be deemed acceptable by the Department.

E. Program Requirements

1. Severely Distressed

a. Required documentation—i. Documentation that a development in which the targeted units are located is both severely distressed (as compared to citywide information) and among the most severely distressed developments in the PHA's inventory must be based upon the four categories below which were set forth in The Final Report of the National Commission on Severely Distressed Public Housing, dated August 10, 1992: families living in distress, incidence of serious crimes in the development, barriers to managing the environment, and physical deterioration of buildings. The serious lack of data on some of the specific indicators in the extensive and detailed definition of severely distressed public housing found in the Commission's report precludes use of the full Commission definition and rating system. Further, the Commission itself recognized the need for further examination of the definition, modification or discard of some measures based on the availability of data, and use of narrative justifications based on qualitative information where quantitative data is lacking.

ii. Applicants must determine that the development in which the targeted units are located is a severely distressed development and is among the most severely distressed developments in the PHA's inventory, and must document this finding by comparing information about the development to comparable information about the PHA's general occupancy (family) developments and about the city as a whole. Such justification must be made by means of a narrative description containing qualitative information on the categories below and must include specific supporting data relevant to the category where such data is reasonably available to the PHA. HUD fully recognizes that the relevant data may not be available in all cases. Information should be presented in real numbers or percentages as well as percentages of PHA-wide or citywide data, wherever possible. Examples of relevant data are presented below under each category.

iii. The PHA must list in its application the total number of developments in its inventory which the PHA regards as severely distressed. No documentation is required, however, unless funding is requested for a development.

iv. If there is severe distress in one category, that is sufficient to determine a development as severely distressed.

v. HUD will review the documentation provided and will accept the PHA's determination unless:

(a) The facts and data presented are clearly inconsistent with available facts and data on the development in the official records of the Department or the PHA, or

(b) The facts and data presented describe conditions which either are no more distressed than the majority of the family developments in the PHA's inventory or indicate levels of distress that are below average for the city as a whole.

vi. Categories of distress—(a) Families living in distress. Information and data on barriers to self-sufficiency for the families in the development, such as percentage with no earned income, level of average income in the development as a percentage of area median income, or educational data.

(b) Incidence of serious crime. Information and data on the frequency of criminal acts of various types (drug-related, violent crime, thefts, etc.) or total crimes such as data from Federal, State or local law enforcement agencies, or information from the applicant's records on crime in the development including number of lease terminations or evictions for criminal activity, number of police calls to the development, incidence of vandalism or opinions and observations of individuals having direct knowledge of the nature and frequency of crime in the development as compared to the PHA's family developments and the city as a whole. These individuals may include law enforcement officials, youth anti-crime workers, and security personnel.

(c) Barriers to managing the environment. Information and data which reflect lack of management control of the site or failure of the development to meet the needs of residents or would-be applicants, such as the vacancy rate in the development, the turnover rate, the percent of rent collected monthly, and the rate of units rejected by applicants.

(d) Physical deterioration of buildings and sites. Information and data which shows the extent of physical problems at the development, such as the cost of rehabilitation/reconstruction as a percent of Total Development Cost, the density of the development as measured in units per acre, the level of deferred maintenance as measured by annual average work order backlog and number of units that do not meet Housing Quality Standards (HQS) pursuant to 24 CFR 882.109 as amended by the Lead Based Paint regulation at 24 CFR part 35, major system deficiencies, including peeling and chipping lead-based paint in greater than 20% of units, lack of reliable and reasonably efficient heat and hot water, major structural deficiencies, electrical system under code, poor site conditions, leaking roof, deteriorated laterals and sewers, and high number of plumbing leaks.

2. Funding Limitations

a. The maximum number of units for which funds may be provided in any one implementation grant award is 500; however, developments of more than 500 units may be funded by providing funds from a grant for only a portion of the units. No more than three areas of a city, containing the community's most severely distressed developments, may be funded.

b. Grants will be awarded in up to 15 cities. The Department intends to fund both planning and implementation grants. For planning grants, each city may receive no more than $500,000, limited to the units in one development.

Funding of a planning grant does not bind the Department to the future funding of any plans and/or recommendations formulated thereunder (and no assumptions with respect thereto shall arise). For implementation grants, HUD will provide no more than $50 million per city. A city may receive both an implementation and planning grant under the URD from FY 1993 funds, but in no case will total funding exceed $50 million.

c. Only one application for an implementation grant may be made in any one city. The application may not cover more than 500 units in three areas and may not request more than $50 million. A PHA which has within its jurisdiction more than one eligible city may make a separate application for each city. A PHA may apply for a planning grant in the same city for which an implementation grant is requested, but it must be for a different development.

3. Matching Requirement

The City in which the PHA applicant is located must provide contributions for supportive services in an amount equal to at least 15% of the implementation grant funds requested by the PHA for supportive services. This contribution must be from non-federal sources, which may include funding under the Community Development Block Grant Program. Amounts contributed to the match shall be used for eligible supportive services under the URD under section III.A.2.b. and c. Contributions may only be in the form of cash contributions, administrative costs, and the reasonable value of in-kind contributions.

4. Sustainability

The targeted units under an implementation grant must be expected to be sustainable over the long term regardless of whether the application covers an entire development or a portion of a development. In determining sustainability, the Department will consider social and physical problems in the unfunded portion of the development, if any, and in the surrounding neighborhood, the degree to which those problems affect the units to be funded, and the extent to which actions are being taken to ameliorate those problems.

5. Demolition, Disposition, Conversion and Replacement Housing

a. Units to be demolished or disposed of under the demonstration must be replaced on a one-for-one basis. Where the replacement housing need is to be met through conventional public housing units in ii (a), (b) or (c) below, such funds must be provided through this Urban Revitalization Grant. Other forms of replacement housing, e.g., Section 8 Certificates, may be provided from these grant funds. Replacement housing is not required for units lost through reconfiguration of interior space without demolition. However, while replacement housing is not required if a PHA contemplates unit conversion, a description of the conversion activity must be submitted in accordance with III.B.1.b. Section 18 of the U.S. Housing Act of 1937 applies to demolition, disposition and replacement housing under this demonstration. The 1993 Appropriation Act, however, creates an alternative for sections 18(b)(3) (A) and (B), which describe the types of housing that may be used as replacement housing and the circumstances under which Section 8 certificates may be used. In this demonstration, replacement housing may be accomplished by the following programs or as otherwise permitted under section 18 of the Act:

i. One-third by certificates under section 8(b),

ii. The remaining two-thirds by any combination of:

(a) Conventional public housing units consistent with 24 CFR part 941.

(b) Units acquired or otherwise provided for homeownership under section 5(h) of the Act,

(c) Units made available through homeownership programs involving construction or substantial rehabilitation of homes and meeting essentially the same eligibility requirements as those established pursuant to the Nehemiah Housing Opportunity Program, (section 603–607 of the Housing and Community Development Act of 1987, Pub. L. 100–242) or under the HOPE II or III programs as established under sections 421 and 441 of the Cranston-Gonzalez National Affordable Housing Act (NAHA).

b. Within six months of the date of grant approval, the PHA must submit an approvable application prepared in accordance with Handbook 7486.1 for any demolition or disposition which is to be funded under the URD grant.

6. Cost Requirements

a. For implementation grants, the average per unit hard costs (as defined in 24 CFR 968.105) must equal or exceed 62.5 percent of Total Development Costs.

b. For all implementation grants, average per unit hard costs for units to be reconstructed or rehabilitated may not exceed 100 percent of the published Total Development Costs, except that the Department may approve exceptions to this requirement for applications achieving a standard of modest design which include an adequate justification of the higher costs based on:

i. An analysis of the costs, separately identifying costs of lead paint testing and abatement, above average infrastructure replacement, accessibility improvements to meet 504 requirements, asbestos removal, major reconfiguration of streets and sidewalks and other significant improvements; and

ii. An analysis of the cost and feasibility of alternative courses of action, showing that there are no feasible, less expensive alternatives. The alternatives may include demolition of all or a portion of the development with replacement of units on-site, off-site, or a combination. The analysis should describe all the factors that went into the PHS's decision-making and should include evaluation of alternative designs and the feasibility in time and effort of acquiring units or land off-site for replacement housing.

7. Resident Consultation

In consultation with the residents, the PHA shall develop a process which assures that residents are fully briefed and meaningfully involved in developing, implementing, and monitoring the urban revitalization program. The PHA shall give full consideration to the comments and concerns of residents. The process shall include:

a. Consultation with representative residents or resident organizations throughout the PHA in the selection of the units for which funds will be requested in this application.

b. Consultation with the residents of the selected development or, if the development is vacant, with representative residents or resident organizations throughout the PHA, regarding the preparation of the plan under a planning grant or the implementation application under an implementation grant. Such consultation shall include, but not be limited to, identification of the nature and causes of distress, design of appropriate remedies for the causes of distress, the overall redesign, units to be demolished, community service opportunities, supportive services and empowerment opportunities, and replacement housing.

c. Once a draft plan has been developed under a planning grant or a draft application has been prepared under an implementation grant, the PHA shall make a copy available for

reading in the management office; provide copies of the draft to any resident organization representing the residents of the development; and provide adequate opportunity for comment by the residents of the development and their representative organizations prior to making the plan or the application final.

d. Provide to HUD and any resident organization representing the development a summary of the resident comments and its response to them; and notify residents of the development that this summary and response are available for reading in the management office.

e. For implementation grants in which demolition or disposition is planned, the applicant must comply with section 412 of the National Affordable Housing Act, 1990, as amended by section 116(a) of the Housing and Community Development Act of 1992, which requires a PHA to afford the opportunity to purchase to the resident management corporation, resident council or resident cooperative of the development that is to be demolished or disposed of, under certain limited conditions, including total demolition or disposition. A Notice containing procedures for implementation of section 412 is found in the **Federal Register** dated October 6, 1992, 57 FR 46074. Notification to PHA-wide resident councils of a right to purchase under section 412, as provided in said Notice, however, will not be required for applications submitted under this NOFA, because of the 1992 Amendment to section 412. The requirements of the Notice are not applicable to demolition of selected portions of the development in order to reduce density which is essential to ensure the long-term viability of the development or the housing agency, except that this inapplicability should not be used cumulatively to avoid section 412 requirements. In cases where the requirements of the Notice are applicable, applications including plans for demolition or disposition must include a certification of lack of resident interest in acquiring the property in the form required by VII.C. of the Notice.

f. After HUD approval of a grant, notify residents of the development and any representative organizations of the approval of the grant, provide the resident organization with a copy of the HUD-approved Project plan for implementation; and notify the residents of the availability of the plan in the management office for reading.

8. Local Government Certifications

a. The following are required as part of the application. i. certification by the public official, or his or her authorized representative, who submits the Comprehensive Housing Affordability Strategy (CHAS), under section 105 of NAHA, that the proposed activities are consistent with the CHAS;

ii. letter from the Mayor of the applicable jurisdiction in support of the application; and,

iii. for implementation grant applications only, certification by the Mayor that he/she will permit replacement, in accordance with section 18 of the Act and the 1993 Appropriations Act, of any units to be demolished or disposed of. If this certification cannot be submitted by the application deadline date of May 5, 1993, said certification may be submitted to HUD Headquarters until 4 p.m. e.s.t. on August 4, 1993. Failure to submit the certification by said time on August 4, 1993 will result in the application being disqualified.

b. Additional requirements for implementation grants. i. The PHA must submit approval of the plan for implementation by the local governing body within six months of the date of the grant approval. The rating of the "Extent and Involvement of Local Public and Private Entities", as provided in section III.C.1.e, will be affected by whether or not said approval is submitted by 4 p.m. e.s.t. on July 20, 1993. If a PHA does not submit said approval by July 20, 1993, the PHA cannot receive more than 5 points for this rating factor.

ii. The demolition/disposition request, statement of the intent for conversion, and where applicable, the approval of the actual replacement housing plan by the local governing body, in accordance with section 18 of the Act (as modified by the Appropriations Act of 1993), 24 CFR 970, and applicable parts of the Public Housing Demolition, Disposition, and Conversion Handbook, 7486.1 must be received within six months of the date of the grant approval.

9. Community Service Component

Each application for an implementation grant must include a community service component as described in III.A.2.a. below and in Appendix B.

10. Displaced Persons

Under implementation grants, persons displaced by the reconstruction activities funded by URD must be eligible under the plan for occupancy of the replacement units.

11. Planned Use of Comprehensive Grant Program Funds

Any planned use of Comprehensive Grant Program Funds in connection with activities funded under the Urban Revitalization Demonstration must be shown in the Annual Statement and revised Five-Year Action Plan submitted in anticipation of FY 1994 funding.

12. Non-duplication

Grant funds may not be used to duplicate work which is funded under any other Federal program, and the PHA shall establish controls to assure non-duplication of funding.

13. Applicability of Program Regulations

The following activities that may be undertaken with grant funds shall be subject to the cited program requirements, consistent with the 1993 Appropriation Act and this NOFA. If the revitalization plan requires any deviation from these cited requirements, such as local programs for replacement housing through housing opportunity programs of construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as the Nehemiah Program or HOPE II or III must be approved by the Department.

a. Demolition and disposition activity under the grant will be governed by 24 CFR part 970;

b. Public housing development activity (including on-site reconstruction as well as off-site replacement housing) will be governed by 24 CFR part 941;

c. Replacement housing activity using section 8 rental certificates will be governed by 24 CFR part 882;

d. Replacement housing activity with units acquired or otherwise provided for homeownership under section 5(h) will be governed by 24 CFR part 906;

e. Replacement housing activities provided through housing opportunity programs of construction or substantial rehabilitation of homes will be governed by 24 CFR part 280 (the Nehemiah Program);

f. Replacement housing activities under HOPE II shall be governed by 24 CFR subtitle A, appendix B;

g. Replacement housing activities under HOPE III shall be governed by 24 CFR subtitle A, appendix C;

h. Rehabilitation and physical improvement activities will be governed by 24 CFR 968.310 (Eligible costs), and 24 CFR 968.335 (Conduct of modernization activity.)

F. Other Program Characteristics

1. Waiver of Departmental Regulations

PHAs may request, for the revitalized development, a waiver of Departmental regulations (not statutory provisions) governing rents, income eligibility, or other areas of public housing management to permit a PHA to undertake measures that enhance the long-term viability of a severely distressed project revitalized under this demonstration. If the application requests a waiver which would permit a separate waiting list for the development, the PHA must adopt a strategy for affirmatively marketing the development, which shall include specific steps to inform potential applicants and solicit applications from eligible families in the housing market area who are least likely to apply for the program without special outreach.

2. Preferences Applicable to Selection of Tenants

PHAs may choose to utilize a local system of preferences for the selection of tenants for the revitalized development. Such preferences shall be established in writing and shall respond to local housing needs and priorities as determined by the PHA after one or more public hearings to obtain the views of low-income residents and other interested parties.

3. Use of Other Sources of Funds

Funds made available under the URD may be used in conjunction with, but not in lieu of, funding provided under the head "Modernization of Low-Income Housing Projects" for the modernization of existing public housing pursuant to section 14 of the Act (42 U.S.C. 14371); for construction or major reconstruction of obsolete public housing, other than for Indian families; for the replacement of public housing units pursuant to section 18 of the Act; and for the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the Act. (See III.B.3.g.)

4. Failure To Proceed

In the event that an applicant selected to receive URD funding does not proceed in a manner consistent with the approved plan and requirements of this NOFA, HUD may withdraw any unobligated balances of funding.

5. Grant Agreement

After HUD approves an application for a planning or an implementation grant, it shall enter into a grant agreement with the recipient setting forth the amount of the grant and applicable terms and conditions, including sanctions for violation of the agreement. Among other things, the grant agreement will provide that the recipient agrees:

a. To carry out the program in accordance with the provisions of this NOFA, applicable law, the approved application, and all other applicable requirements;

b. To comply with such other terms and conditions, including recordkeeping and reports, as HUD may establish for the purposes of administering, monitoring and evaluating the program in an effective and efficient manner; and

c. That HUD may withhold, withdraw, or recapture any portion of a grant, terminate the grant agreement, or take other appropriate action authorized under the grant agreement, if HUD determines that the recipient is failing to carry out the approved revitalization program in accordance with the terms of the approved application and this NOFA, including failure to provide the contribution towards the match.

II. Planning Grants

A. Eligible Activities

A planning grant may be used to plan for the revitalization of severely distressed developments consistent with the requirements of this NOFA, including:

1. Studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;

2. Providing technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;

3. Conducting workshops to ascertain the attitudes and concerns of the neighboring community;

4. Preliminary architectural and engineering work;

5. Planning for supportive services, including economic development, job training and self-sufficiency activities that promote the economic self-sufficiency of residents under the revitalization program;

6. Planning for community service opportunities;

7. Designing a suitable replacement housing plan, in situations where partial or total demolition is considered;

8. Planning for necessary management improvements; and

9. Conducting environmental studies.

B. Application Submission Requirements

An application for a planning grant shall contain a description of the development and the proposed activities, information relevant to rating the application, submissions to demonstrate compliance with various program requirements, and various required certifications, as required by I.E., including the following:

1. A request for a planning grant, specifying a plan for the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;

2. Identification and description of the development and the targeted units involved, and a description of the composition of the residents, including family size and income;

3. Demonstration that the development meets the description of severely distressed as described in section I.E.1. of this NOFA;

4. Description of the extent of resident interest and involvement in the development of the planning application and the plan for resident involvement during the planning period; and evidence of resident involvement consistent with the program requirements as stated in I.E.7 above to the extent applicable;

5. A description of the extent of involvement of local public and private entities in the development of the planning application and the plan for involvement of local and private entities during the planning period;

6. A description of the process to be used in the development of the community service component;

7. If the PHA is listed on the attached March 31, 1992 list of troubled housing agencies, documentation necessary to demonstrate that the PHA has made substantial progress to eliminate their troubled status as defined in section I.D.2. of this NOFA;

8. a. A certification by the public official responsible for submitting the CHAS under section 105 of NAHA that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the targeted units are located;

b. Letter from the Mayor of the applicable jurisdiction in support of the application.

9. A certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

10. Form HUD–52825, Comprehensive Assessment/Program Budget (Parts I and II).

11. A narrative statement addressing each of the rating factors.

12. Form HUD–50070, Certification for a Drug-Free Workplace.

13. Form HUD–52820, PHA Board Resolution Approving URD Application.

This form is to be modified by: changing all references to "CIAP" and "modernization" to the term "URD;" and, striking all references to "IHA." All references to chapters or paragraphs in the CIAP Handbook, 7485.1 REV–4, are to be changed to "the URD NOFA".

14. Anti-Lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements if request for grant exceeds $100,000.

15. SF-LLL, Disclosure of Lobbying Activities only where any funds, other than federally appropriated funds, will be or have been used to lobby the Executive or Legislative branches of the Federal government regarding specific grants or contracts.

16. Disclosures required by section 102 of the HUD Reform Act of 1989.

17. A certification that the applicant has not and will not receive assistance from the Federal government, a State, or a unit of local government, or any agency or instrumentality thereof, for the specific activities for which funding is requested in the application.

18. Demonstration that the development meets the description of severely distressed as described in section I.E.1. of this NOFA.

19. A list of the total number of severely distressed developments under the PHA's jurisdiction.

C. Rating and Selection Process

1. Rating Factors

Applications will not be rated until they have been determined to be eligible under section I.D. of this NOFA and to meet the program requirements under I.E. 1, 2, 7, and 12. If an application fails to have an adequate plan for the development of the community service component, rating may proceed. However, a revised plan must be approved by the Commission on National and Community Service (CNCS) before any funds may be disbursed. HUD Headquarters review staff will rate factors "a. through e." below. CNCS will rate factor "f" below and provide the rating to HUD for incorporation into the total score. The Department may establish a panel of experts with whom to consult for advice on elements of the applications which are within their expertise. Such experts will be advisors and will not conduct any part of the rating or selection of grantees.

a. The extent of the need for the revitalization program as defined in III. C.1.a.

b. The capability of the applicant as defined in III.C.1.c;

c. The potential of the applicant for developing a successful and affordable revitalization program as determined by the quality of the plan for the planning process, and the suitability of the development for such a program;

d. The extent of resident interest and involvement in the development of the planning application and the extent of resident involvement planned for the planning period;

e. The extent of involvement of local public and private entities in the development of the planning application and the extent of involvement of local public and private entities planned for the planning period;

f. The likely effectiveness of the process described for the development of the community service component.

2. Selection Criteria

a. Points awarded under section II.C. 3. below for the rating factors.

b. National geographic diversity. The Department, in its discretion, may choose to select a lower-rated, approvable application over a higher-rated application in order to increase the level of national geographic diversity of applications approved under this NOFA.

c. Diversity of development types. HUD may, in its discretion, choose to select a lower-rated, approvable application over a higher-rated application in order to increase the diversity of development types (developments which include family high-rise buildings of five or more stories and those which include only low rise buildings) approved under this NOFA.

3. Rating Values

The following point assignments will be used to rate planning grant applications in accordance with the criteria listed in section II.C.1. above. The Department shall examine the ratings, and where it determines that applications falling below a certain point total are not suitable or not feasible for planning grants, it may establish a minimum number of points for an application to be selected. The Department shall then select the highest rated applications, unless it exercises its discretion to select lower rated, approvable applications in order to promote national geographic diversity and/or diversity of project types in accordance with II.C.2. of this NOFA.

Rating factors	Point range
Extent of Need	0–30
Capability	0–30
Applicant Potential for Success	0–20
Extent of Resident Interest and Involvement	0–15
Extent of Involvement of Local Public and Private Entities	0–10
Likely Effectiveness of Plan for Community Service Component	0–15
Total Maximum Score	120

4. Funding Decisions

After rating, Headquarters will select approvable applications for funding in accordance with the selection criteria set forth in section II.C.2. above. If any selected applications include plans for the development of community service components which have not been approved by the CNSC, the applicants must conform their applications to CNCS requirements after selection in order to obtain release of funds. HUD may approve an application for an amount lower than the amount requested if the application includes an ineligible activity, or if insufficient funds are available to fund the full amount requested and HUD determines that partial funding is a viable option.

5. Duration

Activities funded under planning grants shall be completed within 18 months of the effective date of the planning grant agreement.

III. Implementation Grants

A. Eligible Activities

1. At least 80% of funding awarded in each grant must be used for any combination of the following activities: capital costs of major reconstruction, rehabilitation and other physical improvements, including energy retrofit, capital costs of replacement units, certificates under section 8(b) used for replacement, management improvements for the reconstructed development and planning and technical assistance. Funds may be used for total or partial demolition and/or disposition of units. The following costs may be included:

a. Capital costs may include related administrative costs and temporary relocation necessary for reconstruction, rehabilitation, demolition or disposition.

b. Administrative costs may include the annual premium of LBP insurance incident to approved URD work.

3. Not more than 20% of funding awarded in each grant may be used for

any combination of the following activities and the related administrative expenses:

a. Community service programs, as defined by the Commission on National and Community Service for the URD, specifically, programs organized, administered, overseen or funded by a public housing agency, or its designated representative, engaging individuals in meaningful service on a volunteer basis or through limited stipends to address unmet human, environmental, educational, and/or public safety needs through youth service and conservation corps, residents' associations, community-based organization, K–12 schools, institutions of higher education, churches or other religious entities and other such similar organizations. Such programs must comply with the requirements stated in appendix B.

b. Supportive services, including but not limited to, resident capacity building, literacy training, day care, youth activities, economic development, and resident employment and job training activities such as the Step-Up apprenticeship program (see Federal Register Notice, October 8, 1992, 57 FR 46398);

c. Economic development costs may include a setaside for a revolving loan fund, established and operated in accordance with 25 CFR part 85 (with specific reference to §§ 85.21 and 85.25), and

d. The following services authorized under the Gateway Program: outreach and information services designed to make eligible individuals aware of available services, literacy and bilingual education services, remedial education and basic skills training, employment training and personal management skill development or referrals for such services, child care or dependent care for dependents of eligible individuals during those times when training services are being provided, pre-employment skills training, employment counsel and application assistance, job development services, job training, Federal employment-related activity services, completion of high school or GED program services, transitional assistance, including child care for up to 6 months to enable such individual to successfully secure unsubsidized employment, substance abuse prevention and education, and other support services deemed to be important by the Secretary of Health and Human Services.

B. Application Submission Requirements

Each application must include a request for an implementation grant containing a description of the development and the proposed activities, information relevant to rating the application, submissions to demonstrate compliance with various program requirements, and various required certifications, as required by I.E., including the following:

1. A description of the development and the proposed activities, including:

a. A description of the number of units, by unit size, a site plan, and a statement of the number and location of vacant units; identification of the units to be targeted, if less than the entire development; a description of socio-economic and demographic characteristics of the residents.

b. A description and justification of the proposed treatment of the units, including a narrative description of the extent of rehabilitation/reconstruction of existing units, extent of demolition, description of changes in the sizes and shapes of units and other changes in the use of interior space, including any reduction in the number of units due to reconfiguration or changes in the utilization of interior space, in accordance with the Demolition, Disposition, and Conversion Handbook, 7486.1, Chapter 7.

c. Description of community space alterations, improvements, and/or additions.

d. A description of the changes in the use of the site, and a post-revitalization site plan.

e. A description of proposed management improvements.

f. Description of the surrounding neighborhood, including strengths and weaknesses; proposed treatment of any neighborhood problems, including physical, economic, and security.

g. Description of proposed supportive services.

h. A description of any revolving loan fund for economic development, as permitted under III.A.2.c. of this NOFA, including but not limited to the purpose of the loans, borrower eligibility, and the entity which will administer the fund.

i. Description of proposed community service component.

j. Where the demonstration grant is requested for a vacant development, identification of the residents who will receive the supportive services and participate in community service, and a statement of the reasons why this resident group is appropriate, how residents will be selected to participate and how this plan relates to the physical work planned to be undertaken in connection with this demonstration.

k. A description of the resident involvement in the development of the application and in the execution, implementation and monitoring of the revitalization plan.

l. A description of the number of replacement units to be funded, the nature of the programs to be used, including type and size of unit, tenure, and program descriptions.

m. Management plans describing the management of the revitalization activity and proposed management of the development after revitalization. The post-revitalization management plan must state whether additional or reduced management and maintenance costs will result from the revitalization and how the proposed management differs from the management process utilized prior to revitalization; e.g., resident selection, rent collection, and maintenance.

n. Form HUD–52825, Comprehensive Assessment/Program Budget (Parts I and II), covering units for which funding is requested in the current fiscal year, evidencing that the applicant has not exceeded the cost limits or exceptions granted pursuant to section I.E.6. above

o. Statement of the percentage of the funding to be used for items listed in III.A.1. and in III.A.2. of this NOFA.

p. Modernization Organization and Staffing Plan, stating the proposed organization, staffing and inspection of the modernization program.

2. The following information relevant to rating the application, which is not otherwise requested:

a. Documentation of the extent of need as required by III.C.1.a.

b. An assessment of the causes of distress; an explanation of how the proposed physical changes, management improvements, supportive services, and community service component will remedy the distress; an explanation of how the plan for management after revitalization will correct previous problems; a discussion of why the proposed revitalization plan is likely to be successful.

c. Data necessary for rating of section III.C.1.a.

d. Description of the involvement and commitment of local public and private entitles sufficient to assess section III.C.1.e.

3. The following submissions to demonstrate compliance with various program requirements:

a. Demonstration that the development meets the description of severely distressed as described in section I.E.1. of this NOFA.

b. A list of the total number of severely distressed developments under the PHA's jurisdiction.

c. A certification by the PHA that the targeted units are located in not more than 3 separately defined areas containing the community's most severely distressed projects.

d. Description of the amount and nature of the supportive service funding from non-federal sources to be provided by the city in which the PHA is located and the percentage of the total supportive services funding that this represents; a commitment from the city to provide the contribution for supportive services required under section I.E.3.

e. If the PHA is proposing to revitalize only a portion of the development, a description of the actions to be taken to revitalize the portions which will not be funded under this application, including alternate sources of funding which may be utilized (e.g. Comprehensive Grant Program funds or reprogrammed Comprehensive Improvement Assistance Programs fund); and the basis for the conclusion that the revitalization of the targeted units will be sustainable over the long term.

f. Where average per unit costs for all hard costs will exceed 100% of TDC, a justification of the need for higher costs as required in I.E.6.

g. In order to assure that URD funds are not used in lieu of otherwise available modernization funds, a demonstration that the funds reasonably expected to be available to the PHA over the period of the CGP Five-Year Action Plan are not adequate to address the total modernization needs of the PHA.

h. If the PHA is listed on the attached March 31, 1992 list of troubled housing agencies, documentation necessary to demonstrate that the PHA has made substantial progress to eliminate their troubled status as defined in section I.D.2 of this NOFA.

4. The following submissions, which are necessary only in certain circumstances:

a. Any request for waiver of Departmental regulations governing rents, income eligibility, or other areas of public housing management which will enhance the long term viability of the development, if the PHA desires such waivers. The request must:

i. Identify the specific provisions requested to be waived,

ii. State how the waiver will contribute to the success of the revitalization plan, and

iii. State specifically how the PHA wishes to manage any function for which a waiver is sought, pursuant to applicable law.

b. Narrative description of the local preferences applicable to the selection of tenants for the revitalized development if they are different from the approved tenant selection plan for the entire PHA jurisdiction, and a certification by the PHA that at least one public hearing was held to discuss the proposed local preferences.

5. The following required certifications:

a. Where demolition or disposition of units is contemplated in the application, the PHA must certify that each unit will be replaced in accordance with section 18 of the Act, as modified by the Appropriations Act of 1993 (see I.E.5.) and that they will take all necessary steps to assure that replacement units will be provided within 6 years of approval of the demolition application. In demolition/disposition cases where the requirements of the Section 412 Notice (57 FR 44074) are applicable, applications including plans for demolition or disposition must include a certification of lack of resident interest in acquiring the property, as appropriate in accordance with I.E.7.e. of this NOFA.

b. Commitment from any other public or private entity other than the PHA for any contribution to the development or the surrounding neighborhood which is a part of the revitalization plan.

c. Local government certifications consisting of:

i. a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of NAHA that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the targeted units are located;

ii. letter from the Mayor of the applicable jurisdiction in support of the application;

iii. certification by the Mayor that he/she will permit the replacement housing as required by section I.E.8.a.iii. (which must be submitted no later than August 4, 1993). (The demolition/disposition, statement of the intent for conversion, and where applicable, the approval of the actual replacement housing plan by the local governing body, required pursuant to section I.E.8.b.ii., is not required as part of the application submission but must be received within six months of the date of the grant approval.)

iv. although not required to be submitted as part of the application, the timing of submission of the approval of the plan for implementation by the local governing body will affect the rating of the "Extent and Involvement of Local Public and Private Entities", as provided in section III.C.1.e.

d. Disclosures required by section 102 of the HUD Reform Act of 1989.

e. Form HUD–50070, Certification for a Drug-Free Workplace.

f. Form HUD–52820, PHA Board Resolution Approving URD Application and PHA certification of compliance with minimum resident consultation requirements. This form is to be modified by: changing all references to "CIAP" and "modernization" to the term "URD"; and, striking all references to "IHA." All references to chapters or paragraphs in the CIAP Handbook, 7485.1 REV–4, are to be changed to "the URD NOFA."

g. Anti-Lobbying Certification for Contracts, Grants, Loans and Cooperative Agreements for grants exceeding $100,000.

h. SF–LLL, Disclosure of Lobbying Activities only where any funds, other than federally appropriated funds, will be or have been used to lobby the Executive or Legislative branches of the Federal government regarding specific grants or contracts.

i. A certification that the applicant has not and will not receive assistance from the Federal government, a State, or a unit of local government, or any agency or instrumentality thereof, for the specific activities for which funding is requested in the application.

j. A certification that the applicant will comply with the requirements of the Fair Housing Act, Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

C. Rating and Selection

1. Rating Factors

Applications will not be rated until they have been determined to be eligible under section I.D. of this NOFA. Further, prior to ranking, all applications must meet program requirements I.E.1, 2, 4, 6, 7, 8, and 12. Where applicable, the applications must also meet the following program requirements: I.E.3, 5, 10, and 11. If an application fails to meet the requirements for the community service component found in III.A.2.a. and Appendix B, rating may proceed. However, a revised community service component must be approved by the Commission on National and Community Service (CNCS) before any funds will be disbursed. HUD Headquarters review staff will rate factors "a"-"e" below. The CNCS will

rate factor "f" below. The Department may establish a panel of experts with whom to consult for advice on elements of the applications which are within their expertise. Such experts will be advisors and will not conduct any part of the rating or selection of grantees.

a. Extent of need for revitalization. Points will be awarded for evidence of distress in the development and distress in the surrounding neighborhood that has a significant impact on the development as measured by the information listed below and any qualitative information submitted pursuant to the categories identified in I.E.1. In determining rating points, applicants will be compared to each other. The following information must be submitted for the development:

i. Families living in distress. Percentage of households with no earned income, average income as a percentage of area median.

ii. Incidence of serious crime. Such statistical information as is available on the following: frequency of criminal acts of various types or all criminal acts, number of lease terminations or evictions for criminal activity, average number of police calls to the development monthly, average monthly incidence of vandalism to PHA property in dollars.

iii. Barriers to managing the environment. Vacancy rate, percentage of new residents per year, percent of rent collected monthly.

iv. Physical deterioration. Cost of rehabilitation/reconstruction per unit as a percentage of TDC, density as measured in units per acre, average work order backlog, number of units that do not meet HQS, and major system deficiencies, including peeling and chipping lead-based paint, lack of reliable and reasonably efficient heat and hot water, major structural deficiencies, electrical system under code, poor site conditions, leaking roof, deteriorated laterals and sewers, high number of plumbing leaks.

b. Potential impact of the plan. Points will be awarded to the extent the revitalization plan developed by the PHA appropriately addresses the causes of distress and seems likely to produce fully occupied units providing a satisfactory living environment, both in terms of the physical problems of the units to be funded and the social, educational, and income problems affecting the residents. In making a determination under this factor, the Department will consider the evidence of distress identified in the application, as well as other information available to HUD from previous applications to the Department, site visits, monitoring, and other information in the Department's files. Specifically, the application must demonstrate:

i. That the PHA has accurately assessed the causes of physical, social, educational and economic distress in the targeted units, the development, and the surrounding neighborhood,

ii. That the PHA has designed appropriate remedies to ameliorate the physical, social, educational and economic distress, including appropriate supportive services and service opportunities,

iii. That the plan for management of the development after revitalization will correct previous problems and contribute to the success of the development, and

iv. That, taken together, the sum of all the actions to be taken, whether funded by the grant or by other sources is highly likely to be successful in revitalizing the targeted units, resulting in full occupancy and in the provision of decent, safe, and sanitary housing to the residents over the long term.

c. Capabilities of the applicant. Points will be awarded based upon the PHA's capabilities, as measured by the following indicators:

i. Overall PHA capability.

(a) The PHA's total score under the Public Housing Management Assessment Program (PHMAP), 24 CFR Part 901

(b) The PHA's most recent fiscal audit

(c) Outstanding HUD monitoring findings

(d) For PHAs which were on the 3/31/92 Troubled PHA List, any submission pursuant to I.D.2.

ii. Modernization capability.

(a) The PHA's score for Indicator 2, Modernization, (24 CFR 901.10(b)(2)) under PHMAP

(b) Ability to carry out the implementation schedule in current and previous modernization except for delays beyond the control of the PHA

iii. Quality of management plan for carrying out revitalization activity.

(d) Extent of resident involvement. Points will be awarded based upon the extent of resident involvement, as measured by the following indicators and demonstrated in the plan:

i. Extent of resident consultation in preparation of the application;

ii. Degree of resident training, employment and contracting planned during execution of the revitalization plan (for example, as part of a Step-Up apprenticeship program); and

iii. Level of planned resident involvement in implementation and monitoring progress.

e. Extent of involvement of local public and private entities. Five points will be awarded automatically to a PHA which submits the local governing body approval of the plan for implementation either with the application or otherwise no later than 4 p.m. e.s.t. on July 20, 1993. Any PHA which does not submit the local governing body approval of its plan for implementation by said time will receive no more than 5 points, out of the ten point range, for this rating factor e. The remaining five points will be awarded based upon the extent of involvement of local public and private entities, as measured by the following indicators and demonstrated in the application:

i. Extent of involvement in the development of the application;

ii. Extent of commitment to the provision of supportive services to residents of the development to be revitalized;

iii. Level of commitment of local, non-federal funds to the physical improvement of the development and the surrounding neighborhood; and

iv. Extent of commitment to improvement of supportive services and economic activity in the immediate vicinity surrounding the development to be revitalized.

f. Community service component. Points will be awarded by the Commission based upon the community services component, as provided below, measured by the following indicators:

i. Quality based on:

(a) The program's ability to offer valuable services in the areas where they are needed most and where programs do not exist or where existing service opportunities are too limited to meet community needs;

(b) The program's ability to involve participants, particularly youth, in the design and operation of the program;

(c) The program's ability to involve individuals from diverse backgrounds (including diversity of gender, race, ethnic background, economic background, educational background, age, physical ability) who will serve together;

(d) The leadership and management, as measured by the qualifications of the principal leaders of the program; and

(e) The extent to which the applicant proposes specific and concrete plans for achieving its stated objectives.

ii. Cost effectiveness based on the reasonableness of the budget request relative to the perceived impact of the proposed activity.

iii. Sustainability based on:

(a) Strong and broad-based community support for involvement in the program; and

(b) Evidence that the best efforts will be made to obtain the financial

resources necessary to continue the program beyond the term of the revitalization project.

iv. Innovation based on the ability of the program to advance knowledge about creative and effective community service.

v. Replicability based on the degree to which program design can be broadly applicable in areas beyond program location.

vi. The following rating points will be used by CNCS to create the score for the community service component which will then be incorporated into the overall selection and rating scores assigned in section III.C.3. below:

Ration factors	Point range (points)
Quality	7.5
Cost-effectiveness	2.25
Sustainability	2.25
Innovation	1.5
Replicability	1.5

2. Selection Criteria

a. Points awarded under section III.C.3. below for the rating factors.

b. National geographic diversity. The Department, in its discretion, may choose to select a lower-rated, approvable application over a higher-rated application in order to increase the level of national geographic diversity of applications approved under this NOFA.

c. Diversity of development types. HUD may, in its discretion, choose to select a lower-rated, approvable application over a higher-rated application in order to increase the diversity of development types (developments which include family high-rise buildings of five or more stories and those which include only low rise buildings) approved under this NOFA.

3. Rating Values

The following point assignments will be used to rate applications in accordance with the criteria listed in section III.C.1. above. The Department shall examine the rating, and where it determines that applications falling below a certain point total are not suitable or not feasible for demonstration of successful revitalization of severely distressed developments, it may establish a minimum number of points for an application to be selected.

Rating factors	Point range
Extent of need for revitalization	0–30
Potential impact of the plan	0–30
Capabilities of the applicant	0–20
Extent of resident involvement	0–15
Extent of involvement of local public and private entities	0–10
Community service component	0–15
Total maximum score	120

4. Funding Decisions

After rating, Headquarters will select approvable applications for funding in accordance with the selection criteria set forth in section III.C.1. above. If any selected applications include community service components which have not been approved by the CNCS, the applicants *must* conform their applications to CNCS requirements after selection in order to obtain release of funds. HUD may approve an application for an amount lower than the amount required if the application includes an ineligible activity, or if insufficient funds are available to fund the full amount requested and HUD determines that partial funding is a viable option.

IV. Application Processing

A. Schedule for Submission and Approval

Applications must be received on or before 4 p.m. e.s.t. on May 5, 1993. If the local government's certification required under I.E.8.a.iii. cannot be submitted by the application deadline date of May 5, 1993, said approval and certification must be submitted to HUD Headquarters not later than 4 p.m. e.s.t. on August 4, 1993. Failure to submit the certification by said time on August 4, 1993 will result in the application being disqualified. HUD will select grantees by August 5, 1993 and announcements will be made shortly thereafter.

B. Corrections to Deficient Applications

1. Immediately after the deadline for submission of applications, Headquarters will screen each application to determine whether all items were submitted.

2. If the PHA fails to submit the technical items listed below or the application contains a technical mistake such as an incorrect signatory, the Department shall immediately notify the PHA in writing that the PHA has 14 calendar days from the date of HUD's written notification to submit or correct any of the specified items. The PHA will have no opportunity to correct deficiencies not identified in HUD's written notification. If the items listed below are missing, and the PHA does not submit them within the required time period, the application will be ineligible for further processing.

a. Form HUD–50070, Certification for a Drug-Free Workplace;

b. Form HUD–52820, PHA Board Resolution Approving URD Application;

c. Certification for Contracts, Grants, Loans and Cooperative Agreements;

d. SF–LL, Disclosure of Lobbying Activities;

e. Modernization Organization Staffing Plan.

V. Applicability of Other Federal Requirements

A. Flood Insurance

In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), HUD will not approve applications for grants providing financial assistance for acquisition or rehabilitation of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless—

1. The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

2. Flood insurance is obtained as a condition of approval of the application.

B. Coastal Barriers Resources Act

In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3601), HUD will not approve grant applications for properties in the Coastal Barrier Resources System.

C. Fair Housing Requirements

The requirements of the Fair Housing Act (42 U.S.C. 3601–19) and regulations pursuant thereto (24 CFR part 100); Executive Order 11063 (Equal Opportunity in Housing) and regulations pursuant thereto (24 CFR part 107); the fair housing poster regulations (24 CFR part 110) and advertising guidelines (24 CFR part 109).

D. Nondiscrimination in Housing

Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR part 1).

E. Discrimination on the Basis of Age or Handicap

The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and regulations issued pursuant thereto (24 CFR part 146), the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of

1973 (29 U.S.C. 794) and regulations issued pursuant thereto (24 CFR part 8) and the Americans with Disabilities Act (P.L. 101–336) and its implementing regulation at 28 CFR part 36.

F. Employment Opportunities

The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and its implementing regulation at 24 CFR part 135.

G. Minority and Womens' Business Enterprises

The requirements of Executive Orders 11246, 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

H. Disability Requirements

Fair Housing Act and section 504. The recipient must comply with the reasonable modification and accommodation requirements of the Fair Housing Act and the accessibility requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, as amended.

I. OMB Circulars

The policies, guidelines, and requirements of OMB Circular Nos. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) apply to the award, acceptance, and use of assistance under the program by PHAs, and to the remedies for non-compliance, except when inconsistent with the provisions of the Appropriations Act, other Federal statutes, or this notice. Recipients are also subject to the audit requirements of OMB Circular A–128 implemented at 24 CFR part 44. Copies of OMB Circulars may be obtained from E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332 (this is not a toll-free number). There is a limit of two free copies.

J. Drug-Free Workplace

Applicants shall certify that they will provide a drug-free workplace, in accordance with the Drug-free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

K. Anti-Lobbying Certification

Section 319 of Public Law 101–121 prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government. A government-wide common rule governing the restrictions on lobbying was published as an interim rule on February 26, 1990 (55 FR 6736) and supplemented by a notice published June 15, 1990 (55 FR 24540). For HUD, this rule is found at 24 CFR part 87. The rule requires applicants for and recipients of assistance exceeding $100,000 to certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance. The rule also requires disclosures from applicants and recipients if nonappropriated funds have been spent or committed for lobbying activities if those activities would be prohibited if paid with appropriated funds. The law provides substantial monetary penalties for failure to file the required certification or disclosure.

L. Section 102 of HUD Reform Act of 1989

On March 14, 1991, the Department published in the Federal Register a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (24 CFR part 12, 56 FR 11032). Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department.

M. Documentation and Disclosures

Since HUD makes assistance under the program available on a competitive basis, 24 CFR part 12 requires HUD to:

1. Ensure that documentation and other information regarding each application submitted to the Department are sufficient to indicate the basis upon which assistance was provided or denied. HUD must make this material available for public inspection for a five-year period (§ 12.14(b).) HUD will provide further guidance on how this material may be accessed in a later Notice published in the **Federal Register**.

2. Publish a notice in the **Federal Register** at least quarterly indicating the recipients of the assistance (24 CFR 12.16(a).)

3. Subpart C of part 12 requires applicants that seek assistance from HUD for a specific project or activity must make the disclosures required under § 12.32. Each applicant must complete from HUD 2880, Applicant/Recipient Disclosure/Update Report, and submit the completed form with its application.

N. Section 103 HUD Reform Act of 1989

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708–2815; TDD (202) 708–1112. (These are not toll-free numbers.)

O. Section 112 HUD Reform Act of 1989

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second prohibits the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of the assistance. Section 13 was implemented by final rule (24 CFR part 86) published in the Federal Register on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A 24 CFR part 86. Any questions regarding the rule should be directed to Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street,

SW., Washington, DC 20410. Telephone: (202) 708–3815; TDD: (202) 708–1112. (These are not toll-free numbers.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

P. Debarred or Suspended Contractors

The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

Q. Conflict of Interest

1. In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the PHA and who exercises or has exercised any functions or responsibilities with respect to activities assisted under an URD grant, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

2. HUD may grant an exception to the exclusion in paragraph (1) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the revitalization demonstration and the effective and efficient administration of the revitalization program. An exception may be considered only after the applicant or recipient has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made and an opinion of the applicant's or recipient's attorney that the interest for which the exception is sought would not violate State or local laws. In determining whether to grant a requested exception, HUD shall consider the cumulative effect of the following factors, where applicable:

a. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the revitalization program that would otherwise not be available;

b. Whether an opportunity was provided for open competitive bidding or negotiation;

c. Whether the person affected is a member of a group or class intended to be the beneficiaries of the activity and the exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class;

d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision making process, with respect to the specific activity in question;

e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph (1) of this section;

f. Whether undue hardship will result either to the applicant, recipient, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

g. Any other relevant considerations.

R. Labor Standards

Under section 12 of the United States Housing Act of 1937, Davis-Bacon or HUD-determined prevailing wage rates shall apply to activities under this demonstration program. The wage rate requirements do not apply to individuals who perform services for which they volunteered; do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and are not otherwise employed in the work involved (24 CFR part 70). In addition, if other Federal programs are used in connection with the revitalization program, labor standards requirements apply to the extent required by such other Federal programs. For example, if the CDBG program is used in connection with the revitalization program, the labor standards requirements of those programs would apply to the extent required by them.

S. Lead-Based Paint Testing and Abatement

Any property assisted under the revitalization program established under this notice constitutes HUD-associated housing for the purpose of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, et seq.) and is, therefore, subject to 24 CFR part 35, and 24 CFR part 965 (subpart H). Unless otherwise provided, recipients shall be responsible for testing and abatement activities.

T. Relocation

1. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and government-wide implementing regulations at 49 CFR part 24 are applicable to this program.

2. Temporary Relocation.

The recipient shall provide each resident of an eligible property, who is required to relocate temporarily to permit work to be carried out, with suitable, decent, safe, and sanitary housing for the temporary period and shall reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the costs of moving to and from the temporarily occupied housing and any increase in monthly costs of rent and utilities.

U. Records, Reports, and Audit of Recipients

1. General Records

Each recipient shall keep records that will facilitate an effective audit to determine compliance with program requirements and that fully disclose—

a. The amount and disposition of funds received under this notice, including sufficient records that document the reasonableness and necessity of each expenditure;

b. The amount and nature of any other assistance, including cash, services, or other items contributed as a condition of receiving a grant;

c. The cost or other value of all in-kind non-Federal contributions towards the supportive services match required by I.E.3.; and

d. Any other proceeds received for, or otherwise used in connection with, the revitalization program.

2. Reports

The PHA shall submit Form HUD–52826, Schedule/Report of Modernization Expenditures (approved by the Office of Management and Budget under control number 2577–0049) no later than 45 calendar days after the end of the quarter. The first report is due 45 calendar days after the end of the quarter in which the ACC amendment is executed.

The PHA shall also submit a quarterly narrative report describing the current status of the work activities in the revitalization plan, including community service or supportive services set forth on Form HUD–52825, Comprehensive Assessment/Program Budget. In this narrative, the PHA shall describe any actions taken during the quarter towards accomplishment of its stated goals and explain any lack of progress or actions.

V. Access by HUD

For the purpose of audit, examination, monitoring, and evaluation each recipient shall give HUD (including any

duly authorized representatives and the Inspector General) access to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this notice, including all records required to be kept by paragraph (1) of this section.

W. Environmental Requirements

Before HUD approves applications under this demonstration, HUD will assess the environmental effects of each application in accordance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (NEPA) and HUD's implementation regulations at 24 CFR part 50 and the compliance requirements of the related environmental laws and authorities listed in 24 CFR 50.4.

Other Matters

Information Collections

The estimated information collection requirements contained in this NOFA have been sent to the Office of Management and Budget. Information on these requirements is provided as follows:

URBAN REVITALIZATION NOFA-BURDEN HOURS

Submission requirements	Number of respondents	Number of responses	Total annual response	Hours per hours	Total
Planning grant:					
Application (Sec. II(b))	50	1	50	40	2,000
Resident consultation (Sec. I(d)(7))	50	1	50	10	500
Reporting requirements (Sec. IV(s)(2))	9	4	36	4	144
Recordkeeping (Sec. IV(s)(1))	9	1	9	1	9
Implementation Grant:					
Application (Sec. III(c))	50	1	50	275	13,750
Resident consultation (Sec. I(d)(7))	50	1	50	20	1,000
Reporting requirements (Sec. IV(s)(2))	6	4	24	10	240
Recordkeeping (Sec. IV(s)(1))	6	1	6	2	12
Total burden					17,655

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 7th Street SW., Washington, DC 20410.

Impact on the Family

The General Counsel, as the designated official under Executive Order 12606, The Family, has determined that the provisions of this NOFA do not have a potential significant impact on the formation, maintenance, and general well-being of the family. To the extent that there is an impact on the family, revitalization of severely distressed public housing developments under the demonstration can be expected to support family values by enabling low-income families to live in decent, safe, and sanitary housing.

Federalism Impact

The General Counsel has also determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the provisions of this NOFA are closely based on statutory requirements and impose no significant additional burdens on States or other public bodies. The notice does not affect the relationship between the Federal government and the States and other public bodies or the distribution of power and responsibilities among various levels of government. Therefore, the policy is not subject to review under Executive Order 12612.

Dated: March 19, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

Appendix A

Forty Most Populous U.S. Cities:

Cities
New York, NY
Los Angeles, CA
Chicago, IL
Houston, TX
Philadelphia, PA
San Diego, CA
Detroit, MI
Dallas, TX
Phoenix, AZ
San Antonio, TX
San Jose, CA
Baltimore, MD
Indianapolis, IN
San Francisco, CA
Jacksonville, FL
Columbus, OH
Milwaukee, WI
Memphis, TN
Washington, DC
Boston, MA
Seattle, WA
El Paso, TX
Cleveland, OH
New Orleans, LA
Nashville-Davidson, TN
Denver, CO
Austin, TX
Fort Worth, TX
Oklahoma City, OK
Portland, OR
Kansas City, MO
Long Beach, CA
Tucson, AZ
St. Louis, MO
Charlotte, NC
Atlanta, GA
Virginia Beach, VA
Albuquerque, NM
Oakland, CA
Pittsburgh, PA

PHAS on the Troubled PHA List as of 3/31/92
Boston, MA
Bridgeport, CT
New Haven, CT
Camden, NJ
Newark, NJ
D.C. Department of Public and Assisted Housing
Philadelphia, PA
Chester, PA
Atlanta, GA
Birmingham, AL
Jacksonville, FL
Puerto Rico
Virgin Islands
Cuyahoga, OH
Detroit, MI
Indianapolis, IN
Lucas County, OH
East St. Louis, IL
Chicago, IL
Springfield, IL
New Orleans, LA
Kansas City, MO

Los Angeles, CA
San Francisco, CA

Appendix B

Program Requirements for Community Service Component

Background

The legislation creating the HUD Urban Revitalization Demonstration Program requires that each plan submitted for funding include a community service component to be approved by the Commission on National and Community Service (CNCS). By requiring a community service component in each plan for urban revitalization, the legislation presents HUD and CNCS with a unique opportunity to create a strong and lasting union between physical urban revitalization and community service. Physical urban revitalization cannot be sustained without a revitalization of the spirit of the people of the community such that the people begin to view themselves as collective owners of the community. A sense of collective ownership of the community engenders not only concern for people who live in the community but also caring for and pride in the physical structures in the community. Through community service, the sense of collective ownership of the community can be developed, thereby revitalizing the spirit of the people of the community. Thus, beyond the bricks and mortar of the physical structures, community service can be the glue that holds an urban revitalization program together, sustains it, and nourishes it.

To assist applicants for urban revitalization funds in designing their community service programs, CNCS has set forth below a definition for "community service program" followed by guidance on program requirements, allowable program activities, application content, selection criteria and ranking factors.

I. Definition

For purposes of the HUD Urban Revitalization Demonstration Program, "community service program" is defined as:

A program organized, administered, overseen or funded by a public housing authority or its designated representative, engaging individuals in meaningful service on a volunteer basis or through limited stipends to address unmet human, environmental, educational, and/or public safety needs through youth service and conservation corps, residents' associations, community-based organizations, K–12 schools, institutions of higher education, churches or other religious entities (but see paragraph (II.(13) below) and other such similar organizations.

II. Program Requirements

(1) An applicant that receives assistance under the revitalization program may administer the community service program or may contract with a nonprofit organization or a unit of state or local government, subject to the limitations contained in paragraph 13 below to administer such program.

(2) Each applicant intending to administer a community service program itself, and any organization contracted to administer a community service program by an applicant shall secure the services of a community service coordinator who will have primary responsibility for the design and administration of the applicant's community service program.

(3) In designing a community service program, each applicant shall solicit input from residents of the development to be revitalized—particularly youth-community-based organizations, local businesses, school representatives, representatives of religious organizations, and other interested parties. In order to maximize this level of input, each applicant is encouraged to establish a Community Service Advisory Board comprised of the parties listed in the preceding sentence.

(4) With the assistance of the parties listed in paragraph (3), each applicant shall determine the human, environmental, educational, and/or public safety needs of the housing development to be revitalized as well as the surrounding neighborhood. An applicant may also determine the human, environmental, educational, and/or public safety needs of the city at large.

(5) In light of the determination required in paragraph (4), and in conjunction with the parties listed in paragraph (3), each applicant shall devise strategies or service opportunities for addressing the greatest needs identified and provide a justification for choosing those particular strategies.

(6) Programs may, but are not required to provide, in-service stipends or post-service benefits for participants. If post-service benefits are provided, they shall only be paid at the end of the term of service and shall only be used for education, training, or apprenticeships. In-service stipends and post-service benefits are subject to the following limitations:

(a) Full-time service. (i) In-service stipends shall not exceed 100 percent of the poverty line for a family of two (as defined in 42 USC section 9902(2)); and

(ii) Post-service benefits shall not exceed $100 per week of service or $5,000 per year of service, whichever is less.

(b) Part-time service. (i) In-service stipends shall not exceed an amount equal to a share of such stipend offered to full-time participant under paragraph (a)(i) above, that has been prorated according to the number of hours such part-time participant serves in the program.

(ii) Post-service benefits shall not exceed an amount equal to a share of such post-service benefit offered to a full-time participant under paragraph (a)(ii) above, that has been prorated according to the number of hours worked per week of service or $2000 per year of service, whichever is less.

(c) A participant in a community service program who receives an in-service stipend and/or post-service benefit shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment.

(7) Each applicant shall give preference for participation in service opportunities included in the community service program to residents of the housing development to be revitalized.

(8) Each community service program shall be for a term of no less than the term of the revitalization project. Each applicant shall exercise best efforts to continue the community service plan beyond the term of the revitalization project.

(9) Each applicant shall collect such data as the Commission on National and Community Service (CNCS) directs to enable CNCS to conduct an evaluation of the community service program.

(10) To reflect the importance of the community service component of each application, we recommend that each applicant use between 7 percent and 10 percent of the funds made available under the revitalization program for its community service program. Of the amount of funds reserved for the community service program:

(a) No more than 10 percent may be expended for administrative expenses related to such program; and

(b) No more than 10 percent may be expended for the purchase of major capital equipment related to such program.

(11) Prior to the placement of a participant in a service opportunity, the applicant shall consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out under the community service program.

(12) Each applicant shall ensure that individuals do not drop out of school for the purpose of participating in the community service program.

(13) Applicants shall not contract with any of the following organizations to administer or carry out, in whole or in part, any community service program funded under the demonstration program, neither may any organization selected to carry out service activities use the funds provided to conduct any of the types of activities carried out by any of the organizations listed below:

(a) Business organized for profit;

(b) Labor union;

(c) Partisan political organization;

(d) Organization engaged in religious activities, unless such activities do not involve the use of funds provided under the demonstration program by program participants and program staff to give religious instruction, conduct worship services, or engage in any form of proselytization; or

(e) Domestic or personal service company or organization.

(14) Participants in the community service program shall be citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(15) Supplementation, nonduplication, and nondisplacement—(a) Supplementation. (i) Applicants are advised that funds received for the community service program are to be used only to supplement, not supplant, State and local public funds expended for services of the type assisted under this grant in the previous fiscal year.

(ii) Paragraph (i) of this section shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such

program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this grant.

(b) Nonduplication. (i) In general, funds may be used only for a program that does not duplicate, and is in addition to, an activity performed by paid employees in the locality being served by the program; this requirement shall not be construed to bar the replication of an exemplary volunteer or community service program; and

(ii) Funds made available under this grant for the community service program shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of paragraph (c) of this section are met.

(c) Nondisplacement. (i) An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the assistance used by the employer of a participant in a program funded under this grant.

(ii) A service opportunity may not infringe in any manner on the promotional opportunity of an employed individual.

(iii) A participant in a program receiving assistance under this grant shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(iv) Services may not be performed that would supplant the hiring of employed workers or would otherwise be performed by an employee, including an employed worker who recently resigned or was discharged; an employee who is subject to a reduction in force; an employee who is on leave (terminal, temporary, vacation, emergency, or sick); or an employee who is on strike or who is being locked out.

III. Allowable Program Activities

(1) An applicant's community service program shall consist of any activities that directly address the unmet needs identified through the determination required in paragraph (4) above, including, but not limited to, crime prevention, victim assistance, drug abatement, after school programs, tutoring/mentoring programs, community gardens, day care for children and elderly, housing rehabilitation, and community health centers.

(2) Applicants are encouraged to develop programs which combine support services (as defined in section III.A.2.b of this notice) and community service. For example, an applicant may support a youth corps as a means of involving youth in meaningful community service while at the same time such youth can benefit from the education and job training service provided by the youth corps.

(3) Applicants are encouraged to develop service opportunities in connection with the physical revitalization plan. For example, program participants could be involved in rehabilitation activities, planting community gardens, or painting murals.

IV. Application Content

The community service program component of each application shall include:

(1) A description of the objectives of the program;

(2) The experience, accomplishments, and qualifications of the community service coordinator, particularly his/her community service experience;

(3) For a public housing agency that contracts with another organization to administer the community service program, a description of that organization's capacity to administer such program, including the amount and quality of staff time committed to the program, and experience in the area of community service;

(4) The manner in which the program will be coordinated with and build upon existing community service programs;

(5) The process for soliciting community input—particularly from youth—in the planning of the program;

(6) A description of youth involvement in the operation of the program, including leadership roles;

(7) The process for determining the human, environmental, educational and/or public safety needs of the housing development to be revitalized and the findings of such determination;

(8) The service opportunities proposed and how those opportunities will address unmet needs;

(9) The particular target group, if any, of the program, e.g., youth, the elderly. If any particular group is targeted either as providers of service or receivers of service, provide justification for targeting such group;

(10) A plan for recruiting participants for service opportunities;

(11) A plan for placing participants in service opportunities and preparing participants for their placements;

(12) An estimate of the number of participants expected to be involved in the program;

(13) A discussion of whether participants will serve on a volunteer basis of whether some or all will receive in-service stipends and/or post service monetary benefits out of grant proceeds. If stipends and/or post-service benefits will be paid, describe how amounts will be determined;

(14) A discussion of whether the program will offer full-time and/or part-time service opportunities;

(15) A discussion of efforts to create service opportunities that place residents in locations in the community or city at large;

(16) Any efforts to involve non-residents from the surrounding neighborhood or the city at large as co-providers of service with residents of the development to be revitalized;

(17) The extent to which the community service program will be combined with supportive services, and describe such services;

(18) A budget accompanied by a narrative setting forth the grant amounts to be expended in the administration (and, where applicable, the operation) of a community service program.

(19) Such other information as CNCS shall require.

V. Review and Approval

The community service component of each application must be reviewed and approved by the Commission on National and Community Service prior to any final funding determinations.

VI. Selection Criteria

In approving the community service components of applications for funding, CNCS will use the following criteria and ranking factors:

(1) Quality based on:

(a) The program's ability to offer valuable services in the areas where they are needed most and where programs do not exist or where existing service opportunities are too limited to meet community needs;

(b) The program's ability to involve participants—particularly youth—in the design and operation of the program;

(c) The program's ability to involve individuals from diverse backgrounds (including diversity of gender, race, ethnic background, economic background, educational background, age, physical ability) who will serve together;

(d) The leadership and management, as measured by the qualifications of the principal leaders of the program; and

(e) The extent to which the applicant proposes specific and concrete plans for achieving its stated objectives.

(2) Cost-effectiveness based on the reasonableness of the budget request relative to the perceived impact of the proposed activities.

(3) Sustainability based on:

(a) Strong and broad-based community support for and involvement in the program; and

(b) Evidence that best efforts will be made to obtain the financial resources necessary to continue the program beyond the term of the revitalization project.

(4) Innovation based on the ability of the program to advance knowledge about creative and effective community service.

(5) Replicability based on the degree to which program design can be broadly applicable in areas beyond program location.

VII. Ranking Factors

The following point assignment will be used to rank the community service component of applications in accordance with the criteria listed above.

	Points
Quality	7.50
Cost-effectiveness	2.25
Sustainability	2.25
Innovation	1.50
Replicability	1.50
Total Maximum Score	15

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federal register

Monday
March 29, 1993

Part IV

The President

Proclamation 6539—Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1993

Federal Register
Vol. 58, No. 58
Monday, March 29, 1993

Presidential Documents

Title 3—

The President

Proclamation 6539 of March 25, 1993

Greek Independence Day: A National Day of Celebration of Greek and American Democracy, 1993

By the President of the United States of America

A Proclamation

The people and Government of the United States join the people and Government of Greece in celebrating Greek Independence Day. The close and cordial ties between our nations are built upon the solid foundation of a common love of democratic values, strong cultural ties between our peoples, and a respect for human rights. Greek influence on American culture extends from the ideas of the great Hellenic thinkers to the many important contributions of Greek Americans today. These ties continue to strengthen the relationship between our nations and provide a solid and promising basis for the future.

Two thousand and five hundred years ago, Cleisthenes succeeded in instituting a series of reforms in Athens and across the Peninsula of Attica that expanded the rule of government to a much broader group of citizens. The concept of democracy was thus created and embodied in a series of rights and laws. The personal freedom that resulted from these reforms sparked a period of cultural growth in philosophy and the arts to which Western culture is eternally indebted.

The United States is proud to acknowledge the enormous debt it owes to the Greek philosophers and politicians. In creating a new Nation, the American Founding Fathers drew upon the Greek writings for inspiration as to the purpose of government and in order to define the common good of society. Hellenic ideals have also shaped our democracy through architecture. Across our Nation and especially in the Nation's Capital, the seats of representative government are housed in buildings inspired by the grand proportions and beautiful lines of Greek temples. In both nations, these buildings remind us of the ideals of truth, justice, and faith in the human ability on which our societies are founded.

Our nations share not only the common bond of democratic philosophy but also the willingness to fight for self-determination and freedom and to be vigilant in protecting these hard-won rights. The Greek struggle for independence 172 years ago has long been admired by American citizens. In this century, the United States and Greece joined together to oppose threats to our democratic values from fascism and communism.

It is fitting, therefore, that our two great democracies pause to realize how much they have benefited and continue to benefit from each other. As part of this effort, the National Gallery of Art in Washington, the Metropolitan Museum of Art in New York, and the Ministry of Culture of Greece have gathered a landmark exhibit of sculptures from the 5th century B.C. These sculptures, many of which have never left Greek soil, document in art the birth of the concept of the individual. In return for these gracious loans from Greece, the two American museums have lent more than 70 major paintings from their permanent collections for an exhibit at the National Gallery of Greece in Athens. This summer the National Archives will also display artifacts from the 5th century B.C. which demonstrate the great degree of participation of Athenians in their government. It is

appropriate that our own Constitution will be juxtaposed against these artifacts.

In recognition of the close bond that has been forged between the nations and peoples of the United States and Greece, the Congress, by Senate Joint Resolution 22, has designated March 25th as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim March 25, 1993, as Greek Independence Day: A National Day of Celebration of Greek and American Democracy. I call upon all Americans to observe this day, the 172nd anniversary of the beginning of the Greek revolution against the Ottoman Empire, with appropriate programs, ceremonies, and activities in honor of the Greek people and Greek independence.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fifth day of March, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

William J. Clinton

[FR Doc. 93–7408
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Editorial note: For the President's remarks on signing this proclamation, see the *Weekly Compilation of Presidential Documents* (vol. 29, issue 12).

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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