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Briefings on How To Use the Federal Register
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC
(TWO BRIEFINGS)

WHEN: June 15 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

PHILADELPHIA, PA

WHEN: May 25, at 1:00 pm
WHERE: William J. Green, Jr. Federal Building, Conference Room 6306–10, 600 Arch St. Philadelphia, PA
RESERVATIONS: Federal Information Center 1–800–347–1997

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

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

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1755

RIN 0572-AA56

REA Specification for Filled Telephone Cables with Expanded Insulation

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) amends its regulations on Telecommunications Standards and Specifications for Materials, Equipment and Construction, by rescinding REA Bulletin 345–89, REA Specification for Filled Telephone Cables with Expanded Insulation, PE–89, and codifying this specification. This revised specification updates the end product performance requirements of filled cables with expanded insulation brought about through technological advancements made during the last five years.

EFFECTIVE DATE: June 21, 1993. Incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of June 21, 1993.

FOR FURTHER INFORMATION CONTACT: Garnett G. Adams, Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Electrification Administration, room 2844, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number (202) 720–0667.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this final rule will not: (1) Preempt any State or local laws, regulations, or policies; (2) Have any retroactive effect; and (3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule involves standards and specifications, which may increase the direct short-term costs to the REA borrower. However, the long-term direct economic costs are reduced through greater durability and lower maintenance cost over time.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, information collection and recordkeeping requirements contained in this final rule have been approved by OMB under control number 0572–0077 which expires on January 31, 1994. Comments concerning these requirements should be directed to the Office of Information and Regulator Affairs of OMB, Attention: Desk Officer for USDA, room 3201, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator of REA has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation that requires intergovernmental consultation with State and local officials. A Notice of Final rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA and RTB loans and loan guarantees, and RTB bank loans, to governmental and nongovernmental entities from coverage under this Order.

Background

REA issues publications titled "Bulletin" which serve to guide borrowers regarding already codified policy, procedures, and requirements needed to manage loans, loan guarantee programs, and the security instruments which provide for and secure REA financing. REA issues standards and specifications for the construction of telephone facilities financed with REA loan funds. REA is rescinding Bulletin 345–89, REA Specification for Filled Telephone Cables with Expanded Insulation, PE-89, and codifying this specification at 7 CFR 1755.890, REA Specification for Filled Telephone Cables with Expanded Insulation.

The American National Standard Institute (ANSI) and the Insulated Cable Engineers Association (ICEA) are scientific and technical organizations formed for the development of standards on characteristics and performance of materials, products, systems, and services. An ANSI/ICEA standard represents a common viewpoint of those parties concerned with its provisions; namely producers, users, and general interest groups. The standard is intended to aid industry, government agencies, and the general public.

It is REA policy to use the standards, rules, and regulations of such engineering and standards groups as

ANSI, the ICEA, the American Society for Testing and Materials (ASTM), and the various national engineering societies, and such references as the National Electrical Safety Code (NESC) and the National Electrical Code (NEC), to the greatest extent practicable as determined by REA. REA is also guided by OMB Circular No. A-119, Federal Participation in the Development and Use of Voluntary Standards in its activities. In the absence of national standards, or where REA determines that existing national standards are not satisfactory, standards will be prepared for material and equipment as necessary.

On September 13, 1991, REA published a proposed rule (56 FR 46575) to rescind REA Bulletin 345–89, REA Specification for Filled Telephone Cables with Expanded Insulation, PE-89, and to incorporate by reference a new Bulletin 1753F–208(PE–89). Comments on this proposed rule were due October 15, 1991. No comments were received by this due date. Subsequently, REA has determined that the public interest is better served by codifying the revised specification rather than incorporation by reference.

Additionally, REA has determined that by codifying the revised specification, borrowers will be provided with the opportunity to increase subscriber services through enhanced cable designs brought about through technological advancements made during the last five years in an economical and efficient manner. This specification will also allow cable manufacturers to reduce their production costs by providing one uniform cable design to both REA and non-REA telephone companies, a practice not done before this regulation today. This reduction in manufacturing costs will result in lower cable costs for borrowers without any degradation in cable performance.

List of Subjects in 7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set out in the preamble, REA amends 7 CFR part 1755 as follows:

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION

1. The authority citation for part 1755 is revised to read as follows:

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

§ 1755.97 [Amended]

2. Section 1755.97 is amended by removing the entry REA Bulletin No. 345–89 from the table.

3. Section 1755.890 is added to read as follows:

§ 1755.890 REA specification for filled telephone cables with expanded insulation.

(a) *Scope.* (1) This section covers the requirements for filled telephone cables intended for direct burial installation either by trenching or by direct plowing, for underground application by placement in a duct, or for aerial installation by attachment to a support strand.

(i) The conductors are solid copper, individually insulated with an extruded cellular insulating compound which may be either totally expanded or expanded with a solid skin coating.

(ii) The insulated conductors are twisted into pairs which are then stranded or oscillated to form a cylindrical core.

(iii) For high frequency applications, the cable core may be separated into compartments with screening shields.

(iv) A moisture resistant filling compound is applied to the stranded conductors completely covering the insulated conductors and filling the interstices between pairs and units.

(v) The cable structure is completed by the application of suitable core wrapping material, a flooding compound, a shield or a shield/armor, and an overall plastic jacket.

(2) The number of pairs and gauge size of conductors which are used within the REA program are provided in the following table:

AWG	19	22	24	26
Pairs	6	6	6	
	12	12	12	
	18	18	18	
	25	25	25	25
		50	50	50
		75	75	75
		100	100	100
		150	150	150
		200	200	200
		300	300	300
		400	400	400
		600	600	600
		900	900	900
		1000	1000	1000
			1200	1200
			1500	1500
			1800	1800
				2100
				2400
				2700

Note: Cables larger in pair sizes than those shown in this table must meet all requirements of this section.

(3) Screened cable, when specified, must meet all requirements of this section. The pair sizes of screened cables used within the REA program are referenced in paragraph (e)(2)(i) of this section.

(4) All cables sold to REA borrowers for projects involving REA loan funds under this section must be accepted by REA Technical Standards Committee "A" (Telephone). For cables manufactured to the specification of this section, all design changes to an accepted design must be submitted for acceptance. REA will be the sole authority on what constitutes a design change.

(5) Materials, manufacturing techniques, or cable designs not specifically addressed by this section may be allowed if accepted by REA. Justification for acceptance of modified materials, manufacturing techniques, or cable designs must be provided to substantiate product utility and long-term stability and endurance.

(6) The American National Standard Institute/Insulated Cable Engineers Association, Inc. (ANSI/ICEA) S-84–608–1988, Standard For Telecommunications Cable, Filled, Polyolefin Insulated, Copper Conductor Technical Requirements referenced throughout this section is incorporated by reference by REA. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/ICEA S-84–608–1988 are available for inspection during normal business hours at REA, room 2845, U.S. Department of Agriculture, Washington, DC 20250 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies are available from ICEA, P. O. Box 440, South Yarmouth, MA 02664, telephone number (508) 394–4424.

(7) American Society for Testing and Materials specifications (ASTM) A 505-87, Standard Specification for Steel, Sheet and Strip, Alloy, Hot-Rolled and Cold-Rolled, General Requirements For; ASTM B 193-87, Standard Test Method for Resistivity of Electrical Conductor Materials; ASTM B 224-80, Standard Classification of Coppers; ASTM B 694-86, Standard Specification for Copper, Copper Alloy, and Copper-Clad Stainless Steel Sheet and Strip for Electrical Cable Shielding; ASTM D 4565-90a, Standard Test Methods for Physical and Environmental Performance Properties of Insulations and Jackets for Telecommunications Wire and Cable; and ASTM D 4566-90, Standard Test Methods for Electrical Performance Properties of Insulations and Jackets for Telecommunications Wire and Cable referenced in this section are incorporated by reference by REA. These incorporations by references

were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the ASTM standards are available for inspection during normal business hours at REA, room 2845, U.S. Department of Agriculture, Washington, DC 20250 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies area available from ASTM, 1916 Race Street, Philadelphia, PA 19103–1187, telephone number (215) 299–5585.

(b) *Conductors and conductor insulation.* (1) The gauge sizes of the copper conductors covered by this section must be 19, 22, 24, and 26 American Wire Gauge (AWG).

(2) Each conductor must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 2.1.

(3) Factory joints made in conductors during the manufacturing process must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 2.2.

(4) The raw materials used for conductor insulation must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 3.1 through 3.1.3.

(5) The finished conductor insulation must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 3.2.2, 3.2.3, and 3.3.

(6) Insulated conductor must not have an overall diameter greater than 2 millimeters (mm) (0.081 inch (in.)).

(7) A permissible overall performance level of faults in conductor insulation must average not greater than one fault per 12,000 conductor meters (40,000 conductor feet) for each gauge of conductor.

(i) All insulated conductors must be continuously tested for insulation faults during the twinning operation with a method of testing acceptable to REA. The length count and number of faults must be recorded. The information must be retained for a period of 6 months and be available for review by REA when requested.

(ii) The voltages for determining compliance with the requirements of this section are as follows:

AWG	Direct Current Voltages (kilovolts)
19	4.5
22	3.6
24	3.0
26	2.4

(8) Repairs to the conductor insulation during manufacture are permissible. The method of repair must be accepted by REA prior to its use. The repaired insulation must be capable of meeting the relevant electrical requirements of this section.

(9) All repaired sections of insulation must be retested in the same manner as originally tested for compliance with paragraph (b)(7) of this section.

(10) The colored insulating material removed from or tested on the conductor, from a finished cable, must meet the performance requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 3.4.1 through 3.4.6.

(c) *Identification of pairs and twisting of pairs.* (1) The insulation must be colored to identify:

(i) The tip and ring conductor of each pair; and

(ii) Each pair in the completed cable.

(2) The colors to be used in the pairs in the 25 pair group, together with the pair numbers must be in accordance with the table specified in ANSI/ICEA S-84–608–1988, paragraph 3.5.

(3) Positive identification of the tip and ring conductors of each pair by marking each conductor of a pair with the color of its mate is permissible. The method of marking must be accepted by REA prior to its use.

(4) Other methods of providing positive identification of the tip and ring conductors of each pair may be employed if accepted by REA prior to its use.

(5) The insulated conductors must be twisted into pairs.

(6) In order to provide sufficiently high crosstalk isolation, the pair twists must be designed to enable the cable to meet the capacitance unbalance and crosstalk loss requirements of paragraphs (k)(5), (k)(6), and (k)(8) this section.

(7) The average length of pair twists in any pair in the finished cable, when measured on any 3 meter (10 foot) length, must not exceed the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 3.5.

(d) *Forming of the cable core.* (1) Twisted pairs must be assembled in such a way as to form a substantially cylindrical group.

(2) When desired for lay-up reasons, the basic group may be divided into two or more subgroups called units.

(3) Each group, or unit in a particular group, must be enclosed in bindings of the colors indicated for its particular pair count. The pair count, indicated by the colors of insulation, must be consecutive as indicated in paragraph (d)(6) of this section through units in a group.

(4) The filling compound must be applied to the cable core in such a way as to provide as near a completely filled core as is commercially practical.

(5) Threads and tapes used as binders must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 4.2 and 4.2.1.

(6) The colors of the bindings and their significance with respect to pair count must be as follows:

Group No.	Color of Bindings	Group Pair Count
1	White-Blue	1–25
2	White-Orange.	26–50
3	White-Green.	51–75
4	White-Brown.	76–100
5	White-Slate	101–125
6	Red-Blue ..	126–150
7	Red-Orange.	151–175
8	Red-Green	176–200
9	Red-Brown	201–225
10	Red-Slate .	226–250
11	Black-Blue	251–275
12	Black-Orange.	276–300
13	Black-Green.	301–325
14	Black-Brown.	326–350
15	Black-Slate	351–375
16	Yellow-Blue.	376–400
17	Yellow-Orange.	401–425
18	Yellow-Green.	426–450
19	Yellow-Brown.	451–475
20	Yellow-Slate.	476–500
21	Violet-Blue	501–525
22	Violet-Orange.	526–550
23	Violet-Green.	551–575
24	Violet-Brown.	576–600

(7) The use of the white unit binder in cables of 100 pairs or less is optional.

(8) When desired for manufacturing reasons, two or more 25 pair groups may be bound together with nonhygroscopic and nonwicking threads or tapes into a super-unit. Threads or tapes must meet the requirements specified in paragraph (d)(5) of this section. The group binders and the super-unit binders must be color coded such that the combination of the two binders must positively identify each 25 pair group from every other 25 pair group in the cable. Super-unit binders must be of the color shown in the following table:

Super-Unit Binder Colors

Pair Numbers	Binder Color
1–600	White
601–1200	Red
1201–1800	Black
1801–2400	Yellow
2401–3000	Violet
3001–3600	Blue
3601–4200	Orange
4201–4800	Green
4801–5400	Brown
5401–6000	Slate

(9) Color binders must not be missing for more than 90 meters (300 feet) from any 25 pair group or from any subgroup used as part of a super-unit. At any cable cross-section, no adjacent 25 pair groups and no more than one subgroup of any super-unit may have missing binders. In no case must the total number of missing binders exceed three. Missing super-unit binders must not be permitted for any distance.

(10) Any reel of cable which contains missing binders must be labeled indicating the colors and location of the binders involved. The labeling must be applied to the reel and also to the cable.

(e) *Screened cable.* (1) Screened cable must be constructed such that a metallic, internal screen(s) must be provided to separate and provide sufficient isolation between the compartments to meet the requirements of this section.

(2) At the option of the user or manufacturer, identified service pairs providing for voice order and fault location may be placed in screened cables.

(i) The number of service pairs provided must be one per twenty-five operating pairs plus two for a cable size up to and including 400 pairs, subject to a minimum of four service pairs.The pair counts for screened cables are as follows:

Screened Cable Pair Counts

Carrier Pair Count	Service Pairs	Total Pair Count
24	4	28
50	4	54
100	6	106
150	8	158
200	10	210
300	14	314
400	18	418

(ii) The service pairs must be equally divided among the compartments. The color sequence must be repeated in each compartment.

(iii) The electrical and physical characteristics of each service pair must meet all the requirements set forth in this section.

(iv) The colors used for the service pairs must be in accordance with the requirements of paragraph (b)(5) of this section. The color code used for the service pairs together with the service pair number are shown in the following table:

Color Code For Service Pairs

Service Pair No.	Color	
	Tip	Ring
1	White	Red
2	"	Black
3	"	Yellow
4	"	Violet
5	Red	Black
6	"	Yellow
7	"	Violet
8	Black	Yellow
9	"	Violet

(3) The screen tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 5.1 through 5.4.

(4) The screen tape must be tested for dielectric strength by completely removing the protective coating from one end to be used for grounding purposes.

(i) Using an electrode, over a 30 centimeter (1 foot) length, apply a direct current (dc) voltage at the rate of rise of 500 volts/second until failure.

(ii) No breakdown should occur below 8 kilovolts.

(f) *Filling compound.* (1) After or during the stranding operation and prior to application of the core wrap, filling compound must be applied to the cable core. The compound must be as nearly colorless as is commercially feasible and consistent with the end product requirements and pair identification.

(2) The filling compound must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 4.4 through 4.4.4.

(3) The individual cable manufacturer must satisfy REA that the filling compound selected for use is suitable for its intended application. The filling compound must be applied to the cable in such a manner that the cable components will not be degraded.

(g) *Core wrap.* (1) The core wrap must comply with the requirements specified in ANSI/ICEA-S-84–608–1988, paragraph 4.3.

(2) If required for manufacturing reasons, white or colored binders of nonhygroscopic and nonwicking material may be applied over the core and/or wrap. When used, binders must meet the requirements specified in paragraph (d)(5) of this section.

(3) Sufficient filling compound must have been applied to the core wrap so that voids or air spaces existing between the core and the inner side of the core wrap are minimized.

(h) *Flooding compound.* (1) Sufficient flooding compound must be applied on all sheath interfaces so that voids and air spaces in these areas are minimized. When the optional armored design is used, the flooding compound must be applied between the core wrap and shield, between the shield and armor, and between the armor and the jacket so that voids and air spaces in these areas are minimized. The use of floodant over the outer metallic substrate is not required if uniform bonding, per paragraph (i)(7) of this section, is achieved between the plastic-clad metal and the jacket.

(2) The flooding compound must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 4.5 and the jacket slip test requirements of appendix A, paragraph (III)(5) of this section.

(3) The individual cable manufacturer must satisfy REA that the flooding compound selected for use is acceptable for the application.

(i) *Shield and optional armor.* (1) A single corrugated shield must be applied longitudinally over the core wrap.

(2) For unarmored cable the shield overlap must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.2. Core diameter is defined as the diameter under the core wrap and binding.

(3) For cables containing the coated aluminum shield/coated steel armor (CACSP) sheath design, the coated aluminum shield must be applied in accordance with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.2, Dual Tape Shielding System.

(4) General requirements for application of the shielding material are as follows:

(i) Successive lengths of shielding tapes may be joined during the manufacturing process by means of cold weld, electric weld, soldering with a nonacid flux or other acceptable means.

(ii) Shield splices must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.3.

(iii) The corrugations and the application process of the coated aluminum and copper bearing shields must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.1.

(iv) The shielding material must be applied in such a manner as to enable the cable to pass the cold bend test specified in paragraph (l)(3) of this section.

(5) The following is a list of acceptable materials for use as cable shielding. Other types of shielding materials may also be used provided they are accepted by REA prior to their use.

Standard Cable	Gopher Resistant Cable
8-mil Coated Aluminum[1]	10-mil Copper
5-mil Copper	6-mil Copper-Clad Stainless Steel 5 mil Copper-Clad Stainless Steel 5 mil Copper-Clad Alloy Steel 7-mil Alloy 194 6-mil Alloy 194 8-mil Coated Aluminum[1] and 6-mil Coated Steel[1]

[1]Dimensions of uncoated metal.

(i) The 8-mil aluminum tape must be plastic coated on both sides and must comply with the requirements of ANSI/ICEA S-84–608–1988, paragraph 6.2.2.

(ii) The 5-mil copper tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.3.

(iii) The 10-mil copper tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.4.

(iv) The 6-mil copper clad stainless steel tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.5.

(v) The 5-mil copper clad stainless steel tape must be in the fully annealed condition and must conform to the requirements of American Society for Testing and Materials (ASTM) B 694–86, with a cladding ratio of 16/68/16.

(A) The electrical conductivity of the clad tape must be a minimum of 28 percent of the International Annealed Copper Standard (IACS) when measured per ASTM B 193–87.

(B) The tape must be nominally 0.13 millimeter (0.005 inch) thick with a minimum thickness of 0.11 millimeter (0.0045 inch).

(vi) The 5-mil copper clad alloy steel tape must be in the fully annealed condition and the copper component must conform to the requirements of ASTM B 224–80 and the alloy steel component must conform to the requirements of ASTM A 505–87, with a cladding ratio of 16/68/16.

(A) The electrical conductivity of the copper clad alloy steel tape must comply with the requirement specified in (5)(v)(A) of this section.

(B) The thickness of the copper clad alloy steel tape must comply with the requirements specified in (5)(v)(B) of this section.

(vii) The 6-mil and 7-mil 194 copper alloy tapes must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.6.

(6) The corrugation extensibility of the coated aluminum shield must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.4.

(7) When the jacket is bonded to the plastic coated aluminum shield, the bond between the jacket and shield must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.6.

(8) A single plastic coated steel corrugated armor must be applied longitudinally directly over the coated aluminum shield listed in paragraph (i)(5) of this section with an overlap complying with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.2, Outer Steel Tape.

(9) Successive lengths of steel armoring tapes may be joined during the manufacturing process by means of cold weld, electric weld, soldering with a nonacid flux or other acceptable means. Armor splices must comply with the breaking strength and resistance requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.3.

(10) The corrugations and the application process of the coated steel armor must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.1.

(i) The corrugations of the armor tape must coincide with the corrugations of the coated aluminum shield.

(ii) Overlapped portions of the armor tape must be in register (corrugations must coincide at overlap) and in contact at the outer edge.

(11) The armoring material must be so applied to enable the cable to pass the cold bend test specified in paragraph (l)(3) of this section.

(12) The 6-mil steel tape must be electrolytic chrome coated steel (ECCS) plastic coated on both sides and must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.8.

(13) When the jacket is bonded to the plastic coated steel armor, the bond between the jacket and armor must comply with the requirement specified in ANSI/ICEA-S-84–608–1988, paragraph 7.2.6.

(j) *Cable jacket.* (1) The jacket must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.

(2) The raw materials used for the cable jacket must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.1.

(3) Jacketing material removed from or tested on the cable must meet the performance requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 7.2.3 and 7.2.4.

(4) The thickness of the jacket must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.2.

(k) *Electrical requirements*—(1) *Conductor resistance.* The direct current resistance of any conductor in a completed cable and the average resistance of all conductors in a Quality Control Lot must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.1.

(2) *Resistance unbalance.* (i) The direct current resistance unbalance between the two conductors of any pair in a completed cable and the average resistance unbalance of all pairs in a completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.2.

(ii) The resistance unbalance between tip and ring conductors shall be random with respect to the direction of unbalance. That is, the resistance of the tip conductors shall not be consistently higher with respect to the ring conductors and vice versa.

(3) *Mutual capacitance.* The average mutual capacitance of all pairs in a completed cable and the individual mutual capacitance of any pair in a completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.3.

(4) *Capacitance difference.* (i) The capacitance difference for completed cables having 75 pairs or greater must comply with the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 8.4.

(ii) When measuring screened cable, the inner and outer pairs must be selected from both sides of the screen.

(5) *Pair-to-pair capacitance unbalance*—(i) *Pair-to-pair.* The capacitance unbalance as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.5.

(ii) *Screened cable.* In cables with 25 pairs or less and within each group of multigroup cables, the pair-to-pair capacitance unbalance between any two pairs in an individual compartment must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.5. The pair-to-pair capacitance unbalances to be considered must be:

(A) Between pairs adjacent in a layer in an individual compartment;

(B) Between pairs in centers of 4 pairs or less in an individual compartment; and

(C) Between pairs in adjacent layers in an individual compartment when the number of pairs in the inner (smaller) layer is 6 or less. The center is counted as a layer.

(iii) In cables with 25 pairs or less, the root-mean-square (rms) value is to include all the pair-to-pair unbalances measured for each compartment separately.

(iv) In cables containing more than 25 pairs, the rms value must include the pair-to-pair unbalances in the separate compartments.

(6) *Pair-to-ground capacitance unbalance*—(i) *Pair-to-ground.* The capacitance unbalance as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.6.

(ii) When measuring pair-to-ground capacitance unbalance all pairs except the pair under test are grounded to the shield and/or shield/armor except when measuring cables containing super units in which case all other pairs in the same super unit must be grounded to the shield.

(iii) The screen tape must be left floating during the test.

(iv) Pair-to-ground capacitance unbalance may vary directly with the length of the cable.

(7) *Attenuation.* (i) For nonscreened and screened cables, the average attenuation of all pairs on any reel when measured at 150 and 772 kilohertz must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.7, Foam and/or Foam-Skin Column.

(ii) For T1C type cables over 12 pairs, the maximum average attenuation of all pairs on any reel must not exceed the values listed below when measured at a frequency of 1576 kilohertz at or corrected to a temperature of 20 ± 1°C. The test must be conducted in accordance with ASTM D 4566–90.

AWG	Maximum Average Attenuation decibel/kilometer (dB/km) (decibel/mile)
19	14.9 (24.0)
22	21.6 (34.8)
24	27.2 (43.8)

(8) *Crosstalk loss.* (i) The equal level far-end power sum crosstalk loss (FEXT) as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.8, FEXT Table.

(ii) The near-end power sum crosstalk loss (NEXT) as measured on completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.8, NEXT Table.

(iii) *Screened cable.* (A) For screened cables the NEXT as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 8.9 and 8.9.1.

(B) For T1C screened cable the NEXT as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 8.9 and 8.9.2.

(9) *Insulation resistance.* The insulation resistance of each insulated conductor in a completed cable must comply with the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 8.11.

(10) *High voltage test.* (i) In each length of completed cable, the insulation between conductors must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.12, Foam and/or Foam-Skin Column.

(ii) In each length of completed cable, the dielectric between the shield and/or armor and conductors in the core must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.13, Single Jacketed, Foam and/or Foam-Skin Column. In screened cable the screen tape must be left floating.

(iii) *Screened cable.* (A) In each length of completed screened cable, the dielectric between the screen tape and the conductors in the core must comply with the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 8.14.

(B) In this test, the cable shield and/or armor must be left floating.

(11) *Electrical variations.* (i) Pairs in each length of cable having either a ground, cross, short, or open circuit condition will not be permitted.

(ii) The maximum number of pairs in a cable which may vary as specified in paragraph (k)(11)(iii) of this section from the electrical parameters given in this section are listed below. These pairs may be excluded from the arithmetic calculation.

Nominal Pair Count	Maximum Number of Pairs With Allowable Electrical Variation
6–100	1
101–300	2
301–400	3
401–600	4
601 and above	6

(iii) *Parameter variations.* (A) *Capacitance unbalance-to-ground.* If the cable fails either the maximum individual pair or average capacitance unbalance-to-ground requirement and all individual pairs are 3937 picofarad/kilometer (1200 picofarad/1000 feet) or less, the number of pairs specified in paragraph (k)(11)(ii) of this section may be eliminated from the average and maximum individual calculations.

(B) *Resistance unbalance.* Individual pair of 7 percent for all gauges.

(C) *Conductor resistance, maximum.* The following table shows maximum conductor resistance:

AWG	ohms/kilometer	(ohms/1000 feet)
19	29.9	(9.1)
22	60.0	(18.3)
24	94.5	(28.8)
26	151.6	(46.2)

Note: REA recognizes that in large pair count cable (600 pair and above) a cross, short, or open circuit condition occasionally may develop in a pair which does not affect the performance of the other cable pairs. In these circumstances rejection of the entire cable may be economically unsound or repairs may be impractical. In such circumstances the manufacturer may desire to negotiate with the customer for acceptance of the cable. No more than 0.5 percent of the pairs may be involved.

(l) *Mechanical requirements*—(1) *Compound flow test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the compound flow test specified in ANSI/ICEA S-84–608–1988, paragraph 9.1 using a test temperature of 80 ± 1°C.

(2) *Water penetration test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the water penetration test specified in ANSI/ICEA S-84–608–1988, paragraph 9.2.

(3) *Cable cold bend test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the cable cold bend test specified in ANSI/ICEA S-84–608–1988, paragraph 9.3.

(4) *Cable impact test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the cable impact test specified in ANSI/ICEA S-84–608–1988, paragraph 9.4.

(5) *Jacket notch test (CACSP sheath only).* All cables utilizing the coated aluminum/coated steel sheath (CACSP) design manufactured in accordance with the requirements of this section must be capable of meeting the jacket notch test specified in ANSI/ICEA S-84–608–1988, paragraph 9.5.

(6) *Cable torsion test (CACSP sheath only).* All cables utilizing the coated aluminum/coated steel sheath (CACSP) design manufactured in accordance with the requirements of this section must be capable of meeting the cable torsion test specified in ANSI/ICEA S-84–608–1988, paragraph 9.6.

(m) *Sheath slitting cord (optional).* (1) Sheath slitting cord may be used in the cable structure at the option of the manufacturer unless specified by the end user.

(2) When a sheath slitting cord is used it must be nonhygroscopic and nonwicking, continuous throughout a length of cable and of sufficient strength to open the sheath without breaking the cord.

(n) *Identification marker and length marker.* (1) Each length of cable must be identified in accordance with ANSI/ICEA S-84–608–1988, paragraphs 10.1 through 10.1.4. The color of the ink used for the initial outer jacket marking must be either white or silver.

(2) The markings must be printed on the jacket at regular intervals of not more than 0.6 meter (2 feet).

(3) The completed cable must have sequentially numbered length markers in accordance with ANSI/ICEA S-84–608–1988, paragraph 10.1.5. The color of the ink used for the initial outer jacket marking must be either white or silver.

(o) *Preconnectorized cable (optional).* (1) At the option of the manufacturer and upon request by the purchaser, cables 100 pairs and larger may be factory terminated in 25 pair splicing modules.

(2) The splicing modules must meet the requirements of REA Bulletin 345–54, PE-52, REA Specification for Telephone Cable Splicing Connectors (Incorporated by Reference at § 1755.97), and be accepted by REA prior to their use.

(p) *Acceptance testing and extent of testing.* (1) The tests described in appendix A of this section are intended for acceptance of cable designs and major modifications of accepted designs. What constitutes a major modification is at the discretion of REA. These tests are intended to show the inherent capability of the manufacturer to produce cable products having long life and stability.

(2) For initial acceptance, the manufacturer must submit:

(i) An original signature certification that the product fully complies with each section of the specification;

(ii) Qualification Test Data, per appendix A of this section;

(iii) To periodic plant inspections;

(iv) A certification that the product does or does not comply with the domestic origin manufacturing provisions of the "Buy American" requirements of the Rural Electrification Act of 1938 (7 U.S.C. 901 *et seq.*);

(v) Written user testimonials concerning field performance of the product; and

(vi) Other nonproprietary data deemed necessary by the Chief, Outside Plant Branch (Telephone).

(3) For requalification acceptance, the manufacturer must submit an original signature certification that the product fully complies with each section of the specification, excluding the Qualification Section, and a certification that the product does or does not comply with the domestic origin manufacturing provisions of the "Buy American" requirements of the Rural Electrification Act of 1938 (7 U.S.C. 901 *et seq.*), for acceptance by August 30 of each year. The required data must have been gathered within 90 days of the submission. If the initial acceptance of a product to this specification was within 180 days of August 30, then requalification for that product will not be required for that year.

(4) Initial and requalification acceptance requests should be addressed to:

Chairman, Technical Standards Committee "A" (Telephone), Telecommunications Standard Division, Rural Electrification Administration, Washington, DC 20250–1500.

(5) *Tests on 100 percent of completed cable.* (i) The shield and/or armor of each length of cable must be tested for continuity in accordance with ANSI/ICEA S-84–608–1988, paragraph 8.16.

(ii) The screen tape of each length of screened cable must be tested for continuity in accordance with ANSI/ICEA S-84–608–1988, paragraph 8.16.

(iii) Dielectric strength between conductors and shield and/or armor must be tested to determine freedom from grounds in accordance with paragraph (k)(10)(ii) of this section.

(iv) Dielectric strength between conductors and screen tape must be tested to determine freedom from grounds in accordance with paragraph (k)(10)(iii) of this section.

(v) Each conductor in the completed cable must be tested for continuity in accordance with ANSI/ICEA S-84–608–1988, paragraph 8.16.

(vi) Dielectric strength between conductors, in each length of completed cable, must be tested to insure freedom from shorts and crosses in each length of completed cable in accordance with paragraph (k)(10)(i) of this section.

(vii) Each conductor in the completed preconnectorized cable must be tested for continuity.

(viii) Each length of completed preconnectorized cable must be tested for split pairs.

(ix) The average mutual capacitance must be measured on all cables. If the average mutual capacitance for the first 100 pairs tested from randomly selected groups is between 50 and 53 nanofarads/kilometer (nF/km) (80 and 85 nanofarad/mile), the remainder of the pairs need not be tested on the 100 percent basis (See paragraph (k)(3) of this section).

(6) *Capability tests.* Tests on a quality assurance basis must be made as frequently as is required for each manufacturer to determine and maintain compliance with:

(i) Performance requirements for conductor insulation, jacketing material, and filling and flooding compounds;

(ii) Bonding properties of coated or laminated shielding and armoring materials and performance requirements for screen tape;

(iii) Sequential marking and lettering;

(iv) Capacitance difference, capacitance unbalance, crosstalk, and attenuation;

(v) Insulation resistance, conductor resistance, and resistance unbalance;

(vi) Cable cold bend and cable impact tests;

(vii) Water penetration and compound flow tests; and

(viii) Jacket notch and cable torsion tests.

(q) *Summary of records of electrical and physical tests.* (1) Each manufacturer must maintain suitable summary records for a period of at least 3 years of all electrical and physical tests required on completed cable by this section as set forth in paragraphs (p)(5) and (p)(6) of this section. The test data for a particular reel must be in a form that it may be readily available to the purchaser or to REA upon request.

(2) Measurements and computed values must be rounded off to the number of places or figures specified for the requirement according to ANSI/ICEA S-84–608–1988, paragraph 1.3.

(r) *Manufacturing irregularities.* (1) Repairs to the shield and/or armor are not permitted in cable supplied to end users under this section.

(2) Minor defects in jackets (defects having a dimension of 3 millimeters (0.125 inch.) or less in any direction) may be repaired by means of heat fusing in accordance with good commercial practices utilizing sheath grade compounds.

(s) *Preparation for shipment.* (1) The cable must be shipped on reels. The

diameter of the drum must be large enough to prevent damage to the cable from reeling or unreeling. The reels must be substantial and so constructed as to prevent damage to the cable during shipment and handling.

(2) The thermal wrap must comply with the requirements of ANSI/ICEA S-84–608–1988, paragraph 10.3. When a thermal reel wrap is supplied, the wrap must be applied to the reel and must be suitably secured in place to minimize thermal exposure to the cable during storage and shipment. The use of the thermal reel wrap as a means of reel protection will be at the option of the manufacturer unless specified by the end user.

(3) The outer end of the cable must be securely fastened to the reel head so as to prevent the cable from becoming loose in transit. The inner end of the cable must be securely fastened in such a way as to make it readily available if required for electrical testing. Spikes, staples, or other fastening devices which penetrate the cable jacket must not be used. The method of fastening the cable ends must be acceptable to REA and accepted prior to its use.

(4) Each length of cable must be wound on a separate reel unless otherwise specified or agreed to by the purchaser.

(5) The arbor hole must admit a spindle 63 millimeters (2.5 inches) in diameter without binding. Steel arbor hole liners may be used but must be accepted by REA prior to their use.

(6) Each reel must be plainly marked to indicate the direction in which it should be rolled to prevent loosening of the cable on the reel.

(7) Each reel must be stenciled or labeled on either one or both sides with the information specified in ANSI/ICEA S-84–608–1988, paragraph 10.4 and the REA cable designation:

Cable Designation
BFCE
Cable Construction
Pair Count
Conductor Gauge
E = Expanded Insulation
A = Coated Aluminum Shield
C = Copper Shield
Y = Gopher Resistant Shield
X = Armored, Separate Shield
H = T1 Screened Cable
H1C = T1C Screened Cable
P = Preconnectorized

Example: BFCEXH100–22

Buried Filled Cable, Expanded Insulation, Armored (w/separate shield), T1 Screened Cable, 100 pair, 22 AWG.

(8) When cable manufactured to the requirements of this specification is shipped, both ends must be equipped with end caps acceptable to REA.

(9) When preconnectorized cables are shipped, the splicing modules must be protected to prevent damage during shipment and handling. The protection method must be acceptable to REA and accepted prior to its use.

(10) All cables ordered for use in underground duct applications must be equipped with a factory-installed pulling-eye on the outer end in accordance with ANSI/ICEA S-84–608–1988, paragraph 10.5.2.

(The information and recordkeeping requirements of this section have been approved by the Office of Management and Budget (OMB) under the Control Number 0572–0077.)

Appendix A to 7 CFR 1755.890—Qualification Test Methods

(I) The test procedures described in this appendix are for qualification of initial cable designs and major modifications of accepted designs. Included in (V) of this appendix are suggested formats that may to be used in submitting test results to REA.

(II) *Sample selection and preparation.* (1) All testing must be performed on lengths removed sequentially from the same 25 pair, 22 gauge jacketed cable. This cable must not have been exposed to temperatures in excess of 38°C since its initial cool down after sheathing. The lengths specified are minimum lengths and if desirable from a laboratory testing standpoint longer lengths may be used.

(a) Length A must be 10 ± 0.2 meters (33 ± 0.5 feet) long and must be maintained at 23 ± 3°C. One length is required.

(b) Length B must be 12 ± 0.2 meters (40 ± 0.5 feet) long. Prepare the test sample by removing the jacket, shield or shield/armor, and core wrap for a sufficient distance on both ends to allow the insulated conductors to be flared out. Remove sufficient conductor insulation so that appropriate electrical test connections can be made at both ends. Coil the sample with a diameter of 15 to 20 times its sheath diameter. Three lengths are required.

(c) Length C must be one meter (3 feet) long. Four lengths are required.

(d) Length D must be 300 millimeters (1 foot) long. Four lengths are required.

(e) Length E must be 600 millimeters (2 feet) long. Four lengths are required.

(f) Length F must be 3 meters (10 feet) long and must be maintained at 23 ± 3°C for the duration of the test. Two lengths are required.

(2) *Data reference temperature.* Unless otherwise specified, all measurements must be made at 23 ± 3°C.

(III) *Environmental tests*—(1) *Heat aging test*—(a) *Test samples.* Place one sample each of lengths B, C, D, and E in an oven or environmental chamber. The ends of Sample B must exit from the chamber or oven for electrical tests. Securely seal the oven exit holes.

(b) *Sequence of tests.* The samples are to be subjected to the following tests after conditioning:

(i) Water Immersion Test outlined in (III)(2) of this appendix;

(ii) Water Penetration Test outlined in (III)(3) of this appendix;

(iii) Insulation Compression Test outlined in (III)(4) of this appendix; and

(iv) Jacket Slip Strength Test outlined in (III)(5) of this appendix.

(c) *Initial Measurements.* (i) For Sample B measure the open circuit capacitance for each odd numbered pair at 1, 150, and 772 kilohertz, and the attenuation at 150 and 772 kilohertz after conditioning the sample at the data reference temperature for 24 hours. Calculate the average and standard deviation for the data of the 13 pairs on a per kilometer or (on a per mile) basis.

(ii) The attenuation at 150 and 772 kilohertz may be calculated from open circuit admittance (Yoc) and short circuit impedance (Zsc) or may be obtained by direct measurement of attenuation.

(iii) Record on suggested formats in (V) of this appendix or on other easily readable formats.

(d) *Heat conditioning.* (i) Immediately after completing the initial measurements, condition the sample for 14 days at a temperature of 65 ± 2°C.

(ii) At the end of this period note any exudation of cable filler. Measure and calculate the parameters given in (III)(1)(c) of this appendix. Record on suggested formats in (V) of this appendix or other easily readable formats.

(iii) Cut away and discard a one meter (3 foot) section from each end of length B.

(e) *Overall electrical deviation.* (i) Calculate the percent change in all average parameters between the final parameters after conditioning and the initial parameters in (III)(1)(c) of this appendix.

(ii) The stability of the electrical parameters after completion of this test must be within the following prescribed limits:

(A) *Capacitance.* The average mutual capacitance must be within 5 percent of its original value;

(B) The change in average mutual capacitance must be less than 5 percent over frequency 1 to 150 kilohertz; and

(C) *Attenuation.* The 150 and 772 kilohertz attenuation must not have increased by more than 5 percent over their original values.

(2) *Water immersion electrical test*—(a) *Test sample selection.* The 10 meter (33 foot) section of length B must be tested.

(b) *Test sample preparation.* Prepare the sample by removing the jacket, shield or shield/armor, and core wrap for sufficient distance to allow one end to be accessed for test connections. Cut out a series of 6 millimeter (0.25 inch.) diameter holes along the test sample, at 30 centimeters (1 foot) intervals progressing successively 90 degrees around the circumference of the cable. Assure that the cable core is exposed at each hole by slitting the core wrapper. Place the prepared sample in a dry vessel which when filled will maintain a one meter (3 foot) head of water over 6 meters (20 feet) of uncoiled cable. Extend and fasten the ends of the cable so they will be above the water line and the pairs are rigidly held for the duration of the test.

(c) *Capacitance testing.* Measure the initial values of mutual capacitance of all odd pairs in each cable at a frequency of 1 kilohertz

before filling the vessel with water. Be sure the cable shield or shield/armor is grounded to the test equipment. Fill the vessels until there is a one meter (3 foot) head of water on the cables.

(i) Remeasure the mutual capacitance after the cables have been submerged for 24 hours and again after 30 days.

(ii) Record each sample separately on suggested formats attached or on other easily readable formats.

(d) *Overall electrical deviation.* (i) Calculate the percent change in all average parameters between the final parameters after conditioning with the initial parameters in (III)(2)(c) of this appendix.

(ii) The average mutual capacitance must be within 5 percent of its original value.

(3) *Water penetration testing.* (a) A watertight closure must be placed over the jacket of length C. The closure must not be placed over the jacket so tightly that the flow of water through pre-existing voids of air spaces is restricted. The other end of the sample must remain open.

(b) Test per Option A or Option B—(i) *Option A.* Weigh the sample and closure prior to testing. Fill the closure with water and place under a continuous pressure of 10 ± 0.7 kilopascals (1.5 ± 0.1 pounds per square inch gauge) for one hour. Collect the water leakage from the end of the test sample during the test and weigh to the nearest 0.1 gram. Immediately after the one hour test, seal the ends of the cable with a thin layer of grease and remove all visible water from the closure, being careful not to remove water that penetrated into the core during the test. Reweigh the sample and determine the weight of water that penetrated into the core. The weight of water that penetrated into the core must not exceed 6 grams.

(ii) *Option B.* Fill the closure with a 0.2 gram sodium fluorscein per liter water solution and apply a continuous pressure 10 ± 0.7 kilopascals (1.5 ± 0.1 pounds per square inch gauge) for one hour. Catch and weigh any water that leaks from the end of the cable during the one hour period. If no water leaks from the sample, carefully remove the water from the closure. Then carefully remove the jacket, shield or shield/ armor, and core wrap one at a time, examining with an ultraviolet light source for water penetration. After removal of the core wrap, carefully dissect the core and examine for water penetration within the core. Where water penetration is observed, measure the penetration distance. The distance of water penetration into the core must not exceed 127 millimeters (5.0 inches).

(4) *Insulation compression test*—(a) *Test sample D.* Remove jacket, shield or shield/ armor, and core wrap being careful not to damage the conductor insulation. Remove one pair from the core and carefully separate, wipe off core filler and straighten the insulated conductors. Retwist the two insulated conductors together under sufficient tension to form 10 evenly spaced 360 degree twists in a length of 10 centimeters (4 inches).

(b) *Sample testing.* Center the mid 50 millimeters (2 inches) of the twisted pair between 2 smooth rigid parallel metal plates that are 50 millimeters × 50 millimeters (2 inches × 2 inches). Apply a 1.5 volt direct current potential between the conductors, using a light or buzzer to indicate electrical contact between the conductors. Apply a constant load of 67 newtons (15 pound-force) on the sample for one minute and monitor for evidence of contact between the conductors. Record results on suggested formats in (V) of this appendix or on other easily readable formats.

(5) *Jacket slip strength test*—(a) *Sample selection.* Test Sample E from (III)(1)(a) of this appendix.

(b) *Sample preparation.* Prepare test sample in accordance with the procedures specified in ASTM D 4565–90a.

(c) *Sample conditioning and testing.* Remove the sample from the tensile tester prior to testing and condition for one hour at 50 ± 2°C. Test immediately in accordance with the procedures specified in ASTM D 4565–90a. A minimum jacket slip strength of 67 newtons (15 pound-force) is required. Record the highest load attained.

(6) *Humidity exposure.* (a) Repeat steps (III)(1)(a) through (III)(1)(c)(iii) of this appendix for separate set of samples B, C, D, and E which have not been subjected to prior environmental conditioning.

(b) Immediately after completing the measurements, expose the test sample to 100 temperature cyclings. Relative humidity within the chamber must be maintained at 90 ± 2 percent. One cycle consists of beginning at a stabilized chamber and test sample temperature of 52 ± 1°C, increasing the temperature to 57 ± 1°C, allowing the chamber and test samples to stabilize at this level, then dropping the temperature back to 52 ± 1°C.

(c) Repeat steps (III)(1)(d)(ii) through (III)(5)(c) of this appendix.

(7) *Temperature cycling.* (a) Repeat steps (III)(1)(a) through (III)(1)(c)(iii) of this appendix for separate set of samples B, C, D, and E which have not been subjected to prior environmental conditioning.

(b) Immediately after completing the measurements, subject the test sample to the 10 cycles of temperature between a minimum of −40°C and +60°C. The test sample must be held at each temperature extreme for a minimum of 1 1/2 hours during each cycle of temperature. The air within the temperature cycling chamber must be circulated throughout the duration of the cycling.

(c) Repeat steps (III)(1)(d)(ii) through (III)(5)(c) of this appendix.

(IV) *Control sample*—(1) *Test samples.* A separate set of lengths A, C, D, E, and F must have been maintained at 23 ± 3°C for at least 48 hours before the testing.

(2) Repeat steps (III)(2) through (III)(5)(c) of this appendix except use length A instead of length B.

(3) *Surge test.* (a) One length of sample F must be used to measure the breakdown between conductors while the other length of F must be used to measure the core to shield breakdown.

(b) The samples must be capable of withstanding without damage, a single surge voltage of 15 kilovolts peak between conductors, and a 25 kilovolts peak surge voltage between conductors and the shield or shield/armor as hereinafter described. The surge voltage must be developed from a capacitor discharged through a forming resistor connected in parallel with the dielectric of the test sample. The surge generator constants must be such as to produce a surge of 1.5 × 40 microsecond wave shape.

(c) The shape of the generated wave must be determined at a reduced voltage by connecting an oscilloscope across the forming resistor with the cable sample connected in parallel with the forming resistor. The capacitor bank is charged to the test voltage and then discharged through the forming resistor and test sample. The test sample will be considered to have passed the test if there is no distinct change in the wave shape obtained with the initial reduced voltage compared to that obtained after the application of the test voltage.

(V) The following suggested formats may be used in submitting the test results to REA:

Environmental Conditioning_____

FREQUENCY 1 KILOHERTZ

Pair Number	Capacitance nF/km (nanofarad/mile)	
	Initial	Final
1		
3		
5		
7		
9		
11		
13		
15		
17		
19		
21		
23		
25		
Average $\bar{x}$		

Overall Percent Difference in Average $\bar{x}$ _____

Environmental Conditioning_____

FREQUENCY 150 KILOHERTZ

Pair Number	Capacitance nF/km (nanofarad/mile)		Attenuation dB/km (decibel/mile)	
	Initial	Final	Initial	Final
1				
3				
5				
7				
9				
11				
13				
15				
17				
19				
21				
23				
25				
Average $\bar{x}$				

Overall Percent Difference in Average $\bar{x}$
Capacitance:_____
Conductance:_____

Environmental Conditioning_____

FREQUENCY 772 KILOHERTZ

Pair Number	Capacitance nF/km (nanofarad/mile)		Attenuation dB/km (decibel/mile)	
	Initial	Final	Initial	Final
1				
3				
5				
7				
9				
11				
13				
15				
17				
19				
21				
23				
25				
Average $\bar{x}$				

Overall Percent Difference in Average $\bar{x}$
Capacitance:_____
Conductance:_____

Environmental Conditioning_____

WATER IMMERSION TEST (1 KILOHERTZ)

Pair Number	Capacitance nF/km (nanofarad/mile)		
	Initial	24 Hours	Final
1			
3			
5			
7			
9			
11			
13			
15			
17			
19			
21			
23			
25			
Average $\bar{x}$			

Overall Percent Difference in Average $\bar{x}$
_____

Water Penetration Test

	Option A		Option B	
	End Leakage grams	Weight Gain grams	End Leakage grams	Penetration mm (in.)
Control.				
Heat Age.				
Humidity Exposure.				
Temperature Cycling.				

Insulation Compression

	Failures
Control	
Heat Age	
Humidity Exposure	
Temperature Cycling	

Jacket Slip Strength @ 50°C

	Load in newtons (pound-force)
Control	
Heat Age	
Humidity Exposure	
Temperature Cycling	

Filler Exudation (grams)

Heat Age _____

Filler Exudation (grams)—Continued

Humidity Exposure _____
Temperature Cycling _____

Surge Test (kilovolts)

Conductor to Conductor. _____
Shield to Conductors _____

Dated: May 5, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93–11894 Filed 5–19–93; 8:45 am]

BILLING CODE 3410–15–F

7 CFR Part 1755

RIN 0572-AA55

REA Specification for Filled Telephone Cables

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) amends its regulations on Telecommunications Standards and Specifications for Materials, Equipment and Construction, by rescinding REA Bulletin 345–67, REA Specification for Filled Telephone Cables, PE–39, and codifying this specification. This revised specification updates the end product performance requirements of filled cables brought about through technological advancements made during the last two years.

EFFECTIVE DATE: June 21, 1993. Incorporation by reference of certain publications listed in this final rule is approved by the Director of the Federal Register as of June 21, 1993.

FOR FURTHER INFORMATION CONTACT: Garnett G. Adams, Chief, Outside Plant Branch, Telecommunications Standards Division, Rural Electrification Administration, room 2844, South Building, U.S. Department of Agriculture, Washington, DC 20250–1500, telephone number (202) 720–0667.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this final rule will not: (1) Preempt any State or local laws, regulations, or policies; (2) Have any retroactive effect; and (3) Require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This final rule involves standards and specifications, which may increase the direct short-term costs to the REA borrower. However, the long-term direct economic costs are reduced through greater durability and lower maintenance cost over time.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implements the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and section 3504 of that Act, information collection and recordkeeping requirements contained in this final rule have been approved by OMB under control number 0572–0077 which expires on January 31, 1994. Comments concerning these requirements should be directed to the Office of Information and Regulator Affairs of OMB, Attention: Desk Officer for USDA, room 3201, New Executive Office Building, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator of REA, has determined that this final rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this final rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and No. 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Executive Order 12372

This final rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation that requires intergovernmental consultation with state and local officials. A Notice of Final rule titled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA and RTB loans and loan guarantees, and RTB bank loans, to governmental and nongovernmental entities from coverage under this Order.

Background

REA issues publications titled "Bulletin" which serve to guide borrowers regarding already codified policy, procedures, and requirements needed to manage loans, loan guarantee programs, and the security instruments which provide for and secure REA financing. REA issues standards and specifications for the construction of telephone facilities financed with REA loan funds. REA is rescinding Bulletin 345–67, REA Specification for Filled Telephone Cables, PE–39, and codifying this specification at 7 CFR 1755.390, REA Specification for Filled Telephone Cables.

The American National Standard Institute (ANSI) and the Insulated Cable Engineers Association (ICEA) are scientific and technical organizations formed for the development of standards on characteristics and performance of materials, products, systems, and services. An ANSI/ICEA standard represents a common viewpoint of those parties concerned with its provisions; namely producers, users and general interest groups. The standard is intended to aid industry, government agencies, and the general public.

It is REA policy to use the standards, rules, and regulations of such engineering and standards groups as ANSI, the ICEA, the American Society for Testing and Materials (ASTM), and the various national engineering societies, and such references as the National Electrical Safety Code (NESC) and the National Electrical Code (NEC), to the greatest extent practicable as determined by REA. REA is also guided by OMB Circular No. A-119, Federal Participation in the Development and Use of Voluntary Standards in its activities. In the absence of national standards, or where REA determines that existing national standards are not satisfactory, standards will be prepared for material and equipment as necessary.

On September 10, 1991, REA published a proposed rule (56 FR 46132) to rescind REA Bulletin 345–67, REA Specification for Filled Telephone Cables, PE–39, and to incorporate by reference a new Bulletin 1753F–205(PE–39). Comments on this proposed rule were due by October 10, 1991. No comments were received by this due date. Subsequently REA has determined that the public interest is better served by codifying the revised specification rather than incorporation by reference.

Additionally REA has determined that by codifying the revised specification, borrowers will be provided with the opportunity to increase subscriber services through enhanced cable designs brought about through technological advancements made during the last two years in an economical and efficient manner. This specification will also allow cable manufacturers to reduce their production costs by providing one uniform cable design to both REA and non-REA telephone companies which presently is not being done today. This reduction in manufacturing costs will result in lower cable costs for borrowers without any degradation in cable performance.

List of Subjects in 7 CFR Part 1755

Incorporation by reference, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set out in the preamble, REA amends 7 CFR part 1755 as follows:

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION

1. The authority citation for Part 1755 is revised to read as follows:

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

§ 1755.97 [Amended]

2. Section 1755.97 is amended by removing the entry REA Bulletin No. 345–67 from the table.

3. Section 1755.390 is added to read as follows:

§ 1755.390 REA specification for filled telephone cables.

(a) *Scope.* (1) This section covers the requirements for filled telephone cables intended for direct burial installation either by trenching or by direct plowing, for underground application by placement in a duct, or for aerial installations by attachment to a support strand.

(i) The conductors are solid copper, individually insulated with an extruded solid insulating compound.

(ii) The insulated conductors are twisted into pairs which are then stranded or oscillated to form a cylindrical core.

(iii) For high frequency applications, the cable core may be separated into compartments with screening shields.

(iv) A moisture resistant filling compound is applied to the stranded conductors completely covering the insulated conductors and filling the interstices between pairs and units.

(v) The cable structure is completed by the application of suitable core wrapping material, a flooding compound, a shield or a shield/armor, and an overall plastic jacket.

(2) The number of pairs and gauge size of conductors which are used within the REA program are provided in the following table:

AWG	19	22	24	26
Pairs	6	6	6	
	12	12	12	
	18	18	18	
	25	25	25	25
		50	50	50
		75	75	75
		100	100	100
		150	150	150
		200	200	200
		300	300	300
		400	400	400
			600	600
				900

Note: Cables larger in pair sizes than those shown in this table must meet all requirements of this section.

(3) Screened cable, when specified, must meet all requirements of this section. The pair sizes of screened cables used within the REA program are referenced in paragraph (e)(2)(i) of this section.

(4) All cables sold to REA borrowers for projects involving REA loan funds under this section must be accepted by REA Technical Standards Committee "A" (Telephone). For cables manufactured to the specification of this section, all design changes to an accepted design must be submitted for acceptance. REA will be the sole authority on what constitutes a design change.

(5) Materials, manufacturing techniques, or cable designs not specifically addressed by this section may be allowed if accepted by REA. Justification for acceptance of modified materials, manufacturing techniques, or cable designs must be provided to substantiate product utility and long-term stability and endurance.

(6) The American National Standard Institute/Insulated Cable Engineers Association, Inc. (ANSI/ICEA) S-84–608–1988 Standard For Telecommunications Cable, Filled, Polyolefin Insulated, Copper Conductor Technical Requirements referenced throughout this section is incorporated by reference by REA. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of ANSI/ICEA S-84–608–1988 are available for inspection during normal business hours at REA, room 2845, U.S. Department of Agriculture, Washington, DC 20250 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies are available from ICEA, P. O. Box 440, South Yarmouth, MA 02664, telephone number (508) 394–4424.

(7) American Society for Testing and Materials specifications (ASTM) A 505-87, Standard Specification for Steel, Sheet and Strip, Alloy, Hot-Rolled and Cold-Rolled, General Requirements For; ASTM B 193-87, Standard Test Method for Resistivity of Electrical Conductor Materials; ASTM B 224-80, Standard Classification of Coppers; ASTM B 694-86, Standard Specification for Copper, Copper Alloy, and Copper-Clad Stainless Steel Sheet and Strip for Electrical Cable Shielding; ASTM D 4565-90a, Standard Test Methods for Physical and Environmental Performance Properties of Insulations and Jackets for Telecommunications Wire and Cable; and ASTM D 4566-90, Standard Test Methods for Electrical Performance Properties of Insulations and Jackets for Telecommunications Wire and Cable referenced in this section are incorporated by reference by REA. These incorporations by references were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the ASTM standards are available for inspection during normal business hours at REA, room 2845, U.S. Department of Agriculture, Washington, DC 20250 or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Copies are available from ASTM, 1916 Race Street, Philadelphia, PA 19103–1187, telephone number (215) 299–5585.

(b) *Conductors and conductor insulation.* (1) The gauge sizes of the copper conductors covered by this specification must be 19, 22, 24, and 26 American Wire Gauge (AWG).

(2) Each conductor must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 2.1.

(3) Factory joints made in conductors during the manufacturing process must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 2.2.

(4) The raw materials used for conductor insulation must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 3.1 through 3.1.3.

(5) The finished conductor insulation must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 3.2.1 and 3.3.

(6) Insulated conductors must not have an overall diameter greater than 2 millimeters (mm) (0.081 inch (in.)).

(7) A permissible overall performance level of faults in conductor insulation must average not greater than one fault per 12,000 conductor meters (40,000 conductor feet) for each gauge of conductor.

(i) All insulated conductors must be continuously tested for insulation faults during the twinning operation with a method of testing acceptable to REA. The length count and number of faults must be recorded. The information must be retained for a period of 6 months and be available for review by REA when requested.

(ii) The voltages for determining compliance with the requirements of this section are as follows:

AWG	Direct Current Voltages (kilovolts)
19	8.0
22	6.0
24	5.0
26	4.0

(8) Repairs to the conductor insulation during manufacture are permissible. The method of repair must be accepted by REA prior to its use. The

repaired insulation must be capable of meeting the relevant electrical requirements of this section.

(9) All repaired sections of insulation must be retested in the same manner as originally tested for compliance with paragraph (b)(7) of this section.

(10) The colored insulating material removed from or tested on the conductor, from a finished cable, must meet the performance requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 3.4.1, 3.4.2, 3.4.4, 3.4.5, and 3.4.6.

(c) *Identification of pairs and twisting of pairs.* (1) The insulation must be colored to identify:

(i) The tip and ring conductor of each pair; and

(ii) Each pair in the completed cable.

(2) The colors to be used in the pairs in the 25 pair group, together with the pair numbers must be in accordance with the table specified in ANSI/ICEA S-84–608–1988, paragraph 3.5.

(3) Positive identification of the tip and ring conductors of each pair by marking each conductor of a pair with the color of its mate is permissible. The method of marking must be accepted by REA prior to its use.

(4) Other methods of providing positive identification of the tip and ring conductors of each pair may be employed if accepted by REA prior to its use.

(5) The insulated conductors must be twisted into pairs.

(6) In order to provide sufficiently high crosstalk isolation, the pair twists must be designed to enable the cable to meet the capacitance unbalance and crosstalk loss requirements of paragraphs (k)(5), (k)(6), and (k)(8) of this section.

(7) The average length of pair twists in any pair in the finished cable, when measured on any 3 meter (10 foot) length, must not exceed the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 3.5.

(d) *Forming of the cable core.* (1) Twisted pairs must be assembled in such a way as to form a substantially cylindrical group.

(2) When desired for lay-up reasons, the basic group may be divided into two or more subgroups called units.

(3) Each group, or unit in a particular group, must be enclosed in bindings of the colors indicated for its particular pair count. The pair count, indicated by the colors of insulation, must be consecutive as indicated in paragraph (d)(6) of this section through units in a group.

(4) The filling compound must be applied to the cable core in such a way as to provide as near a completely filled core as is commercially practical.

(5) Threads and tapes used as binders must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 4.2 and 4.2.1.

(6) The colors of the bindings and their significance with respect to pair count must be as follows:

Group No.	Color of Bindings	Group Pair Count
1	White-Blue	1–25
2	White-Orange.	26–50
3	White-Green.	51–75
4	White-Brown.	76–100
5	White-Slate	101–125
6	Red-Blue ..	126–150
7	Red-Orange.	151–175
8	Red-Green	176–200
9	Red-Brown	201–225
10	Red-Slate .	226–250
11	Black-Blue	251–275
12	Black-Orange.	276–300
13	Black-Green.	301–325
14	Black-Brown.	326–350
15	Black-Slate	351–375
16	Yellow-Blue.	376–400
17	Yellow-Orange.	401–425
18	Yellow-Green.	426–450
19	Yellow-Brown.	451–475
20	Yellow-Slate.	476–500
21	Violet-Blue	501–525
22	Violet-Orange.	526–550
23	Violet-Green.	551–575
24	Violet-Brown.	576–600

(7) The use of the white unit binder in cables of 100 pairs or less is optional.

(8) When desired for manufacturing reasons, two or more 25 pair groups may be bound together with nonhygroscopic and nonwicking threads or tapes into a super-unit. Threads or tapes must meet the requirements specified in paragraph (d)(5) of this section. The group binders and the super-unit binders must be color coded such that the combination of the two binders must positively identify each 25 pair group from every other 25 pair group in the cable. Super-unit binders must be of the color shown in the following table:

Super-Unit Binder Colors

Pair Numbers	Binder Color
1–600	White
601–1200	Red
1201–1800	Black
1801–2400	Yellow
2401–3000	Violet

(9) Color binders must not be missing for more than 90 meters (300 feet) from any 25 pair group or from any subgroup used as part of a super-unit. At any cable cross-section, no adjacent 25 pair groups and no more than one subgroup of any super-unit may have missing binders. In no case must the total number of missing binders exceed three. Missing super-unit binders must not be permitted for any distance.

(10) Any reel of cable which contains missing binders must be labeled indicating the colors and location of the binders involved. The labeling must be applied to the reel and also to the cable.

(e) *Screened cable.* (1) Screened cable must be constructed such that a metallic, internal screen(s) must be provided to separate and provide sufficient isolation between the compartments to meet the requirements of this section.

(2) At the option of the user or manufacturer, identified service pairs providing for voice order and fault location may be placed in screened cables.

(i) The number of service pairs provided must be one per twenty-five operating pairs plus two for a cable size up to and including 400 pairs, subject to a minimum of four service pairs. The pair counts for screened cables are as follows:

Screened Cable Pair Counts

Carrier Pair Count	Service Pairs	Total Pair Count
24	4	28
50	4	54
100	6	106
150	8	158
200	10	210
300	14	314
400	18	418

(ii) The service pairs must be equally divided among the compartments. The color sequence must be repeated in each compartment.

(iii) The electrical and physical characteristics of each service pair must meet all the requirements set forth in this section.

(iv) The colors used for the service pairs must be in accordance with the requirements of paragraph (b)(5) of this section. The color code used for the

service pairs together with the service pair number are shown in the following table:

Color Code For Service Pairs

Service Pair No.	Color	
	Tip	Ring
1	White	Red
2	"	Black
3	"	Yellow
4	"	Violet
5	Red	Black
6	"	Yellow
7	"	Violet
8	Black	Yellow
9	"	Violet

(3) The screen tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 5.1 through 5.4.

(4) The screen tape must be tested for dielectric strength by completely removing the protective coating from one end to be used for grounding purposes.

(i) Using an electrode, over a 30 centimeter (1 foot) length, apply a direct current voltage at the rate of rise of 500 volts/second until failure.

(ii) No breakdown should occur below 8 kilovolts.

(f) *Filling compound.* (1) After or during the stranding operation and prior to application of the core wrap, filling compound must be applied to the cable core. The compound must be as nearly colorless as is commercially feasible and consistent with the end product requirements and pair identification.

(2) The filling compound must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 4.4 through 4.4.4.

(3) The individual cable manufacturer must satisfy REA that the filling compound selected for use is suitable for its intended application. The filling compound must be applied to the cable in such a manner that the cable components will not be degraded.

(g) *Core wrap.* (1) The core wrap must comply with the requirements specified in ANSI/ICEA-S-84–608–1988, paragraph 4.3.

(2) If required for manufacturing reasons, white or colored binders of nonhygroscopic and nonwicking material may be applied over the core and/or wrap. When used, binders must meet the requirements specified in paragraph (d)(5) of this section.

(3) Sufficient filling compound must be applied to the core wrap so that voids or air spaces existing between the core and the inner side of the core wrap are minimized.

(h) *Flooding compound* (1) Sufficient flooding compound must be applied on all sheath interfaces so that voids and air spaces in these areas are minimized. When the optional armored design is used, the flooding compound must be applied between the core wrap and shield, between the shield and armor, and between the armor and the jacket so that voids and air spaces in these areas are minimized. The use of floodant over the outer metallic substrate is not required if uniform bonding, per paragraph (i)(7) of this section, is achieved between the plastic-clad metal and the jacket.

(2) The flooding compound must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 4.5 and the jacket slip test requirements of appendix A, paragraph (III)(5) of this section.

(3) The individual cable manufacturer must satisfy REA that the flooding compound selected for use is acceptable for the application.

(i) *Shield and optional armor* (1) A single corrugated shield must be applied longitudinally over the core wrap.

(2) For unarmored cable the shield overlap must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.2. Core diameter is defined as the diameter under the core wrap and binding.

(3) For cables containing the coated aluminum shield/coated steel armor (CACSP) sheath design, the coated aluminum shield must be applied in accordance with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.2, Dual Tape Shielding System.

(4) General requirements for application of the shielding material are as follows:

(i) Successive lengths of shielding tapes may be joined during the manufacturing process by means of cold weld, electric weld, soldering with a nonacid flux, or other acceptable means.

(ii) Shield splices must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.3.

(iii) The corrugations and the application process of the coated aluminum and copper bearing shields must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.1.

(iv) The shielding material must be applied in such a manner as to enable the cable to pass the cold bend test specified in paragraph (l)(3) of this section.

(5) The following is a list of acceptable materials for use as cable shielding. Other types of shielding materials may also be used provided they are accepted by REA prior to their use.

Standard Cable	Gopher Resistant Cable
8-mil Coated Aluminum[1]	10-mil Copper
5-mil Copper	6-mil Copper-Clad Stainless Steel
	5 mil Copper-Clad Stainless Steel
	5 mil Copper-Clad Alloy Steel
	7-mil Alloy 194
	6-mil Alloy 194
	8-mil Coated Aluminum[1] and 6-mil Coated Steel[1]

[1]Dimensions of uncoated metal

(i) The 8-mil aluminum tape must be plastic coated on both sides and must comply with the requirements of ANSI/ICEA S-84–608–1988, paragraph 6.2.2.

(ii) The 5-mil copper tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.3.

(iii) The 10-mil copper tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.4.

(iv) The 6-mil copper clad stainless steel tape must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.5.

(v) The 5-mil copper clad stainless steel tape must be in the fully annealed condition and must conform to the requirements of American Society for Testing and Materials (ASTM) B 694–86, with a cladding ratio of 16/68/16.

(A) The electrical conductivity of the clad tape must be a minimum of 28 percent of the International Annealed Copper Standard (IACS) when measured per ASTM B 193–87.

(B) The tape must be nominally 0.13 millimeter (0.005 inch) thick with a minimum thickness of 0.11 millimeter (0.0045 inch).

(vi) The 5-mil copper clad alloy steel tape must be in the fully annealed condition and the copper component must conform to the requirements of ASTM B 224–80 and the alloy steel component must conform to the requirements of ASTM A 505–87, with a cladding ratio of 16/68/16.

(A) The electrical conductivity of the copper clad alloy steel tape must comply with the requirement specified in paragraph (i)(5)(v)(A) of this section.

(B) The thickness of the copper clad alloy steel tape must comply with the requirements specified in paragraph (i)(5)(v)(B) of this section.

(vii) The 6-mil and 7-mil 194 copper alloy tapes must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.6.

(6) The corrugation extensibility of the coated aluminum shield must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.4.

(7) When the jacket is bonded to the plastic coated aluminum shield, the bond between the jacket and shield must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.6.

(8) A single plastic-coated steel corrugated armor must be applied longitudinally directly over the coated aluminum shield listed in paragraph (i)(5) of this section with an overlap complying with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.2, Outer Steel Tape.

(9) Successive lengths of steel armoring tapes may be joined during the manufacturing process by means of cold weld, electric weld, soldering with a nonacid flux, or other acceptable means. Armor splices must comply with the breaking strength and resistance requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.3.

(10) The corrugations and the application process of the coated steel armor must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.3.1.

(i) The corrugations of the armor tape must coincide with the corrugations of the coated aluminum shield.

(ii) Overlapped portions of the armor tape must be in register (corrugations must coincide at overlap) and in contact at the outer edge.

(11) The armoring material must be so applied to enable the cable to pass the cold bend test as specified in paragraph (l)(3) of this section.

(12) The 6-mil steel tape must be electrolytic chrome-coated steel (ECCS) plastic coated on both sides and must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 6.2.8.

(13) When the jacket is bonded to the plastic-coated steel armor, the bond between the jacket and armor must comply with the requirement specified in ANSI/ICEA-S-84–608–1988, paragraph 7.2.6.

(j) *Cable jacket.* (1) The jacket must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.

(2) The raw materials used for the cable jacket must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.1.

(3) Jacketing material removed from or tested on the cable must meet the performance requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 7.2.3 and 7.2.4.

(4) The thickness of the jacket must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 7.2.2.

(k) *Electrical requirements*—(1) *Conductor resistance.* The direct current resistance of any conductor in a completed cable and the average resistance of all conductors in a Quality Control Lot must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.1.

(2) *Resistance unbalance.* (i) The direct current resistance unbalance between the two conductors of any pair in a completed cable and the average resistance unbalance of all pairs in a completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.2.

(ii) The resistance unbalance between tip and ring conductors shall be random with respect to the direction of unbalance. That is, the resistance of the tip conductors shall not be consistently higher with respect to the ring conductors and vice versa.

(3) *Mutual capacitance.* The average mutual capacitance of all pairs in a completed cable and the individual mutual capacitance of any pair in a completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.3.

(4) *Capacitance difference.* (i) The capacitance difference for completed cables having 75 pairs or greater must comply with the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 8.4.

(ii) When measuring screened cable, the inner and outer pairs must be selected from both sides of the screen.

(5) *Pair-to-pair capacitance unbalance*—(i) *Pair-to-pair.* The capacitance unbalance as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.5.

(ii) *Screened cable.* In cables with 25 pairs or less and within each group of multigroup cables, the pair-to-pair capacitance unbalance between any two pairs in an individual compartment must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.5. The pair-to-pair capacitance unbalances to be considered must be:

(A) Between pairs adjacent in a layer in an individual compartment;

(B) Between pairs in centers of 4 pairs or less in an individual compartment; and

(C) Between pairs in adjacent layers in an individual compartment when the number of pairs in the inner (smaller) layer is 6 or less. The center is counted as a layer.

(iii) In cables with 25 pairs or less, the root-mean-square (rms) value must include all the pair-to-pair unbalances measured for each compartment separately.

(iv) In cables containing more than 25 pairs, the rms value must include the pair-to-pair unbalances in the separate compartments.

(6) *Pair-to-ground capacitance unbalance*—(i) *Pair-to-ground.* The capacitance unbalance as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.6.

(ii) When measuring pair-to-ground capacitance unbalance all pairs except the pair under test are grounded to the shield and/or shield/armor except when measuring cables containing super units in which case all other pairs in the same super unit must be grounded to the shield.

(iii) The screen tape must be left floating during the test.

(iv) Pair-to-ground capacitance unbalance may vary directly with the length of the cable.

(7) *Attenuation.* (i) For nonscreened and screened cables, the average attenuation of all pairs on any reel when measured at 150 and 772 kilohertz must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.7, Solid Column.

(ii) For T1C type cables over 12 pairs, the maximum average attenuation of all pairs on any reel must not exceed the values listed below when measured at a frequency of 1576 kilohertz at or corrected to a temperature of 20 ± 1°C. The test must be conducted in accordance with ASTM D 4566–90.

AWG	Maximum Average Attenuation decibel/kilometer (dB/km) (decibel/mile)
19	13.4 (21.5)
22	18.3 (29.4)
24	23.1 (37.2)

(8) *Crosstalk loss.* (i) The equal level far-end power sum crosstalk loss (FEXT) as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.8, FEXT Table.

(ii) The near-end power sum crosstalk loss (NEXT) as measured on completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.8, NEXT Table.

(iii) *Screened cable.* (A) For screened cables the NEXT as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 8.9 and 8.9.1.

(B) For T1C screened cable the NEXT as measured on the completed cable must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraphs 8.9 and 8.9.2.

(9) *Insulation resistance.* The insulation resistance of each insulated conductor in a completed cable must comply with the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 8.11.

(10) *High voltage test.* (i) In each length of completed cable, the insulation between conductors must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.12, Solid Column.

(ii) In each length of completed cable, the dielectric between the shield and/or armor and conductors in the core must comply with the requirements specified in ANSI/ICEA S-84–608–1988, paragraph 8.13, Single Jacketed, Solid Column. In screened cable the screen tape must be left floating.

(iii) *Screened cable.* (A) In each length of completed screened cable, the dielectric between the screen tape and the conductors in the core must comply with the requirement specified in ANSI/ICEA S-84–608–1988, paragraph 8.14.

(B) In this test, the cable shield and/or armor must be left floating.

(11) *Electrical variations.* (i) Pairs in each length of cable having either a ground, cross, short, or open circuit condition will not be permitted.

(ii) The maximum number of pairs in a cable which may vary as specified in paragraph (k)(11)(iii) of this section from the electrical parameters given in this section are listed below. These pairs may be excluded from the arithmetic calculation.

Nominal Pair Count	Maximum Number of Pairs With Allowable Electrical Variation
6–100	1
101–300	2
301–400	3
401–600	4
601 and above	6

(iii) *Parameter variations.* (A) *Capacitance unbalance-to-ground.* If the cable fails either the maximum individual pair or average capacitance unbalance-to-ground requirement and all individual pairs are 3937 picofarad/kilometer (1200 picofarad/1000 feet) or less, the number of pairs specified in paragraph (k)(11)(ii) of this section may be eliminated from the average and maximum individual calculations.

(B) *Resistance unbalance.* Individual pair of 7 percent for all gauges.

(C) *Conductor resistance, maximum.* The following table shows maximum conductor resistance:

AWG	ohms/kilometer	(ohms/1000 feet)
19	29.9	(9.1)
22	60.0	(18.3)
24	94.5	(28.8)
26	151.6	(46.2)

Note: REA recognizes that in large pair count cable (600 pair and above) a cross, short or open circuit condition occasionally may develop in a pair which does not affect the performance of the other cable pairs. In these circumstances rejection of the entire cable may be economically unsound or repairs may be impractical. In such circumstances the manufacturer may desire to negotiate with the customer for acceptance of the cable. No more than 0.5 percent of the pairs may be involved.

(l) *Mechanical requirements*—(1) *Compound flow test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the compound flow test specified in ANSI/ICEA S-84–608–1988, paragraph 9.1 using a test temperature of 80 ± 1°C.

(2) *Water penetration.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the water penetration test specified in ANSI/ICEA S-84–608–1988, paragraph 9.2.

(3) *Cable cold bend test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the cable cold bend test specified in ANSI/ICEA S-84–608–1988, paragraph 9.3.

(4) *Cable impact test.* All cables manufactured in accordance with the requirements of this section must be capable of meeting the cable impact test specified in ANSI/ICEA S-84–608–1988, paragraph 9.4.

(5) *Jacket notch test (CACSP sheath only).* All cables utilizing the coated aluminum/coated steel sheath (CACSP) design manufactured in accordance with the requirements of this section must be capable of meeting the jacket notch test specified in ANSI/ICEA S-84–608–1988, paragraph 9.5.

(6) *Cable torsion test (CACSP sheath only).* All cables utilizing the coated aluminum/coated steel sheath (CACSP) design manufactured in accordance with the requirements of this section must be capable of meeting the cable torsion test specified in ANSI/ICEA S-84–608–1988, paragraph 9.6.

(m) *Sheath slitting cord (optional).* (1) Sheath slitting cords may be used in the cable structure at the option of the manufacturer unless specified by the end user.

(2) When a sheath slitting cord is used it must be nonhygroscopic and nonwicking, continuous throughout a length of cable and of sufficient strength to open the sheath without breaking the cord.

(n) *Identification marker and length marker.* (1) Each length of cable must be identified in accordance with ANSI/ICEA S-84–608–1988, paragraphs 10.1 through 10.1.4. The color of the ink used for the initial outer jacket marking must be either white or silver.

(2) The markings must be printed on the jacket at regular intervals of not more than 0.6 meter (2 feet).

(3) The completed cable must have sequentially numbered length markers in accordance with ANSI/ICEA S-84–608–1988, paragraph 10.1.5. The color of the ink used for the initial outer jacket marking must be either white or silver.

(o) *Preconnectorized cable (optional).* (1) At the option of the manufacturer and upon request by the purchaser, cables 100 pairs and larger may be factory terminated in 25 pair splicing modules.

(2) The splicing modules must meet the requirements of REA Bulletin 345–54, PE-52, REA Specification for Telephone Cable Splicing Connectors (Incorporated by reference at § 1755.97), and be accepted by REA prior to their use.

(p) *Acceptance testing and extent of testing.* (1) The tests described in appendix A of this section are intended for acceptance of cable designs and major modifications of accepted designs. What constitutes a major modification is at the discretion of REA. These tests are intended to show the inherent capability of the manufacturer to produce cable products having long life and stability.

(2) For initial acceptance, the manufacturer must submit:

(i) An original signature certification that the product fully complies with each section of the specification;

(ii) Qualification Test Data, per appendix A of this section;

(iii) To periodic plant inspections;

(iv) A certification that the product does or does not comply with the domestic origin manufacturing provisions of the "Buy American" requirements of the Rural Electrification Act of 1938 (7 U.S.C. 901 *et seq.*);

(v) Written user testimonials concerning field performance of the product; and

(vi) Other nonproprietary data deemed necessary by the Chief, Outside Plant Branch (Telephone).

(3) For requalification acceptance, the manufacturer must submit an original signature certification that the product fully complies with each section of the specification, excluding the Qualification Section, and a certification that the product does or does not comply with the domestic origin manufacturing provisions of the "Buy American" requirements of the Rural Electrification Act of 1938 (7 U.S.C. 901 *et seq.*), for acceptance by August 30 of each year. The required data must have been gathered within 90 days of the submission. If the initial acceptance of a product to this specification was within 180 days of August 30, then requalification for that product will not be required for that year.

(4) Initial and requalification acceptance requests should be addressed to:

Chairman, Technical Standards Committee "A" (Telephone), Telecommunications Standards Division, Rural Electrification Administration, Washington, DC 20250–1500.

(5) *Tests on 100 percent of completed cable.* (i) The shield and/or armor of each length of cable must be tested for continuity in accordance with ANSI/ICEA S-84–608–1988, paragraph 8.16.

(ii) The screen tape of each length of screened cable must be tested for continuity in accordance with ANSI/ICEA S-84–608–1988, paragraph 8.16.

(iii) Dielectric strength between conductors and shield and/or armor must be tested to determine freedom from grounds in accordance with paragraph (k)(10)(ii) of this section.

(iv) Dielectric strength between conductors and screen tape must be tested to determine freedom from grounds in accordance with paragraph (k)(10)(iii) of this section.

(v) Each conductor in the completed cable must be tested for continuity in accordance with ANSI/ICEA S-84–608–1988, paragraph 8.16.

(vi) Dielectric strength between conductors must be tested to insure freedom from shorts and crosses in each length of completed cable in accordance with paragraph (k)(10)(i) of this section.

(vii) Each conductor in the completed preconnectorized cable must be tested for continuity.

(viii) Each length of completed preconnectorized cable must be tested for split pairs.

(ix) The average mutual capacitance must be measured on all cables. If the average mutual capacitance for the first 100 pairs tested from randomly selected groups is between 50 and 53 nanofarad/kilometer (nF/km) (80 and 85 nanofarad/mile), the remainder of the pairs need not be tested on the 100 percent basis (See paragraph (k)(3) of this section).

(6) *Capability tests.* Tests on a quality assurance basis must be made as frequently as is required for each manufacturer to determine and maintain compliance with:

(i) Performance requirements for conductor insulation, jacketing material, and filling and flooding compounds;

(ii) Bonding properties of coated or laminated shielding and armoring materials and performance requirements for screen tape;

(iii) Sequential marking and lettering;

(iv) Capacitance difference, capacitance unbalance, crosstalk, and attenuation;

(v) Insulation resistance, conductor resistance and resistance unbalance;

(vi) Cable cold bend and cable impact tests;

(vii) Water penetration and compound flow tests; and

(viii) Jacket notch and cable torsion tests.

(q) *Summary of records of electrical and physical tests.* (1) Each manufacturer must maintain suitable summary records for a period of at least 3 years of all electrical and physical tests required on completed cable by this section as set forth in paragraphs (p)(5) and (p)(6) of this section. The test data for a particular reel must be in a form that it may be readily available to the purchaser or to REA upon request.

(2) Measurements and computed values must be rounded off to the number of places or figures specified for the requirement according to ANSI/ICEA S-84–608–1988, paragraph 1.3.

(r) *Manufacturing irregularities.* (1) Repairs to the shield and/or armor are not permitted in cable supplied to end users under this section.

(2) Minor defects in jackets (defects having a dimension of 3 millimeters (0.125 inch) or less in any direction) may be repaired by means of heat fusing in accordance with good commercial practices utilizing sheath grade compounds.

(s) *Preparation for shipment.* (1) The cable must be shipped on reels. The diameter of the drum must be large enough to prevent damage to the cable from reeling or unreeling. The reels must be substantial and so constructed as to prevent damage to the cable during shipment and handling.

(2) The thermal wrap must comply with the requirements of ANSI/ICEA S-84–608–1988, paragraph 10.3. When a thermal reel wrap is supplied, the wrap must be applied to the reel and must be suitably secured in place to minimize thermal exposure to the cable during storage and shipment. The use of the thermal reel wrap as a means of reel protection will be at the option of the manufacturer unless specified by the end user.

(3) The outer end of the cable must be securely fastened to the reel head so as to prevent the cable from becoming loose in transit. The inner end of the cable must be securely fastened in such a way as to make it readily available if required for electrical testing. Spikes, staples, or other fastening devices which penetrate the cable jacket must not be used. The method of fastening the cable ends must be accepted by REA prior to its use.

(4) Each length of cable must be wound on a separate reel unless otherwise specified or agreed to by the purchaser.

(5) The arbor hole must admit a spindle 63 millimeters (2.5 inches) in diameter without binding. Steel arbor hole liners may be used but must be accepted by REA prior to their use.

(6) Each reel must be plainly marked to indicate the direction in which it should be rolled to prevent loosening of the cable on the reel.

(7) Each reel must be stenciled or labeled on either one or both sides with the information specified in ANSI/ICEA S-84–608–1988, paragraph 10.4 and the REA cable designation:

Cable Designation
BFC
Cable Construction
Pair Count
Conductor Gauge
A = Coated Aluminum Shield
C = Copper Shield
Y = Gopher Resistant Shield
X = Armored, Separate Shield
H = T1 Screened Cable
H1C = T1C Screened Cable
P = Preconnectorized
Example: BFCXH100–22

Buried Filled Cable, Armored (w/separate shield), T1 Screened Cable, 100 pair, 22 AWG.

(8) When cable manufactured to the requirements of this section is shipped, both ends must be equipped with end caps acceptable to REA.

(9) When preconnectorized cables are shipped, the splicing modules must be protected to prevent damage during shipment and handling. The protection method must be acceptable to REA and accepted prior to its use.

(10) All cables ordered for use in underground duct applications must be equipped with a factory-installed pulling-eye on the outer end in accordance with ANSI/ICEA S-84–608–1988, paragraph 10.5.2.

(The information and recordkeeping requirements of this section have been approved by the Office of Management and Budget (OMB) under the Control Number 0572–0077.)

Appendix A to 7 CFR 1755.390—Qualification Test Methods

(I) The test procedures described in this appendix are for qualification of initial designs and major modification of accepted designs. Included in (V) of this appendix are suggested formats that may be used in submitting the test results to REA.

(II) *Sample selection and preparation.* (1) All testing must be performed on lengths removed sequentially from the same 25 pair, 22 gauge jacketed cable. This cable must not have been exposed to temperatures in excess of 38°C since its initial cool down after sheathing. The lengths specified are minimum lengths and if desirable from a laboratory testing standpoint longer lengths may be used.

(a) Length A shall be 10 ± 0.2 meters (33 ± 0.5 feet) long and must be maintained at 23 ± 3°C. One length is required.

(b) Length B shall be 12 ± 0.2 meters (40 ± 0.5 feet) long. Prepare the test sample by removing the jacket, shield or shield/armor and core wrap for a sufficient distance on both ends to allow the insulated conductors to be flared out. Remove sufficient conductor insulation so that appropriate electrical test connections can be made at both ends. Coil the sample with a diameter of 15 to 20 times its sheath diameter. Three lengths are required.

(c) Length C shall be one meter (3 feet) long. Four lengths are required.

(d) Length D shall be 300 millimeters (1 foot) long. Four lengths are required.

(e) Length E must be 600 millimeters (2 feet) long. Four lengths are required.

(f) Length F shall be 3 meters (10 feet) long and must be maintained at 23 ± 3°C for the duration of the test. Two lengths are required.

(2) *Data reference temperature.* Unless otherwise specified, all measurements must be made at 23 ± 3°C.

(III) *Environmental tests*—(1) *Heat aging test*—(a) *Test samples.* Place one sample each of lengths B, C, D and E in an oven or environmental chamber. The ends of Sample B must exit from the chamber or oven for electrical tests. Securely seal the oven exit holes.

(b) *Sequence of tests.* The samples are to be subjected to the following tests after conditioning:

(i) Water Immersion Test outlined in (III)(2) of this appendix;

(ii) Water Penetration Test outlined in (III)(3) of this appendix;

(iii) Insulation Compression Test outlined in (III)(4) of this appendix; and

(iv) Jacket Slip Strength Test outlined in (III)(5) of this appendix.

(c) *Initial measurements.* (i) For Sample B measure the open circuit capacitance for each odd numbered pair at 1, 150, and 772 kilohertz, and the attenuation at 150 and 772 kilohertz after conditioning the sample at the data reference temperature for 24 hours. Calculate the average and standard deviation for the data of the 13 pairs on a per kilometer or (on a per mile) basis.

(ii) The attenuation at 150 and 772 kilohertz may be calculated from open circuit admittance (Yoc) and short circuit impedance (Zsc) or may be obtained by direct measurement of attenuation.

(iii) Record on suggested formats in (V) of this appendix or on other easily readable formats.

(d) *Heat conditioning.* (i) Immediately after completing the initial measurements, condition the sample for 14 days at a temperature of 65 ± 2°C.

(ii) At the end of this period note any exudation of cable filler. Measure and calculate the parameters given in (III)(1)(c) of this appendix. Record on suggested formats in (V) of this appendix or on other easily readable formats.

(iii) Cut away and discard a one meter (3 foot) section from each end of length B.

(e) *Overall electrical deviation.* (i) Calculate the percent change in all average parameters between the final parameters after conditioning and the initial parameters in (III)(1)(c) of this appendix.

(ii) The stability of the electrical parameters after completion of this test must be within the following prescribed limits:

(A) *Capacitance.* The average mutual capacitance must be within 5 percent of its original value;

(B) The change in average mutual capacitance must be less than 5 percent over frequency 1 to 150 kilohertz; and

(C) *Attenuation.* The 150 and 772 kilohertz attenuation must not have increased by more than 5 percent over their original values.

(2) *Water immersion electrical test*—(a) *Test sample selection.* The 10 meter (33 foot) section of length B must be tested.

(b) *Test sample preparation.* Prepare the sample by removing the jacket, shield or shield/armor, and core wrap for sufficient distance to allow one end to be accessed for test connections. Cut out a series of 6 millimeter (0.25 inch) diameter holes along the test sample, at 30 centimeters (1 foot) intervals progressing successively 90 degrees around the circumference of the cable. Assure that the cable core is exposed at each hole by slitting the core wrapper. Place the prepared sample in a dry vessel which when filled will maintain a one meter (3 foot) head of water over 6 meters (20 feet) of uncoiled cable. Extend and fasten the ends of the cable so they will be above the water line and the pairs are rigidly held for the duration of the test.

(c) *Capacitance testing.* Measure the initial values of mutual capacitance of all odd pairs in each cable at a frequency of 1 kilohertz before filling the vessel with water. Be sure the cable shield or shield/armor is grounded to the test equipment. Fill the vessels until there is a one meter (3 foot) head of water on the cables.

(i) Remeasure the mutual capacitance after the cables have been submerged for 24 hours and again after 30 days.

(ii) Record each sample separately on suggested formats in (V) of this appendix or on other easily readable formats.

(d) *Overall electrical deviation.* (i) Calculate the percent change in all average parameters between the final parameters after conditioning with the initial parameters in (III)(2)(c) of this appendix.

(ii) The average mutual capacitance must be within 5 percent of its original value.

(3) *Water penetration testing.* (a) A watertight closure must be placed over the jacket of length C. The closure must not be placed over the jacket so tightly that the flow of water through pre-existing voids of air spaces is restricted. The other end of the sample must remain open.

(b) Test per Option A or Option B—(i) *Option A.* Weigh the sample and closure prior to testing. Fill the closure with water and place under a continuous pressure of 10 ± 0.7 kilopascals (1.5 ± 0.1 pounds per square inch gauge) for one hour. Collect the water leakage from the end of the test sample during the test and weigh to the nearest 0.1 gram. Immediately after the one hour test, seal the ends of the cable with a thin layer of grease and remove all visible water from the closure, being careful not to remove water that penetrated into the core during the test. Reweigh the sample and determine the weight of water that penetrated into the core. The weight of water that penetrated into the core must not exceed 8 grams.

(ii) *Option B.* Fill the closure with a 0.2 gram sodium fluorscein per liter water solution and apply a continuous pressure 10 ± 0.7 kilopascals (1.5 ± 0.1 pounds per square inch gauge) for one hour. Catch and weigh any water that leaks from the end of the cable during the one hour period. If no water leaks from the sample, carefully remove the water from the closure. Then carefully remove the jacket, shield or shield/armor and core wrap one at a time, examining with an ultraviolet light source for water penetration. After removal of the core wrap, carefully dissect the core and examine for water penetration within the core. Where water penetration is observed, measure the penetration distance. The distance of water penetration into the core must not exceed 127 millimeters (5.0 inches).

(4) *Insulation compression test*—(a) *Test Sample D.* Remove jacket, shield or shield/armor, and core wrap being careful not to damage the conductor insulation. Remove one pair from the core and carefully separate, wipe off core filler, and straighten the insulated conductors. Retwist the two insulated conductors together under sufficient tension to form 10 evenly spaced 360 degree twists in a length of 10 centimeters (4 inches).

(b) *Sample testing.* Center the mid 50 millimeters (2 inches) of the twisted pair between 2 smooth rigid parallel metal plates that are 50 millimeters × 50 millimeters (2 inches × 2 inches). Apply a 1.5 volt direct current potential between the conductors, using a light or buzzer to indicate electrical contact between the conductors. Apply a constant load of 67 newtons (15 pound-force) on the sample for one minute and monitor for evidence of contact between the conductors. Record results on suggested formats in (V) of this appendix or on other easily readable formats.

(5) *Jacket slip strength test*—(a) *Sample selection.* Test Sample E from (III)(1)(a) of this appendix.

(b) *Sample preparation.* Prepare test sample in accordance with the procedures specified in ASTM D 4565–90a.

(c) *Sample conditioning and testing.* Remove the sample from the tensile tester prior to testing and condition for one hour at 50 ± 2°C. Test immediately in accordance with the procedures specified in ASTM D 4565–90a. A minimum jacket slip strength of 67 newtons (15 pound-force) is required. Record the highest load attained.

(6) *Humidity exposure.* (a) Repeat steps (III)(1)(a) through (III)(1)(c)(iii) of this appendix for separate set of samples B, C, D, and E which have not been subjected to prior environmental conditioning.

(b) Immediately after completing the measurements, expose the test sample to 100 temperature cyclings. Relative humidity within the chamber must be maintained at 90 ± 2 percent. One cycle consists of beginning at a stabilized chamber and test sample temperature of 52 ± 1°C, increasing the temperature to 57 ± 1°C, allowing the chamber and test samples to stabilize at this level, then dropping the temperature back to 52 ± 1°C.

(c) Repeat steps (III)(1)(d)(ii) through (III)(5)(c) of this appendix.

(7) *Temperature cycling.* (a) Repeat steps (III)(1)(a) through (III)(1)(c)(iii) of this appendix for separate set of samples B, C, D, and E which have not been subjected to prior environmental conditioning.

(b) Immediately after completing the measurements, subject the test sample to the 10 cycles of temperature between a minimum of −40°C and +60°C. The test sample must be held at each temperature extreme for a minimum of 1 1/2 hours during each cycle of temperature. The air within the temperature cycling chamber must be circulated throughout the duration of the cycling.

(c) Repeat steps (III)(1)(d)(ii) through (III)(5)(c) of this appendix.

(IV) *Control sample*—(1) *Test samples.* A separate set of lengths A, C, D, E, and F must have been maintained at 23 ± 3°C for at least 48 hours before the testing.

(2) Repeat steps (III)(2) through (III)(5)(c) of this appendix except use length A instead of length B.

(3) *Surge Test.* (a) One length of sample F must be used to measure the breakdown between conductors while the other length of F must be used to measure the core to shield breakdown.

(b) The samples must be capable of withstanding without damage, a single surge voltage of 20 kilovolts peak between conductors, and a 35 kilovolts peak surge voltage between conductors and the shield or shield/armor as hereinafter described. The surge voltage must be developed from a capacitor discharged through a forming resistor connected in parallel with the dielectric of the test sample. The surge generator constants must be such as to produce a surge of 1.5 × 40 microsecond wave shape.

(c) The shape of the generated wave must be determined at a reduced voltage by connecting an oscilloscope across the forming resistor with the cable sample connected in parallel with the forming resistor. The capacitor bank is charged to the test voltage and then discharged through the forming resistor and test sample. The test sample will be considered to have passed the test if there is no distinct change in the wave shape obtained with the initial reduced voltage compared to that obtained after the application of the test voltage.

(V) The following suggested formats may be used in submitting the test results to REA:

Environmental Conditioning_____

FREQUENCY 1 KILOHERTZ

Pair Number	Capacitance nF/km (nanofarad/mile)	
	Initial	Final
1		
3		
5		
7		
9		
11		
13		
15		
17		
19		
21		
23		
25		
Average $\bar{x}$		

Overall Percent Difference in Average $\bar{x}$ _____

Environmental Conditioning_____

FREQUENCY 150 KILOHERTZ

Pair Number	Capacitance nF/km (nanofarad/mile)		Attenuation dB/km (decibel/mile)	
	Initial	Final	Initial	Final
1				
3				
5				
7				
9				
11				
13				
15				
17				
19				
21				
23				
25				
Average $\bar{x}$				

Overall Percent Difference in Average $\bar{x}$
Capacitance:_____
Conductance:_____

Environmental Conditioning_____

FREQUENCY 772 KILOHERTZ

Pair Number	Capacitance nF/km (nanofarad/mile)		Attenuation dB/km (decibel/mile)	
	Initial	Final	Initial	Final
1				
3				
5				
7				
9				
11				
13				
15				
17				
19				
21				
23				
25				
Average $\bar{x}$				

Overall Percent Difference in Average $\bar{x}$
Capacitance:_____
Conductance:_____

Environmental Conditioning_____

WATER IMMERSION TEST (1 KILOHERTZ)

Pair Number	Capacitance nF/km (nanofarad/mile)		
	Initial	24 Hours	Final
1			
3			
5			
7			
9			
11			
13			
15			
17			
19			
21			
23			
25			
Average $\bar{x}$			

Overall Percent Difference in Average $\bar{x}$ _____

Water Penetration Test

	Option A		Option B	
	End Leakage grams	Weight Gain grams	End Leakage grams	Penetration mm (in.)
Control.				
Heat Age.				
Humidity Exposure.				
Temperature Cycling.				

Insulation Compression

	Failures
Control	
Heat Age	
Humidity Exposure	
Temperature Cycling	

Jacket Slip Strength @ 50½C

	Load in newtons (pound-force)
Control	
Heat Age	
Humidity Exposure	
Temperature Cycling	

Filler Exudation (grams)

Heat Age	
Humidity Exposure	
Temperature Cycle	

Surge Test (kilovolts)

Conductor to Conductor.	
Shield to Conductors	

Dated: May 5, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93–11895 Filed 5–19–93; 8:45 am]

BILLING CODE 3410–15–F

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Regulations Termination of Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Amendment to Notice to terminate the waiver of the Nonmanufacturer Rule for mainframe computers and certain associated peripheral equipment acquired on the same procurement.

SUMMARY: The Business Administration is amending its notice of a decision to terminate its waiver of the Nonmanufacturer Rule for mainframe computers and certain associated peripheral equipment acquired on the same procurement. The SBA had published a termination notice on February 19, 1993, with an effective date of May 20, 1993. The Agency is now inviting public comment on this matter.

DATES: Comments must be submitted on or before June 21, 1993.

ADDRESSES: Written comments should be addressed to Robert J. Moffitt, Associate Administrator for Procurement Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jeanne M. Sclater, Director, Office of Procurement Policy and Liaison, (202) 205–6465 or James Parker at (703) 695–2435.

SUPPLEMENTARY INFORMATION: On February 19, 1993, SBA published in the **Federal Register** a notice to terminate the waiver of the Nonmanufacturer Rule for mainframe computers and certain associated peripheral equipment acquired on the same procurement. 58 FR 9112 (1993). Since the publication of this notice, SBA has received a number of comments from interested parties arguing that this waiver to the Nonmanufacturer Rule should not be repealed. In light of such comments, SBA now invites the public to express its views concerning SBA's intent to terminate the waiver for mainframe computers. In the interim, SBA postpones the effective date of the termination of the mainframe waiver until it has had adequate time to evaluate any comments received in response to this publication and until such time as a determination on the mainframe waiver is published in the **Federal Register.**

The SBA believes that there are small manufacturers of computers that meet performance characteristics previously attributed only to mainframe computers, such as mini-computers and super-minicomputers. The Agency believes this to be particularly true when two or more units of such equipment can be connected to function as one.

SBA also believes that in some instances the existence of the mainframe waiver has led, and for continuing cases has the potential to lead, to abuse by affixing a "mainframe" label to a procurement which in fact describes performance characteristics that are typical of hardware often called mini-computers, super-minicomputers, or "mainframe-equivalent" computers merely to enjoy the benefits of the waiver. In this way, a procuring agency would be able to purchase specific computer hardware manufactured by a large business when in fact other computer hardware manufactured by small business is available to satisfy the actual procurement need. SBA believes that such an action would be contrary to the intent of the Small Business Act in general and to the waiver provision to the Nonmanufacturer Rule contained in section 8(a)(17) of the Small Business Act, 15 U.S.C. 637(a)(17), specifically.

Further, the SBA believes that the statutory authority of the Administrator to grant waivers on a case-by-case, or solicitation-specific basis, allows agencies which in fact need to procure equipment which cannot be produced by small business manufacturers to obtain a waiver of the Nonmanufacturer Rule when such a waiver is required. The statutory authority for solicitation-specific waivers is found at section 8(a)(17)(B)(iv) of the Small Business Act.

Based on the above, SBA solicits comments with respect to SBA's prior Notice to terminate the waiver of the Nonmanufacturer Rule for mainframe computers and certain associated peripheral equipment acquired on the same procurement and with respect to this amendment thereto. SBA requests specific comments concerning the

following items: (1) The definition of mainframe—whether there is a meaningful definition of this term for Federal procurement purposes and what the definition should be; and (2) whether other computer hardware, including mini-computers or super-minicomputers, also have the performance capability to meet such a definition.

All comments to these and other issues raised by the public will be duly considered by SBA in determining whether to finalize its intent to terminate the mainframe waiver.

Robert J. Moffitt,

Associate Administrator for Procurement Assistance.

[FR Doc. 93–12115 Filed 5–19–93; 8:45 am]

BILLING CODE 6025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–124–AD; Amendment 39–8576; AD 93–09–10]

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all McDonnell Douglas Model DC–8 series airplanes, that requires that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this AD are not met, and that new wear limits be incorporated into the FAA-approved maintenance inspection program. This amendment is prompted by an accident in which a transport category airplane executed a rejected takeoff (RTO) and was unable to stop on the runway due to worn brakes. The actions specified by this AD are intended to prevent loss of braking effectiveness during a high energy RTO.

EFFECTIVE DATE: June 21, 1993.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5338; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all McDonnell Douglas Model DC–8 series airplanes was published in the **Federal Register** on October 26, 1992 (57 FR 48478). That action proposed to require that all landing gear brakes be inspected for wear and replaced if the wear limits prescribed in this proposal are not met, and that new wear limits be incorporated into the FAA-approved maintenance inspection program.

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

One commenter supports the rule as proposed.

Several commenters request that paragraph (a) of the proposal be revised to increase the maximum brake wear limit for the brake assemblies on Model DC–8–63 series airplanes. The commenters request specifically that the brake wear limit for Bendix part number 2601412–1 (McDonnell Douglas part number 5759262–5001) be expanded from 0.5 inch to 0.75 inch. The commenters state that expanding the maximum brake wear limit for this brake will be cost effective and will not compromise safety. The commenters note that McDonnell Douglas Service Bulletin 32–181, dated October 29, 1992, which was issued subsequent to the notice, provides a means to rework this brake so that a 0.75-inch wear limit may be established. The FAA concurs in part with the commenters' request. The FAA does not agree to increase the maximum brake wear limit for Bendix brake part number 2601412–1. The FAA has evaluated a series of dynamometer test data and analyses concerning brakes installed on Model DC–8 series airplanes and has determined that expanding the brake wear limit for this specific brake will not prevent loss of braking effectiveness during a high energy rejected takeoff. However, should an operator modify Bendix brake part number 2601412–1 in accordance with the cited McDonnell Douglas service bulletin and, accordingly, change the part number to 2601412–2, the maximum brake wear limit for that modified brake may be expanded to 0.75 inch. In order to include the maximum wear limit of such modified brakes in the FAA-approved inspection program, paragraph (a) of the final rule has been revised to include Bendix brake part number 2601412–2 and its respective wear limit.

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

There are approximately 337 McDonnell Douglas Model DC–8 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 222 airplanes of U.S. registry will be affected by this proposed AD, that it will take approximately 80 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. (There are 8 brakes per airplane.) The cost of required parts to accomplish the change in wear limits for these airplanes (that is, the cost resulting from the requirement to change the brakes before they are worn to their previously approved limits for a one-time change) will be approximately $5,600 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,220,000, or $10,000 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39

of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93-09-10 McDonnell Douglas: Amendment 39-8576. Docket 92-NM-124-AD.

Applicability: All Model DC-8 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of main landing gear braking effectiveness, accomplish the following:

(a) Within 180 days after the effective date of this AD, inspect the main landing gear brakes having the part numbers indicated below to determine wear. Any brake worn more than the maximum wear limit specified below must be replaced, prior to further flight, with a brake that is within this limit.

Douglas brake part No.	Bendix part No.	Maximum wear limit (inches)
5610206-5001	150787-1	0.7
	150787-2	0.7
5713612-5001	151882-1	0.7
	151882-2	0.7
5773335-5001	154252-1	0.5
5773335-5501	154252-2	0.5
5759262-5001	2601412-1	0.5
	*2601412-2	0.75

* Brakes having this part number include part number 2601412-1 brakes that have been modified in accordance with McDonnell Douglas Service Bulletin 32-181, dated October 29, 1992.

(b) Within 180 days after the effective date of this AD, incorporate the maximum brake wear limits specified in paragraph (a) of this AD into the FAA-approved maintenance inspection program.

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

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

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

(e) This amendment becomes effective on June 21, 1993.

Issued in Renton, Washington, on May 11, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-11878 Filed 5-19-93; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 93-34]

Extension of Import Restrictions on Antique Ceremonial Textiles of Coroma, Bolivia

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

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the extension of the import restrictions on antique ceremonial textiles from Coroma, Bolivia which were imposed by T.D. 89-37. The Deputy Director of the United States Information Agency (USIA) has determined that the emergency conditions which originally warranted the imposition of import restrictions still exist. Accordingly, the restrictions will continue to be in effect for an additional three years, and the Customs Regulations are being amended to indicate this extension.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: John Atwood, Chief, Intellectual Property Rights Branch, (202) 482-6960.

Operational Aspects: Jan Priestley, Office of Trade Operations, (202) 927-1136.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the Convention on Cultural Property Implementation Act, the Deputy Director of the United States Information Agency (USIA), after consultation with the Secretaries of State and Treasury, determined that significant antique ceremonial textiles from Coroma, Bolivia were in danger of pillage and looting, and that an emergency condition existed which warranted the imposition of a prohibition on the importation of such articles into the United States. In T.D. 89-37, the Customs Service announced the imposition of import restrictions and identified the types of articles covered by the restrictions.

The Deputy Director of the USIA has considered the recommendations of the Cultural Property Advisory Committee and determined that the emergency conditions which warranted imposition of the initial restrictions still exist and has decided to extend the import restrictions for another three years. (See **Federal Register** of May 5, 1993 (58 FR 26811).)

Accordingly, Customs is amending § 12.104g (19 CFR 12.104g) to reflect the extension of the import restriction.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), do not apply.

Executive Order 12291

Because this document does not result in a "major rule" as defined by Executive Order 12291, a regulatory analysis is not required.

Inapplicability of Notice and Delayed Effective Date

Because this amendment reflects the extension of emergency import restrictions on cultural property which is currently subject to pillage and looting, pursuant to section 553(b)(B) of the Administrative Procedure Act, no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is both impracticable and contrary to the public interest.

Drafting Information

The principal author of this amendment was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Cultural property, customs duties and inspections, Imports.

Amendment to the Regulations

Accordingly, part 12 of the Customs Regulations (19 CFR part 12) is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

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

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1624.

* * * * *

Sections 12.104–12.104i also issued under 19 U.S.C. 2612.

* * * * *

§ 12.104 [Amended]

2. Section 12.104g(b) is amended in the table by adding "extended by 93–34" immediately after the entry "89–37" in the column headed "T.D. No." adjacent to the entry for Bolivia.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: May 5, 1993.

Ronald K. Noble,

Assistant Secretary of the Treasury.

[FR Doc. 93–11937 Filed 5–19–93; 8:45 am]

BILLING CODE 4820–02–M

19 CFR Parts 19, 113, and 144

[T.D. 92–81]

RIN 1515–AA22

Duty-Free Stores

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of effective date.

SUMMARY: This document rescinds the notice published in the **Federal Register** on October 16, 1992, delaying the effective date of the final Customs Regulations amendments relating to duty-free stores. The duty-free store regulations were published in the **Federal Register** as T.D. 92–81 on August 20, 1992, with an effective date of October 19, 1992. The effect of this document rescinding the delay of effective date is to make the duty-free store regulations effective as of the original effective date, October 19, 1992.

EFFECTIVE DATE: The October 16, 1992 notice delaying the effective date of T.D. 92–81 is rescinded as of May 20, 1993. T.D. 92–81 became effective on October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Jackson, Office of Cargo Enforcement and Facilitation (202–927–0510).

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1992, Customs published a final rule document in the **Federal Register** (57 FR 37692) amending the Customs Regulations to designate duty-free stores as a new class of Customs bonded warehouse. The regulations incorporated operating procedures for the administration of these facilities. The final rule was published as T.D. 92–81. The final rule was published after a notice of proposed rulemaking was published on May 5, 1991 in the **Federal Register** (56 FR 22833) and the comments that were solicited from that notice were carefully reviewed and analyzed. The effective date of T.D. 92–81 was set forth in the August 20, 1992 **Federal Register** document as October 19, 1992.

In letters dated October 6 and 13, 1992, a major trade association voiced a number of concerns with respect to the final rule. Prompted by these correspondences, Customs determined that it should delay the effective date of the final rule to review several important aspects of the rule. Accordingly, Customs published a document in the **Federal Register** (57 FR 47409), delaying the effective date of the final rule until further notice.

While Customs has further reviewed aspects of the duty-free store rules including a recent survey of a sampling of duty-free stores around the country, Customs has determined that the indefinite suspension of the effective date of T.D. 92–81 is inoperative based upon a reading of *Natural Resources Defense Council Inc.* v. *U.S. Environmental Protection Agency*, 683 F.2d 752 (3d Cir. 1982) and *Environmental Defense Fund Inc.* v. *Anne M. Gorsuch*, 713 F.2d 802, 815 *et seq.* (D.C. Cir. 1983). Accordingly, by this document, Customs is rescinding the delay of effective date published on October 16, 1992, and is providing notice that the effective date of T.D. 92–81 is October 19, 1992.

It should be noted, however, that in recognition of the publication of the delay of effective date and the fact that some duty-free store operators may have relied on that document, Customs assures duty-free store operators that Customs will not take adverse action against any party for failure to comply with the duty-free store regulations for 90 days from the date of publication of today's notice in the **Federal Register**. *Cf. Heckler* v. *Community Health Services, Inc.*, 467 U.S. 51, 60–61 (1984).

Dated: May 13, 1993.

John B. O'Loughlin,

Acting Assistant Commissioner, Commercial Operations.

[FR Doc. 93–11938 Filed 5–19–93; 8:45 am]

BILLING CODE 4820–02–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2671

Election of Single-Employer Plan Status

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule repeals 29 CFR part 2671, which contained rules for the election of single-employer plan status pursuant to section 4303 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Because the election period has expired, the regulation is no longer needed. This rule informs the public that the PBGC is removing part 2671 from the Code of Federal Regulations.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Office of the General Counsel (Code

22000), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; 202–778–8850 (202–778–1958 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Multiemployer Pension Plan Amendments Act of 1980 ("the Multiemployer Act") expanded the definition of "multiemployer plan" in a manner that would change the status of some plans from "single-employer plans" to "multiemployer plans." See sections 3(37)(A) and 4001(a)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA") and section 414(f) of the Internal Revenue Code ("Code"); H.R. Rep. No. 869, 96th Cong., 2d Sess. 4, 12–13. ERISA section 4303, also added by the Multiemployer Act, provided that a plan that was a single-employer plan under the previous definition of "multiemployer plan," but not under the revised definition, could make an irrevocable election to continue to be treated as a single-employer plan if it met certain statutory tests. The election had to be made within one year after the date of the enactment of the Multiemployer Act (September 26, 1980) according to procedures established by the Pension Benefit Guaranty Corporation ("PBGC"). See also section 3(37)(E) of ERISA and section 414(f)(5) of the Code.

On May 19, 1981, the PBGC promulgated 29 CFR part 2671, the purpose of which was to establish procedures for making the election of single-employer plan status provided for in ERISA section 4303. Sections 2671.2 and 2671.3 of the PBGC's regulation provided that a plan would meet the election deadline if (1) it was amended on or before September 26, 1981, to provide for it to be treated as a multiemployer plan for all purposes under ERISA and the Code and (2) a written notice of the amendment was filed with the PBGC within 60 days after adoption of the amendment. Pursuant to § 2671.4, the PBGC would review the filing to determine whether or not the plan met the statutory eligibility tests and had complied with the regulatory procedure, and would then formally approve or disapprove the election.

Because of the lapse of time since the election deadline expired and the irrevocability of any election out of multiemployer plan status, the regulation is no longer needed. Accordingly, the PBGC is removing part 2671 from the CFR. For the same reasons, the PBGC finds, pursuant to section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), that notice and public procedure on this final rule are unnecessary and that good cause exists for making the rule effective immediately.

E.O. 12291 and the Regulatory Flexibility Act

Since part 2671 is no longer needed and its removal does not affect any existing entity, the PBGC has determined that this is not a "major rule" for the purposes of Executive Order 12291 and certifies, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that sections 603 and 604 do not apply.

List of Subjects in 29 CFR Part 2671

Employee benefit plans, Pension insurance, Pensions, Reporting requirements.

PART 2671—[REMOVED]

In consideration of the foregoing, under the authority of the Pension Benefit Guaranty Corporation at 29 U.S.C. 1302(b)(3) and 1453, part 2671 of subchapter H of chapter XXVI, title 29, Code of Federal Regulations, is removed and reserved.

Issued in Washington, DC, this 13th day of May, 1993.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 93–11987 Filed 5–19–93; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 204

[Docket No. R–149]

RIN 2133–AB04

Claims Against the Maritime Administration Under the Federal Tort Claims Act

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule reflects an increase, from $25,000 to $100,000, in the amount of a claim under the Federal Tort Claims Act against the agency that it may now settle under authority that has been delegated by the Attorney General to the Secretary of Transportation (DOT), and redelegated by the Secretary to all DOT Administrators.

DATE: This rule is effective on May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Sandra L. Jenkins, Chief, Division of Litigation, Office of the Chief Counsel, Maritime Administration, Washington, DC 20590 Tel. (202) 366–5191.

SUPPLEMENTARY INFORMATION: The regulations at 46 CFR part 204 set forth the requirements and procedures for administrative settlement of claims against the United States, involving the Maritime Administration (MARAD) of the DOT, under the Federal Tort Claims Act, as amended, 28 U.S.C. 2672. The controlling regulations have been promulgated by the Department of Justice (DOJ) at 28 CFR part 14—Administrative Claims Under the Federal Tort Claims Act. MARAD's regulations supplement those of the DOJ and provide specific guidance regarding the processing of tort claims by MARAD. These amendments merely conform MARAD's regulations to those of the DOJ with respect to the dollar amount of settlement authority of the DOT for tort claims (AG Order No. 1583–93), published in the appendix to 28 CFR part 14 (57 FR 13320; April 16, 1992). DOT directives have been issued to implement the increase in the delegated settlement authority by amendment to 46 CFR part 1 (58 FR 6897; Feb. 3, 1993).

Rulemaking Analyses and Notices

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

This rulemaking has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises in domestic or export markets.

This rulemaking does not involve any change in important Departmental policies and is considered nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). It merely conforms MARAD regulations to the provisions of controlling DOJ regulations with respect to the monetary limit on authority to settle tort claims. Because the economic impact should be minimal, further regulatory evaluation is not necessary.

Since this is in the nature of rule of agency procedure, notice with opportunity for public comment is not required pursuant to provision of the Administrative Procedure Act, 5 U.S.C. 553.

Federalism

The Maritime Administration has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Maritime Administration has considered the environmental impact of this rulemaking and has concluded that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This rulemaking contains no reporting requirements that require approval by the Office of Management and Budget.

List of Subjects in 46 CFR Part 204

Administrative practice and procedure, authority delegations, tort claims.

PART 204—[AMENDED]

Accordingly, MARAD hereby amends 46 CFR part 204 as follows:

1. The authority citation continues to read as follows:

Authority: 28 U.S.C. 2672, 28 CFR 14.11; 49 CFR 1.45(C) (2) and (3).

2. Section 204.7 is revised to read as follows:

§ 204.7 Delegation of authority.

(a) Subject to written approval of the Attorney General of the United States of any payment in excess of $100,000, the Chief Counsel of the Maritime Administration is authorized to deny or settle and authorize payment of tort claims.

(b) The Associate Administrator for Administration is authorized to deny or settle and authorize payment of all tort claims in an amount not exceeding $50,000.

(c) The Superintendent, United States Merchant Marine Academy (Academy), is authorized to deny or settle and authorize payment of tort claims originating from occurrences at the Academy in amounts not exceeding $20,000.

3. Section 204.8 is revised to read as follows:

§ 204.8 Where to file claims.

Claims shall be filed with the appropriate official as follows:

(a) Chief Counsel (MAR–200), Maritime Administration, Department of Transportation, Room 7232, Nassif Building, 7th and D Streets SW., Washington, DC 20590 (All claims over $50,000).

(b) Associate Administrator for Administration (MAR–300), Maritime Administration, Room 7217, Nassif Building, 7th and D Streets SW., Washington, DC 20590 (All claims over $20,000, but not over $50,000, originating at the Academy, and all other claims not over $50,000).

(c) Superintendent (MMA–5100), United States Merchant Marine Academy, Maritime Administration, Kings Point, N.Y. 11024 (All claims not over $20,000 originating at the Academy).

By Order of the Maritime Administrator.

Dated: May 17, 1993.

James E. Saari,

Secretary.

[FR Doc. 93–11983 Filed 5–19–93; 8:45 am]

BILLING CODE 4910–81–M

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46 CFR Part 340

[Docket No. R–134]

RIN 2133–AA85

Part 340—Priority Use and Allocation of Shipping Services, Containers, Chassis, and Port Facilities and Services for National Security and National Defense Related Operations

AGENCY: Maritime Administration, DOT.

ACTION: Final rule.

SUMMARY: The regulations at 46 CFR part 340, while providing for priority use of intermodal cargo containers by defense agencies, do not specifically provide for allocation and priority use of chassis (a vehicle built specifically for the purpose of transporting a container so that when the chassis and container are assembled the unit produced serves the same function as a road trailer). This revision broadens the scope of the regulations to include chassis and chassis suppliers in the scheme of priority use and allocations. It is intended to remedy a potential problem whereby chassis to carry containers may not be made available to the Maritime Administration for use by a U.S. defense agency in times of deployment of U.S. Armed Forces. The revision also contains conforming and nonsubstantive clarifying amendments to existing provisions.

EFFECTIVE DATE: May 5, 1993.

FOR FURTHER INFORMATION CONTACT: John W. Carnes, Chief, Division of Port and Intermodal Operations, Office of Port and Intermodal Development, Maritime Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, telephone (202) 366–4357.

SUPPLEMENTARY INFORMATION: The regulations at 46 CFR part 340 establish procedures for priority use and allocation of existing commercial services and facilities by defense agencies, under commercial terms, in connection with deployment of the Armed Forces of the United States, under authority of Title I of the Defense Production Act of 1950 (DPA), as amended (50 U.S.C. App. 2061 *et seq.*). Title I of the DPA authorizes the President to require that performance under contracts or orders (other than contracts of employment) which the President deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order. The DPA also authorizes the President to allocate materials and facilities in such manner, upon such conditions, and to such extent as the President deems necessary to promote the national defense. Part 14 of Executive Order 12656 (53 FR 47491) assigns emergency preparedness functions to the Secretary of Transportation, and the regulation at 49 CFR 1.45 further delegates such authority from the Secretary to Administrators.

These regulations now specify the procedures by which the Maritime Administrator (Administrator) may issue orders regarding allocation and priority use of shipping services, containers, and port facilities and services in time of imminent or actual deployment of the Armed Forces. These procedures permit national defense requirements to be met with minimum interference with commercial operations, and minimize the need to requisition property to meet defense requirements in time of crisis and war.

The existing regulations at 46 CFR part 340 establish procedures for allocation and priority use of containers by defense agencies. MARAD is revising these regulations to specifically include chassis and chassis suppliers within their scope because the employment of containers in intermodal surface movements could necessitate the use of chassis. The definitions in § 340.2 will include "chassis" and "chassis supplier" in paragraphs (f) and (g), and conforming amendments are being

made, wherever appropriate, to include chassis as being subject to priority allocation for the exclusive use by a defense agency for a specified period, should the need for chassis arise. The definition of "port facilities and services" is being expanded to include "terminals", and the definition of "shipping service" is being clarified. Any other changes being made to existing provisions are nonsubstantive and are intended to clarify the procedures.

Rulemaking Analyses and Notices

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

This rulemaking has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local Governments, agencies or geographic regions. Furthermore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. It has been determined that it is not a significant rule within the definition in DOT's Regulatory Policies and Procedures, 44 FR 11034 (1979).

This rulemaking relates to a military function of the United States that is exempt from application of E.O. 12291 and implementing DOT Order 2100.5. It sets forth procedures utilized in connection with the current deployment of the Armed Forces of the United States and other requirements of the nation's defense. Accordingly, it is exempt from application of the Administrative Procedure Act (5 U.S.C. 553), and is being published without provision for public comment, to become effective upon publication.

The economic impact of this rule has been found to be so minimal that further evaluation is unnecessary. The rule principally affects private or government entities in the shipping, port management, and warehousing and stevedoring business, which usually do not qualify as small business entities under existing criteria. Accordingly, the Maritime Administration certifies that the rulemaking will not exert a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*).

Federalism

This rule has also been reviewed under Executive Order 12612, Federalism, and it has been determined that it does not have sufficient implications for federalism to warrant preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Maritime Administration certifies that this information will not have a significant economic impact on a substantial number of small entities.

Environmental Assessment

The Maritime Administration has concluded that this rule does not affect the environment and that an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

The rule contains no reporting requirement for the collection of information within the scope of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 46 CFR Part 340

Chassis, containers, harbors, maritime carriers and national defense.

Accordingly, 46 CFR part 340 is revised to read as follows:

PART 340—PRIORITY USE AND ALLOCATION OF SHIPPING SERVICES, CONTAINERS AND CHASSIS, AND PORT FACILITIES AND SERVICES FOR NATIONAL SECURITY AND NATIONAL DEFENSE RELATED OPERATIONS

Sec.

340.1 Scope.
340.2 Definitions.
340.3 General provisions.
340.4 Shipping services.
340.5 Containers and chassis.
340.6 Port facilities and services.
340.7 Application to contractors and subcontractors.
340.8 Priorities for materials and production.
340.9 Compliance.

Authority: Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*); Executive Order 10480, as amended (18 FR 4939); Executive Order 12656 (53 FR 47491); 44 CFR Part 322; 49 CFR 1.45; Department of Transportation Orders 1100.60, as amended: 1900.8 and 1900.7D.

§ 340.1 Scope.

This part establishes procedures for assigning priority for use by defense agencies, on commercial terms, of commercial shipping services, containers and chassis, and port facilities and services and for allocating vessels employed in commercial shipping services, containers and chassis, and port facilities and services for exclusive use by defense agencies (as defined in 340.2), at any time where appropriate under provision of title I of the Defense Production Act of 1950 (50 U.S.C. App. 2061 *et seq.*) as determined by the Secretary of Transportation. The procedures will provide the means to require vessel and port operators to provide defense agencies with existing commercial services and facilities not obtainable through established transportation procurement procedures. Thus the procedures will minimize interference with commercial operations and ensure rapid response to defense needs in times of crisis or war.

§ 340.2 Definitions.

As used in this regulation:

(a) *Administrator* means the Maritime Administrator, Department of Transportation, who is, ex officio, the Director, National Shipping Authority, within the Maritime Administration (MARAD). Pursuant to 49 CFR 1.45(a)(5), the Maritime Administrator is authorized to carry out emergency preparedness functions assigned to the Secretary by Executive Order 12656 (53 FR 47490, November 18, 1988).

(b) *Container* means any type of container for intermodal surface movement that is 20 feet in length or longer, 8 feet wide, and of any height, including specialized containers, with International Standards Organization standard fittings.

(c) *Container service* means the intermodal movement, which includes an ocean movement leg, of goods in containers.

(d) *Container service operator* means a vessel operator (defined in § 340.2(v)) that provides containerized ocean shipping service.

(e) *Container supplier* means a U.S.-citizen controlled (pursuant to 46 App. U.S.C. 802) company which manufactures containers, is a container service operator, or is in the business of leasing containers.

(f) *Chassis* means a vehicle built specifically for the purpose of transporting a container so that when the chassis and container are assembled the unit produced serves the same function as a road trailer.

(g) *Chassis supplier* means a U.S.-citizen controlled (pursuant to 46 App. U.S.C. 802) company which is a container service operator or is in the business of leasing chassis.

(h) *Defense agency* means the Department of Defense, or any other department or agency of the Federal Government as determined by the

Secretary of Transportation, for the purposes of this regulation.

(i) *FEMA* means the Federal Emergency Management Agency.

(j) *NAO* means the NSA Allocation Order, which is an order allocating the exclusive use of a vessel employed in commercial shipping service, a container, a chassis, or a port facility for the purposes of providing its services to a defense agency for a specified period.

(k) *NSA* means the National Shipping Authority, which is the emergency shipping operations activity of the Department of Transportation (MARAD).

(l) *NSPO* means an NSA Service Priority Order, which is an order directing that priority of service be given to the movement of cargoes of a defense agency.

(m) *Planning order* means a notification of tentative arrangements to meet anticipated defense agency requirements, issued by NAO or NSPO format, for planning purposes only.

(n) *Port authority* means any state, municipal, or private agency, or firm that (1) owns port facilities (2) manages such facilities for common-user commercial shipping services under lease from an owner; (3) owns or operates a proprietary port facility or terminal; and (4) otherwise leases or licenses and manages a port facility.

(o) *Port facilities and services* means (1) all port facilities, for coastwise, intercoastal, inland waterways, and Great Lakes shipping and overseas shipping, including, but not limited to wharves, piers, sheds, warehouses, terminals, yards, docks, control towers, container equipment, maintenance buildings, container freight stations and port equipment, including harbor craft, cranes and straddle carriers; and (2) port services normally used in accomplishing the transfer or interchange of cargo and passengers between vessels and other modes of transportation, or in connection therewith.

(p) *Secretary* means the Secretary of Transportation or his or her designees to whom emergency authorities under the Defense Production Act of 1950 have been delegated, i.e., the Director of Office of Emergency Transportation or the Departmental Crisis Coordinator.

(q) *Secretarial Review* means the process by which the Secretary or his or her designee(s) exercises review, coordination, and control over departmental emergency preparedness programs and/or matters.

(r) *Shipper* means a civilian or Government agency that owns (or is responsible to the owner for) goods transported in waterborne service.

(s) *Shipping service* means a commercial service which provides for the movement of passengers or cargo by one or more modes of transportation and includes a waterborne movement leg in the overseas, coastwise, intercoastal, inland waterways, or Great Lakes shipping trades.

(t) *Vessel* means a vessel employed in commercial service for waterborne movement of passengers or cargo in the overseas, coastwise, intercoastal, inland waterways or Great Lakes shipping trades, or any portion of the cargo-carrying capacity of such vessel.

(u) *Vessel operator* means a company owning and/or operating, to and from any U.S. port, an ocean-going overseas, coastwise, intercoastal, inland waterways or Great Lakes vessel that is U.S.-flag, or foreign-flag and U.S.-citizen controlled (pursuant to 46 App. U.S.C. 802), or foreign-flag and non-citizen controlled that is made available to the United States (as described in § 340.3(j)).

§ 340.3 General provisions.

(a) The provisions of this rule apply pursuant to authority granted to the President by Title I, Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 *et seq.*) that authority having been delegated to the Secretary of Transportation, with respect to civil transportation services, by § 322.3(b) of Title 44, Code of Federal Regulations. In order to give priority to performance under contracts deemed necessary or appropriate to promote the national defense and to allocate materials and facilities in such manner, upon such conditions and to such extent as necessary or appropriate to promote the national defense, the following procedures shall be applicable:

(1) In connection with deployment of the Armed Forces of the United States, or other requirements of the nation's defense, a defense agency (as defined in § 340.2(h) of this part) may request priority use or allocation of vessels employed in commercial shipping services, containers, chassis, or port facilities and services.

(2) The Secretary may authorize initiation of priority and allocation authority in accordance with administrative and statutory authorities.

(3) The Administrator, on approval by the Secretary to initiate the use of priority and allocation authority under this regulation and in conformance with national program priorities, may direct owners and/or operators of vessels, containers, chassis, or port facilities to give priority usage to the defense agency or may allocate vessels, containers, chassis, or facilities for the defense agency's use during specified periods.

(b) A defense agency may transmit requests for assignment of priority for use or for allocation of vessels, containers, chassis, and port facilities and services to the Secretary by letter, memorandum, or electrical message.

(c) Justification for requested priorities or allocations may include references to military operations plans. When classified, justifications may be provided separately by correspondence or staff coordination. NSPOs and NAOs will not include classified information.

(d) The Administrator shall determine, before issuing an NSPO or NAO, that the action is necessary to meet the requirements of the national defense (as determined by the defense agency) and conforms to Secretarial guidance for coordinating the Department's crisis response, and that the proposed approach is the most effective way to do so. The Administrator, in conjunction with the defense agency, shall coordinate with vessel operators, container suppliers, chassis suppliers, port authorities and the Coast Guard to identify vessels, equipment and facilities to meet requirements covered by NSPOs and NAOs. The Administrator shall ensure that arrangements to provide defense support under NSPOs and NAOs satisfy the defense agency's requirements with minimum disruption to commercial activities.

(e) When resources are required for movement of hazardous or other special cargo, the Administrator shall ensure that the Commandant of the Coast Guard and the Captain of the Port and other concerned hazardous materials officials of the U.S. Department of Transportation, as required, are notified and that the views of all concerned agencies and interests are obtained and reflected in actions taken pursuant to this regulation. Any action taken pursuant to this regulation shall conform with existing regulations for the safe transportation of hazardous materials and or cargoes, subject to Department of Transportation exemptions.

(f) The Secretary shall notify FEMA of the intention to issue any directive granting priority for use or allocation of vessels, containers, chassis, or port facilities and services, and shall provide information copies of NSPOs and NAOs as required to the defense agency concerned, FEMA, the Interstate Commerce Commission and the Coast Guard.

(g) Defense agencies which foresee difficulty in meeting their needs for vessels employed in commercial

shipping services, containers, chassis, or port facilities and services shall coordinate with MARAD, the Coast Guard, vessel operators, container suppliers, chassis suppliers, and port authorities concerned before the need arises. The Administrator, after Secretarial review, may issue planning orders for information and guidance of affected agencies confirming tentative arrangements to meet the defense agencies' needs. No action will be taken to give effect to those arrangements until NSPOs and NAOs are issued at the time the services, equipment, or facilities are required.

(h) Defense agencies shall pay for services covered by NSPOs and NAOs on the basis of commercial tariffs, or on the basis of contracts concluded between the operator interests and the defense agencies concerned, or on the basis of existing contracts where both parties so agree.

(i) Defense agencies shall be responsible for payment of costs arising from:

(1) Shifting ships to unoccupied berths for defense use;

(2) Discharging commercial cargo to free ships for defense use; and

(3) Such other costs as may be agreed between the defense agency and the provider of service.

(j) The provisions of this regulation shall apply to foreign vessels, containers, and chassis only when and to the extent that such vessels, containers, and chassis are available to the United States because of control by U.S. citizens (46 App. U.S.C. 802) or by provision of international agreements for use of shipping services and related resources for the common defense.

(k) Recipients of NSPOs and NAOs shall notify the Administrator, without undue delay, when they cannot comply or are experiencing difficulty in complying with the provisions of the Orders.

§ 340.4 Shipping services.

(a) When a defense agency requires shipping services not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The type of service required;

(ii) The route over which priority of service is required;

(iii) The period during which priority of service is required; and

(iv) Justification for priority use of the requested service.

(2) The Administrator, pursuant to the circumstances specified in § 340.4(a)(l), shall identify vessel operators that can provide the necessary service and issue NSPOs in coordination with the Secretary to those operators directing that priority be given to the movement and delivery of the defense agency's cargo and/or passengers by the type of service specified in the NSPO during the specified period.

(3) Each vessel operator in receipt of an NSPO shall:

(i) Give precedence to the cargoes of the defense agency in provision of equipment, loading, ocean transport and delivery; and

(ii) Coordinate with other operators in receipt of NSPOs applicable to the same priority movement program to ensure movement of the defense agency's cargoes on first available sailings.

(b) When a defense agency has need for vessels employed in commercial service on a continuing basis for national defense operations for a specified period or for the duration of a defense emergency which they cannot obtain through established transportation procurement practices, the following procedures shall apply:

(1) The agency shall transmit to the Secretary, with a copy to the Administrator, a request specifying the kinds of services required, the arrangements under which the agency proposes that the services be acquired, managed and compensated, and justification for allocation of the required vessels.

(2) The Administrator, upon receiving guidance from the Secretary, shall identify vessel operators that can supply the requested services and issue NAOs to operators directing that specified vessels be made available for use of the defense agency for specified periods. As far as practicable, the economic impact will be balanced among operators.

(3) Each vessel operator in receipt of an NAO shall provide vessels in coordination with the defense agency as specified in the NAO.

§ 340.5 Containers and chassis.

(a) When a defense agency requires priority use of containers and/or chassis not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The route over which or the area in which priority use of containers and/or chassis is required;

(ii) The period during which priority use is required;

(iii) the approximate time-phased movement requirement in containers and/or chassis of specified sizes and types or in 20-foot equivalent units (TEU); and

(iv) Justification for priority use of containers and/or chassis.

(2) The Administrator pursuant to the circumstances in § 340.5(a)(l) shall):

(i) Identify container service operators capable of meeting the requirement; and

(ii) Issue NSPOs or NAOs in coordination with the Secretary to those container service operators, directing that priority be given to supply of containers and/or chassis against the defense requirement.

(3) Each container service operator in receipt of an NSPO shall:

(i) Coordinate with the defense agency on schedules for spotting empty containers and/or chassis and for movement of containerized cargoes; and

(ii) Supply containers and/or chassis to the defense agency in accordance with the defense agency's scheduling needs or supply the first available containers and/or chassis if those needs cannot be met.

(b) When a defense agency requires the allocation of containers and/or chassis on a continuing basis for national defense operations, the following procedures shall apply:

(1) They agency shall transmit to the Secretary, with a copy to the Administrator, request specifying:

(i) The number of containers and/or chassis required by type;

(ii) The general terms and conditions under which the agency proposes to acquire the needed containers and/or chassis and compensate the owners or operators;

(iii) The expected duration of the lease, if the containers and/or chassis are to be leased;

(iv) The locations at which the agency will take possession of the containers and/or chassis and the required delivery schedule; and

(v) Justification for allocation of containers and/or chassis.

(2) The Administrator in coordination with the Secretary shall identify container and chassis suppliers that can supply the required containers and/or chassis, and shall provide, so far as practicable, for balancing the defense agency's requirement against other requirements for containers and/or chassis so as to minimize disruption of inventory distribution, and shall issue NAOs to suppliers, directing the allocation of specified numbers of containers and/or chassis by type for exclusive use of the defense agency for a specified period.

(3) Each container and chassis supplier in receipt of an NAO shall deliver the containers and/or chassis specified in the NAO to the defense agency at the places and times specified in the NAO or separately agreed upon with the defense agency, under terms and conditions agreed upon with the defense agency.

§ 340.6 Port facilities and services.

(a) When a defense agency requires priority use of port facilities and services not obtainable through established transportation procurement practices, the following procedures shall apply:

(1) Except during periods of Presidentially-declared national defense emergencies, when requests shall be transmitted to the Administrator, the agency shall transmit a request to the Secretary specifying:

(i) The ports at which priority use of port facilities and services are required and the kinds of facilities and services required at each port;

(ii) The approximate scale and duration of the operation for which priority support is required; and

(iii) Justification for priority use of port facilities and services.

(2) The Administrator in coordination with the Secretary shall issue NSPOs to the port authorities concerned, directing that priority be given to the receipt, in transit handling, and outloading of the defense agency's cargo during a specified period and specifying the facilities and services required.

(3) Each port authority in receipt of an NSPO shall:

(i) Make such dispositions of commercial cargoes and ships loading or discharging commercial cargoes as may be necessary to accommodate priority movement of the defense agency's cargoes; and

(ii) Ensure receipt, in transit handling and outloading of the defense agency's cargoes as rapidly as possible.

(b) When a defense agency requires the allocation of port facilities for exclusive use of the agency on a continuing basis, the following procedures shall apply:

(1) The agency shall transmit a request to the Secretary, with a copy to the Administrator specifying:

(i) The ports at which the allocation of facilities is required and the kinds of facilities needed at each port;

(ii) The general terms and conditions under which the agency proposes to acquire the needed facilities and compensate the owners or leaseholders;

(iii) The periods during which the facilities will be required; and

(iv) Justification for allocation of facilities.

(2) The Administrator in coordination with the Secretary shall identify facilities that meet the defense agency's needs, and shall issue to each concerned port authority and NAO directing the allocation of specified facilities for exclusive use of the defense agency during a specified period.

(3) Each port authority in receipt of an NAO shall make the specified facilities available to the defense agency for the specified period under terms and conditions agreed upon with the defense agency.

§ 340.7 Application to contractors and subcontractors.

(a) Vessel operators, port authorities and container and chassis suppliers requiring priorities for production services in order to comply with NSPOs and NAOs must submit their priority requirements for such services to the Maritime Administrator for action in accordance with Departmental policies governing supporting resource support.

(b) Vessel operators, port authorities and container and chassis suppliers requiring priorities for fuel in order to comply with NSPOs and NAOs must submit their priority requirements for fuel in accordance with Departmental policies governing supporting resources.

§ 340.8 Priorities for materials and production.

(a) Vessel operators, port authorities and container and chassis suppliers may request priority ratings to obtain production materials and services necessary to comply with orders issued under this regulation. Requests for priority rating authority must be made through and sponsored by the Maritime Administrator, in accordance with the Defense Priorities and Allocation System (15 CFR part 330 *et seq.* (49 FR 30412, July 30, 1984)) and Departmental policies governing supporting resources support.

(b) Vessel operators, port authorities and container and chassis suppliers may request priority ratings to obtain fuels necessary to comply with orders issued under this regulation. Requests for priority ratings will be made in accordance with regulations issued by the Department.

§ 340.9 Compliance.

Pursuant to section 103 of the Defense Production Act, 1950 (50 U.S.C. App. 2073), any person who willfully performs any act prohibited, or willfully fails to perform any act required, by the provisions of this regulation shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

By order of the Director, National Shipping Authority.

Dated: May 17, 1993.

James E. Saari,

Secretary, Maritime Administration.

[FR Doc. 93–11984 Filed 5–19–93; 8:45 am]

BILLING CODE 4910–81–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1011, 1171, and 1180

[Ex Parte No. 55 (Sub-No. 91)]

Technical Amendments—Delegation of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts rules codifying or repositioning all delegations of authority to the Director of the Office of Proceedings in a central location; streamlining the regulations by updating citations, removing obsolete material, and clarifying the rules; codifying authority delegated to the Secretary of the Commission and to the Office of Tariffs; transferring to the Secretary of the Commission an existing delegation to the Director of the Office of Proceedings to issue informal opinions and interpretations; delegating certain authority to the Motor Carrier Board; and redelegating certain authority from the Motor Carrier Board to the Regional Motor Carrier Boards. These changes are intended to make the rules easier to understand and follow and reflect recent statutory revisions and organizational revisions.

EFFECTIVE DATE: The rules are effective May 20, 1993, unless otherwise noted.

FOR FURTHER INFORMATION CONTACT: Richard L. Gagnon, (202) 927–5263 (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: The following delegations to the Director of the Office of Proceedings are being codified at 49 CFR 1011.8(c): (1) Authority to issue notices of exemption under 49 U.S.C. 10505, in class exemption proceedings, for rail finance transactions under 49 U.S.C. 11343 and the implementing regulations at 49 CFR 1180.2(d) (1)–(7); (2) authority to issue rail modified certificates of public convenience and necessity under 49 CFR part 1150, subpart C; (3) authority to impose, modify, or remove environmental and historic preservation conditions in all proceedings where a draft decision would not otherwise be circulated to the entire Commission; (4)

authority to reject applications, petitions for exemption, and verified notices (filed in class exemption proceedings) for noncompliance with the environmental rules at 49 CFR part 1105; (5) authority to reject applications by Burlington Northern Railroad Company to abandon lines in North Dakota exceeding the 350-mile cap of section 402 of Public Law 97–102, 95 Stat. 1465 (1981), as amended by The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102–143, section 343 (Oct. 28, 1991); (6) authority to extend the 120-day limit within which 49 U.S.C. 10706(b)(3)(B)(vii) mandates that rate bureaus shall finally dispose of rules or rates docketed with them; and (7) authority, absent controversy or unusual circumstances, to issue notices of provisional recertification under State Intrastate Rail Rate Authority, 5 I.C.C.2d 680, 684 (1989).

In an effort to place all delegations to the Director of the Office of Proceedings in a central location, 49 CFR part 1011, the following codified delegations are being relocated to 49 CFR 1011.8(c): (1) Authority to waive the rules at 49 CFR part 1152, subpart C—Procedures Governing Notice, Applications, Financial Assistance, and Acquisition for Public Use on appropriate petition; and (2) authority to issue notices of exemption under 49 U.S.C. 10505 for acquisition and operation transactions under 49 U.S.C. 10901.

The Secretary of the Commission was recently delegated authority to issue informal opinions and interpretations, except with regard to tariffs. Consistent therewith, the Director of the Office of Proceedings' authority at 49 CFR 1180.4(c)(6)(iii) to issue informal opinions and interpretations regarding the information in and the format of applications for rail transactions under 49 U.S.C. 11343 is being redelegated to the Secretary. The Secretary's delegated authority is being codified at 49 CFR 1011.8(b)(2).

Also being codified is the delegation to the Office of Tariffs of authority to reject tariffs, schedules, railroad transportation contracts, and railroad transportation contract summaries filed with the Commission that violate applicable statutes and regulations (49 CFR 1011.8(d)(1)), and to issue informal opinions and interpretations on carrier tariff provisions (49 CFR 1011.8(d)(2)).

In an effort to promote administrative efficiencies, the Motor Carrier Board is being delegated the following: (1) Authority to issue decisions (a) substituting applicants in non-rail licensing proceedings and (b) changing the name of a party in finance proceedings where authority has not yet been issued; (2) authority to issue decisions on requests by motor passenger contract carriers for exemption from the tariff filing requirements of 49 U.S.C. 10702(b), 10761(b), and 10762(f); and (3) authority to decide all routine appeals from initial actions of the Motor Carrier Board (non-routine appeals from initial actions of the Motor Carrier Board would be certified by the Board to the Secretary of the Commission for disposition).

The Motor Carrier Board has been delegated authority, at 49 CFR 1011.6(h)(4), to process applications under 49 U.S.C. 10530 filed by, and to issue certificates of registration to, foreign motor carriers and foreign motor private carriers. Both the Secretary of the Commission and the Motor Carrier Board have delegated authority to dispose of procedural matters related to these applications. All of this authority is being redelegated to the Regional Motor Carrier Boards to facilitate processing the cases (the language barrier presents special challenges that the Regional Boards are uniquely equipped to handle) as well as to enhance the Commission's enforcement of the moratorium under 49 U.S.C. 10922(l)(1).

The Motor Carrier Safety Act of 1984, Public Law No. 98–554, 98 Stat. 2832 (1984), required motor carriers of a contiguous foreign country covered by the moratorium at 49 U.S.C. 10922(l)(1) to obtain certificates of registration each year in order to continue operating in the United States. Such carriers previously had been exempt from the Commission's regulation. In addition, these carriers were required to demonstrate that they maintained specified levels of insurance coverage, that they had complied with U.S. Department of Transportation safety regulations, and that they had paid any applicable Federal heavy vehicle taxes under 26 U.S.C. 4481. The Commission adopted regulations implementing this statute at 49 CFR part 1171. The moratorium now applies only to Mexico, having been lifted for Canada, and has been extended to September 19, 1994.

With the enactment of the Anti-Drug Abuse Act of 1988, Public Law 100–690, 102 Stat. 4181 (1988)—specifically title IX, subtitle B thereof (the Truck and Bus Safety and Regulatory Reform Act of 1988)—the 1984 Act was expanded to require all Mexican for-hire and private carriers of exempt and regulated commodities to obtain certificates of registration. In addition, the annual renewal requirement was repealed, allowing the initial certificates of registration to remain in effect indefinitely if the carrier otherwise complies with the statute and regulations and the moratorium is not revoked or modified. The 1988 Act also permitted Mexican carriers to have insurance policies of limited duration and to show proof of insurance at the international boundary line (on a per-trip basis) rather than filing certificates of insurance with the Commission.

Effective June 21, 1993, Mexican carriers seeking authority from the Commission will no longer be required to file Form OP–2 with the Commission's headquarters in Washington, DC. Rather, all carriers domiciled in the Mexican States of Campeche, Chiapas, Chihuahua, Coahuila, Durango, Guanajuato, Guerrero, Hidalgo, Mexico, Michoacan, Nuevo Leon, Oaxaca, Puebla, Queretaro, Quintana Roo, San Luis Potosí, Tabasco, Tamaulipas, Tlaxcala, Veracruz, Yucatan, and Zacatecas shall file an original and one copy of Form OP–2 with the Regional Director, Interstate Commerce Commission, 55 Monroe Street, suite 550, Chicago, IL 60603. Those carriers domiciled in the Mexican States of Aguascalientes, Baja California Norte, Baja California Sur, Colima, Jalisco, Morelos, Nayarit, Sinaloa, and Sonora shall file an original and one copy of Form OP–2 with the Regional Director, Interstate Commerce Commission, 211 Main Street, suite 500, San Francisco, CA 94105.

Finally, 49 CFR part 1011 is being streamlined by updating citations, removing obsolete matter, and clarifying the rules to resolve questions of interpretation.

List of Subjects

49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions.

49 CFR Part 1171

Administrative practice and procedure, Insurance, Motor carriers.

49 CFR Part 1180

Administrative practice and procedure, Bankruptcy, Railroads, Reporting and recordkeeping requirements.

Decided: May 12, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1011,

1171, and 1180 of the Code of Federal Regulations are amended as follows:

1. Part 1011 is revised to read as follows:

PART 1011—COMMISSION ORGANIZATION; DELEGATIONS OF AUTHORITY

Sec.
1011.1 General.
1011.2 The Commission.
1011.3 Divisions of the Commission.
1011.4 The Chairman, Vice Chairman, and Senior Commissioner present.
1011.5 Delegations to individual Commissioners.
1011.6 Employee Boards.
1011.7 Delegations of authority by the Chairman of the Commission.
1011.8 Delegations of authority by the Commission.

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

§ 1011.1 General.

(a) This part describes the organization of the Commission, and the assignment of jurisdiction and responsibilities to the Commission, individual Commissioners or employees, and employee boards.

(b) As used in this part, *matter* includes any case, proceeding, question, or other matter within the Commission's jurisdiction; and *decision* includes any decision, ruling, order, or requirement of the Commission, an individual Commissioner or employee, or an employee board.

§ 1011.2 The Commission.

(a) The Commission reserves to itself for consideration and disposition:

(1) All rulemaking and similar proceedings involving the promulgation of rules or the issuance of statements of general policy.

(2) All investigations and other proceedings instituted by the Commission, except as may be ordered in individual situations.

(3) All administrative appeals in a matter previously considered by the Commission.

(4) All other matters submitted for decision except those assigned to an individual Commissioner or employee or an employee board.

(5) Except for matters assigned to the Chairman of the Commission under § 1011.5(a)(6),

(i) The determination of whether to reconsider a decision being challenged in court;

(ii) The disposition of matters that have been the subject of an adverse decision by a court; and

(iii) The determination whether to file any memorandum or brief or otherwise participate on behalf of the Commission in any court.

(6) The disposition of all matters involving issues of general transportation importance, and the determination whether issues of general transportation importance are involved in any matter.

(7) All appeals of initial decisions issued by the Director of the Office of Proceedings under authority delegated at § 1011.8(c). Appeals must be filed within 10 days after service of the Director decision or publication of the notice, and replies must be filed within 10 days after the due date for appeals or any extension thereof.

(b) The Commission may bring before it any matter assigned to an individual Commissioner or employee or employee board.

§ 1011.3 Divisions of the Commission.

The Commission may establish such divisions as it considers necessary to handle any matter before it.

§ 1011.4 The Chairman, Vice Chairman, and Senior Commissioner present.

(a)(1) The Chairman of the Commission is appointed by the President as provided by 49 U.S.C. 10301(b). The Chairman has authority, duties, and responsibilities assigned under 49 U.S.C. 10301(f) and described in this part.

(2) The Vice Chairman is elected by the Commission for the term of 1 calendar year.

(3) In the Chairman's absence, the Vice Chairman is Acting Chairman, and has the authority and responsibilities of the Chairman. In the Vice Chairman's absence, the Chairman, if present, has the authority and responsibilities of the Vice Chairman. In the absence of both the Chairman and Vice Chairman, the senior Commissioner present, based on time of continuous service as a member of the Commission, is Acting Chairman, and has the authority and responsibilities of the Chairman and Vice Chairman.

(b)(1) The Chairman is the executive head of the Commission and has general responsibility for:

(i) The overall management and functioning of the Commission;

(ii) The formulation of plans and policies designed to assure the effective administration of the Interstate Commerce Act and related Acts;

(iii) Prompt identification and early resolution, at the appropriate level, of major substantive regulatory problems; and

(iv) The development and use of effective staff support to carry out the duties and functions of the Commission.

(2) The Chairman of the Commission exercises the executive and administrative functions of the Commission, including:

(i) The appointment, supervision, and removal of Commission employees, except those in the immediate offices of Commissioners other than the Chairman;

(ii) The distribution of business among such personnel and among administrative units of the Commission; and

(iii) The use and expenditure of funds.

(3) In carrying out his functions, the Chairman is governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission by law is authorized to make.

(4) The appointment by the Chairman of the heads of offices and bureaus is subject to the approval of the Commission. All heads of offices report to the Chairman.

(c)(1) The Chairman presides at all sessions of the Commission and sees that every vote and official act of the Commission required by law to be recorded is accurately and promptly recorded by the Secretary or the person designated by the Commission for that purpose.

(2) Regular sessions of the Commission are provided for by Commission regulations. The Chairman may call the Commission into special session to consider any matter or business of the Commission. The Chairman shall convene a special session to consider any matter or business on request of a member of the Commission unless a majority of the Commission votes either not to hold a special session or to delay conference consideration of that item, or unless the Chairman finds that special circumstances warrant a delay. Notwithstanding the two immediately preceding sentences of this paragraph, on the written request of any member of the Commission, the Chairman shall schedule a Commission conference to discuss and vote on significant Commission proceedings involving major transportation issues, and such conference shall be held within a reasonable time following the close of the record in the involved proceeding.

(3) The Chairman exercises general control over the Commission's argument calendar and conference agenda.

(4) The Chairman acts as correspondent and speaks for the Commission in all matters where an official expression of the Commission is required.

(5) The Chairman brings any delay or failure in the work to the attention of the supervising Commissioner, employee, or board, and initiates ways of correcting or preventing avoidable delays in the performance of any work or the disposition of any matter.

(6) The Chairman may appoint such standing or *ad hoc* committees of the Commission as he considers necessary.

(7) The Chairman of the Interstate Commerce Commission and the Secretary of the U.S. Department of Transportation shall take appropriate action to implement 49 U.S.C. 1483.

(8) The Chairman may reassign related proceedings to a board of employees and may remove a matter from an individual Commissioner or employee or employee board for consideration and disposition by the Commission.

(9) The Chairman may authorize any officer, employee, or administrative unit of the Commission to perform a function vested in or delegated to the Chairman.

(10) The Chairman authorizes the institution of investigations on the Commission's own motion, and their discontinuance at any time before hearing, except for investigations under 49 U.S.C. 10708.

(11) The Chairman approves for publication all publicly-issued documents by a bureau or office, except:

(i) Those authorized or adopted by the Commission or an individual Commissioner that involve decisions in formal proceedings;

(ii) Decisions or informal opinions of a bureau or office, or an initial decision of a hearing officer; and

(iii) Documents prepared for court cases or for introduction into evidence in a formal proceeding.

§ 1011.5 Delegations to individual Commissioners.

(a) The following matters are referred to the Chairman of the Commission:

(1) Entry of reparation orders responsive to findings authorizing the filing of statements of claimed damages as provided at 49 CFR part 1133.

(2) Extensions of time for compliance with orders and procedural matters in any formal case or pending matter, except appeals taken from the decision of a hearing officer on requests for discovery.

(3) Postponement of the effective date of orders in proceedings that are the subject of suits brought in a court to enjoin, suspend, or set aside the decision.

(4) Dismissal of complaints and applications on the unopposed motion of any party.

(5) Requests for access to waybills and to statistics reported under orders of the Commission.

(6) Exercise of control over litigation arising under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a), except for determinations whether to seek further judicial review of:

(i) A decision in which a court finds under 5 U.S.C. 552(a)(4)(F) that Commission personnel may have acted arbitrarily or capriciously in improperly withholding records from disclosure; or

(ii) A decision in which a court finds under 5 U.S.C. 552a(g)(4) that Commission personnel acted intentionally or wilfully in violating the Privacy Act.

(7) Issuance of certificates and decisions when no protest is received within 30 days after an abandonment or discontinuance application is filed under 49 U.S.C. 10903 and the Commission must find, under 49 U.S.C. 10904(b), that the public convenience and necessity require or permit the abandonment or discontinuance.

(8) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed.

(b) The following matters are referred to the Vice Chairman of the Commission:

(1) Matters within the jurisdiction of the Accounting Board if certified to the Vice Chairman by the Board or if removed from the Board by the Vice Chairman.

(2) Matters involving the admission, disbarment, or discipline of practitioners before the Commission under 49 CFR part 1103.

(3) In cases of calamitous visitation:

(i) Reduced rates authorization under 49 U.S.C. 10721;

(ii) Relief from the provisions of 49 U.S.C. 10730; and

(iii) Relief from the long and short haul restrictions of 49 U.S.C. 10726.

(c) The Chairman, Vice Chairman, or any other Commissioner to whom a matter is assigned under this part may certify such matter to the Commission.

(d) The Chairman shall notify all Commissioners that a petition for a stay has been referred to the Chairman for disposition under paragraphs (a) (2) or (3) of this section. The Chairman shall also inform all Commissioners of the decision on that petition before service of such decision. At the request of a Commissioner, made at any time before the Chairman's decision is served, the petition will be referred to the Commission for decision.

§ 1011.6 Employee boards.

This section covers matters assigned to boards of employees of the Commission. Except as provided at paragraph (f) of this section, a board may certify any matter assigned to it to the Commission.

(a) *Suspension/Special Permission Board.* This board has authority to act initially on matters involving tariff provisions and railroad contracts as follows:

(1) In matters arising from 49 U.S.C. 10707 and 10708 relating to suspension and/or investigation of a tariff matter, the board is not authorized to act on petitions or requests relating to rates, classifications, rules, or practices filed in purported compliance with decisions of the Commission or to act in connection with suspensions to be taken during or after formal hearings and investigations. The board is authorized:

(i) To not suspend a rate or a classification, rule, or practice related to a rate, or to suspend such rate, classification, rule, or practice and order an investigation;

(ii) To institute investigations into rates, fares, charges, and practices of regulated carriers; and

(iii) Before the submission of evidence, to discontinue any proceeding when the proposed rate, classification, rule, or practice has been cancelled.

(2) In matters arising from 49 U.S.C. 10726, the board is authorized to grant or withhold relief from the long and short haul transportation requirements of that statute, except for proceedings made the subject of formal hearings, matters prompted by an order or requirement of the Commission, matters arising from general increase proceedings, or in cases of calamitous visitation where the Vice Chairman has been delegated authority at 49 CFR 1011.5(b)(3).

(3) In matters arising from 49 U.S.C. 10701, 10702, 10761, and 10762, the board is authorized to grant or withhold special tariff authority or other permissible waivers of rules regarding tariffs or schedules, including authorization for the cancellation of suspended tariffs or schedules, that have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(4) In matters arising from 49 U.S.C. 10713, the board is authorized:

(i) To grant or withhold discovery of railroad transportation contracts;

(ii) To institute investigations of railroad transportation contracts; and

(iii) To grant or withhold relief from 49 CFR 1313.7(a), (b), (c), and (d) governing the construction and filing of railroad transportation contracts and railroad transportation contract summaries.

(b) *OCCA boards*—(1) Insurance Board.—(i) Matters arising under 49 U.S.C. 10924 and 10927, regarding bonds or other security to assure financial responsibility of brokers, and 49 U.S.C. 10927, regarding motor carriers providing bonds, insurance, or other security for the protection of the public, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(ii) Matters arising under 49 U.S.C. 10329 and 10330 regarding the designation by motor carriers and brokers of persons on whom orders and notices may be served and the designation of agents on whom service of process may be made, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(iii) Matters arising under 49 U.S.C. 11711 regarding review and approval of claim dispute settlement programs submitted by motor common carriers of household goods, and revocation or suspending approval of such programs if the carrier(s) fail to comply with that statute. The Insurance Board shall certify a representative sampling of proposed dispute settlement programs to the Commission.

(2) Motor Carrier Leasing Board. Matters arising under 49 U.S.C. 10321, 11101, and 11107 and the implementing regulations at 49 CFR part 1057 regarding the lease and interchange of vehicles by motor carriers, except matters involving taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(3) Railroad Service Board. Matters regarding car-service except controversies between carriers as to compensation, under 49 U.S.C. 11123, 11124, 11127, and 11128, which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(4) Revocation Board. Entry of show cause orders under 49 U.S.C. 11701 and 10925 (b)(1), (c)(1), and (c)(3) directed to motor carriers, brokers, water carriers, and household goods freight forwarders who have failed to submit the proper application fee or to file required annual reports; and determination of uncontested motor carrier, broker, water carrier, and household goods freight forwarder suspension, change, or revocation proceedings under 49 U.S.C. 10925 that have not involved taking testimony at a public hearing. The Motor Carrier Board is delegated revocation authority in connection with licensing matters at § 1011.6(g)(7).

(5) Any matter referred to an OCCA Board that is subsequently assigned for taking testimony at a public hearing shall be withdrawn from the board.

(6) The Railroad Service Board will establish and oversee modified hearing procedures implementing section 226 of the Staggers Rail Act of 1980, Public Law No. 96–448, which revises 49 U.S.C. 11123(a) and provides for issuance of extensions of emergency service orders by the Commission. Each order issued under revised 49 U.S.C. 11123(a) will contain a notice of the hearing procedures to be followed with respect to any extension of that order.

(c) *Released Rates Board.* Matters arising under 49 U.S.C. 10730(a) regarding applications to establish released rates and ratings that have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

(d) *Accounting Board.* (1) Authority:

(i) To permit departure from general rules prescribing uniform systems of accounts for carriers and other persons under the revised Interstate Commerce Act, subtitle IV of title 49 of the U.S. Code, and from the regulations governing the forms and recording of passes for carriers and other persons under the Act;

(ii) To prescribe rates of depreciation to be used by railroad and water carriers;

(iii) To issue special authorizations permitted by the regulations governing the destruction of records of carriers subject to the Act;

(iv) To grant extensions of time for filing annual, periodical, and special reports in matters that do not involve taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits; and

(v) To issue valuation reports in matters that do not involve taking testimony at public hearings or the submission of evidence by opposing parties in the form of affidavits.

(2) The board may certify any matter assigned to it to the Vice Chairman of the Commission.

(e) *Special Docket Board.* Disposition of Special Docket proceedings under 49 CFR 1130.2 (e) and (f).

(f) *Regional Motor Carrier Boards.* (1) Matters arising under 49 U.S.C. 10928 regarding applications for temporary authority by common or contract carriers by motor vehicle or water, except matters involving broad questions of policy, matters in which the decision of the boards would be inconsistent with a decision of the Commission, and matters in which substantially the same question is already before the Commission.

(2) Effective June 21, 1993, authority to process applications (including all matters related thereto) under 49 U.S.C. 10530 filed by, and issue certificates of registration to, foreign motor carriers and foreign motor private carriers.

(g) *Motor Carrier Board.* (1) Pre-publication matters in operating rights applications of motor carriers, water carriers, household goods freight forwarders, and property brokers.

(2) Motor passenger carrier and water carrier finance applications under 49 U.S.C. 11343–11344, and small carrier transfer applications under 49 U.S.C. 10926.

(3) Temporary authority applications related to finance proceedings under 49 U.S.C. 11349.

(4) Applications that have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under:

(i) 49 U.S.C. 10321, relating to the transfer of brokers' licenses; and

(ii) 49 U.S.C. 10931 and 10932, relating to the transfer of Certificates of Registration and rights to operate pending determination of applications for Certificates of Registration.

(5) Issuance of decisions substituting applicants in non-rail licensing proceedings and finance proceedings where operating authority has not yet been issued.

(6) Issuance of decisions on requests by motor passenger contract carriers for exemption from the tariff filing requirements of 49 U.S.C. 10702(b), 10761(b), and 10762(f).

(7) Authority to decide all routine appeals from initial actions of the Motor Carrier Board. Non-routine appeals from initial actions of the Motor Carrier Board shall be certified by the Board to the Secretary of the Commission for disposition.

§ 1011.7 Delegations of authority by the Chairman.

(a)(1) This section provides for delegations of authority by the Chairman of the Interstate Commerce Commission to individual Commission employees.

(2) The Chairman of the Commission may remove for disposition any matter delegated under this section, and any matter delegated under this section may be referred by the Commission

employee to the Chairman for disposition.

(b)(1) The Chairman of the Commission will decide appeals from decisions of employees acting under authority delegated under this section. Appeals must be filed within 10 days after the date of the employee's action, and replies must be filed within 10 days after the due date for appeals. Appeals are not favored and will be granted only in exceptional circumstances to correct a clear error of judgment or to prevent manifest injustice.

(2) The Chairman may on his own motion review, reverse, or modify any decision of an employee acting under authority delegated under this section.

(c)(1) As used in this paragraph, *procedural matter* includes, but is not limited to, the assignment of the time and place of hearing; the assignment of proceedings to Administrative Law Judges; the issuance of decisions directing special hearing procedures; the establishment of dates for filing statements in cases assigned for handling under modified (non-oral hearing) procedure; the consolidation of proceedings for hearing or disposition; the postponement of hearings and of procedural dates; the waiver of formal specifications for pleadings; and extensions of time for filing pleadings. It does not include interlocutory appeals from the rulings of hearing officers; nor does it include postponement of the effective date of:

(i) Decisions pending judicial review,

(ii) Decisions of the entire Commission,

(iii) Cease and desist orders,

(iv) Orders suspending or revoking operating authority, or

(v) Final decisions where petitions for discretionary review have been filed under 49 CFR 1115.5.

(2) Unless otherwise ordered by the Commission in individual proceedings, authority to dispose of procedural matters arising before issuance of an initial decision in proceedings assigned for handling under oral hearing procedure or assigned to an Administrative Law Judge under modified procedure is delegated to the Chief Administrative Law Judge of the Commission. Notwithstanding this delegation, Commissioners, Administrative Law Judges, and Joint Boards appointed under 49 U.S.C. 10341–10344 retain the authority to dispose of procedural matters in proceedings assigned to them.

(3) Unless otherwise ordered by the Commission in individual proceedings, authority to dispose of routine procedural matters in proceedings assigned for handling under modified procedure, other than those assigned to an Administrative Law Judge, or arising after issuance of an initial decision by a hearing officer in a proceeding that has been the subject of an oral hearing, is delegated to the Secretary of the Commission. The Secretary shall also have authority, unless otherwise ordered by the Chairman or by a majority of the Commission in individual proceedings, to decide whether operating rights application and complaint proceedings shall be handled under the modified procedure or be assigned to the Office of Hearings. In carrying out these duties, the Secretary shall consult, as necessary, with the General Counsel and the Director of any other Commission Office to which an individual proceeding has been assigned.

(d) Except as provided at 49 CFR 1113.3(b)(1), authority to dismiss a complaint on complainant's request, or an application on applicant's request, is delegated to the Secretary and to the Chief Administrative Law Judge.

(e) The entry of reparation orders, responsive to findings authorizing the filing of statements of claimed damages as provided at 49 CFR 1133.2, is delegated to the Director of the Office of Tariffs.

(f) Authority to grant or deny access to waybills and to statistics reported under orders of the Commission is delegated to the Director of the Office of Economics.

(g) Certain accounts in the Uniform Systems of Accounts, 49 CFR parts 1200 through 1207, require Commission approval to use. Authority to grant or deny requests for use of these accounts is delegated to the Director of the Office of Economics, the Deputy Director of Economics—Accounts, and the Chief of the Section of Audit and Accounting.

(h) The Secretary of the Commission is delegated authority, under the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, to:

(1) Sign and transmit to the Small Business Administration certifications of no significant economic effect for proposed rules, that if adopted by the Commission, will not have a significant economic impact on a substantial number of small entities; and

(2) Sign and transmit findings regarding waiver or delay of an initial regulatory flexibility analysis or delay of a final regulatory flexibility analysis.

(i) Issuance of certificates and decisions when no protest is received within 30 days after an abandonment or discontinuance application is filed under 49 U.S.C. 10903, and the Commission must find, under 49 U.S.C. 10904(b) that the public convenience and necessity require or permit the abandonment or discontinuance, is delegated to the Director of the Office of Proceedings.

(j) Issuance of certificates and decisions authorizing Consolidated Rail Corporation to abandon or discontinue service over lines for which an application under section 308 of the Regional Rail Reorganization Act of 1973 has been filed is delegated to the Director of the Office of Proceedings.

§ 1011.8 Delegations of authority by the Commission to specific offices of the Commission.

(a) *Office of Public Assistance.* (1) There is established an Office of Public Assistance. The Office assumes the functions previously assigned to the former Office of Special Counsel, the former Small Business Assistance Office, and the State/Community Affairs Liaison position formerly in the Office of Legislation and Governmental Affairs.

(2) The Office shall be managed by a Director, who also serves as Special Counsel of the Commission, and by a Deputy Director, who also serves as the Small Business Assistance Officer of the Commission. The Special Counsel shall be appointed by the Chairman, subject to the approval of a majority of the Commission.

(3) The mission of the Office is to assist the Commission and the public in determining and representing the public interest, with regard to the Interstate Commerce Act and related statutes. The primary function of the Office is to act as the focal point to coordinate Commission activities ensuring that:

(i) The public interest is fully developed in proceedings before the Commission and especially to contribute to the development of a complete record in proceedings in which important aspects of the public interest otherwise would not be explored adequately, particularly proceedings affecting the interests of bus passengers, household goods shippers, owner operators, and classes II and III rail carriers and the shippers they serve;

(ii) Small and minority-owned transportation entities, transportation-related entities, consumer groups, small communities, carriers and shippers, and State regulatory officials are advised on the applicability of the law and of the availability of assistance from the Commission as this applies to their enterprise; and

(iii) The Commission is advised on policy matters regarding its small business assistance functions and programs.

(4) The Office will participate as a party in Commission proceedings, including rulemakings, only on the filing of a petition seeking, and on the approval of a majority of the Commission granting, such recourse.

(5) The Office of Hearings, in noticing cases for public hearings, shall advise parties of the availability of assistance from the Office of Public Assistance.

(b) *Office of the Secretary.* The Secretary of the Commission is delegated the following authority:

(1) Whether (in consultation with involved Offices) to waive filing fees set forth at 49 CFR 1002.2(f).

(2) To issue, on written request, informal opinions and interpretations (exclusive of informal opinions and interpretations on carrier tariff provisions), which are not binding on the Commission. In issuing informal opinions or interpretations, the Secretary shall consult with the Director of the appropriate Commission office. Such requests must be directed to the Office of the Secretary, Legal Branch, Interstate Commerce Commission, Washington, DC 20423. Authority to issue informal opinions and interpretations on carrier tariff provisions is delegated at 49 CFR 1011.8(d)(2) to the Office of Tariffs.

(c) *Office of Proceedings.* The Director of the Office of Proceedings shall have authority initially determinative of the following:

(1) Whether to designate protested abandonment proceedings for investigation (including action on requests for oral hearing).

(2) Whether offers of financial assistance satisfy the statutory standards of 49 U.S.C. 10905(d) for the purpose of negotiations or, in exemption proceedings, for purposes of partial revocation and negotiations.

(3) Whether: (i) To impose, modify, or remove environmental and historic preservation conditions; and

(ii) In abandonment proceedings, to impose public use conditions under 49 U.S.C. 10906 and the implementing regulations at 49 CFR 1152.28.

(4) In abandonment proceedings, when a request for interim trail use/rail banking is filed under 49 CFR 1152.29, determining whether the National Trails System Act, 16 U.S.C. 1247(d), is applicable and, where appropriate, issuing Certificates of Interim Trail Use or Abandonment (in application proceedings) or Notices of Interim Trail Use or Abandonment (in exemption proceedings).

(5) In any abandonment proceeding where interim trail use/rail banking is an issue, to make such findings and issue decisions as may be necessary for the orderly administration of the National Trails System Act, 16 U.S.C. 1247(d).

(6) Whether to institute requested declaratory order proceedings under 5 U.S.C. 554(e).

(7) In all exemption proceedings under 49 U.S.C. 11343(e) involving non-rail intermodal parties, to make such findings as necessary and to issue notices of exemption.

(8) To issue decisions, after 60 days' notice by any person discontinuing a subsidy established under 49 U.S.C. 10905 and at the railroad's request:

(i) In application proceedings, immediately issuing certificates of abandonment or discontinuance; and

(ii) In exemption proceedings, immediately vacating the decision that postponed the effective date of the exemption.

(9) In proceedings under the Feeder Railroad Development Program under 49 U.S.C. 10910 and the implementing regulations at 49 CFR part 1151:

(i) Whether to accept or reject primary applications under § 1151.2(b); competing applications under § 1151.2(c); and incomplete applications under § 1151.2(d).

(ii) Whether to grant waivers from specific provisions of 49 CFR part 1151.

(10) In exemption proceedings subject to environmental or historic preservation reporting requirements, to issue a decision, under 49 CFR 1105.10(g), making a finding of no significant impact where no environmental or historic preservation issues have been raised by any party or identified by the Commission's Section of Energy and Environment.

(11) Whether to issue notices of exemption under 49 U.S.C. 10505:

(i) For acquisition, lease, and operation transactions under 49 U.S.C. 10901 and the implementing regulations at 49 CFR part 1150, subpart D; and

(ii) For rail transactions under 49 U.S.C. 11343 and the implementing regulations at 49 CFR 1180.2(d).

(12) Whether to issue rail modified certificates of public convenience and necessity under 49 CFR part 1150, subpart C.

(13) Whether to waive the regulations at 49 CFR part 1152, subpart C, on appropriate petition.

(14) To reject applications, petitions for exemption, and verified notices (filed in class exemption proceedings) for noncompliance with the environmental rules at 49 CFR part 1105.

(15) To reject applications by Burlington Northern Railroad Company to abandon rail lines in North Dakota exceeding the 350-mile cap of section 402 of Public Law 97–102, 95 Stat. 1465 (1981), as amended by The Department of Transportation and Related Agencies Appropriations Act, 1992, Public Law 102–143, section 343 (Oct. 28, 1991).

(16) Whether to extend the 120-day limit within which 49 U.S.C. 10706(b)(3)(B)(vii) mandates that rate bureaus shall finally dispose of rules or rates docketed with them.

(17) Whether, absent controversy or unusual circumstances, to issue notices of provisional recertification under *State Intrastate Rail Rate Authority*, 5 I.C.C.2d 680, 684 (1989).

(d) *Office of Tariffs.* The Office of Tariffs is delegated the authority to:

(1) Reject tariffs, schedules, railroad transportation contracts, and railroad transportation contract summaries filed with the Commission that violate applicable statutes, rules, or regulations, except when such summary rejection of facially defective tariff filings would give rise to potential undercharge problems. In such event, the defective tariff filings shall not be rejected and instead shall become effective on schedule provided that corrections are filed within 15 days. Any rejection of a tariff, schedule, contract, or summary may be by letter signed by or for the Director, Office of Tariffs, or the Chief, Section of Tariff Maintenance and Compliance, Office of Tariffs.

(2) Issue, on written request, informal opinions and interpretations on carrier tariff provisions, which are not binding on the Commission.

2. The heading for Part 1171 is revised to read as follows:

PART 1171—APPLICATIONS FOR CERTIFICATES OF REGISTRATION BY FOREIGN MOTOR CARRIERS AND FOREIGN MOTOR PRIVATE CARRIERS UNDER 49 U.S.C. 10530

3. The authority citation for part 1171 continues to read as follows:

Authority: 49 U.S.C. 10922 and 10530; 5 U.S.C. 553.

4. In § 1171.3, paragraph (c) is revised to read as follows:

§ 1171.3 Procedures used generally.

* * * * *

(c) Form OP–2 may be obtained at any of the Commission's Regional Offices or by contacting the Commission's Office of Public Assistance.

* * * * *

5. Section 1171.5 is revised to read as follows:

§ 1171.5 Where to send the application.

(a) The original and one copy of the application shall be filed with the Regional Office that has jurisdiction

over applicant's point of domicile (the instructions to the application provide more specific information), or at such other location as the Commission may designate in special circumstances. A check or money order for the amount of the filing fee set forth at 49 CFR 1002.2(f)(1), payable to the Interstate Commerce Commission in United States dollars, must be submitted.

(b) One copy of the application shall be sent to the U.S. Department of Transportation, Federal Highway Administration, Office of Motor Carriers, Washington, DC 20590.

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

6. The authority citation for part 1180 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 11341, 11343–11346; 5 U.S.C. 553 and 559; and 11 U.S.C. 1172.

7. In § 1180.4, paragraph (c)(6)(iii) is revised to read as follows:

§ 1180.4 Procedures.

* * * * *

(c) * * *

(6) * * *

(iii) The Commission's Office of the Secretary will provide informal opinions and interpretations, which are not binding on the Commission, regarding the format of or information to be included in the application.

* * * * *

[FR Doc. 93–11982 Filed 5–19–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 921185–3021]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock by operators of vessels using non-pelagic trawl gear in bycatch limitation zone 2 (Zone 2) in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 1993 prohibited species bycatch allowance of *C. bairdi* Tanner crab to the pollock/Atka mackerel/"other species" category in Zone 2 of the BSAI has been reached.

EFFECTIVE DATES: Effective 12 noon, Alaska local time (A.l.t.), May 14, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

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

The 1993 *C. bairdi* Tanner crab bycatch allowance for the trawl pollock/Atka mackerel/"other species" category, which is defined at § 675.21(b)(1)(iii)(F), is 1,146,167 animals (58 FR 8703, February 17, 1993).

The Director of the Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(ii), that the 1993 prohibited species bycatch allowance of *C. bairdi* Tanner crab to the pollock/Atka mackerel/"other species" category in Zone 2 of the BSAI has been reached. Therefore, NMFS is prohibiting directed fishing for pollock by operators of vessels using non-pelagic trawl gear in Zone 2 in the BSAI from 12 noon, A.l.t., May 14, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

Classification

This action is taken under § 675.21 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: May 14, 1993.

Alfred J. Bilik,

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

[FR Doc. 93–11941 Filed 5–14–93; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 96
Thursday, May 20, 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 AGRICULTURE

Rural Electrification Administration

7 CFR Parts 1753 and 1755

REA Telecommunications Software License Agreement

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) is proposing a uniform Telecommunications Software License Agreement that will be an Addendum to any REA financed central office equipment contract that involves software. This action will provide a single Telecommunications Software License Agreement that is acceptable to REA instead of individual approval of Software Licenses for each contract. This action will reduce the review and approval time of equipment contracts and will ensure fair and equal treatment for all providers of central office equipment. In order to accommodate a new software license agreement, REA is proposing to amend its regulations on telecommunications.

DATES: Written comments must be received by REA, or bear a postmark or equivalent, no later than July 19, 1993. REA requests an original and three copies of all comments (7 CFR part 1700).

ADDRESSES: Comments should be mailed to William F. Albrecht, Director, Program Support Staff, Rural Electrification Administration, room 2234, South Building, USDA, Washington, DC 20250–1500. All comments received will be available for public inspection at room 2234 (address as above) during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: John J. Schell, Chief, Central Office Equipment Branch, Telecommunications Standards Division, Rural Electrification Administration, room 2836, South Building, USDA, Washington, DC 20250–1500, telephone number (202) 720–0671.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512–1. This action has been classified as "nonmajor" because it does not meet the criteria for a major regulation as established by the Order.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts REA and RTB loans and loan guarantees, and RTB bank loans, to governmental and nongovernmental entities from coverage under this Order.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If adopted, this proposed rule: (1) Will not preempt any state or local laws, regulations, or policies; (2) Will not have any retroactive effect; or (3) Will not require administrative proceedings before parties may file suit challenging the provisions of this rule.

Regulatory Flexibility Act Certification

The Administrator of REA has determined that this proposed rule will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule provides for a uniform software license agreement which, if adopted, will reduce review and approval time and ensure fair and equal treatment for all providers of central office equipment.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in this final rule have been approved by the Office of Management and budget (OMB) in accordance with the paperwork reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The OMB control number for these requirements is 0572-0077, which expires on January 31, 1994. Comments concerning these requirements should be directed to the Department of Agriculture, Clearance Office, Officer of Information Resources Management, room 404-W, Washington, DC 20250, and to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, room 3201, NEOB, Washington, DC 20503.

National Environmental Policy Act Certification

The Administrator of REA has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Background

7 CFR Part 1753, Telecommunications System Construction Policies and Procedures, contains guidelines for the preparation of Software License Agreements subject to approval by REA. Efforts to conclude satisfactory license agreements with individual equipment suppliers have been time consuming and in many cases REA has been unable to reach an agreement that is acceptable to REA and the equipment suppliers. This proposal will permit REA to utilize a common uniform Software License Agreement. The proposed agreement will be an Addendum to all REA financed central office equipment contracts and will eliminate individual license agreements with equipment suppliers.

REA proposes to amend 7 CFR part 1753, by revising subpart A, § 1753.7, paragraph (f)(4), and subpart E, § 1753.38, paragraph (a)(2)(i)(J), to indicate that the software license agreement prepared by REA will be an addendum to the central office equipment contract, and to amend § 1753.38, paragraph (c), by revising the

software license agreement. Additionally, it is proposed to remove § 1753.38, paragraph (a)(2)(iii), which instructs the borrower to review the proposed software licensing agreement and obtain REA approval, if required. This proposed rule eliminates the need for instructions since the proposed software agreement has been prepared by REA and approved by the Administrator prior to presentation to suppliers. It is also proposed to amend by adding a form to § 1755.93.

List of Subjects

7 CFR Part 1753

Communications equipment, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

7 CFR Part 1755

Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For the reasons set out in the preamble, 7 CFR parts 1753 and 1755 are proposed to be amended as follows:

PART 1753—TELECOMMUNICATIONS SYSTEM CONSTRUCTION POLICIES AND PROCEDURES

1. The authority citation for part 1753 continues to read as follows:

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

2. Section 1753.7 is amended by revising paragraph (f)(4) to read as follows:

§ 1753.7 Plans and specifications (P&S).

* * * * *

(f) * * *

(4) *Telecommunications software license provision.* If the borrower is required to enter into a software license agreement in order to use the equipment, the contract must contain the REA prepared Software License Agreement as an Addendum.

3. Section 1753.38 is amended by revising paragraph (a)(2)(i)(J), by removing paragraph (a)(2)(iii), by redesignating paragraphs (a)(2)(iv) through (a)(2)(vii) as paragraphs (a)(2)(iii) through (a)(2)(vi), respectively, and by revising newly designated paragraph (a)(2)(v) and paragraph (c) to read as follows:

§ 1753.38 Procurement procedures.

(a) * * *

(2) * * *

(i) * * *

(J) A software license agreement (if required by the manufacturer) in the form indicated in § 1753.38(c).

* * * * *

(v) After evaluation of the technical proposals and REA approval of changes to the P&S, sealed bids shall be solicited from only those bidders whose technical proposals meet the P&S requirements. When fewer than three bidders are qualified to bid, REA approval must be obtained to proceed. Generally, REA will grant this approval only if all suppliers currently listed in the "List of Materials Acceptable for Use on Telephone Systems of REA Borrowers" were invited to submit technical proposals.

* * * * *

(c) *Software license agreement (Addendum 2).* The Addendum in this paragraph to REA Form 525, Central Office Equipment Contract (Including Installation), and REA Form 545, Central Office Equipment Contract (Not Including Installation), must be used with any central office equipment contract that requires a software license agreement and for which REA financial assistance is to be provided.

Addendum 2

(1) *Definitions.* For the purpose of this Software License Agreement—

Contract means the REA Form 525 Central Office Equipment Contract (Including Installation) or REA Form 545 Central Office Equipment Contract (Not Including Installation), dated _____, between _____(the Licensee) and _____(the Licensor).

Licensed Software means the computer programs known as _____(Name of System), Release _____, whether contained on a tape, disc, semiconductor device, or other memory device or system memory consisting of logic instructions and instruction sequences in machine-readable object code, which manipulate data in the central processor, control and perform input/output operations, perform error diagnostic and recovery routines, control call processing, and perform peripheral control, administrative and maintenance functions; as well as associated documentation, excluding source code, used to describe, maintain and use the programs provided under the Contract.

Licensee and Licensor means the parties signing the software license agreement as the licensee and licensor.

Right-to-Use Fee is defined in paragraph (2) of this addendum.

Specifications means the REA Form 522, General Specification for Digital, Stored Program Controlled Central Office Equipment, which is part of the Contract.

System means the stored program controlled central office and associated remote switching terminal or terminals which use the Licensed Software covered by this license.

(2) *Software License Provisions.* The Licensor may charge a fee, herein referred to as a Right-to-Use Fee, for use of the Licensed Software. The Right-to-Use Fee shall be included in the Total Base Bid as defined in the Contract. In consideration of the Right-to-Use Fee, the Licensor hereby grants the Licensee the right to use all Licensed Software so that the System performs in accordance with the Contract and the Specifications.

(i) The Licensee's right to use the Licensed Software is non-exclusive and limited to use or operation in the United States of America, including its Territories, the Federated States of Micronesia, the Marshall Islands and Palau, with the System for which the Licensed Software is provided by the Licensor. The Licensee may reuse the equipment and its accompanying software at another location within the Licensee's System without obtaining additional approvals from the Licensor.

(ii) The Licensee and any successor to the Licensee's title in the System may, without further consent of the Licensor, transfer the Licensed Software and all of the Licensee's rights and interests under this Software License to any transferee who acquires legal title to the System, provided that such transferee first agrees in writing to the Licensor to abide by all of the terms and conditions of this License. The Licensor shall not place any additional conditions on the transferee's use of the System or the Software. If the provisions of this paragraph are satisfied, thereafter the Licensee shall bear no responsibility for transferee's failure to abide by the terms and conditions of this License.

(iii) The Licensee shall take reasonable steps to protect the confidentiality of the Licensed Software. The obligations of the Licensee hereunder shall not extend to any information or data relating to the Licensed Software which is now available to the general public or becomes available by reason of the acts of third parties.

(iv) The Licensee may reproduce or copy the Software and related materials solely for the purpose of archival backup, in-house training and operating, maintaining, and administering the System provided under this Contract. The Licensee shall include, upon all copies of the Software, all proprietary notices, including the copyright notice within the Software program and related documentation in the form in which it is received from the Licensor.

(v) The Licensee acknowledges that the Software program is the property of the Licensor, and shall not do, or cause to be done, anything to activate any of the subsisting nonactivated computer instruction steps therein unless authorized in writing by the Licensor. Further, the Licensor shall have the exclusive right to activate, or authorize the activation of, the subsisting nonactivated program instruction steps.

(vi) In the event the Licensor develops significant improvements to the Software, the Licensor may market the improvement as a separate offering requiring payment of an additional Right-to-Use Fee.

(vii) The Licensee shall not modify or otherwise change the Licensed Software other than at the direction of the Licensor.This provision shall not apply to:

(A) Changes made in the Licensed Software which are necessary to preserve or restore service provided that the Licensor is promptly notified of any such changes;

(B) Changes made by the Licensee to its own database; and

(C) Changes made by the Licensee due to the unwillingness or inability of the Licensor to furnish support for the Licensed Software.

(viii) Within thirty (30) days after written notice that a program or a release thereof has been discontinued and is no longer required for the operation of the System and the Licensor has furnished the Licensee with a new program that is fully satisfactory to the Licensee, the Licensee agrees to return the original and all copies of the discontinued program and specified related documents. If such return is impossible or impractical, the Licensee shall destroy said program and documents and provide the Licensor with a written notice of such destruction.

(ix) The Licensor warrants to the Licensee that any Software licensed under this Software License shall function, for a period of five (5) years from the warranty start date defined in the Contract, in accordance with the specifications and any written or printed technical material provided by the Licensor to explain the operation of the software and aid in its use. The Licensor shall correct all deficiencies within thirty (30) days from the date of receipt by the Licensor of written notice thereof from the Licensee. An extension of time may be allowed if agreed upon by the Licensee and REA. It shall be the Licensor's obligation to insert and thoroughly test, at no charge to the Licensee, any software amendment or alteration provided to satisfy the obligations of this section. If a deficiency is detected or a correction made within ninety (90) days prior to the expiration of the warranty, the warranty shall be extended to a date ninety (90) days after the deficiency has been corrected.

(x) The Licensor shall hold harmless and indemnify the Licensee from any and all claims, suits, and proceedings for the infringement of any patent, copyright, trademark, or violation of trade secrets covering any Software used with the System, except for items of the Licensee's design or selection. If the Licensee's use of the Software is enjoined, the Licensor shall promptly, at its own expense, modify the infringing Software or portion thereof so that it no longer infringes but remains functionally equivalent, or replace it with noninfringing equivalent software, or obtain for the Licensee a license or other right to use. This shall be in addition to any other rights or claims which the Licensee may have. The Licensor shall, at its own expense; (and the Licensee agrees to permit the Licensor to do so) defend any suits which may be instituted by any party against the Licensee for alleged infringement of patents, copyright, trademark, or violation of trade secrets relative to the Licensor's performance hereunder. Either party shall notify the other promptly of any such claims, and the Licensee shall give to the Licensor full authority and opportunity to settle such claims, and shall reasonably cooperate with the Licensor in obtaining information relative to such claims.

(xi) In the event the Licensor becomes unwilling or unable to furnish support for the Licensed Software, the Licensor shall, upon written request of the Licensee, provide with the greatest possible dispatch all Software back-up documentation including proprietary information. The Licensee shall be permitted full use of all Software and documentation as long as the System is operational. In this event, the Licensee may modify, or have modified, the Software for feature enhancement or proper equipment operation and becomes the owner of such modifications for all purposes, including patenting, copywriting, sale, or license thereof.

(xii) A breach of this License by the Licensor is a breach of the Contract. Therefore, the remedies specified in the Contract shall apply.

(xiii) The Licensee shall have a reasonable time after receipt of written notice from the Licensor to correct any breach of this License. Damages payable by the Licensee for its breach of this License shall not exceed ten times the total Contract price. The Licensor shall not terminate this License unless:

(A) The Licensor has given REA sixty (60) days notice before termination; and

(B) REA agrees with the Licensor that termination is the only method available to prevent significant harm to the Licensor from additional Licensee defaults.

(xiv) If any section or part thereof, in this Agreement shall be held to be invalid or unenforceable in any jurisdiction in which this Agreement is being performed, then the meaning of such section or part shall be construed so as to render it enforceable, to the extent feasible; and if no feasible interpretation would save such section or part, it shall be severed from this Agreement and the remainder shall remain in full force and effect. However, in the event such section or part is considered an essential element of this Agreement, the parties shall promptly negotiate a replacement therefor.

(xv) This Software License and any amendments thereto, or revisions thereof, are subject to REA approval.

Licensor	Licensee
Company Name _____ By _____ Title _____ Date _____	Company Name _____ By _____ Title _____ Date _____

(End of clause)

* * * * *

PART 1755—TELECOMMUNICATIONS STANDARDS AND SPECIFICATIONS FOR MATERIALS, EQUIPMENT AND CONSTRUCTION

4. The authority citation for part 1755 continues to read as follows:

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

5. Section 1755.93 is amended by adding a new form at the end of the table to read as follows:

§ 1755.93 List of standard forms of telecommunications contracts.

* * * * *

REA Form No.	Issue Date	Title	Purpose	Source of Copies
*	*	*	*	*
Addendum No. 2	TBD	Addendum to REA Forms 525 and 545 Central Office Equipment Contracts.	Incorporates the Software License Agreement into the 525 and 545.	REA.[1]

[1] A limited number of copies of the publication will be furnished by REA upon request. As this document is produced by the Federal Government and is, therefore, in the public domain, additional copies may be duplicated locally by any user as desired. Requests for copies should be sent the Director, Administrative Services Division, U.S. Department of Agriculture, Rural Electrification Administration, Washington, DC 20250. The telephone number of the REA Publication Office is (202) 720–8674.

* * * * *

Dated: May 5, 1993.

Robert Peters,

Acting Under Secretary, Small Community and Rural Development.

[FR Doc 93–11996 Filed 5–19–93; 8:45 am]

BILLING CODE 3410–15–F

NUCLEAR REGULATORY COMMISSION

10 CFR Part 55

RIN 3150–AE39

Operators' Licenses

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to delete the requirement that each licensed operator at power, test and research reactors pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal. The proposed amendment will require facility licensees to submit copies of each annual operating test or comprehensive written examination used for operator requalification for review by the Commission at least 30 days prior to conducting the examination or the test. In addition, the proposed rule will amend the "Scope" provisions of the regulations pertaining to operators' licenses to include facility licensees.

DATES: The comment period expires July 19, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: One White Flint North, 11555 Rockville Pike, Rockville, Maryland, between 7:30 am and 4:15 pm on Federal workdays. Copies of the draft regulatory analysis, as well as copies of the comments received on the proposed rule, may be examined at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Rajender Auluck, P.E., Office of Nuclear Regulatory Research, telephone: (301) 492–3794, or David Lange, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–3171.

SUPPLEMENTARY INFORMATION:

Background

Section 306 of the Nuclear Waste Policy Act (NWPA) of 1982 authorized and directed the NRC "to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear power plant operators, supervisors, technicians and other appropriate operating personnel." The regulations or guidance were to "establish simulator training requirements for applicants for civilian nuclear power plant operator licenses and for operator requalification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear power plant simulators, and instructional requirements for civilian nuclear power plant licensee personnel training programs." On March 25, 1987 (52 FR 9453), the Commission accomplished the objectives of the NWPA that were related to licensed operators by publishing a final rule in the Federal Register that amended 10 CFR part 55, effective May 26, 1987. The amendment revised the licensed operator requalification program by establishing (1) simulator training requirements, (2) requirements for operating tests at simulators, and (3) instructional requirements for the program (formerly Appendix A to 10 CFR part 55). The final rule also stipulated that in lieu of the Commission accepting certification by the facility licensee that the licensee has passed written examinations and operating tests given by the facility licensee within its Commission approved program developed by using a systems approach to training (SAT), the Commission may give a comprehensive requalification written examination and an annual operating test. In addition, the amended regulations required each licensed operator to pass a comprehensive requalification written examination and an operating test conducted by the NRC during the term of the operator's 6-year license as a prerequisite for license renewal.

Following the 1987 amendment to part 55, the NRC began conducting operator requalification examinations for the purpose of license renewal. As a result of conducting these examinations, the NRC determined that nearly all facility requalification programs met the Commission's expectations and that the NRC examiners were largely duplicating tasks that were already required of, and routinely performed by, the facility licensees.

The NRC revised its requalification examination procedures in 1988 to focus on performance-based evaluation criteria that closely paralleled the training and evaluation process used for a SAT based training program. This revision to the NRC requalification examination process enabled the NRC to conduct comprehensive examinations for the purpose of renewing an individual's license and, at the same time, use the results of the examinations to determine the adequacy of the facility licensee's requalification training program.

Since the NRC began conducting operator requalification examinations, the facility program and individual pass rates have improved from 81 to 90 percent and from 83 to 91 percent, respectively, through fiscal year 1991. The NRC has also observed a general improvement in the quality of the facility licensees' testing materials and in the performance of their operating test evaluators. Of the first 79 program evaluations conducted, ten (10) programs were evaluated as unsatisfactory. The NRC issued Information Notice No. 90–54, "Summary of Requalification Program Deficiencies," dated August 28, 1990, to describe the technical deficiencies that contributed to the first 10 program failures. Since that time only six programs, of 120 subsequent program evaluations, have been evaluated as unsatisfactory.

Pilot requalification examinations were conducted in August through December of 1991. The pilot test procedure directed the NRC examiners to focus on the evaluation of crews, rather than individuals, in the simulator portion of the operating test. In conducting the pilot examinations, the NRC examiners and the facility evaluators independently evaluated the crews and compared their results. The results were found to be in total agreement. Furthermore, the NRC examiners noted that the facility evaluators were competent at evaluating crews and individuals and were aggressive in finding deficiencies and recommending remediation for operators who exhibited weaknesses. The performance of the facilities' evaluators during the pilot examinations further confirmed that the facility licensees can find deficiencies, and remediate and retest their licensed operators' appropriately.

Discussion

In accordance with § 55.57(b)(2)(iii), licensed operators are required to pass facility requalification examinations and annual operating tests. In § 55.57(b)(2)(iv), licensed operators are also required to pass a comprehensive requalification written examination and operating test conducted by the NRC during the term of a 6-year license. These regulations establish requirements which impose a dual responsibility on both the facility licensee which assists in developing and conducting its own as well as NRC requalification examinations, and the NRC which supervises both the facility licensee requalification program as well as conducting a comprehensive requalification examination during the term of an operator's 6-year license.

The NRC believes operational safety at each facility will continue to be ensured, and, in fact, will be improved, if NRC resources are directed towards inspecting and overseeing the facility requalification programs rather than continuing to conduct individual operator requalification examinations. The NRC's experience since the beginning of the requalification program indicates that weaknesses in the implementation of the facility program are generally the root cause of deficiencies in the performance of operators. The NRC could more effectively allocate its resources to perform on-site inspections of facility requalification examination and training programs in accordance with indicated programmatic performance rather than scheduling examiners in accordance with the number of individuals requiring license renewal. The NRC expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs.

As of October 9, 1992, the NRC had conducted requalification examinations at 11 research and test reactor facilities for a total of 34 operators being examined. No failures were identified. For research and test reactors, this sample provides the NRC with little data to support the same rationale that is discussed above with respect to power reactors. However, the NRC believes that the flexibility to allocate resources based on indicated programmatic performance rather than on the number of individuals requiring license renewal would also improve operational safety at research and test reactors. In addition, the proposed rule does not prevent the NRC from conducting requalification examinations at research and test reactor facilities.

Currently, facility licensees assist in the development and conduct of the NRC requalification examinations. The assistance includes providing to the NRC: (1) The training material used for development of the written and operating examinations and (2) facility personnel to work with the NRC during the development and conduct of the examinations. The proposed amendments would reduce the regulatory burden on the facility licensees by reducing the effort expended by the facility to assist the NRC in developing and conducting NRC requalification examinations for licensed operators.

As part of the proposed rule change, the facility licensees would be required to submit to the NRC each annual operating test or comprehensive written examination used for operator requalification at least 30 days prior to giving the test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would also review other information already available to the staff to determine the scope of an on-site inspection of the facility requalification program. The NRC would continue to expect each facility to meet all of the conditions required for conducting a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility-conducted requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license as a condition of license renewal.

The "Scope" of part 55, § 55.2, will be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of parts 50 and 55. Part 50, in § 50.54(i) through (m), already imposes part 55 requirements on facility licensees, and part 55 already specifies requirements for facility licensees.

The proposed amendments would meet the requirements of section 306 of the NWPA without the requirement that each licensed individual pass a requalification examination conducted by the NRC during the 6-year term of the individual's license. The requirements of the NWPA would be met as follows: (1) The regulations would continue to require facilities to have requalification programs and conduct requalification examinations; (2) the NRC would provide oversight (i.e., administration) for these programs and examinations through inspections; and (3) § 55.59(a)(2)(iii) provides that the NRC may conduct requalification examinations in lieu of accepting the facility licensee's certification that a licensed individual has passed the facility requalification examination. The NRC will use this option if warranted after an on-site inspection of the facility's requalification program. The proposed amendments would not affect the regulatory or other appropriate guidance required by section 306 of the NWPA and established in § 55.59(a)(2)(iii) for the NRC to conduct requalification examinations in lieu of an examination given by the facility.

Invitation To Comment

Comments concerning the scope, content, and implementation of the proposed amendments are encouraged. Comments are solicited on the burden created by the requirement that each facility licensee submit and the NRC review all annual operating tests or comprehensive written examinations at least thirty days prior to conducting such tests or exams. In addition, comments on the applicability of the proposed amendments to research and test reactor facilities are especially solicited, as are suggestions for alternatives to those rulemaking methods described in this notice.

Commissioner Rogers' Separate Views

Commissioner Rogers believes that the staff should be allowed the discretion to administer exams as they feel necessary, i.e., other than for cause, without receiving prior Commission approval. Reasons for allowing the staff to administer discretionary exams include:

1. Providing an additional incentive to licensees to maintain the quality of their operator training programs.

2. Providing a benchmark with good performing plants by which to judge the adequacy of the licensees' operator training programs.

3. Providing a basis to determine whether or not licensee examiner standards need to be revised.

4. Providing an independent check of the quality of the licensees' operator training programs.

5. Providing the NRC staff the opportunity to maintain its examination expertise.

6. Ensuring that the latest, state-of-the-art testing and assessment techniques are being used.

Commissioner Curtiss' Separate Views

The staff has proposed that they be allowed to administer requalification examinations in two situations: (i) Where cause exists for administering such examinations; and (ii) on a periodic basis, at a specified frequency of once every six years at each facility. There is no disagreement within the Commission over allowing the staff to administer "for cause" examinations. The dispute arises over whether the staff should be afforded the discretion to administer examinations in situations other than where "cause" exists, without first coming to the Commission for advance approval. The staff has recommended that they be allowed the flexibility to administer such examinations at their discretion and, with one minor exception, I agree with the staff's recommendation. [I do not believe it wise or essential to specify a set periodicity for such examinations of once every six years, and, on this point, I concur in the majority view].

The majority, as I understand it, would limit the staff to administering examinations solely "for cause", and would not allow the staff to administer examinations in any other situation absent formal approval by the Commission (*i.e.*, where, in the staff's discretion, the staff deems it appropriate to do so). There are compelling reasons, in my judgment, for allowing the staff the flexibility to administer such "discretionary" examinations on its own accord. In this regard, Commissioner Rogers has set forth the reasons for allowing the staff to administer such examinations, and I concur in the reasons that he has articulated so persuasively.

Given the significant changes in the agency's operator requalification program that the staff has proposed in SECY–92–430 (and in which I generally concur), I would have preferred a more cautious transition, wherein the effectiveness of the new regulatory approach could be confirmed through such discretionary examinations, before placing reliance on "for cause" examinations and an unproven inspection regime. This is particularly important given the continuing identification of weaknesses in licensee training programs uncovered by our current examination process. Accordingly, I believe that it would be a prudent step to allow the staff this flexibility. In my judgment, the majority's insistence upon requiring the staff to come to the Commission for advance approval in every such instance is, as a practical matter, likely to discourage the staff from administering such examinations where they may indeed be warranted.

For the foregoing reasons, I disagree with the decision of the majority to foreclose the staff from administering examinations in such circumstances, absent formal approval by the Commission. I also associate myself with Commissioner Rogers' comments.

Additional Comments of the Chairman, and Commissioners Remick and de Planque

The Chairman and Commissioners Remick and de Planque believe that all of the objectives listed by Commissioner Rogers and endorsed by Commissioner Curtiss can be met, and are being met, through various alternatives to administering requalification tests and exams periodically. For example, the staff will continue to administer an estimated 700–800 initial operator license examinations per year; it will conduct examinations for cause using the flexible authority already provided by the regulations, and as otherwise approved by the Commission; it will observe the administration of examinations by the licensees as part of both the NRC's inspection program activities and INPO's and the National Academy of Nuclear Training's accreditation and assessment activities, permitted by the NRC/INPO MOU; and the staff will have the benefit of continuous observation by Resident Inspectors.

These existing alternatives provide considerable opportunity for the staff to assess the effectiveness of licensee training programs. Indeed, the proposed Statement of Considerations says that the agency "expects to find and correct programmatic weaknesses more rapidly and improve operational safety by redirecting the examiner resources to inspect programs." If the staff identifies weaknesses in licensee training programs, the staff may then exercise the flexible authority of 10 CFR 55.59 (a)(2)(iii) to administer requalification tests and exams for cause.

Staff expertise needed to administer requalification tests and examinations can also be maintained by participation in training courses, just as staff expertise such as that needed by IIT members is maintained. Innovative concepts like administering examinations and tests to instructors and appropriate operator licensing personnel on the simulators at the Technical Training Center is another way of maintaining this kind of staff expertise.

If the staff finds that with experience there is, in fact, a basis for administering periodic exams or any other alternatives, they are at liberty to provide the rationale and plan for Commission consideration. However, the information the staff has presented does not convince us of any necessity for administering periodic exams.

Finding of No Significant Environmental Impact: Availability

The NRC has determined that the proposed amendments, if adopted, are the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

The public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019, (3150–0018 and 3150–0101), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the values (benefits) and impacts (costs) of implementing the proposed regulation for licensed operator requalification. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Rajender Auluck (see **ADDRESSES** heading).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1989, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule primarily affects the companies that own and operate light-water nuclear power reactors. The companies that own and operate these reactors do not fall within the scope of the definition of "small entity" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of its Act.

Backfit Analysis

Currently, facility licensees assist in developing and coordinating the NRC-conducted requalification examinations. The assistance includes providing to the NRC the training material used for development of the written examinations and operating tests and providing facility personnel to work with the NRC during the development and conduct of the examinations. The Commission has concluded on the basis of the documented evaluation required by 10 CFR 50.109(a)(4), that complying with the requirement of this proposed rule would: (1) Reduce the regulatory burden on the facility licensees by reducing the effort expended by the facility licensees to assist the NRC in developing and conducting NRC requalification examinations for licensed operators, and (2) increase the regulatory burden on the facility licensees by requiring them to submit all requalification examinations at least 30 days prior to conducting the examinations.

As part of the proposed amendments, the facility licensees would be required to submit to the appropriate Regional Administrator each annual requalification operating test or comprehensive written requalification examination at least 30 days prior to conducting such test or examination. The NRC would review these examinations on an audit basis for conformance with 10 CFR 55.59(a)(2)(i&ii). The NRC would conduct this review and review other information already available to the NRC to determine the scope of an on-site inspection of the facility requalification program. The NRC would continue to expect each facility to meet all of the conditions required of a requalification program in accordance with 10 CFR 55.59(c).

Licensed operators would not have to take any additional actions. Each operator would be expected to continue to meet all the conditions of his or her license described in 10 CFR 55.53, which includes passing the facility requalification examinations for license renewal. Each licensed operator would be expected to continue to meet the requirements of the facility requalification training program. However, the licensed operator would no longer be required to pass a requalification examination conducted by the NRC during the term of his or her license, in addition to passing the facility licensee's requalification examinations, as a condition of license renewal.

The "Scope" of part 55, 10 CFR 55.2, would be revised to include facility licensees. This is an addition to the regulation. It eliminates currently existing ambiguities between the regulations of parts 50 and 55. Part 50, in § 50.54(i) through (m), already imposes part 55 requirements on facility licensees, and part 55 already specifies requirements for facility licensees.

The Commission believes that licensed operators are one of the main components and possibly the most critical component of continued safe reactor operation, especially with respect to mitigating the consequences of emergency conditions. Two-thirds of the requalification programs that have been evaluated as "unsatisfactory" had significant problems in the quality or implementation of the plant's emergency operating procedures (EOPs). In some of these cases, the facility licensees did not train their operators on challenging simulator scenarios or did not retrain their operators after the EOPs were revised. The Commission believes that it could have identified these problems sooner by reviewing facility requalification examinations and operating tests and inspecting facility requalification training and examination programs. Facility licensees could have then corrected these problems and improved overall operator job performance sooner.

This proposed rule is intended to improve operational safety by providing the means to find and correct weaknesses in facility licensee requalification programs more rapidly than provided for under the current regulations. The experience gained from conducting NRC requalification examinations indicates that the NRC is largely duplicating the efforts of the facility licensees. The NRC could more effectively use its resources to oversee facility licensee requalification programs rather than conducting individual operator requalification examinations for all licensed operators. During fiscal year (FY) 1991, the NRC expended approximately 15 full-time staff equivalents (FTE) and $1.8 million in contractor assistance funds (which equates to almost 10 additional FTE), for a total of 25 FTE, to conduct requalification examinations. However, the staff expects to conduct about 20 percent fewer requalification examinations during FY 1993 through FY 1997 because the staff's examination efforts to date have greatly reduced the number of operators who require an NRC conducted examination for license renewal during this 4-year period. Consequently, if the NRC continues conducting requalification examinations for all licensed operators, the staff estimates that it would require approximately 20 FTE each year. Therefore, implementing the proposed requalification inspection program would save the equivalent of about 7 FTE (or $1.3 million) each year over conducting requalification examinations at the reduced rate for the long term.

Each facility licensee would continue in its present manner of conducting its licensed operator requalification program. However, this proposed rule would reduce the burden on the facility licensees because each facility licensee would have its administrative and technical staff expend fewer hours than are now needed to assist in developing and conducting the NRC requalification examinations. Facility licensees are expected to realize a combined annual operational cost savings of approximately $820K.

In summary, the proposed rule is expected to result in improved operational safety by providing more timely identification of weaknesses in facility licensees' requalification programs. In addition, the proposed rule would also reduce the resources expended by both the NRC and the licensees. The Commission has, therefore, concluded that the proposed rule meets the requirements of 10 CFR 50.109, that there would be a substantial increase in the overall protection of public health and safety and the cost of implementation are justified.

List of Subjects 10 CFR Part 55

Criminal penalty, Manpower training programs, Nuclear power plants and reactors, Reporting and recordkeeping requirements.

Text of Final Regulation

For the reasons set out in the preamble and under the authority of the

Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Nuclear Waste Policy Act of 1982, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 55 as follows:

PART 55—OPERATORS' LICENSES

1. The authority citation for 10 CFR part 55 continues to read as follows:

Authority: Secs. 107, 161, 182, 68 Stat. 939, 948, 953, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2137, 2201, 2232, 2282); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Sections 55.41, 55.43, 55.45, and 55.59 also issued under sec. 306, Pub. L. 97–425, 96 Stat. 2262 (42 U.S.C. 10226). Section 55.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237).

2. In § 55.2, paragraph (c) is added to read as follows:

§ 55.2 Scope.

* * * * *

(c) Any facility licensee.

§ 55.57 [Amended]

3. Section 55.57 is amended by removing paragraph (b)(2)(iv).

4. In § 55.59 the heading and introductory text of paragraph (c) are revised to read as follows:

§ 55.59 Requalification.

* * * * *

(c) *Requalification program requirements.* A facility licensee shall have a requalification program reviewed and approved by the Commission and shall submit a copy of each comprehensive requalification written examination or annual operating test to the appropriate Regional Administrator at least 30 days prior to conducting such examination or test. The requalification program must meet the requirements of paragraphs (c)(1) through (7) of this section. In lieu of paragraphs (c)(2), (3), and (4) of this section, the Commission may approve a program developed by using a systems approach to training.

* * * * *

Dated at Rockville, Maryland, this 13th day of May 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–11821 Filed 5–19–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 27297; Notice No. 93–4]

Proposed Establishment of the East Coast Low and Amendment to the Atlantic Low and South Florida Low Additional Control Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: On April 5, 1993, the FAA temporarily amended the base altitude of the Atlantic Low additional control area from 5,500 feet MSL to 2,000 feet MSL. The amendment reinstated the base altitude that existed in this offshore airspace area prior to the promulgation of the Offshore Airspace Reconfiguration final rule. This action enabled the FAA to conduct a micro-review of the air traffic control (ATC) operations conducted within this airspace area to determine the amount of controlled airspace necessary to contain certain ATC operations. The review revealed the need to amend the Atlantic Low airspace area. The FAA is proposing to amend the Atlantic Low by redesignating a portion of the airspace area as the East Coast Low, with a floor of 2,000 feet MSL, and excluding the East Coast Low and Federal Airways from the Atlantic Low. Further, the southern boundary of the Atlantic Low would be redesignated as latitude 34°00'00" North rather than the current latitude of 28°00'00" North. Concurrently, the northern boundary of the South Florida Low would be redesignated as latitude 34°00'00" North rather than the existing latitude of 28°00'00" North. The proposals in this NPRM would ensure that certain ATC operations are conducted in controlled airspace.

DATES: Comments must be received on or before June 14, 1993.

ADDRESSES: Comments on this NPRM should be mailed in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–10), Docket No. 27297, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 27297. The official docket may be examined in the Office of the Chief Counsel, room 915G, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, ATP–230, Air Traffic Rules Branch, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments relating to the overall regulatory economic, aeronautical, environmental, energy-related, or federalism impacts of the proposals contained in this NPRM are also invited. Substantive comments should be accompanied by actual and anticipated cost impact statements, as appropriate. Comments should identify the regulatory docket number and be submitted in triplicate to the Rules Docket address specified above. Commenters wishing to have the FAA acknowledge receipt of their comments on this NPRM must submit with those comments a self-addressed, stamped postcard with the following statement: "Comments to Docket No. 27297." The postcard will be date stamped and mailed to the commenter. All comments received on or before the specified closing date for comments will be considered by the Administrator before taking action on the proposed amendments. The proposals contained in this NPRM may be changed in light of comments received. All comments received will be available for examination in the Rules Docket, before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel regarding this rulemaking will be filed in the docket.

Availability of NPRM's

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–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the docket number of this NPRM.

Persons interested in being placed on a mailing list for future NPRM's should request from the above office a copy of Advisory Circular Number 11–2A, "Notice of Proposed Rulemaking

Distribution System," which describes the application procedure.

Background

The Offshore Airspace Reconfiguration final rule published March 2, 1993, (58 FR 12128) amended the Federal Aviation Regulations (FAR), in pertinent part, by designating additional control areas as offshore airspace areas or en route domestic airspace areas, as appropriate. Further, the offshore airspace areas were divided into high and low areas. In addition to combining and simplifying the offshore airspace areas, an effort was made to establish a uniform floor of 5,500 feet MSL, to the extent practicable. However, just before the change was to become effective, it was discovered that not every specific air traffic control operation that requires controlled airspace could be conducted inside controlled airspace unless the offshore airspace areas were amended. Subsequent to this discovery, the FAA temporarily amended the Offshore Airspace Reconfiguration final rule (58 FR 17494) by reducing the floor of the Atlantic Low and Pacific Low offshore airspace areas back to the floors previously specified for the Brunswick, North Atlantic, Barnegat, NJ, Newport, OR, San Francisco, CA, and Santa Barbara, CA additional control areas. This action enabled the FAA to conduct a micro-review of the air traffic control operations conducted within these airspace areas. The initial review completed in conjunction with the Offshore Airspace Reconfiguration NPRM (57 FR 42810; September 16, 1992) was macro in nature and conducted from primarily a transoceanic and enroute perspective. The micro-review was completed on April 22, 1993, and revealed that not every instrument procedure or air traffic practice and operation on the east coast could be contained in controlled airspace without further amendment. For example, the sequencing of arrivals and departures within the New York and Boston metropolexes and providing IFR services to military aircraft transiting to/from coastal bases and the warning areas required the amount of controlled airspace previously designated. Consequently, raising the floor of the Atlantic Low to 5,500 feet MSL would have a significant adverse impact on traffic flow on the east coast. The micro-review of the west coast validated that the floor of the Pacific Low could be raised to 5,500 feet MSL as originally determined in the Offshore Airspace Reconfiguration Final Rule. The removal of the temporary amendment to the Pacific Low is the subject of a separate FAA rulemaking document.

The Proposal

The FAA proposes to revise the Atlantic Low by redesignating a portion of the airspace area as the East Coast Low with a floor of 2,000 feet MSL. The southwest corner of the East Coast Low would begin 12 miles from the coast of the United States approximately abeam Atlantic City, NJ and proceed northward 12 miles from and parallel to the U.S. shoreline to approximately abeam Portland, Maine. At its widest point in the southeast, the area would be about 70 miles east of New Jersey and 50 miles south of Long Island, NY. In the area between eastern Long Island, NY and Nantucket, MA the southern boundary is approximately 10 miles at the widest point. A small segment approximately five miles wide has been added between Nantucket and Chatam, MA to accommodate instrument arrivals into Nantucket. The eastern boundary off the coasts of Massachusetts, New Hampshire, and Maine is generally a north/south line 25 miles east of Boston, MA. The FAA is also proposing to move the northern boundary of the South Florida Low from latitude 28°00'00" North to latitude 34°00'00" which has the effect of moving the southern boundary of the Atlantic Low north. This proposal would also exclude Federal airways from the Atlantic Low and South Florida Low. The East Coast Low would become Class E airspace effective September 16, 1993. The Atlantic Low and South Florida Low additional control areas were published in FAA Order 7400.7a—Supplement dated February 24, 1993, and effective April 1, 1993, which is incorporated by reference in 14 CFR 71.1. The additional control areas listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) 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

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

The following proposed amendments are to part 71 currently in effect:

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 Federal Aviation Administration Order 7400.7A—Supplement dated February 24, 1993, and effective April 1, 1993, is amended as follows:

Section 71.163 Designation of Additional Control Areas

* * * * *

Atlantic Low [Revised]

That airspace extending upward from 5,500 feet MSL bounded on the east by the Moncton FIR and the New York Oceanic CTA/FIR, on the south by lat. 34°00'00"N., on the west and north by a line 12 miles from and parallel to the U.S. shoreline, excluding Federal airways and the East Coast Low offshore airspace area.

* * * * *

East Coast Low [New]

That airspace extending upward from 2,000 feet MSL bounded on the west and north by a line 12 miles from and parallel to the U.S. shoreline and on the south and east by a line beginning at lat. 39°25'46"N., long. 74°02'34"W.; to lat. 39°02'05"N., long. 73°39'30"W.; to lat. 40°04'20"N., long. 72°30'00"W.; to lat. 40°34'14"N., long. 72°30'00"W.; and that airspace north of a line beginning at lat. 40°40'59"N., long. 72°17'22"W. thence along the northern boundary of warning areas W–106 and W–105 to lat. 41°06'52"N., long. 70°22'51"W.; and that airspace west of a line beginning at lat. 41°16'00"N., long. 69°41'15"W.; to lat. 41°43'00"N., long. 69°39'30"W.; and that airspace west and north of a line beginning at lat. 42°15'31"N., long. 70°00'00"W.; to lat. 43°17'00"N., long. 70°00'00"W.; to lat. 43°33'56"N., long. 69°29'12" W.

* * * * *

South Florida Low [Revised]

That airspace extending upward from 2,700 feet MSL bounded on the west by the Houston Oceanic CTA/FIR; bounded on the north from west to east by the Jacksonville Air Route Traffic Control Center boundary, a line 12 miles from and parallel to the U.S. shoreline, lat. 34°00'00" N., the New York Oceanic CTA/FIR and the San Juan Oceanic CTA/FIR; bounded on the south from east to west by the Santa Domingo FIR, the Port-Au-Prince CTA/FIR and the Havana CTA/FIR.

The following proposed amendments are to part 71 in effect as of September 16, 1993:

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 Federal Aviation Administration Order 7400.9—Supplement dated February 24, 1993, and effective September 16, 1993, is amended as follows:

Section 71.71(e) Offshore Airspace Areas

* * * * *

Atlantic Low [Revised]

That airspace extending upward from 5,500 feet MSL bounded on the east by the Moncton FIR and the New York Oceanic CTA/FIR, on the south by lat. 34°00'00" N., on the west and north by a line 12 miles from and parallel to the U.S. shoreline, excluding Federal airways and the East Coast Low offshore airspace area.

* * * * *

East Coast Low [New]

That airspace extending upward from 2,000 feet MSL bounded on the west and north by a line 12 miles from and parallel to the U.S. shoreline and on the south and east by a line beginning at lat. 39°25'46"N., long. 74°02'34"W.; to lat. 39°02'05"N., long. 73°39'30"W.; to lat. 40°04'20"N., long. 72°30'00"W.; to lat. 40°34'14"N., long. 72°30'00"W.; and that airspace north of a line beginning at lat. 40°40'59"N., long. 72°17'22"W. thence along the northern boundary of warning areas W–106 and W–105 to lat. 41°06'52"N., long 70°22'51"W.; and that airspace west of a line beginning at lat. 41°16'00"N., long. 69°41'15"W.; to lat. 41°43'00"N., long. 69°39'30"W.; and that airspace west and north of a line beginning at lat. 42°15'31"N., long. 70°00'00"W.; to lat. 43°17'00"N., long. 70°00'00"W.; to lat. 43°33'56"N., long. 69°29'12"W.

* * * * *

South Florida Low [Revised]

That airspace extending upward from 2,700 feet MSL bounded on the west by the Houston Oceanic CTA/FIR; bounded on the north from west to east by the Jacksonville Air Route Traffic Control Center boundary, a line 12 miles from and parallel to the U.S. shoreline, lat. 34°00'00" N., the New York Oceanic CTA/FIR and the San Juan Oceanic CTA/FIR; bounded on the south from east to west by the Santa Domingo FIR, the Port-Au-Prince CTA/FIR and the Havana CTA/FIR.

* * * * *

Issued in Washington, DC, on May 14, 1993.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 93–11893 Filed 5–14–93; 3:21 pm]

BILLING CODE 4910–13–M

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls: Proposed Revision

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada have jointly established and presently administer the St. Lawrence Seaway Tariff of Tolls. This Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the Corporation and the Authority. The Authority is proposing to the Corporation that the Tariff be amended to provide a separate commodity entry for coal for the 1993 season, which is now included under the bulk rate entry. The toll for coal would be lowered to 65 cents per metric ton for the Montreal to or from Lake Ontario section of the Seaway. The Corporation and the Authority are proposing this as a first step in developing a market oriented toll structure to attract commodities with the greatest potential for growth. The Authority also is proposing to the Corporation that the business incentive toll for passenger vessels discontinue. Experience has shown that this incentive toll has caused an undesirable competitive imbalance among passenger vessel concerns using the Seaway.

DATES: Any party wishing to present views or data on the proposed revision may file comments with the Corporation on or before June 21, 1993.

ADDRESSES: Send comments to Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Marc C. Owen, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–0991.

SUPPLEMENTARY INFORMATION: It is proposed to amend paragraph (b)(5) of § 402.3 by adding deleting "coal" from the list of ores and minerals included within the definition of "bulk cargo" and adding the phrase, "but excluding coal" to that list. In addition, it is proposed to amend § 402.8(a)(2) to add "coal" as a separate entry with a 1993 toll of 65 cents per metric ton for the Montreal to or from Lake Ontario section of the Seaway and a 1993 toll of 55 cents per metric ton for the Lake Ontario to or from Lake Erie (Welland Canal) section. The latter remains at the same rate as that for bulk cargo. The Corporation and the Authority are proposing this as a first step in developing a market oriented toll structure to attract commodities with the greatest potential for growth. It is hoped that the toll reduction will encourage new trade, such as the movement of low-sulfur coal from the Powder River Basin of Montana. It also is proposed that § 402.9 be amended to remove paragraphs (f) through (i), the business incentive toll for passenger vessels. These provisions presently provide a new business incentive toll for any passenger vessel that did not move through a Seaway lock during the 1988 and 1989 navigation seasons or the three navigation seasons immediately preceding the season in which a new business refund is submitted. Under this program, a qualifying passenger vessel receives a 25% discount of the passenger per lock charge each transit it carries 20 passengers or more and a 50% discount for each transit it carries 20 or more passengers. Experience has shown that this incentive toll has caused an undesirable competitive imbalance among passenger vessel concerns using the Seaway.

Regulatory Evaluation

This proposed regulation involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This proposed regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the proposed regulation is not considered significant under those procedures and its economic impact is expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel

operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

Environmental Impact

This proposed regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.)* because it is not a major federal action significantly affecting the quality of human environment.

Federalism

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

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

Accordingly, the Saint Lawrence Seaway Development Corporation proposes to amend part 402—Tariff of Tolls (33 CFR part 402) as follows:

1. The authority citation for 33 CFR part 402 continues to read as follows:

Authority: 68 Stat. 93, 33 U.S.C. 981–990.

2. Section 402.3 would be amended by revising paragraph (b)(5) to read as follows:

§ 402.3 Interpretation.

* * * * *

(b) * * *

(5) Ores and minerals (crude, screened, sized or concentrated, but not otherwise processed) loose or in sacks, including alumina, bauxite, gravel, phosphate rock, sand, stone and sulphur, but excluding coal;

* * * * *

3. Section 402.8 would be amended by adding a new line at the end of the table in paragraph (a)(2) as follows:

§ 402.8 Schedule of tolls.

	Tolls					
	Montreal to or from Lake Ontario			Lake Ontario to or from Lake Erie		
	1991	1992	1993	1991	1992	1993
(a) * * *						
(2) * * *						
—Coal			0.65			0.55

* * * * *

4. Section 402.9 would be amended by removing paragraphs (f) through (i).

§ 402.9 [Amended]

Issued at Washington, DC on May 12, 1993.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 93–11904 Filed 5–19–93; 8:45 am]

BILLING CODE 4910–61–M

DEPARTMENT OF EDUCATION

34 CFR Part 636

RIN 1840–AB64

Urban Community Service Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes regulations for the Urban Community Service Program. The Urban Community Service Program provides grants to urban academic institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their urban communities.

These regulations are needed to implement the provisions of the recently enacted Higher Education Amendments of 1992 (1992 Amendments). The proposed regulations incorporate statutory requirements and provide rules for applying for and spending Federal funds under this program.

DATES: Comments must be received on or before June 21, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Patricia W. Gore, U.S. Department of Education, 400 Maryland Avenue, SW., room 3022, ROB–3, Washington, D.C. 20202–5251.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Patricia W. Gore. Telephone: (202) 708–7389. Individuals who are hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: These proposed regulations would implement the Urban Community Service Program, which is authorized by title XI, part A of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Amendments of 1992 (Pub. L. 102–325), enacted July 23, 1992.

The Urban Community Service Program is an important part of implementing the National Education Goals. Specifically, the program addresses Goal 5—that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The program furthers the objectives of Goal 5 by affording students in urban universities an opportunity to learn more about the problems in their communities and to participate in developing solutions to these problems.

Summary of Major Provisions

The following is a summary of the major regulatory provisions for the Urban Community Service Program. The summary distinguishes between those regulatory provisions that incorporate statutory requirements and other regulatory provisions that (1) contain interpretations of statutory text; and (2) provide standards and procedures for the program that are not stated in the statutory text. Commenters are requested to direct their comments to the latter two categories.

Section 636.1 What Is the Urban Community Service Program?

Section 1102(a) of the HEA provides that the Urban Community Service Program awards grants to urban academic institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities. The Secretary incorporates this provision into § 636.1 of the program regulations.

Section 636.2 Who Is Eligible for a Grant?

Section 1108(2) of the HEA provides that eligible institutions under the program include (1) a nonprofit municipal university established by the governing body of the city in which it is located and operating as of July 23, 1992; and (2) an institution of higher education or a consortium of institutions with at least one member that satisfies all of the following six requirements. The institution must (1) be located in an urban area; (2) draw a substantial portion of its undergraduate students from the urban area in which the institution is located or from contiguous areas; (3) carry out programs to make postsecondary educational opportunities more accessible to residents of the urban area or contiguous areas; (4) have the present capacity to provide resources responsive to the needs and priorities of the urban area and contiguous areas; (5) offer a range of professional, technical, or graduate programs sufficient to sustain the institution's capacity to provide resources; and (6) have demonstrated and sustained a sense of responsibility to the urban area and contiguous areas and the people in those areas. The Secretary incorporates these eligibility requirements into § 636.2 of the program regulations.

Section 636.3 What Activities May the Secretary Support?

Section 1104 of the HEA provides that the Secretary awards grants for the following activities: (1) Planning; (2) applied research; (3) training; (4) resource exchanges or technology transfers; (5) delivery of services; or (6) other activities to design and implement programs to assist urban communities to meet and address their pressing and severe problems. These problems may include such concerns as the following: (1) Work force preparation; (2) urban poverty and the alleviation of poverty; (3) health care, including delivery and access; (4) underperforming school systems and students; (5) problems faced by the elderly and individuals with disabilities in urban settings; (6) problems faced by families and children; (7) campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime; (8) urban housing; (9) urban infrastructure; (10) economic development; (11) urban environmental concerns; (12) other problem areas that participants of the planning consortium agree are of high priority in the urban area in which their institutions are located; (13) problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities; and (14) the lessening of existing attitudinal barriers that prevent full inclusion of individuals with disabilities within their community. The Secretary may support other activities addressing other concerns as long as these concerns further the general purposes of the program. The Secretary incorporates these provisions into § 636.3 of the program regulations.

Section 636.4 What Is the Duration of an Urban Community Service Program Grant?

Section 1106(a) of the HEA provides that the duration of an Urban Community Service Program grant is a maximum of five annual budget periods. The Secretary incorporates this provision into § 636.4 of the program regulations.

Section 636.5 What Are the Matching Contribution and Planning Consortium Requirements?

Section 1106(c) of the HEA requires that the applicant and the local governments associated with the application contribute to the conduct of the project supported by the grant an amount, in cash or in-kind, from non-Federal funds equal to at least one-fourth of the amount of the grant.

Section 1103(a)(2)(B) of the HEA requires an applicant to develop and include in its application a plan that is agreed to by members of a planning consortium. A "planning consortium" is defined in § 636.7(b) of the proposed regulations to include, in addition to the eligible institutions, one or more of the following five entities: (1) a community college; (2) an urban school system; (3) a local government; (4) a business or other employer; or (5) a nonprofit institution. The Secretary incorporates these requirements into § 636.5 of the program regulations.

Section 636.7 What Definitions Apply?

Section 1108(1) of the HEA defines "urban area" to include, among other things, any metropolitan statistical area having a population of not less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000. The Secretary proposes to replace the statutory term "metropolitan statistical area" with "metropolitan area." The new metropolitan statistical area category published by the Office of Management and Budget (OMB) excludes cities with a population over 1 million. The Secretary believes that cities with a population over 1 million should be included in this program. The Secretary believes the proper OMB category should be "metropolitan area" which includes cities with a population of over 1 million.

Section 636.10 What Must an Application Include?

Section 1103(a) of the HEA provides that an applicant shall submit an application that includes (1) a description of the activities for which the grant is sought and (2) the plan agreed to by each of the members of a planning consortium. The application must also contain an assurance that the applicant and the local governments associated with the application will make the required matching requirement. The Secretary incorporates these provisions into § 636.10 of the program regulations.

Section 636.11 How Does an Applicant Request a Waiver of the Planning Consortium Requirement?

Section 1103(a)(3) of the HEA permits the Secretary to waive the planning consortium requirement. The Secretary has determined, however, that he will consider waiving the requirement only if the applicant requests a waiver and provides in its application (1) the reasons why the applicant seeks the waiver and (2) a detailed, integrated, and coordinated plan to work with private and civic organizations to meet the pressing and severe problems of the urban community.

The Secretary also has determined that he will grant the requested waiver only if he finds that (1) the applicant has adopted an integrated and coordinated plan to meet the purposes of the Urban Community Service Program and (2) a planning consortium would not substantially improve the applicant's proposed project. The Secretary incorporates the above into § 636.11 of the program regulations.

Section 636.22 What Additional Factors Does the Secretary Consider in Awarding a Grant?

Section 1106(b) provides that in awarding grants the Secretary shall consider the equitable geographic distribution of grants. Also, no institution, individually or as a participant in a consortium of such institutions, may receive an Urban Community Service Program grant for more than five years. The Secretary incorporates these provisions into § 636.22 of the program regulations.

Section 636.23 What Priorities Does the Secretary Establish?

Section 1103(b) of the HEA provides that priority will be given to applications proposing joint projects supported by other local, State, and Federal programs. The Secretary incorporates this provision into § 636.23 of the program regulations. For a discussion of how the Secretary administers priorities, commenters are directed to 34 CFR 75.105(c).

Section 636.30 How Does the Secretary Designate Urban Grant Institutions?

Section 1107 of the HEA requires the Secretary to identify and designate the institutions eligible to participate in the program as urban grant institutions and publish a list of urban grant institutions in the **Federal Register**. The Secretary incorporates this provision into § 636.30 of the program regulations.

An institution that wishes to apply for a grant would be required to demonstrate that it qualifies as an urban grant institution. This burden would require the institution to demonstrate that it is eligible under section 1108(2) of the Act.

The Secretary proposes to publish a closing notice, which would include a list of all urban areas, inviting institutions to apply to be designated an urban grant institution. After the publication of the closing notice, the Secretary would mail a pre-application to all 4-year public and private non-profit institutions requesting that any institution that seeks designation as an eligible urban grant institution demonstrate that it is eligible under section 1108(2) of the Act.

Following the first year of funding, the Secretary would not continue to publish a new closing notice. The Secretary would, however, continue to accept pre-applications. The Secretary believes that there would not be enough applications following the first year of funding to warrant a new closing notice.

After the deadline for the closing notice, the Secretary would evaluate each pre-application and designate those institutions that satisfy section 1108(2) of the Act as urban grant institutions. These institutions would then receive an application to apply for funding.

The Secretary would not re-review a designation of an institution as an urban grant institution. The institution would be required to provide an assurance in the application for funding that it continues to meet the criteria in section 1108(2) of the Act each time it submits a new application for funding.

Section 636.31 How Does the Secretary Establish a Network of Urban Grant Institutions?

Section 1107 of the HEA requires the Secretary to establish a network consisting of eligible urban grant institutions for the purpose of disseminating the results of individual projects to the network. The network of urban grant institutions would be established through publication of the list of urban grant institutions in the **Federal Register**. The Secretary incorporates this provision into § 636.31 of the program regulations.

The institutions listed in the network would receive the results of individual projects funded under the program or contributed and disseminated by members of the funded planning consortium. Initial materials contemplated for dissemination include: (1) A description booklet containing project abstracts, contact information regarding each project, and survey tables and charts on the characteristics of funded grant projects; and (2) the network mailing list. The Secretary would not distribute the findings of projects that are not funded under this program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

The small entities that would be affected by these proposed regulations are institutions of higher education receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the institutions affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper accounting for expenditures of program funds.

Paperwork Reduction Act of 1980

Sections 636.10, 636.11, and 636.21 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Institutions of higher education are eligible to apply for grants under these regulations. The Department needs and uses the information to make grants. Annual public reporting burden for this collection of information is estimated to average 80 hours per response for 200 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3022, ROB–3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there might be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from

any other agency or authority of the United States.

List of Subjects in 34 CFR Part 636

College and universities, Grant program—education, Reporting and recordkeeping requirements.

Dated: May 14, 1993.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.252—Urban Community Service Program)

The Secretary proposes to amend title 34 of the Code of Federal Regulations by adding a new part 636 to read as follows:

PART 636—URBAN COMMUNITY SERVICE PROGRAM

Subpart A—General

Sec.
636.1 What is the Urban Community Service Program?
636.2 Who is eligible for a grant?
636.3 What activities may the Secretary support?
636.4 What is the duration of an Urban Community Service Program grant?
636.5 What are the matching contribution and planning consortium requirements?
636.6 What regulations apply?
636.7 What definitions apply?

Subpart B—How Does One Apply for an Award?

636.10 What must an application include?
636.11 How does an applicant request a waiver of the planning consortium requirement?

Subpart C—How Does the Secretary Make an Award?

636.20 How does the Secretary evaluate an application?
636.21 What selection criteria does the Secretary use to evaluate an application?
636.22 What additional factors does the Secretary consider?
636.23 What priorities does the Secretary establish?

Subpart D—How Does the Secretary Designate Urban Grant Institutions and Establish an Urban Grant Institutions Network?

636.30 How does the Secretary designate urban grant institutions?
636.31 How does the Secretary establish a network for urban grant institutions?

Authority: 20 U.S.C. 1136–1136h, unless otherwise noted.

Subpart A—General

§ 636.1 What is the Urban Community Service Program?

The Urban Community Service Program provides grants to urban academic institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their urban communities.

(Authority: 20 U.S.C. 1136, 1136a)

§ 636.2 Who is eligible for a grant?

The following institutions are eligible for grants under the Urban Community Service Program:

(a) A nonprofit municipal university, established by the governing body of the city in which it is located and operating as of July 23, 1992.

(b) An institution of higher education or a consortium of institutions with at least one member that satisfies all of the following requirements:

(1) Is located in an urban area.

(2) Draws a substantial portion of its undergraduate students from the urban area in which it is located or from contiguous areas.

(3) Carries out programs to make postsecondary educational opportunities more accessible to residents of the urban area or contiguous areas.

(4) Has the present capacity to provide resources responsive to the needs and priorities of the urban area and contiguous areas.

(5) Offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of the institution to provide these resources.

(6) Has demonstrated and sustained a sense of responsibility to the urban area and contiguous areas and the people in those areas.

(Authority: 20 U.S.C. 1136g)

§ 636.3 What activities may the Secretary support?

(a) The Secretary awards grants under this program for the following activities:

(1) Planning.

(2) Applied research.

(3) Training.

(4) Resource exchanges or technology transfers.

(5) Delivery of services.

(6) Other activities to design and implement programs to assist urban communities to meet and address their pressing and severe problems.

(b) Examples of pressing and severe urban problems that applications may address include concerns such as the following:

(1) Work force preparation.

(2) Urban poverty and the alleviation of poverty.

(3) Health care, including delivery and access.

(4) Underperforming school systems and students.

(5) Problems faced by the elderly and individuals with disabilities in urban settings.

(6) Problems faced by families and children.

(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

(8) Urban housing.

(9) Urban infrastructure.

(10) Economic development.

(11) Urban environmental concerns.

(12) Other problem areas that participants of the planning consortium agree are of high priority in the urban area in which their institutions are located.

(13) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

(14) Lessening of existing attitudinal barriers that prevent full inclusion of individuals with disabilities within their community.

(Authority: 20 U.S.C. 1136c)

§ 636.4 What is the duration of an Urban Community Service Program grant?

The duration of an Urban Community Service Program grant is a maximum of five annual budget periods.

(Authority: 20 U.S.C. 1136d)

§ 636.5 What are the matching contribution and planning consortium requirements?

(a) The applicant and the local governments associated with its application shall contribute to the conduct of the project supported by the grant an amount, in cash or in-kind, from non-Federal funds equal to at least one-fourth of the amount of the grant.

(b) The applicant shall develop and include in its application a plan agreed to by the members of a planning consortium.

(Authority: 20 U.S.C. 1136b, 1136e)

§ 636.6 What regulations apply?

The following regulations apply to the Urban Community Service Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR part 75 (Direct Grant Programs).

(3) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR part 82 (New Restrictions on Lobbying).

(7) 34 CFR part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(8) 34 CFR part 86 (Drug-Free Schools and Campuses).

(b) The regulations in this Part 636.

(Authority: 20 U.S.C. 1136, 1136a)

§ 636.7 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant	EDGAR
Application	Grant
Award	Project
Budget period	Project period
Department	Secretary

(b) *Other definitions.* The following definitions also apply to this part:

Consortium of institutions of higher education means two or more institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out common objectives.

Contiguous areas means counties or independent cities sharing a part of a border with the metropolitan area within which an urban academic institution is located.

HEA means the Higher Education Act of 1965, as amended.

Individuals with disabilities means individuals who—

(1) Have physical or mental impairments that substantially limits one or more of the major life activities;

(2) Have a record of physical or mental impairments; or

(3) Are regarded as having physical or mental impairments.

Institution of higher education means an institution of higher education as defined in section 1201(a) of the HEA.

Local government means a city, town, township, county, or other unit of general government organized under State laws and given delegated taxing or expenditure authority for providing governmental services to local communities.

Metropolitan area means a metropolitan area or a consolidated metropolitan area, as designated by the United States Office of Management and Budget.

Nonprofit municipal university means an institution of higher education that—

(1) Is chartered or otherwise established as a not-for-profit institution by the governing body of the city in which it is located; and

(2) Is accredited by an agency or association recognized by the Secretary.

Planning consortium means the applicant institution and one or more of the following:

(1) A community college.

(2) An urban school system.

(3) A local government.

(4) A business or other employer.

(5) A nonprofit institution.

Substantial portion of the undergraduate students means 50 percent or more of the enrolled undergraduate student population.

Urban area means—

(1) A metropolitan area having a population of not less than 350,000;

(2) Two contiguous metropolitan areas having a combined total population of not less than 350,000;

(3) In any State that does not have a metropolitan area having a population of not less than 350,000, the one urban area designated by the entity of the State having an agreement under the HEA to make a designation; or

(4) If a State entity does not have an agreement under the HEA to make a designation, the one urban area designated by the Secretary.

Urban infrastructure means the underlying mechanical or technological networks for providing goods and services, such as transportation systems (including mass transit), water and sewage systems, and communication systems (including telecommunications).

(Authority: 20 U.S.C. 1136a–1136g)

Subpart B—How Does One Apply for an Award?

§ 636.10 What must an application include?

An application must include the following:

(a) A description of the activities for which the grant is sought.

(b) The plan agreed to by each of the members of the planning consortium.

(c) An assurance that the applicant and the local governments associated with the application will contribute to the conduct of the project supported by the grant an amount, in cash or in-kind, from non-Federal funds equal to at least one-fourth of the amount of the grant.

(Authority: 20 U.S.C. 1136b)

§ 636.11 How does an applicant request a waiver of the planning consortium requirement?

(a) An applicant may request that the Secretary waive the requirement for a planning consortium by submitting as part of the application a request that includes the following:

(1) The reasons why the applicant seeks the waiver.

(2) Detailed information evidencing the applicant's integrated and coordinated plan to work with private and civic organizations to meet the pressing and severe problems of the urban community.

(b) The Secretary may grant the request for a waiver if the Secretary finds that—

(1) The applicant has shown an integrated and coordinated plan to meet the purposes of the Urban Community Service Program; and

(2) A planning consortium would not substantially improve the applicant's proposed project.

(Authority: 20 U.S.C. 1136b)

Subpart C—How Does the Secretary Make an Award?

§ 636.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the selection criteria in § 636.21.

(b) The Secretary awards up to 100 points for these selection criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: 20 U.S.C. 1136b)

§ 636.21 What selection criteria does the Secretary use to evaluate an application?

The Secretary uses the following criteria to evaluate an application under this part:

(a) *Determination of need for the project.* (10 points). The Secretary reviews each application to assess the effectiveness of the procedures used by the applicant in determining need for the project, including consideration of—

(1) The process used to ensure that the pressing and severe problems that are identified are in fact high priority problems for the urban area;

(2) The priority relationship of the problems addressed by the project to other pressing and severe problems identified for the urban area;

(3) The extent to which the problems addressed by the project represent pressing and severe problems in urban areas nationally;

(4) The process by which project participants review and comment on proposed project goals, objectives, and strategies; and

(5) The specific benefits to be gained by meeting the identified problems.

(b) *Quality of the applicant's organization for operation.* (20 points). The Secretary reviews each application to determine the quality of the organization for operation, including consideration of how the application describes the following:

(1) The cooperative arrangement between the applicant and any of the

following that are appropriate for the conduct of the proposed project:

(i) Agencies of local government.

(ii) Public and private elementary and secondary schools.

(iii) Business organizations.

(iv) Labor organizations.

(v) Community service and advocacy organizations.

(vi) Community colleges.

(2)(i) Any previous working relationships between the applicant and the entities listed in paragraph (b)(1) of this section; and

(ii) The outcomes of those relationships.

(3) The agreement among project participants to commit their own resources in carrying out proposed project goals, objectives, and strategies.

(c) *Quality of project objectives.* (10 points). The Secretary reviews each application to determine the extent to which the objectives for each project component activity meet the purposes of the program, are realistic, and are defined in terms of measurable results.

(d) *Quality of implementation strategy.* (20 points). The Secretary reviews each application to determine the extent to which—

(1) The implementation strategy for each key project component activity is—

(i) Comprehensive;

(ii) Based on a sound rationale; and

(iii) Is a cost-effective approach for accomplishing project goals and objectives; and

(2) The described timetable for each project component and for the overall project is realistic.

(e) *Quality of evaluation plan.* (15 points). The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Relate to the objectives of the project;

(2) Describe both process and product evaluation measures for each project component activity and outcome;

(3) Describe data collection procedures, instruments, and schedules for effective data collection;

(4) Describe how the data will be analyzed and reported so that adjustments and improvements can be made on a regular basis while the project is in operation;

(5) Describe a time-line chart that relates key evaluation processes and benchmarks to other project component processes and benchmarks; and

(6) Establish the potential for effectively disseminating project information that can be generalized, replicated, and applied throughout the Nation.

(f) *Quality of key personnel.* (10 points). The Secretary reviews each application to determine the qualifications of key personnel, including information that—

(1) The past work experience and training of key professional personnel are directly related to the stated activity purposes and objectives; and

(2) The time commitment of key personnel is realistic.

(g) *Budget.* (5 points). The Secretary reviews each application to determine whether the project has an adequate budget and is cost effective, including information that shows that—

(1) The budget for the project is adequate to support the project activities; and

(2) The costs are necessary and reasonable in relation to the project objectives and scope.

(h) *Institutional commitment.* (10 points). The Secretary reviews each application to determine the extent to which the application demonstrates a financial commitment on the part of the applicant and the local governments associated with its application, including the nature and amount of the matching contribution, and other institutional commitments from the applicant and other entities associated with the project, that are likely to assure the continuation of project activities for a significant time beyond the grant project period.

(Authority: 20 U.S.C. 1136b, 1136e)

§ 636.22 What additional factors does the Secretary consider?

(a) The Secretary awards grants in a manner that achieves an equitable geographic distribution of grants.

(b) No institution, individually or as a participant in a consortium of institutions, may receive an Urban Community Service Program grant for more than five years.

(Authority: 20 U.S.C. 1136e)

§ 636.23 What priorities does the Secretary establish?

In awarding grants, the Secretary gives an absolute preference to applicants that propose to conduct joint projects supported by other local, State, and Federal programs.

(Authority: 20 U.S.C. 1136b)

Subpart D—How Does the Secretary Designate Urban Grant Institutions and Establish an Urban Grant Institutions Network?

§ 636.30 How does the Secretary designate urban grant institutions?

(a) The Secretary identifies and designates the eligible institutions described in § 636.2 as urban grant institutions.

(b) The Secretary publishes a list of urban grant institutions in a notice published in the **Federal Register**.

(Authority: 20 U.S.C. 1136f)

§ 636.31 How does the Secretary establish a network of urban grant institutions?

(a) The Secretary establishes a network of urban grant institutions consisting of the urban grant institutions designated in § 636.30.

(b) The Secretary invites institutions in the network of urban grant institutions to disseminate results and other information on individual projects that can be generalized, replicated, and applied throughout the Nation.

(Authority: 20 U.S.C. 1136f)

[FR Doc. 93–11946 Filed 5–19–93; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 526

[Docket No. 93–35, Notice 1]

RIN 2127–AE65

Petitions and Plans for Relief Under the Automobile Fuel Efficiency Act of 1980

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to amendments made to the Motor Vehicle Information and Cost Savings Act by the Automobile Fuel Efficiency Act of 1980, the agency issued an implementing regulation setting forth content requirements for petitions to be submitted by automobile manufacturers to obtain relief from certain aspects of the Corporate Average Fuel Economy (CAFE) program. Some portions of those regulations are no longer necessary. The passage of time has rendered obsolete the provision concerning the adjustment of the CAFE standard for 4-wheel drive light trucks built in model years (MYs) 1982–85. The agency's cessation of its former practice of setting separate CAFE standards for 2-wheel drive and 4-wheel drive light trucks has rendered obsolete a portion of another provision. That provision involves the submission of plans for using future CAFE credits to offset falling short of a CAFE standard for a current model year. Therefore, NHTSA proposes to rescind those

portions of the implementing regulations.

DATES: Comments must be submitted July 6, 1993.

ADDRESSES: All comments must refer to the docket and notice numbers set forth above and be submitted (preferably in 10 copies) to the Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m., Monday through Friday. Submissions containing information for which confidential treatment is requested should be submitted (3 copies) of Chief Counsel, National Highway Traffic Safety Administration, room 5219, 400 Seventh Street SW., Washington, DC 20590, and 7 additional copies from which the purportedly confidential information has been deleted should be sent to the Docket Section.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, National Highway Traffic Safety Administration, room 5313, 400 Seventh Street SW., Washington, DC 20590, or at (202) 366–0846.

SUPPLEMENTARY INFORMATION:

History

In 1972, Congress enacted the Motor Vehicle Information & Cost Savings Act ("the Act") (15 U.S.C. 1901, *et seq.*). Title V, *Improving Automotive Efficiency* (15 U.S.C. 2001–13) was added to the Act in 1975. Title V established the CAFE program.

In 1980, Congress passed the Automobile Fuel Efficiency Act (AFEA), which amended title V of the Act. The amendments contained a number of provisions intended to facilitate compliance with the CAFE standards.

Two of the provisions relate to CAFE domestic content requirements. The Act specifies that, in general, each manufacturer's domestically manufactured (i.e., those with at least 75 percent U.S. or Canadian content) and imported automobiles must comply separately with CAFE standards. This provision was originally enacted to discourage domestic auto manufacturers from merely importing increasing numbers of fuel efficient, foreign produced vehicles to comply with standards, thereby adversely affecting U.S. employment.

Congress determined that the original provision regarding domestic content could also discourage foreign manufacturers that wished to begin U.S. production and manufacturers that wished to transfer a non-domestic automobile to its domestic fleet by gradually increasing the domestic content of the automobile. To address the first situation, Congress adopted a provision, found in section 503(b)(3) of the Act, applicable to foreign manufacturers that began U.S. production either after December 22, 1975 and before May 1, 1980 or on or after May 1, 1980 and for at least one model year ending on or before December 31, 1985. Such manufacturers could be exempted from the Act's requirements that their fleets be separated into domestic and non-domestic subfleets for CAFE compliance purposes if they submitted, and NHTSA approved, a petition demonstrating that granting the requested relief would not adversely affect employment in the U.S. automobile industry. To address the second situation, Congress adopted the provision in section 503(b)(4) of the Act. It applies to a manufacturer that wishes to convert a vehicle from non-domestic to domestic status over a period of several model years, but to include this vehicle in its domestic fleet during this conversion period. There is no model year limitation on exercising this provision. To obtain exemption from domestic content provisions under that provision, a petitioner must show that (among other things) it would achieve at least 75 percent domestic content with its transferred automobiles by the fourth model year after U.S. assembly began.

The AFEA also amended the Act (section 502(k)) to authorize special relief for manufacturers that were unable to comply with one or more of the 4-wheel drive (4WD) light truck fuel economy standards in MYs 1982–85.

Finally, the AFEA amended the Act (section 502(1)) to authorize special relief for manufacturers that fell short of a fuel economy standard in one year, but expected to exceed a fuel economy standard in a future model year. Section 502(1) provides that the credits that a manufacturer expects to earn for a future model year may be available up to three years in advance of that year in order to offset civil penalties which would otherwise be assessed for the earlier shortfall, provided that the manufacturer submits (and the agency approves) a plan for earning the necessary credits in the future, and that the manufacturer actually earns the credits. Previously, credits were only available for one year in advance and a manufacturer could not use these credits to reduce or offset a civil penalty until they were actually earned.

On February 18, 1982, the agency published an interim final rule establishing part 526 setting forth requirements for the contents of petitions to obtain the various types of relief authorized by the AFEA's amendments to the Act (47 FR 7245). The principal provisions of part 526 are:

- Section 526.2, specifying requirements relating to section 503(b)(3) (commencement of U.S. production);
- Section 526.3, specifying requirements relating to 503(b)(4) (transfer of models from non-domestic to domestic fleet);
- Section 526.4, specifying requirements relating to section 502(k) (adjustment of CAFE standards for 4-wheel drive light trucks); and
- Section 526.5, specifying requirements relating to section 502(1) (offsetting compliance shortfall with future credits).

A final rule adopting those interim procedures as final was published July 29, 1982 (47 FR 32721).

I. Changes to Part 526

A. Rescission of § 526.4, Relating to the Adjustment of Fuel Economy Standards for 4–Wheel Drive Light Trucks

Section 526.4 describes the procedures for manufacturers to petition for relief from light truck CAFE standards applicable to 4WD light trucks for MYs 1982–85. This procedure implements section 502(k) of the Act.

To be granted the relief provided by section 502(k), a manufacturer must demonstrate that it cannot meet any of those fuel economy standards without suffering a severe economic impact, such as plant closures or layoffs. Although the timing of the petition is not expressly specified, the use of the subjunctive tense implies that the petition had to be filed before the start of the model year for which the relief was requested. This implication is the absence of any express authorization for retroactive rulemaking.

NHTSA believes that section 502(k) and its implementing regulatory provision in § 526.4 are moot. No petitions were filed under this section for these long past model years. The agency therefore proposes to rescind this section.

B. Deletion of Final Sentence of § 526.5(a) Relating to Separation of Light Truck Fleets Into 2-Wheel and 4-Wheel Drive Fleets

Section 526.5 specifies the content of manufacturers' plans for earning CAFE credits in future years to offset current year penalties. The provision was issued to implement section 502(l) of the Act. As noted above, under section 502(l), a manufacturer may avoid violating the Act and paying a civil penalty for falling short of a standard in one model year if

the manufacturer submits to the agency a plan showing that it reasonably anticipates earning enough credits during the next three model years to offset the shortfall.

The last sentence in § 526.5(a) provides that the information specified in § 526.4(e) is to be submitted in connection with any contemplated transfer of CAFE credit between classes of light trucks. Section 526.4(e), along with the balance of § 526.4, would be rescinded under another proposal in this notice. Thus, the agency proposes to delete the last sentence of § 526.5(a). The meaning of § 526.5(a) will remain unchanged.

C. Redesignation of Citations to AFEA

Although the regulatory relief provisions of the AFEA were added by the AFEA to the Act, part 526 does not uniformly cite the Act. For example, the part references the relevant sections of the AFEA whenever it discusses petitions and plans specified by the AFEA, but references the Act in other places. The lack of consistency in the citations is potentially a source of confusion and inconvenience to the public. Therefore, the agency proposes to convert all references in part 526 to the AFEA into references to the corresponding sections of the Act.

D. Change to Title of 49 CFR 526.3

The title of § 526.3 is to be changed from "Transfer of vehicle from foreign to U.S. production" to "Transfer of vehicle from non-domestic to domestic fleet." Section 526.3 implements section 503(b)(4) of the Act, which allows manufacturers to average certain non-domestic models with their domestic fleets if (1) these models have not been previously domestically manufactured, (2) these models have at least 50 percent domestic content, and (3) the manufacturer will raise the domestic content of these models to a minimum of 75 percent within four model years. Section 503(b)(4) of the act says nothing about "transferring" a vehicle from a foreign to domestic assembly site. Among other possibilities the vehicle could be entirely new, or could be already assembled in the U.S. or Canada, but with less than 75 percent domestic content. Additionally, there is no reference to any specific country as a production site. The proposed change in the title of 49 CFR 526.3 will therefore reflect more accurately the language of the Act.

E. Change in Text of 49 CFR 526.3(a) To Reflect U.S.-Canadian Trade Agreements

Under trade agreements beginning in 1965, and the U.S.-Canada Free Trade Agreement, as well as U.S. Customs regulations, value added in either country is considered "domestic." By adding the words "or Canadian" to the phrase "those with 50 to 75 percent U.S. value added," the text of § 526.3(a) will accurately reflect the international treaties, agreements and regulations mentioned previously.

F. Retroactive Effect

This proposed rule would not have any retroactive effect. Under section 509(a) of the Motor Vehicle Information and Cost Savings Act (the Cost Savings Act; 15 U.S.C. 2009(a)), whenever a Federal motor vehicle fuel economy standard is in effect, a state may not adopt or maintain separate fuel economy standards applicable to vehicles covered by the Federal standard. Under section 509(b) of the Cost Savings Act (15 U.S.C. 2009(b)) a state may not require fuel economy labels on vehicles covered by section 506 of the Cost Savings Act (15 U.S.C. 2006) which are not identical to the Federal standard. Section 509 does not apply to vehicles procured for the State's use. Section 504 of the Cost Savings Act (15 U.S.C. 2004) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal average fuel economy standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

II. Impact Analysis

A. Economic Impacts

The agency has considered the economic implications of the proposed amendments and determined that the proposal is not major within the meaning of Executive Order 12291 and is not significant within the meaning of the Department's regulatory procedures. The proposed changes would be economically neutral. The primary effect of the amendments would be to remove, from the Code of Federal Regulations, content requirements for a type of petitions that can no longer be submitted to the agency.

B. Environmental Impacts

The agency has analyzed the environmental impacts of the proposed amendments in accordance with the National Environmental Policy Act, 42 U.S.C. 4321, et seq. The agency has concluded that no significant environmental impact would result from the proposed amendments.

C. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking would have on small entities. I certify that this action would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. No automobile or light truck manufacturer affected by the proposed amendments would be classified as a "small business" under the Regulatory Flexibility Act. In the case of small businesses, small organizations, and small governmental units which purchase automobiles and light trucks, adoption of the proposed amendments would not affect the availability of fuel efficient automobiles or light trucks or have any significant effect on the overall cost of purchasing and operating an automobile or light truck.

D. Impact of Federalism

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

NHTSA is providing a 45-day comment period for interested persons to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the

proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 526

Energy conservation, Motor vehicles.

PART 526—[AMENDED]

In consideration of the foregoing, 49 CFR part 526 would be amended to read as follows:

1. The authority citation for part 526 would be revised to read as follows:

Authority: 15 U.S.C. 2002 and 2003; delegation of authority at 49 CFR 1.50.

2. Section 526.1 (b) and (c) would be revised to read as follows:

§ 526.1 General provisions.

* * * * *

(b) *Address.* Each petition and plan submitted under the applicable provisions of sections 502 and 503 of the Motor Vehicle Information and Cost Savings Act must be addressed to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(c) *Authority and scope of relief.* Each petition or plan must specify the specific provision of the Motor Vehicle Information and Cost Savings Act under which relief is being sought. The petition or plan must also specify the model years for which relief is being sought.

3. The introductory text of § 526.2 would be revised to read as follows:

§ 526.2 U.S. production by foreign manufacturer.

Each petition filed under section 503(b)(3) of the Motor Vehicle Information and Cost Savings Act must contain the following information:

* * * * *

4. The heading, introductory text and the introductory text of paragraph (a) of § 526.3 would be revised to read as follows:

§ 526.3 Transfer of vehicle from non-domestic to domestic fleet.

Each plan submitted under section 503(b)(4) of the Motor Vehicle Information and Cost Savings Act must contain the following information:

(a) For each model year for which relief is sought in the plan and for each model type of automobile sought to be included by the submitter in its domestic fleet under the plan (i.e., those with 50 to 75 percent U.S. or Canadian value added), provide the following information:

* * * * *

§ 526.4 [Removed and reserved]

5. Section 526.4 would be removed and reserved.

6. The introductory text and paragraph (a) of § 526.5 would be revised to read as follows:

§ 526.5 Earning offsetting monetary credits in future years.

Each plan submitted under section 502(1) of the Motor Vehicle Information and Cost Savings Act must contain the following information:

(a) Projected average fuel economy and production levels for the class of automobiles which may fail to comply with a fuel economy standard and for any other classes of automobiles from which credits may be transferred, for the current model year and for each model year thereafter ending with the last year covered by the plan.

* * * * *

Issued: May 14, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–11833 Filed 5–19–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 930359–3059]

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would prohibit any U.S. commercial fishing vessel from fishing for groundfish in the exclusive economic zone (EEZ) off Alaska before offloading from the vessel all Pacific halibut, Pacific salmon, steelhead trout, Pacific herring, king crab, and Tanner crab taken in waters seaward of the EEZ. This action is necessary for the enforcement of regulations governing the take of species listed as prohibited in the Alaska groundfish fisheries. The intended effect of this action is to support the goals and objectives of the North Pacific Fishery Management Council (Council) with respect to management of the groundfish fisheries and prohibited species resources off Alaska.

DATES: Comments must be received at the following address no later than 4:30 p.m., Alaska local time, June 21, 1993.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Copies of the environmental assessment/regulatory impact analysis/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for the proposed action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the EEZ off Alaska are managed by the Secretary of Commerce in accordance with the Fishery Management Plans (FMPs) for Groundfish of the Gulf of Alaska (GOA) and for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). Both FMPs were prepared by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The GOA FMP is implemented by regulations appearing at 50 CFR 611.92 for the foreign fishery and 50 CFR part 672 for the U.S. fishery. The BSAI FMP is implemented by regulations appearing at 50 CFR 611.93 for the foreign fishery and 50 CFR part 675 for the U.S. fishery. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

The regulations implementing the groundfish FMPs apply to fishing operations within the EEZ off Alaska.

However, the regulations do not adequately address the possession of prohibited species that are taken outside of the EEZ and that would otherwise be illegal to possess on board commercial fishing vessels if harvested in U.S. waters. This action proposes to prohibit the use of a vessel to fish for groundfish in the EEZ off Alaska when that vessel has on board any species of Pacific salmon, steelhead trout, Pacific herring, Pacific halibut, king crab, or Tanner crab taken in waters outside the EEZ.

Regulations at §§ 672.20(e) and 675.20(c) prohibit the retention of any prohibited species while fishing for groundfish within waters of the EEZ unless retention is authorized by other applicable laws. For purposes of these regulations, prohibited species are any of the species of Pacific salmon, steelhead trout, Pacific halibut, Pacific herring, king crab, and Tanner crab.

Regulations appearing at 50 CFR part 301 (Pacific halibut fishery regulations) are authorized under the Northern Pacific Halibut Act and govern the Pacific halibut fishery in waters off the west coast of Canada and the United States within the respective maritime areas in which each of those countries exercised exclusive fisheries jurisdiction as of March 29, 1979 (Convention waters). The Pacific halibut fishery regulations prohibit the taking or possession of any halibut taken within Convention waters with any gear other than hook and line gear (50 CFR 301.16(a)). Persons also are prohibited from possessing halibut while fishing for any other species of fish in Convention waters during a period closed to fishing for halibut (50 CFR 301.8(d)).

The United States and the former Union of Soviet Socialist Republics (U.S.S.R.) signed a Mutual Fisheries Agreement on May 31, 1988, which allowed U.S. nationals to engage in fishing operations in the economic zone of what is now the Russian Federation (Russian EZ). During the years since the Mutual Fisheries Agreement was signed, U.S. fishing activity has increased in the Russian EZ. In 1990, U.S. fishing vessels operating in waters of the Russian EZ began catching substantial quantities of Pacific halibut in trawl and fixed gear operations. NMFS also noted an increased occurrence of U.S. fishing vessels fishing on GOA seamounts outside of Convention waters where halibut or other prohibited species may be taken with trawl or hook-and-line gear. Upon returning to the EEZ, the operators of these vessels normally proceeded directly to U.S. ports where their catches of halibut or other prohibited species were offloaded prior to fishing in U.S. waters.

However, under existing regulations, vessels are able to return to the EEZ and commence to fish for groundfish before offloading prohibited species or other fish and fish products taken from outside the EEZ. This situation poses enforcement concerns because vessel operators, who illegally retain on board their vessel halibut or other prohibited species harvested inside the EEZ, can assert that these species were taken from outside the EEZ. Serious compliance and enforcement problems result for regulations that govern the take of prohibited species in the Alaska groundfish fisheries and the harvest of halibut in Convention waters under the Pacific halibut fishery regulations. NMFS enforcement agents and the U.S. Coast Guard also have encountered increasing amounts of halibut and other prohibited species aboard U.S. fishing vessels and within the U.S. market that purportedly originate from the Russian EZ or other waters outside the EEZ. Neither the Pacific halibut fishery regulations nor regulations implementing the groundfish FMPs adequately address the possession or landing of halibut or other prohibited species that are taken outside Convention waters or the EEZ.

Until recently, enforcement agencies had no way to determine adequately the waters of origin, gear type, date, or time of catch for these fish. Enforcement agencies relied on reports voluntarily submitted by vessel operators to document amounts of fish on board that were taken from waters outside the EEZ. Under an interim final rule that amends 50 CFR part 299 (57 FR 33649, July 30, 1992), vessel operators must document amounts of fish or fish products on board a vessel that were taken in the Russian EZ.

To complement the reporting requirements at 50 CFR part 299, NMFS may propose similar reporting requirements at 50 CFR 672.5 and 675.5 for any U.S. fishing vessel entering the EEZ from waters seaward of the boundary of the EEZ with fish on board taken from waters outside the EEZ off Alaska, including GOA seamounts. Although documentation of this type will improve the ability of enforcement agencies to track the origin of fish on board vessels in the EEZ, vessel documentation can be altered to mask actual harvest location of groundfish and prohibited species product on board a vessel. NMFS believes the continued introduction of prohibited species from outside the EEZ severely undermines the enforcement of regulations that require the immediate discard of prohibited species taken incidental to groundfish operations in the EEZ.

Therefore, to resolve these enforcement concerns, NMFS proposes to prohibit the possession of any species of Pacific salmon, steelhead trout, Pacific halibut, Pacific herring, king crab, and Tanner crab, regardless of where they were taken, on board any U.S. fishing vessel fishing for groundfish within the EEZ off Alaska. This proposal would require the operators of U.S. vessels with legal catches of these species taken outside the EEZ to offload those catches prior to commencing any groundfish fishing operations within the EEZ. The intent of the proposed measure is to increase the effectiveness of regulations governing the retention of prohibited species by simplifying the enforcement of these regulations and reducing the incentive for U.S. fishermen to retain illegally prohibited species.

Under the proposed rule, no size restriction would be implemented for Pacific halibut taken outside of Convention waters. Representatives for the Pacific halibut industry have expressed concern about the enforcement of minimum size restrictions for halibut set forth under the Pacific halibut regulations if undersize halibut taken from outside Convention waters are landed at U.S. ports. NMFS recognizes that enforcement of size restrictions applicable to Pacific halibut taken from Convention waters will be increasingly difficult due to at-sea and shoreside landings of undersize halibut taken from outside Convention waters. Notwithstanding this concern, the United States does not interpret the Northern Pacific Halibut Act as authorizing the Secretary to extend NMFS' jurisdiction to halibut taken outside Convention waters. Congressional action would be necessary to authorize restrictions on halibut taken outside these waters.

Public review and comment are requested on the impact of the proposed rule on U.S. fishermen and its effectiveness in facilitating enforcement of existing regulations that govern the possession of prohibited species in U.S. waters. NMFS will evaluate all public comments received within the comment period when determining whether to implement the proposed action.

Classification

The Assistant Administrator of Fisheries, NOAA (Assistant Administrator), has initially determined that this rule is necessary for the conservation and management of the groundfish fisheries off Alaska and is

consistent with the Magnuson Act and other applicable law.

NMFS prepared an EA, in combination with a RIR and an IRFA, for this regulatory amendment that describes the impact on the environment that would occur as a result of its implementation. The public may obtain a copy of the EA/RIR/IRFA (see **ADDRESSES**) and comments on it are requested.

The Assistant Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local governments or geographic regions; or a significant adverse effect on competition, employment, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This determination is based on the socioeconomic impacts discussed in the EA/RIR/IRFA prepared by NMFS.

The IRFA concludes that this proposed rule, if adopted, would have significant effects on a substantial number of small entities because costs could approach 5 percent of the annual gross revenues generated from harvests outside the EEZ. At this time, most of the vessels used to fish outside the EEZ participate in Russian joint ventures as catcher/processors or motherships and are not considered small entities for purposes of the Regulatory Flexibility Act (RFA). The potential exists that increased competition for groundfish within the EEZ will provide an incentive for more catcher vessels to fish outside the EEZ, particularly in the GOA. The operators of most catcher vessels harvesting groundfish off Alaska and delivering to either at-sea or shore-based processors experience gross annual receipts less than $2 million and meet the definition of a "small entity" for purposes of the RFA. NMFS estimates that the number of U.S. vessels fishing outside the EEZ and that may be affected by the proposed rule could approach 50 vessels by the end of 1993. Although not all of these vessels are considered small entities, an increasing number of catcher vessels is expected to participate in harvesting operations seaward of the EEZ in future years.

During the last half of 1991 and the first half of 1992, U.S. fishing vessels made an estimated 33 fishing trips to Russian waters. In 1991, most of the vessels operating in Russian waters normally offloaded their catch prior to fishing in U.S. waters. For purposes of estimating maximum impacts resulting from the proposed rule, the costs of offloading were assumed to be those incurred by the transit from the western boundary of the EEZ in the Bering Sea to Dutch Harbor, and back to the edge of the EEZ (approximately 6 days).

The maximum cost that could be incurred by individual vessel operators under the proposed action is estimated at $727,000 per fishing trip into Russian waters. In addition to this cost, vessel operators offloading prohibited species catch under the proposed rule would face handling, cold storage, and transshipping costs that may otherwise have been avoided. These estimates of maximum costs are not expected to be experienced by most vessel operators. In general, potential cost incurred under the proposed action would be lower or nonexistent if offloading of catch prior to fishing in the EEZ were part of normal vessel operations or vessels were operating closer to the offloading sites.

The Regional Director determined the fishing activities conducted under these regulations implementing the preferred action are not likely to affect adversely any endangered or threatened species listed under the Endangered Species Act in a way that was not already considered in previous biological opinions. Therefore, NMFS has determined that no further section 7 consultation is required for adoption of this action.

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

NMFS has determined that this rule will be carried out in a manner that is consistent, to the maximum extent practicable, with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

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

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: May 14, 1993.

Joe P. Clem,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

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

§ 672.2 [Amended]

2. In section 672.2, the definition of *Gulf of Alaska* is amended by removing "fishery conservation zone" and inserting the term "EEZ."

3. In section 672.20, a new paragraph (e)(5) is added to read as follows:

§ 672.20 General limitations.

* * * * *

(e) * * *

(5) No vessel fishing for groundfish in the Gulf of Alaska may have on board any species listed in paragraph (e)(1) of this section that was taken in waters seaward of the Gulf of Alaska, regardless of whether retention of such species was authorized by other applicable law.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

4. The authority citation for 50 CFR part 675 continues to read as follows:

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

5. In § 675.20, paragraph (c)(5) is added to read as follows:

§ 675.20 General limitations.

* * * * *

(c) * * *

(5) No vessel fishing for groundfish in the Bering Sea and Aleutian Islands management area may have on board any species listed in paragraph (c)(1) of this section that was taken in waters seaward of the management area, regardless of whether retention of such species was authorized by other applicable law.

[FR Doc. 93–11940 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 96
Thursday, May 20, 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

Forms Under Review by Office of Management and Budget

May 14, 1993.

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

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

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

New-Emergency

- Foreign Agricultural Service

Export Performance Under the Market Promotion Program
On occasion
Businesses or other for-profit; non-profit institutions; small businesses or organizations; 1,129 responses; 1.089 hours
Norman R. Kallemeyn (202) 720-2705

- Agricultural Stabilization and Conservation Service

7 CFR part 80, Potato Diversion Program
ASCS–117, 118, and 120
On occasion
Farms; 18,000 responses; 8,251 hours
Raellen Erickson (202) 720–5171

Larry K. Roberson,
Deputy Department Clearance Officer.
[FR Doc. 93–11995 Filed 5–19–93; 8:45 am]
BILLING CODE 3410–01–M

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. No. 92–463, 86 Stat. 770–776), the U.S. Department of Agriculture (USDA), Science and Education, announces the following advisory committee meeting:

Name: Agricultural Biotechnology Research Advisory Committee.

Date: June 29–30, 1993.

Time: 3 p.m. to approximately 5:30 p.m. on June 29; 9 a.m. to approximately 4 p.m. on June 30.

Place: Board of Directors Room; Conference and Education Facility, North Carolina Biotechnology Center, 15 T.W. Alexander Drive, Research Triangle Park, North Carolina 27709–3547.

Type of Meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit. Members of the public wishing to speak at the meeting may be given such an opportunity at the discretion of the Chair.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research.

The items to be considered at this meeting include activities of committee working groups on transgenic animals, aquatic biotechnology and environmental safety, and societal impacts of food and agricultural biotechnology.

Contact Persons: Dr. Alvin L. Young, Director, or Dr. Daniel D. Jones, Deputy Director, Office of Agricultural Biotechnology, Cooperative State Research Service, Department of Agriculture, room 1001, Rosslyn Plaza E, 14th Street and Independence Avenue SW., Washington, DC 20520–2200. Telephone (703) 235–4419.

Done at Washington, DC, this 5 day of May, 1993.

R.D. Plowman,
Acting Assistant Secretary, Science and Education.
[FR Doc. 93–11994 Filed 5–19–93; 8:45 am]
BILLING CODE 3410–22–M

Forest Service

Exemption of Kelsey Creek Salvage Timber Sale From Appeal

AGENCY: Northern Region, Forest Service, USDA.

ACTION: Notification that a salvage timber project designed to recover insect-killed timber is exempt from appeal under the provisions of 36 CFR part 217.

SUMMARY: A mountain pine beetle epidemic in the Kelsey Creek drainage (Compartment #31) on the Fisher River Ranger District, Kootenai National Forest, has killed approximately 50 to 100 percent of the lodgepole pine within the analysis area. In 1992 the Fisher River District Ranger proposed a salvage timber sale to recover damaged sawtimber in the affected area.

The District Ranger has determined, through an environmental analysis documented in the Decision Memo and project file for the Kelsey Creek Salvage Timber Sale, that there is good cause to expedite these actions in order to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the area affected must be accomplished quickly to avoid further deterioration of sawtimber, to minimize fire danger by removing accumulations of merchantable dead lodgepole pine timber, and to reforest salvaged areas.

EFFECTIVE DATE: Effective on May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Lawrence Froberg; Fisher River District Ranger; Kootenai National Forest; 12557 HWY. 37; Libby, MT 59923; telephone 406–293–7773.

SUPPLEMENTARY INFORMATION: A mountain pine beetle epidemic has occurred in the Kelsey Creek drainage (Compartment 31) on the Fisher River Ranger District, Kootenai National Forest, during the last several years. The Kelsey Creek drainage is approximately 28 miles east of Libby, Montana. The project area is located within

Management Area 15 (Kootenai Forest Plan, September 1987), and is designated as suitable timberland with timber management goals.

In May 1992, the Fisher River District Ranger proposed timber harvest within the Kelsey Creek drainage. This proposal was designed to meet the following needs: (1) Reduce the risk of catastrophic wildfire in stands killed by the beetle infestation by reducing fuel loading; (2) improve long-term timber growth and productivity by reforesting the affected area with coniferous species less susceptible to insect damage; (3) expedite the re-establishment of coniferous species to provide security for wildlife and watershed protection by harvesting, site preparation, and planting; (4) clear road surfaces and ditches of dead lodgepole pine to enable road maintenance, reduce erosion potential and allow access for fire suppression; and (5) contribute to a continuing supply of timber for industry by salvaging merchantable timber before it deteriorates in value. An interdisciplinary team was convened and scoping began in October 1992. Two alternatives were analyzed, no treatment (no action) and a salvage and rehabilitation proposal (proposed action).

The selected alternative would salvage approximately 715 MBF from 127 acres. All salvage areas are accessible from existing roads; minor reconditioning of existing roads will be needed to facilitate access to and removal of sawtimber.

The salvage timber sale project is designed to accomplish the objectives as quickly as possible to reduce the potential for catastrophic wildfire, and to recover merchantable sawtimber before it deteriorates and removal becomes economically infeasible. To expedite implementation of this decision, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based upon the environmental analysis documented in the Decision Memo for the Kelsey Creek Salvage Timber Sale, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project would not be subject to review under 36 CFR part 217.

Dated: May 11, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93–11689 Filed 5–19–93; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–825]

Correction of Amendment of Preliminary Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Stephen Jacques, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3434.

SUMMARY: We are correcting our amended preliminary determination for the above-mentioned investigation (58 FR 21444) to correct for typographical errors. The errors affected the weighted-average margins for Nippon Steel Corporation and Sumitomo Metal Industries for Cold-Rolled Steel. These corrections do not apply to the "All Others" rate for Cold-Rolled Steel. The corrected estimated weighted-average margins for the above-mentioned investigation is shown in the **Suspension of Liquidation** section of this notice.

Suspension of Liquidation

The estimated margins have changed as indicated below. In accordance with section 733(d)(2) of the Tariff Act of 1930, as amended, the Department will direct customs to continue to require a cash deposit or posting of a bond on all entries equal to the corrected estimated amounts by which the foreign market value of the subject merchandise exceeds the United States price. The correct margins are:

JAPAN—COLD-ROLLED STEEL

Producer/manufacturer/exporter	Weighted-average margin percentage
Nippon Steel Corporation	27.67
Sumitomo Metal Industries	27.67

Dated: May 14, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–12032 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–122–804]

New Steel Rail From Canada; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On November 27, 1992, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on new steel rail, except light rail, from Canada. The Department is now terminating that review.

BACKGROUND: On November 27, 1992, the Department published in the **Federal Register** a notice of initiation of administrative review of the antidumping order on new steel rail, except light rail, from Canada (57 FR 56318) at the request of the respondent, Algoma Steel, Inc. This notice stated that we would review one producer, Algoma Steel, Inc., for the period September 1, 1991 through August 31, 1992. The respondent subsequently withdrew its request for review on December 21, 1992. Under § 353.22(a)(5) of the Department's regulations, a party requesting a review may withdraw that request not later than 90 days after the date of publication of the notice of initiation. Because the withdrawal occurred within the time frame specified, the Department is now terminating this review.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Roy F. Unger, Jr., or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–2704/3814.

SUPPLEMENTARY INFORMATION: This notice is in accordance with 19 CFR 353.22(a)(5).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12007 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–427–603]

Brass Sheet and Strip From France; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on brass sheet and strip from France.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4406 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1993, the Department of Commerce ("the Department") published in the **Federal Register** (58 FR 11842) its intent to revoke the countervailing duty order on brass sheet and strip from France (52 FR 6996; March 6, 1987). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month.

On March 12, 1993, The Copper and Brass Fabricators Council, a trade association, objected to our intent to revoke this order on behalf of its members which were petitioners in the original investigation and are domestic producers of the subject merchandise. Because the requirements of 19 CFR 355.25(d)(iii) have not been met, we will not revoke the order.

This notice is an accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12008 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–351–029]

Certain Castor Oil Products From Brazil; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on certain castor oil products from Brazil.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Gayle Longest, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4406 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1993, the Department of Commerce ("the Department") published in the **Federal Register** (58 FR 11843) its intent to revoke the countervailing duty order on certain castor oil products from Brazil (41 FR 6634; March 18, 1976). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month.

On March 26, 1993, Union Camp Corporation, a petitioner in the original investigation, objected to our intent to revoke this order and also requested an administrative review of this order. Because the requirements of 19 CFR 355.25(d)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12009 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–001]

Cotton Sheeting and Sateen From Peru; Determination Not to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on cotton sheeting and sateen from Peru.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Anne D'Alauro, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1993, the Department of Commerce ("the Department") published in the **Federal Register** (58 FR 6622) its intent to revoke the countervailing duty order on cotton sheeting and sateen from Peru (48 FR 4501; February 1, 1983). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month.

On February 18, 1993, the American Textile Manufacturers Institute, Inc. ("ATMI") and its interested member companies, Walton Monroe Mills, Inc., Spartan Mills, Opp and Micholas Mills, Inc., Mount Vernon Mills, and Joshua L. Bailey & Company, interested parties and petitioners in this proceeding, objected to our intent to revoke the order. Because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12010 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–333–002]

Cotton Yarn From Peru; Determination not to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the

countervailing duty order on cotton yarn from Peru.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Anne D'Alauro, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 1993, the Department of Commerce published in the **Federal Register** (58 FR 6623) its intent to revoke the countervailing duty order on cotton yarn from Peru (48 FR 4508; February 1, 1983). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month.

On February 25, 1993, the American Yarn Spinners Association and several of its member companies, Avondale Mills, Harriet & Henderson Yarns, Inc., and Parkdale Mills, domestic producers and interested parties in this proceeding, objected to our intent to revoke the order. Because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12011 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–508–601]

Oil Country Tubular Goods From Israel; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on oil country tubular goods from Israel.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Lorenza Olivas, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4406 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1993, the Department of Commerce ("the Department") published in the **Federal Register** (58 FR 11843) its intent to revoke the countervailing duty order on oil country tubular goods from Israel (52 FR 6999; March 6, 1987). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month.

On March 30, 1993, North Star Steel Ohio, a domestic producer of the subject merchandise, objected to our intent to revoke this order. On March 31, 1993, Lone Star Technologies, Inc. and U.S. Steel Group, both domestic producers of the subject merchandise, also objected to our intent to revoke this order. Because the requirements of 19 CFR 355.25(d)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12012 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–507–501]

In-Shell Pistachios From Iran; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on in-shell pistachios from Iran.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1993, the Department of Commerce published in the **Federal Register** (58 FR 11844) its intent to revoke the countervailing duty order on in-shell pistachios from Iran. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. We had not received a request for an administrative review of the order for at least four consecutive anniversary months.

On March 26, 1993, the California Pistachio Commission and the Western Pistachio Association, the petitioners in the original investigation and interested parties in this proceeding, objected to our intent to revoke the order. Because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–12013 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–337–601]

Standard Carnations From Chile; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on standard carnations from Chile.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup or Cameron Cardozo, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1993, the Department of Commerce ("the Department") published in the **Federal Register** (58

FR 11844) its intent to revoke the countervailing duty order on standard carnations from Chile. Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month.

On March 31, 1993, the Floral Trade Council, petitioner in the original investigation and an interested party in this proceeding, objected to our intent to revoke the order. Because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12014 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

[C–489–502]

Certain Welded Carbon Steel Pipe and Tube Products From Turkey; Determination Not to Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on certain welded carbon steel pipe and tube products from Turkey.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Anna T. Milone, Lorenza Olivas, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–4406 or 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 1993, the Department of Commerce ("the Department") published in the **Federal Register** (58 FR 11845) its intent to revoke the countervailing duty order on certain welded carbon steel pipe and tube products from Turkey (51 FR 7984; March 7, 1986). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party objects to revocation or no interested party requests an administrative review by the last day of the fifth anniversary month.

On March 26, 1993, Allied Tube and Conduit Corporation, Laclede Steel Co., Sawhill Tubular Division of Armco, Inc., and Wheatland Tube Co., petitioners in the original investigation, objected to our intent to revoke this order. Because the requirements of 19 CFR 355.25(d)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: May 11, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–12015 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DS–P

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an export trade certificate of review.

SUMMARY: The Office of Export Trading Company Affairs (OETCA), International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and request comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90–4A007."

OETCA has received the following application for an amendment to Export Trade Certificate of Review No. 90–00007, which was issued on August 22, 1990 (55 FR 35445, August 30, 1990) and previously amended on December 12, 1990 (55 FR 53031, December 26, 1990), June 11, 1991 (56 FR 27946, June 18, 1991), and May 22, 1992 (57 FR 23078, June 1, 1992). The applicant has requested expedited review of the application pursuant to 15 CFR 325.8. A summary of the application follows.

Summary of the Application

Applicant: United States Surimi Commission ("USSC"), 4200 First Interstate Center, Seattle, Washington 98104–4082, Contact: Mr. Wm. Paul MacGregor, Legal Counsel, Telephone: 206/624–5940.

Application No.: 90–4A007.

Date Deemed Submitted: May 14, 1993.

Request for Amended Conduct: USSC seeks to amend its Certificate to add Alaska Ocean Seafoods of Anacortes, WA (controlling entity: Jeff Hendricks, Anacortes, WA) as a "Member" within the meaning of Section 325.2(1) of the Regulations (15 CFR 325.2 (1)).

May 14, 1993.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 93–12006 filed 5–19–93; 8:45 am]

BILLING CODE 3510–DR–M

Minority Business Development Agency

Business Development Center Applications: Columbus, Ohio MSA

AGENCY: Minority Business Development Agency, DOC.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3

year period, subject to Agency priorities, recipient performance and the availability of funds. The cost of performance for the first budget period (12 months) is estimated at $169,125 in Federal funds, and a minimum of $29,846 in non-federal (cost-sharing) contributions. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from October 1, 1993 to September 30, 1994. The MBDC will operate in the Columbus, Ohio geographic service area. The award number of this MBDC will be 05–10–93002–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated initially by Regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providng business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purposes of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

MBDCs performing satisfactorily may continue to operate, after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget period without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Award recipients and subrecipients under this program shall be subject to all Federal Departmental regulations, policies, and procedures applicable to Federal assistance awards.

No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either the delinquent account is paid in full, a negotiated repayment schedule is established and at least one payment is received, or other arrangements satisfactory to the Department of Commerce (DOC) are made.

All primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying:"

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form;

Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form;

Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 156 CFR part 28, Appendix B.

Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

The Departmental Grants Officer may terminate any grants/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements: unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of the Government to cover pre-award costs.

If an application is selected for funding, the U.S. Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department.

All non-profit and for-profit applicants are subject to a name check review process. Name checks are

intended to reveal if any key individuals associated with the applicant have been convicted of or is presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity; and a false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

CLOSING DATE: The closing date for applications is June 24, 1993. Applications must be postmarked on or before June 24, 1993.

Address: Chicago Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 55 East Monroe, Suite 1440, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: David Vega, Regional Director, Chicago Regional Office.

Address: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353–0182.

STATUTORY AUTHORITY: 15 U.S.C. 1512.

FUNDING AUTHORITY: Executive Order 11625, October 13, 1971.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. A pre-bid conference will be held on June 7, 1993, at 10 a.m. at the MBDA Chicago Regional Office. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: May 13, 1993.

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 93–11899 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[Docket No. 930517–3117]

Endangered and Threatened Species; Illinois River Winter Steelhead in Oregon

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

ACTION: Notice of determination; status review and request for information.

SUMMARY: NMFS determines that the Illinois River winter steelhead in Oregon does not constitute a "species" under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* (ESA) and, therefore, does not qualify for listing under the ESA at this time. However, the Illinois River winter steelhead is part of a larger evolutionarily significant unit that may qualify for protection under the ESA. Accordingly, NMFS is requesting biological information for all coastal steelhead populations in California, Oregon, and Washington, including Puget Sound.

ADDRESSES: Comments and information should be submitted to Merritt Tuttle, Chief, Environmental and Technical Services Division, NMFS, Northwest Region, 911 N.E. 11th Avenue, suite 620, Portland, OR 97232.

DATES: Biological information from all interested parties will be accepted until July 19, 1993.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, Environmental and Technical Services Division, NMFS, Portland, Oregon (503/230–5430), Jim Lecky, NMFS, 501 West Ocean Boulevard, suite 4200, Long Beach, California 90802–4213 (310/980–4015) or Marta Nammack, Protected Species Management Division, NMFS, 1335 East-West Highway, Silver Spring, Maryland 20910 (301/713–2322).

SUPPLEMENTARY INFORMATION:

Petition Background

On May 6, 1992, NMFS received a petition from Oregon Natural Resources Council, the Siskiyou Regional Education Project, Federation of Fly Fishers, Kalmiopsis Audubon Society, Klamath/Siskiyou Coalition, Headwaters, The Wilderness Society, North Coast Environmental Center, The Sierra Club, Oregon Chapter, and The National Wildlife Federation, to list indigenous, naturally spawning Illinois River winter steelhead (*Oncorhynchus mykiss*) and to designate critical habitat under the ESA. The petition contained information on angler catch data to illustrate declining population trends; provided information on geographic location, spawning distribution, and anadromous life history to illustrate evolutionary significance; and provided information on geographical isolation, distinctive life history and body size characteristics, and effects of hatchery fish to illustrate reproductive isolation. NMFS published a notice on July 31, 1992 (57 FR 33939), that the petition presented substantial scientific information indicating that the listing may be warranted. To ensure a comprehensive review, NMFS solicited information and data concerning the present and historic status of the Illinois River winter steelhead and whether or not this stock qualifies as a "species" under the ESA. NMFS also requested information on areas that may qualify as critical habitat for the Illinois River winter steelhead. A total of 42 commenters provided information and data pertaining to historic and present steelhead abundance and distribution, water quality, fishery management practices, land management practices, hatchery management impacts, life history characteristics, and stock identification.

Biological Background

The NMFS Northwest Region Biological Review Team has prepared a technical memorandum "Status Review for Illinois River Winter Steelhead," which provides more detailed information, discussion, and references. This technical memorandum is available upon request (see ADDRESSES), and is summarized below.

The Illinois River is 83 miles long and joins the Rogue River 27 miles from the Pacific Ocean. The Illinois River watershed covers 990 square miles in southwestern Oregon and northern California. The Illinois River and the Applegate River are the two major tributaries of the Rogue River Basin. The mouth of the Rogue River is 27 miles south of Cape Blanco, Oregon.

The name steelhead refers to the anadromous form of rainbow trout. Recently, the scientific name for the biological species that includes both steelhead and rainbow trout was changed from *Salmo gairdneri* to *Oncorhynchus mykiss*. This change reflects a belief that all trouts from western North America share a common lineage with Pacific salmon. The present endemic distribution of steelhead extends from the Kamchatka Peninsula, Asia, east and south, along the Pacific coast of North America, to Malibu Creek in southern California.

Steelhead exhibit a wide variety of life history strategies. In general, steelhead migrate to sea after spending two years in freshwater and then spend two years in the ocean prior to returning to fresh water to spawn. Deviations from this basic pattern are common. Some spawners survive and return to the ocean for one or more years between spawning migrations. Some steelhead return to freshwater after only a few months at sea and are termed "half-pounders," having attained the approximate size that inspired this term. Half-pounders generally spend the

winter in freshwater and then return to the sea for a year before returning to freshwater to spawn.

Steelhead exhibit two spawning migration strategies. The "summer steelhead" enter fresh water between May and October, beginning their spawning migration in a sexually immature state. After several months in fresh water, summer steelhead mature and spawn. "Winter steelhead" enter fresh water between November and April with well developed gonads. In drainages with sympatric populations of summer and winter steelhead, there may or may not be temporal or spatial separation of spawning. Approximate spawning windows for Rogue River steelhead are December–March for summer steelhead and March–June for winter steelhead.

Consideration as a "Species" Under the ESA

To qualify for listing as a threatened or endangered species, Illinois River winter steelhead would have to be a "species" under the ESA. The ESA defines a "species" to include any "distinct population segment of any species of vertebrate . . . which interbreeds when mature." NMFS published a policy (November 20, 1991; 56 FR 58612) on how it will apply the ESA species definition in evaluating Pacific salmon. This policy provides that a salmon population will be considered distinct, and hence a species under the ESA, if it represents an evolutionarily significant unit (ESU) of the biological species. The population must satisfy two criteria to be considered an ESU: (1) It must be reproductively isolated from other conspecific population units; and (2) it must represent an important component in the evolutionary legacy of the biological species. The first criterion, reproductive isolation, need not be absolute, but must be strong enough to permit evolutionarily important differences to accrue in different population units. The second criterion would be met if the population contributed substantially to the ecological/genetic diversity of the species as a whole. Further guidance on the application of this policy is contained in, "Pacific salmon (*Oncorhynchus* spp.) and the Definition of Species under the Endangered Species Act," which is available upon request (see ADDRESSES).

Reproductive Isolation

For this criterion, NMFS considered factors provided by the petitioners on the isolation of the Illinois River spawning grounds, the effects of the Illinois River Falls, the time of peak spawning, and a north-south genetic difference.

Steelhead that spawn in the upper parts of the river are separated by as much as 75 miles from the confluence of the Illinois and the Rouge Rivers, and this may contribute to reproductive isolation of steelhead spawning above Illinois River Falls. However, lower Illinois River tributaries may contribute substantially to overall steelhead production in the river, and these lower river areas are relatively closer to (and hence potentially less isolated from) other spawning areas in the Rouge River.

The Illinois River Falls at River Mile 40 may act (or may have acted in the past, before modification) as a "filter" that allowed adult passage only during certain river levels. However, genetic analysis failed to find anything distinctive about Illinois River winter steelhead from either above or below the falls.

Some unpublished data indicate that peak spawning for Illinois River winter steelhead occurs around the first of April, which is two weeks earlier than the peak for steelhead from the middle Rouge River and two weeks later than the peak for steelhead from the Applegate River. Spawn timing may be heritable in part, but is also subject to modification by streamflow, water temperature, and other environmental variables. The two-week differences in peak spawning for the Illinois River winter steelhead are of the same magnitude as year-to-year differences observed in Rogue River summer steelhead. The modest difference in peak spawn timing cited by the petitioners may reflect (or may be the result of) reproductive isolation, but this could not be demonstrated without considerably more data.

The petitioners cited evidence for a genetic difference between steelhead populations north and south of Cape Blanco, Oregon. Preliminary data collected by NMFS also suggest some degree of genetic differentiation between populations north and south of Cape Blanco. However, the same data fail to show any consistent differences between steelhead from the Illinois River and other steelhead populations from northern California and southern Oregon.

Evolutionary Significance

NMFS considered information provided by the petitioners on hatchery influence and factors that pertain to life history differences between Illinois River winter steelhead and Rogue River steelhead. The life history factors included age at smolting and spawning and the incidence of half-pounders.

NMFS found some records of hatchery releases of other steelhead stocks into the Illinois River. However, the magnitude (and likely effects) of these releases was fairly small. The very limited fish scale data for Illinois River winter steelhead are consistent with the petitioners' conclusion that straying of hatchery fish into the Illinois River occurs at a low rate.

Some data indicate that average age at smolting for Illinois River winter steelhead (two or more years) is slightly higher than for Rogue River steelhead. In this respect, however, Illinois River winter steelhead are similar to most other populations of coastal steelhead; it is Rogue River steelhead that differ by smolting on average at a somewhat younger age.

Unpublished data suggest that, at spawning, Illinois River winter steelhead on average are somewhat older and larger than other steelhead from the Rogue River basin. However, the Illinois River winter steelhead age data are from scale samples returned by anglers, which may be biased toward older (and larger) fish. The smaller adult size in other Rogue River populations may also be a consequence of slowed growth during the half-pounder migration. We have no data to indicate that Illinois River winter steelhead are remarkable for their size in comparison to other coastal steelhead populations.

The petitioners stated that the absence of "half-pounders" in the Illinios River supports the theory of genetic isolation of Illinois River winter steelhead. However, half-pounders have been reported only from certain drainages in southern Oregon and northern California, and they may not be present in all tributaries of these drainages. Furthermore, half-pounders are generally associated with summer-run populations, and this life history trait appears to be uncommon in winter-run fish. Therefore, in lacking half-pounders, Illinois River winter steelhead are similar to most other winter steelhead populations and to all summer steelhead populations outside the northern California and southern Oregon area.

Determination

After a thorough analysis of all information available, NMFS has determined that the Illinois River winter steelhead do not represent a "species" under the ESA, and therefore, a proposal to list Illinois River winter steelhead under the ESA is not warranted at this time.

Expanded Status Review

Although NMFS has concluded that there is insufficient evidence to demonstrate that the Illinois River winter steelhead by themselves represent an ESU, and hence a "species" under the ESA, Illinois River winter steelhead are undoubtedly part of a larger ESU whose extent has not yet been determined. Whether this larger ESU would merit protection under the ESA cannot be determined at this time. Trends in steelhead abundance are downward in several southern Oregon coastal streams including the Illinois River. NMFS believes that it is important to proceed directly to identify the larger ESU that contains Illinois River winter steelhead. NMFS is therefore initiating a status review of all coastal steelhead populations in California, Oregon, and Washington. NMFS will make a determination of ESU(s) in these areas and determine whether or not to propose listing under the ESA for any identified ESU.

Biological Information Solicited

To ensure that these evaluations are complete and are based on the best available scientific and commercial data, NMFS is soliciting information and comments concerning the present and historic status of coastal steelhead populations in California, Oregon, and Washington, including those from Puget Sound.

Dated: May 14, 1993.

Nancy Foster,

Acting Assistant Administrator for Fisheries.

[FR Doc. 93–11949 Filed 5–17–93; 8:45 am]

BILLING CODE 3510–22–M

Endangered Species; Permits.

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

ACTION: Issuance of modification No. 1 to permit No. 790 (P509).

SUMMARY: On September 2, 1992 (57 FR 41477) Permit No. 790 was issued to Robert van Dam, Physiological Research Laboratory, Scripps Institution of Oceanography.

Notice is hereby given that on May 13, 1993, as authorized by the provisions of Endangered Species Act (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife (50 CFR Parts 217–227), NMFS modified Permit No. 790 to extend the effective date through December 31, 1993.

Issuance of this Permit modification, as required by the ESA, was based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disadvantage of the listed species which is the subject of this Permit; (3) is consistent with the purposes and policies set forth in Section 2 of the ESA. This Permit and Modification were also issued in accordance with and are subject to the NMFS regulations governing listed species permits.

The Permit and Modification documentation are available for review in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Room 8268, Silver Spring, Maryland 20910 (301/713–2232); and

Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813/893–3141).

Dated: May 13, 1993.

William W. Fox,

Director, Office of Protected Resources.

[FR Doc. 93–11975 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Settlement on Import Limits and Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

May 14, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs amending limits, a restraint period and visa requirements.

EFFECTIVE DATE: May 21, 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).

During recent consultations between the Governments of the United States and Indonesia, agreement was reached to establish specific limits in Group II for Categories 350/650, for the period December 30, 1992 through June 30, 1993; and Category 447, for the period March 30, 1993 through June 30, 1993. For Categories 350/650, the limits for the periods December 30, 1992 through March 29, 1993 and March 30, 1993 through June 30, 1993 are being combined.

Also, limits are being adjusted, variously, for swing, carryforward, special swing and special carryforward.

For goods exported in merged Categories 350/650 on and after June 1, 1993, a merged visa will be accepted.

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 52 FR 20134, published on May 29, 1987; 57 FR 24597, published on June 10, 1992; 58 FR 5362, published on January 21, 1993; and 58 FR 17208, published on April 1, 1993.

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

May 14, 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 textile products, produced or manufactured in Indonesia and exported during the period July 1, 1992 through June 30, 1993. Also, this directive amends, but does not cancel, the directives issued to you on January 13, 1993 and March 26, 1993 for cotton, wool and man-made fiber textile products in Categories 350/650 and 447 for the periods December 30, 1992 through March 29, 1993 and March 30, 1993 through June 30, 1993.

Effective on May 21, 1993, you are directed, pursuant to a Memorandum of Understanding (MOU) dated April 28, 1993 between the Governments of the United States and Indonesia, to combine the restraint periods December 30, 1992 through March 29, 1993 and March 30, 1993 through June

30, 1993 for Categories 350/650 in Group II at a level of 68,331 dozen [1].

Also, you are directed to adjust the current limits for the following categories, as provided under the terms of the MOU dated April 28, 1993 and the current bilateral agreement between the Governments of the United States and Indonesia:

Category	Adjusted limit [a]
Levels in Group I	
334/335	187,428 dozen.
341	762,182 dozen.
347/348	1,273,000 dozen.
634/635	228,000 dozen.
In Group II subgroup	
447	7,864 dozen.

[a] The limits have not been adjusted to account for any imports exported after March 29, 1993 (Category 447) and June 30, 1992 (the remaining categories).

For visa purposes, you are directed to amend further the directive dated May 19, 1987, to include merged Categories 350/650 for goods exported on and after June 1, 1993.

Merchandise in merged Categories 350/650 may be accompanied by either the appropriate merged category visa or the correct category corresponding to the actual shipment.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate visa shall be denied entry and a new visa must be obtained.

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. 93–11957 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DR–F

Cancellation of the Implementation of a New Export Visa Stamp Issued by the People's Republic of China

May 14, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs cancelling the new visa stamp.

EFFECTIVE DATE: June 1, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended, section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On March 30, 1993 a notice was published in the **Federal Register** (58 FR 16653) announcing that the Government of the People's Republic of China would begin issuing a new export visa stamp for shipments of textile products, produced or manufactured in China and exported from China on or after May 1, 1993. The Chairman of CITA directed the Commissioner of Customs to accept either the old or new stamp through May 31, 1993. The Government of the People's Republic of China has requested that the new visa stamp not be implemented.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to amend the aforementioned directive. Goods produced or manufactured in China and exported from China on and after June 15, 1993 must be accompanied by the old visa stamp issued by the Government of the People's Republic of China (see 49 FR 7269, published on February 28, 1984).

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 14, 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 March 24, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to accept a new export visa stamp issued by the Government of the People's Republic of China for goods exported from China on or after May 1, 1993.

Effective on June 1, 1993, you are directed to continue to accept goods, produced or manufactured in China and exported from China on or after June 1, 1993 which are accompanied by the old export visa stamp issued by the Government of the People's Republic of China. You are directed to allow entry to goods exported from China prior to June 15, 1993 to enter if accompanied by the new export visa stamp. Goods exported on or after June 15, 1993 shall not be accepted if accompanied by the new visa stamp.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and an appropriate export visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

J. Hayden Boyd,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–11958 Filed 5–19–93; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 29, 1992.

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Government-Industry Technical Data Committee; Meeting

AGENCY: Office of the Under Secretary of Defense (Acquisition), DoD.

ACTION: Notice.

SUMMARY: Pursuant to section 807 of Public Law 102–120, the National Defense Authorization Act for Fiscal Years 1992 and 1993, a Government-Industry Technical Data Committee has been formed. The committee will make recommendations to the Secretary of Defense for the final regulations required by subsection (a) of 10 U.S.C. 2320, "Rights in Technical Data."

The next committee meetings are scheduled for May 27 and 28, 1993, from 9:30 a.m. to 4 p.m. at 400 Army-Navy Drive, Suite 120, Arlington, Virginia. These meetings will be open to the public. Because of the urgency to complete the committee final report, public notice of less than 15 days is being provided. For more information, please contact the Committee Executive Secretary, Angelena Moy at 703–693–5639.

Dated May 14, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–11913 Filed 5–19–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Coastal Engineering Research Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB).

Date of Meeting: June 15–17, 1993.

Place: Trump Plaza, Atlantic City, New Jersey.

Time: 8 a.m. to 5:15 p.m. on June 15; 8 a.m. to 4 p.m. on June 16; 8 a.m. to 11:45 a.m. on June 17.

Theme: Coastal Data Collection.

Proposed Agenda: The morning session on 15 June will consist of a report of Chief's

Charge; review of CERB business; and panel presentations pertaining to research and development data needs and efforts and field data needs and efforts from the Philadelphia District, New York District, and West Coast/Pacific Ocean. The afternoon session on June 15 will consist of a panel discussion dealing with Coastal Field Data Collection Program and Monitoring Completed Coastal Projects. Presentations include an introduction; Barnegat Inlet, Field Wave Gaging; WIS and CEDRS. There will also be presentations dealing with the Field Research Facility activities entitled Long-Term Measurements, DUCK '94, SANDY DUCK, and Nearshore Survey Techniques. A panel discussing site specific data collection on the coasts of Delaware and New Jersey; Ocean City, Maryland; and Oregon Inlet will also be presented. New data collection technology will be discussed as well as a demonstration of the Surf Rover will be presented. June 16 will be devoted to a presentation of the 1992 storms on the east coast and a field trip with an overview prior to departing on the field trip. The following projects will be visited: Barnegat Inlet; Ocean City, New Jersey; and Cape May.

On June 17, there will be presentations entitled Status of Sea Turtles Study and Corps Involvement in St. Paul and St. George Harbors, Alaska, and presentations from representatives from the New Jersey Department of Environmental Protection and Energy, Delaware Department of Natural Resources and Environmental Control, and New Jersey Shore and Beach Preservation Association, and recommendations by members of the Board.

This meeting is open to the public; participation by the public is scheduled for 10 a.m. on June 17.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements.

2. Oral participation by public attendees is encouraged during the time schedule on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Leonard G. Hassell, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199.

Leonard G. Hassell,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 93–11966 Filed 5–19–93; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Westwego to Harvey Canal, LA, Hurricane Protection Project (Lake Cataouatche) Post Authorization Change Study

AGENCY: New Orleans District, U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The purpose of this post authorization change study is to investigate extending Federal involvement in providing hurricane protection to an additional portion of Jefferson Parish.

FOR FURTHER INFORMATION CONTACT: Mr. Brett Herr, telephone (504) 862–2495, CELMN–PD–FG, P.O. Box 60267, New Orleans, Louisiana 70160–0267. Questions regarding the DEIS may be directed to Mr. Steve Fox, telephone (504) 862–2540, CELMN–PD–RS.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

As part of the "West Bank of the Mississippi River in the Vicinity of New Orleans, Louisiana," project, this study proposes to develop an economically feasible and environmentally acceptable solution to improvements for flood control and hurricane protection in portions of the Jefferson Parish urban area. The "Westwego to Harvey Canal, Louisiana, Hurricane Protection Project (Lake Cataouatche) Post Authorization Change Study," is being conducted in response to a resolution of the committee on Public Works of the United States Senate dated May 6, 1966. The resolution requested the Board of Engineers for Rivers and Harbors to review the reports of the Chief of Engineers on the Mississippi River Delta at and below New Orleans, Louisiana, in that part of Jefferson Parish, Louisiana, between the Mississippi River and Bayou Barataria and Lake Salvador, and those reports published as House Document Number 550, Eighty-seventh Congress.

2. Alternatives

Alternatives being considered include floodwalls and/or levee system alignments. These alternatives will be compared to the No-Action alternative.

3. Scoping Process

a. The scoping process involves identification of additional alternatives and significant issues to be analyzed in the EIS. Significant issues to be analyzed are potential impacts on endangered species and other fish and wildlife, cultural resources, recreational resources, wetlands, Lake Cataouatche, and socio-economic resources.

b. A. scoping document will be prepared and sent to persons and agencies known to have an interest in flooding, hurricane protection problems, natural resources, and related issues in the study area. This scoping document will request that interested parties provide comments on alternatives, significant issues, impacts of alternatives, and all relevant issues for inclusion in the DEIS. All affected Federal, state, and local agencies and other interested private organizations and parties will be encouraged to participate in the EIS process.

c. A 30-day period will be allowed to all interested agencies and individuals to review the scoping document and provide requested scoping input.

4. Public Meeting During DEIS Review Period

A public meeting will be scheduled and held during the DEIS review period to answer questions and receive comments on the DEIS.

5. Availability

A DEIS will be available for review by the public during the fall of 1995.

Michael Diffley,

Colonel, Corps of Engineers, District Engineer

[FR Doc. 93–11965 Filed 5–19–93; 8:45 am]

BILLING CODE 3710–PU–M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Reevaluation Study of the Feasibility of Constructing the Missouri River Levee System (MRLS) Levee Unit No. L–142, Jefferson City, MO

AGENCY: U.S. Army Corps of Engineers, Kansas City District, DoD.

ACTION: Notice of intent.

SUMMARY: The purpose of this study is to reevaluate the feasibility of constructing the MRLS element known as Levee Unit No. L–142, considering the economic, environmental, and social changes which have occurred since Unit L–142 was authorized by the Flood Control Act of 1944 (Public Law 78–534).

FOR FURTHER INFORMATION CONTACT: Questions regarding the proposed study and DEIS can be answered by the Project Manager, Ms. Roberta Comstock, telephone number (816) 426–7345, Special Studies Branch, Planning Division, U.S. Army Corps of Engineers.

700 Federal Building, 601 E. 12th Street, Kansas City, Missouri 64106–2896.

SUPPLEMENTARY INFORMATION: 1. The Kansas City District (KCD), Corps of Engineers, is undertaking a reevaluation study of the feasibility of constructing the component of the MRLS project known as Levee Unit No. L–142. KCD's study will consider economic, environmental, and social changes which have occurred in the project area since Levee Unit L–142 was authorized nearly 50 years ago as part of the Flood Control Act of 1944 (Pub. L. 78–534).

2. KCD's study will evaluate the no-action alternative as well as various structural and non-structural alternatives to determine:

a. Flood protection costs and benefits;

b. Regional social and economic impacts; and,

c. Environmental impacts and mitigation measures for the various alternatives.

Reasonable alternatives KCD will examine include the feasibility of constructing a flood control levee along various alignments, as well as using other measures to reduce damages and provide flood protection for the Jefferson City municipal airport vicinity and the "Cedar City" area of Jefferson City, Missouri, located on the floodplain north of the Missouri River.

3. Scoping Process.

a. A public workshop will be held in the Cedar City area within the affected project area near the end of May 1993. The exact date, time, and location of the workshop will be announced when the details are finalized. Additional workshops will be held as the study progresses to keep the public informed. Coordination meetings will be held as needed with affected/concerned local, State, and Federal governmental entities.

These workshops and meetings, as well as any meetings which were previously held regarding this project, will serve as the collective scoping process for preparation of the DEIS. No formal "scoping" meeting will be held.

Draft documents forthcoming from the study will be distributed to Federal, State, and local agencies, as well as interested members of the general public, for review and comment.

b. Significant issues to be analyzed in depth include evaluations of:

(1) Alternative flood protection and damage reduction measures (levee alignments, flood proofing, and floodplain evacuation) and determinations of flood control costs and benefits;

(2) Regional social and economic impacts; and

(3) Environmental impacts and mitigation measures for the various alternatives.

c. The Corps will request the following Federal agencies to be Cooperating Agencies for this study: The U.S. Fish and Wildlife Service (USFWS) and the Federal Aviation Agency (FAA).

d. Environmental consultation and review will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as per regulations of the Council of Environmental Quality (Code of Federal Regulations 40 CFR parts 1500–1508), and other applicable laws, regulations, and guidelines.

4. The anticipated date of availability of the DEIS for public review is November 1994.

Dated: April 27, 1993.

Michael J. Bart,

Chief, Planning Division.

[FR Doc. 93–11967 Filed 5–19–93; 8:45 am]

BILLING CODE 3710–KN–M

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a copy of the Regulatory Guidance Letter (RGL 93–1) to all known interested parties. RGL's are used by the Corps of Engineers as a means to transmit guidance on the permit program (33 CFR parts 320–330) to its division and district engineers. The Corps of Engineers publishes RGL's in the **Federal Register** upon issuance as a means of informing the public of Corps guidance.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 272–1782.

SUPPLEMENTARY INFORMATION: RGL 93–1, Subject: Provisional Permits is hereby published as follows:

Regulatory Guidance Letter, RGL 93–1
Date 20 April 1993, Expires 31 December 1998
Subject: Provisional Permits

Kenneth L. Denton,

Army Federal Register Liaison Officer.

1. Purpose

The purpose of this guidance is to establish a process that clarifies for applicants when the U.S. Army Corps of Engineers has completed its evaluation and at what point the applicant should contact the State concerning the status of the Section 401 Water Quality Certification and/or Coastal Zone Management (CZM) consistency concurrence. This process also allows for more accurate measurement of the total length of time spent by the Corps in evaluating permit applications (i.e., from receipt of a complete application until the Corps reaches a permit decision). For verification of authorization of activities under regional general permits, the Corps will use the appropriate nationwide permit procedures at 33 CFR 330.6.

2. Background

a. A Department of the Army permit involving a discharge of dredged or fill material cannot be issued until a State Section 401 Water Quality Certification has been issued or waived. Also, a Department of the Army permit cannot be issued for an activity within a State with a federally-approved Coastal Management Program when that activity that would occur within, or outside, a State's coastal zone will affect land or water uses or natural resources of the State's coastal zone, until the State concurs with the applicant's consistency determination, or concurrence is presumed. In many cases, the Corps completes its review before the State Section 401 Water Quality Certification or CZM concurrence requirements have been satisfied. In such cases, applicants and the public are often confused regarding who to deal with regarding resolution of any State issues.

b. The "provisional permit" procedures described below will facilitate a formal communication between the Corps and the applicant to clearly indicate that the applicant should be in contact with the appropriate State agencies to satisfy the State 401 Water Quality Certification or CZM concurrence requirements. In addition, the procedures will allow for a more accurate measurement of the Corps permit evaluation time.

3. Provisional Permit Procedures

The provisional permit procedures are optional and may only be used in those cases where: (1) The District Engineer (DE) has made a provisional individual permit decision that an individual permit should be issued, and, (ii) the only action(s) preventing the issuance of that permit is that the State has not issued a required Section 401 Water Quality Certification (or waiver has not occurred) or the State has not concurred in the applicant's CZM consistency determination (or there is not a presumed concurrence). In such cases, the DE may, using these optional

procedures, send a provisional permit to the applicant.

a. First, the DE will prepare and sign the provisional permit decision document. Then the provisional permit will be sent to the applicant by transmittal letter. (The sample transmittal letter at enclosure 1 contains the minimum information that must be provided.)

b. Next, the applicant would obtain the Section 401 Water Quality Certification (or waiver) and/or CZM consistency concurrence (or presumed concurrence). Then the applicant would sign the provisional permit and return it to the DE along with the appropriate fee and the Section 401 Water Quality Certification (or proof of waiver) and/or the CZM consistency concurrence (or proof of presumed concurrence).

c. Finally, the Corps would attach any Section 401 Water Quality Certification and/or CZM consistency concurrence to the provisional permit, then sign the provisional permit (which then becomes the issue final permit), and forward the permit to the applicant.

d. This is the same basic process as the normal standard permit transmittal process except that the applicant is sent an unsigned permit (i.e., a provisional permit) prior to obtaining the Section 401 Water Quality Certification (or waiver) and/or CZM consistency concurrence (or presumed concurrence). (See enclosure 2.) A permit cannot be issued (i.e., signed by the Corps) until the Section 401 and CZM requirements are satisfied.

4. Provisional Permit

A provisional permit is a standard permit document with a cover sheet. The cover sheet must clearly indicate the following: that a provisional permit is enclosed, that the applicant must obtain the Section 401 Water Quality Certification or CZM concurrence from the State, that these documents must be sent to the Corps along with the provisional permit signed by the applicant, and that the Corps will issue the permit upon receipt of these materials. The issued permit is the provisional permit signed by the applicant and the Corps. The provisional permit must contain a statement indicating that the applicant is required to comply with the Section 401 Water Quality Certification, including any conditions, and/or the CZM consistency concurrence, including any conditions. At enclosure 3 is a sample cover sheet for the provisional permit.

5. Provisional Permit Decision

The DE may reach a final decision that a permit should be issued provided that the State issue a Section 401 Water Quality Certification and/or CZM concurrence. In order to reach such a decision the DE must complete the normal standard permit evaluation process, prepare and sign a decision document, and prepare a standard permit, including any conditions or mitigation (i.e., a provisional permit). The decision document must include a statement that the DE has determined that the permit will be issued if the State issues a Section 401 Water Quality Certification or waiver and/or CZM concurrence, or presumed concurrence. The standard permit will not contain a condition that requires or provides for the applicant to obtain a Section 401 Water Quality Certification and/or CZM concurrence. Once the decision document is signed, the applicant has the right to a DA permit if the State issues a Section 401 Water Quality Certification or waiver and/or a CZM concurrence, or if concurrence is presumed. Once the decision document is signed, the permittee's right to proceed can only be changed by using the modification, suspension and revocation procedures of 33 CFR 325.7, unless the State denies the Section 401 Water Quality Certification or nonconcurs with the applicant's CZM consistency determination.

6. Enforcement

In some cases, applicants might proceed with the project upon receipt of the provisional permit. The provisional permit is not a valid permit. In such cases, the Corps has a discretionary enforcement action to consider and should proceed as the DE determines to be appropriate. This occurs on occasion during the standard permit transmittal process. Since the Corps is not changing the normal process of sending unsigned permits to the applicant for signature, there should not be an increase in the occurrence of such unauthorized activities.

7. Modification

a. In most cases the Section 401 Water Quality Certification, including conditions, and/or CZM consistency concurrence, including conditions, will be consistent with the provisional permit. In such cases, the DE will simply sign the final permit and enclose the 401 water quality certification and/or CZM consistency concurrence with the final permit (i.e., the signed provisional permit).

b. In a few cases such State approval may necessitate modifications to the Corps preliminary permit decision. Such modifications will be processed in accordance with 33 CFR 325.7.

(1) When the modifications are minor and the DE agrees to such modifications, then a supplement to the provisional decision document may be prepared, as appropriate, and the permit issued with such modifications. (This should usually be done by enclosing State 401 Water Quality Certification and/or CZM consistency concurrence to the permit, but in a few cases may require a revision to the permit document itself.)

(2) When the modification results in substantial change or measurable increase in adverse impacts or the Corps does not initially agree with the change, then the modification will be processed and counted as a separate permit action for reporting purposes. This may require a new public notice or additional coordination with appropriate Federal and/or state agencies. The provisional decision document will be supplemented or may be completely rewritten, as necessary.

8. Denial

If the State denies the Section 401 Water Quality Certification and/or the State nonconcurs with the applicant's CZM consistency determination, then the Corps permit is denied without prejudice.

9. This guidance expires December 31, 1998 unless sooner revised or rescinded.

FOR THE DIRECTOR OF CIVIL WORKS:

3 Encls

JOHN P. ELMORE, P.E.,

Chief, Operations, Construction and Readiness Division, Directorate of Civil Works.

SAMPLE

PROVISIONAL PERMIT

TRANSMITTAL LETTER

Dear_____:

We have completed our review of your permit application identified as [File No., appl. name, etc.] for the following proposed work:

_____

_____

_____

near/in/at _____.

Enclosed is a "PROVISIONAL PERMIT." The provisional permit is NOT VALID and does *not* authorize you to do your work. The provisional permit describes the work that will be authorized, and the General and Special Conditions [if any] which will be placed on your final Department of the Army (DA) permit, if the State of _____

Water Quality Certification and/or Coastal Zone Management (CZM) consistency requirements are satisfied as described below. *No* work is to be performed in the waterway or adjacent wetlands until you have received a validated copy of the DA permit.

By Federal law no DA permit can be issued until a State Section 401 Water Quality Certification has been issued or has been waived and/or the State has concurred with a permit applicant's CZM consistency determination or concurrence has been presumed. As of this date the [State 401 certification agency] has not issued a Section 401 Water Quality Certification for your proposed work. If the [State 401 certification agency] fails or refuses to act by [date 401 certification must be issued] the Section 401 Water Quality Certification requirement will be automatically waived. Also, as of this date the [State CZM agency] has not concurred with your CZM consistency determination. If the State does not act by [six months from receipt by the State of the applicant's CZM consistency determination] then concurrence with your CZM consistency determination will automatically be presumed.

Conditions of the State Section 401 Water Quality Certification and/or the State CZM concurrence will become conditions to the final DA permit. Should the State's action on the required certification or concurrence preclude validation of the provisional permit in its current form, a modification to the provisional permit will be evaluated and you will be notified as appropriate. Substantial changes may require a new permit evaluation process, including issuing a new public notice.

Enclosure 1

FINAL PERMIT ACTIONS

Normal Permit Process

1. Corps completes permit decision, and state 401/CZM issued/waived
2. Corps sends unsigned permit to applicant
3. Applicant signs permit and returns with fee
4. Corps signs permit

Draft Permit Process

1. Corps complete permit decision, but state 401/CZM not complete
2. Corps sends draft permit to applicant
3. State 401/CZM issued waived
4. Applicant signs permit and returns with fee and 401/CZM action
5. Corps reviews 401/CZM action and signs permit

1. The signed draft permit with the attached 401/CZM action is to be treated as the applicant's request for a permit subject to any 401/CZM certification/concurrence including any conditions.

2. If the 401/CZM action results in a modification to the draft permit, then step 4. would be treated as a request for such modification and if we agree with the modification, then the permit would be issued with the modification and the decision document supplemented, as appropriate. If the Corps does not initially agree with the modification, or it involves a substantial change or measurable increase in adverse impacts, then the modification would be processed as a separate permit action for reporting purposes.

Once the State has issued the required Section 401 Water Quality Certification and/or concurred with your CZM consistency determination or the dates above have passed without the State acting, and you agree to the terms and conditions of the provisional permit, you should sign and date both copies and return them to use [along with your $100.00/$10.00 permit fee]. Your DA permit will not be valid until we have returned a copy to you bearing both your signature and the signature of the appropriate Corps official.

If the State denies the required Section 401 Water Quality Certification and/or nonconcurs with your CZM consistency determination, then the DA permit is denied without prejudice.

If you should subsequently obtain a Section 401 Water Quality Certification and/or a CZM consistency determination concurrence, you should contact this office to determine how to proceed with your permit application.

If you have any questions concerning your State Section 401 Water Quality Certification, please contact (State 401 certification contact) _____

_____

_____

If you have any questions concerning your CZM consistency determination, please contact (State CZM contact) _____

_____

_____

If you have any other questions concerning your application for a DA permit, please contact [Corps contact] at [Corps contact telephone number]

Enclosure 2

PROVISIONAL PERMIT

NOT VALID

DO NOT BEGIN WORK

This PROVISIONAL PERMIT is NOT VALID until:

(1) You obtain:

_____a Section 401 Water Quality Certification from (State Agency)

_____a Coastal Zone Consistency determination concurrence from (State Agency)

(2) You sign and return the enclosed provisional permit with the State Section 401 Water Quality Certification and/or CZM concurrence and the appropriate permit fee as indicated below:

____$10.00

_____$100.00

_____No fee required

(3) The Corps signs the permit and returns it to you.

Your permit is denied without prejudice, if the State denies your Section 401 Water Quality Certification and/or nonconcurs with your Coastal Zone Management consistency determination.

DO NOT BEGIN WORK

Enclosure 3.

[FR Doc. 93–11968 Filed 5–19–93; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the Office of Personnel Management and the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a computer matching program between the Office of Personnel Management (OPM) and the Department of Defense (DoD) for public comment.

SUMMARY: The DoD, as the matching agency under the Privacy Act of 1974, as amended, (5 U.S.C. 552a), is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between OPM and DoD that their records are being matched by computer. The record subjects are civil service annuitants who are reemployed in the Federal government. By comparing the data received through this computer matching program on a recurring basis, OPM and DoD will be able to make timely and accurate adjustments in salary and benefits. This program will prevent or correct overpayment, fraud and abuse, thus insuring proper benefit payments.

DATES: This proposed action will become effective June 21, 1993, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr., at (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), DoD and OPM have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to identify civil service annuitants (including disability annuitants under age 60) who are

reemployed by DoD. This match will insure that (1) annuities of DoD reemployed annuitants are terminated where applicable, and (2) salaries are correctly offset where applicable. A cost benefit analysis, based on data collected from prior matches, shows that OPM will save approximately $222,500 over a 12–month period by performing this match. DoD does not expect to realize any monetary savings from this matching program, but does benefit by having a mechanism to assist in correcting its civilian personnel data bases. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between OPM and DoD is available upon request to the public. Requests should be submitted to the address above or to the Chief, Quality Assurance Division, Retirement and Insurance Group, Office of Personnel Management, Washington, DC 20415.

Set forth below is a notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the Federal Register at 54 FR 25818 on June 19, 1989.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on May 7, 1993, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, pursuant to paragraph 4b of Appendix I to OMB Circular No. A–130, "Federal Agency Responsibilities for Maintaining Records about Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985). The matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: May 14, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Computer Matching Program Between the Office of Personnel Management and the Department of Defense on Reemployed Annuitants

A. *Participating agencies:* Participants in this computer matching program are the Quality Assurance Division, Retirement and Insurance Group, Office of Personnel Management (OPM), Washington, DC 20415, and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The OPM is the source agency, i.e., the agency disclosing the records for the purpose of the match. The DMDC is the specific recipient agency or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The purpose of this computer matching program is to identify civil service annuitants (including disability annuitants under age 60) who are employed by DoD. This match will help insure that (1) annuities of DoD reemployed annuitants are terminated where applicable, and (2) salaries are correctly offset where applicable.

C. *Authority for conducting the match:* Both OPM and DoD have responsibilities to monitor and adjust retirement benefits under Title 5, U.S.C. Section 8331 (CSRA), (especially 5 U.S.C. Section 8344) and Title 5 U.S.C. Section 8401 (FERSA) et seq. (especially 5 U.S.C. Section 8468).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows: OPM will use records from the system of records published as OPM Central–1, Civil Service Retirement and Insurance Records, 57 FR 35698, August 10, 1992, and the DoD system of records published as Defense Manpower Data Center Data Base, S322.10 DMDC, 58 FR 10872, February 22, 1993. Appropriate routine uses have been published by both agencies to permit disclosures needed to conduct this match. OPM's routine use for this match is published in paragraph ff of the Federal Register notice dated August 10, 1992, cited above. These routine uses are compatible with the purpose for collecting the information and establishing and maintaining the record systems.

E. *Description of computer matching program:* OPM, as the source, will provide DMDC with a magnetic tape extract of individuals. The tape extract provided by OPM will contain the name, address, Social Security Number, date of birth, retirement claim number, payment and service data of the individual receiving benefits from OPM. The OPM file will contain the information on approximately 1.5 million CSRA and FERSA retirees. The DoD file contains approximately 1 million DoD civilian employment records. DMDC will match OPM data with DoD employee data for the same dates to make an initial determination. DMDC will share the matched information with appropriate DoD offices. DoD will screen the initial data appropriate to rule out matched individuals who are not valid matches according to information available to them at the time. DoD will take appropriate adjustment action for each matched individual. Each individual identified as receiving prohibited or improper salary or retirement benefits will be notified of the match findings and will be afforded due process and given the opportunity to contest the findings and any actions that may ensue as a result of the match.

F. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this Federal Register notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated on a semi-annual basis, normally in January and July. Under no circumstances shall the matching program be implemented before the 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between OPM and DoD, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis

Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 93–11916 Filed 5–19–93; 8:45 am]

BILLING CODE 5000–04–F

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, May 26, 1993. The hearing will be part of the Commission's business meeting which is open to the public and scheduled to begin at 1:30 p.m. in the Lord Delaware Room of the Harbour League Club at 800 Hudson Square, Camden, New Jersey.

An informal conference session among the Commissioners and staff will be open for public observation at 10:30 a.m. in the Kaighns Point Room of the Harbour League Club and will include discussions on the upper Delaware ice jam project and a status report by the Commission's Ground Water Advisory Committee concerning renewal periods for existing ground water withdrawal dockets and Protected Area permit approvals.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Blue Ridge Real Estate Company, D–91–46.* A surface water withdrawal project to provide a source for seasonal irrigation of the applicant's proposed golf course. Water will be withdrawn from Tobyhanna Creek near its confluence with the Lehigh River at an average monthly rate of 0.40 million gallons per day (mgd). The project is located in Kidder Township, Carbon County, Pennsylvania.

2. *Pennsville Sewerage Authority D–92–6 CP.* An application for approval of a sewage treatment plant (STP) upgrade and modification project. The applicant proposes to modify the existing 1.88 mgd secondary treatment process to improve the STP's effluent quality. The design capacity of the modified STP will be 1.88 mgd and it will continue to serve the municipal wastewaters generated in Pennsville Township. The STP is located at the south end of Delaware Drive in Pennsville Township, Salem County, New Jersey and the treated effluent will continue to discharge to the Delaware River in Water Quality Zone 5.

3. *Worcester Township Sewage Treatment Plant D–92–36 CP.* An application from the Township of Worcester for approval of modification and expansion of its Valley Green Sewage Treatment Plant (STP). The application proposes minor modifications to its existing tertiary level STP to increase its treatment capacity from 0.08 mgd to 0.09 mgd in order to treat wastewaters generated by a proposed new development in its service area in a portion of Worcester Township. The treated effluent will continue to discharge to Zacharias Creek near the STP located just south of the intersection of State Highways 363 and 73 in Worcester Township, Montgomery County, Pennsylvania.

4. *Atlantic City Electric Company D–92–57.* An application for approval of a ground water withdrawal project to supply up to 30 million gallons (mg)/30 days of water to the applicant's Deepwater Generating Station from new Well No. 7, and to retain the existing withdrawal limit from all wells of 42 mg/30 days. The project is located in Pennsville Township, Salem County, New Jersey.

5. *City of Coatesville Authority D–92–64 CP.* A sewage treatment plant (STP) upgrade project that entails the addition of a phosphorus removal system to the City of Coatesville Authority's existing 3.85 mgd capacity facility which will continue to serve the City of Coatesville and portions of Caln and Valley Townships. The STP is located just west of Franklin Street in South Coatesville Borough, Chester County, Pennsylvania and will continue to discharge to the West Branch Brandywine Creek.

6. *B & B Poultry Company, Inc. D–92–78.* An application for approval of a ground water withdrawal project to supply up to 9.3 mg/30 days of water to the applicant's poultry processing facility from existing Well Nos. 4, 5 and 6, and to limit the withdrawal from all wells to 9.3 mg/30 days. The project is located in Pittsgrove Township, Salem County, New Jersey.

7. *Walnut Bank Water Company D–92–83 CP.* An application for approval of an expanded ground water withdrawal project from existing Well Nos. 2 and 3, and to increase the existing withdrawal limit of 5.16 mg/30 days from all wells to 11.16 mg/30 days. The proposed increase has been requested for the purposes of providing additional water supplies to Quakertown Borough and Richland Township. The project is located in Richland Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

8. *Borough of Hopatcong D–92–85 CP.* An application for approval of a ground water withdrawal project to supply up to 2.9 mg/30 days of water to the applicant's distribution system from new Well No. 3A, and to limit withdrawal from all wells to 18.91 mg/30 days. The project is located in Hopatcong Borough, Sussex County, New Jersey.

9. *Seiders Hills Land Development D–93–14.* A project to construct a new secondary level sewage treatment plant (STP) to ultimately treat up to 90,000 gallons per day (gpd). The STP project is designed in phases with the first phase to treat an average daily flow of 30,000 gpd and serve the planned residential development of Seiders Hills in North Manheim Township, Schuylkill County, Pennsylvania. The STP will be located just south of Legislative Route 53008 and on the north bank of the West Branch Schuylkill River, to which it will discharge, in North Manheim Township.

10. *Ausimont USA, Inc. D–93–15.* A project to modify the applicant's existing industrial wastewater treatment plant (IWTP) located in West Deptford Township, approximately one mile south of Thorofare and just east of Little Mantua Creek, Gloucester County, New Jersey. The IWTP will continue to operate at approximately 0.4 mgd, treating wastewater generated by the applicant's fluorocarbon production operation. The IWTP will be modified by the addition of a sand filter. The treated effluent will continue to discharge to the Delaware River in Water Quality Zone 4.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: May 11, 1993.

Susan M. Weisman,

Secretary.

[FR Doc. 93–11900 Filed 5–19–93; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 21, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682 Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green, (202) 401–3200. Individuals who are hearing impaired may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: May 14, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: New.

Title: Transcript Study of Newly Minted Teachers.

Frequency: On occasion.

Affected Public: Individuals or households; businesses or other for-profit; non-profit institutions; small businesses or organizations

Reporting Burden:

Responses: 850—Burden Hours: 71.

Recordkeeping Burden:

Recordkeepers: 0—Burden Hours: 0.

Abstract: The purpose of this data collection is to collect the college transcripts on "newly minted" teachers from the 1990–91 Schools and Staffing Survey. The transcript data on these teachers will be coded and combined for analysis purposes with the transcript data on newly qualified teachers from the Recent College Graduates Study of 1990–91.

[FR Doc. 93–11947 Filed 5–19–93; 8:45 am]

BILLING CODE 4000–01–M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 21, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden, and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: May 14, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Application for Grants Under the Library Services and Construction Act.

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden:

Responses: 55—Burden Hours: 2,255.

Recordkeeping Burden:

Recordkeepers: 0—Burden Hours: 0.

Abstract: This form will be used by State Educational agencies to apply for funding under the Library Services Band Construction Act. The Department will use the information to make grant awards.

[FR Doc. 93–11948 Filed 5–19–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Floodplain and Wetlands Involvement Notification for Proposed Public Water Supply Near the Department of Energy's Fernald Environmental Management Project; Fernald, OH

AGENCY: U.S. Department of Energy.

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: The U.S. Department of Energy (DOE) proposes to provide funding for the installation of a public water supply to be utilized by Fernald Environmental Management Project (FEMP) areas residents whose groundwater supply may have been affected by, or has the potential to be affected by, the South Ground-Water Contamination Plume (South Plume). This project would be implemented in cooperation with the Hamilton County Department of Public Works as part of a larger project to supply water to the citizens of Crosby Township, Ohio. The proposed action involves the installation of approximately 14 miles of pipeline within the existing state and county road easements in Hamilton and Butler Counties, Ohio. Approximately 60 percent of the transmission and distribution pipeline network would be installed within the 100-year floodplain of the Great Miami River. In addition, the proposed action would involve wetlands along the pipeline route. In accordance with 10 CFR part 1022, DOE will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. Maps and further information on this proposed action are available from DOE at the address below.

DATES: Comments are due to the address below by June 4, 1993.

ADDRESSES: Mail comments to: Mr. Wally Quaider, Assistant Manager, Technical Support, DOE Fernald Field Office, P.O. Box 398705, Cincinnati, Ohio 45239–8705. Fax comments to: (513) 648–3077.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The primary objective of the public water supply project at FEMP is to provide a permanent, reliable, and safe water supply to local residents. DOE has agreed to participate in the provision of drinking water to the public as part of the Amended Consent Agreement entered into between DOE and the U.S. Environmental Protection Agency, dated September 1991. DOE would provide funding for the engineering and installation of transmission and distribution water mains from an existing public water supply source, a water reservoir, and service taps and connections for affected or potentially affected properties. The proposed action involves the installation of approximately 14 miles of pipeline within the existing state and county road easements in Hamilton and Butler Counties, Ohio. The pipeline would be installed along East Miami River Road from the Cincinnati Water Works' Bolton Plant to and across the bridge at Cincinnati Brookville Road, along State Route 126 to its intersection with State Route 128, and along State Route 128 running south of its intersection with New Haven Road. The remainder of the pipeline would be installed within existing easements along Wiley, New Haven and Paddy's Run Roads. Approximately 12.7 acres of floodplain and 1.5 acres of wetlands would be involved in the proposed action. The portions of pipeline to be installed in the 100-year floodplain of the Great Miami River would occur along existing roadways and within existing easements in areas that have been previously disturbed. In addition, surface soil samples would be collected and monitored for radiological activity before construction of the pipeline begins. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetlands assessment for this proposed action. After DOE issues the assessment, a floodplain statement of findings will be published in the Federal Register.

Paul D. Grimm,

Acting Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–12003 Filed 5–19–93; 8:45 am]

BILLING CODE 6450–01–M

Notice of Floodplain and Wetlands Involvement for the K–1515 Sanitary Water Treatment Plant Improvements

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: DOE proposes to improve the K–1515 Sanitary Water Treatment Plant, at the Oak Ridge Reservation K–25 Site, to meet new National Pollutant Discharge Elimination System (NPDES) permit requirements. In accordance with 10 CFR 1022, DOE will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner to avoid or minimize potential harm to or within the affected floodplain/wetlands.

DATES: Comments are due to the address below no later than June 4, 1993.

ADDRESSES: Comments should be addressed to Tom Tison, K–25 Site Manager, (EW–96), U.S. Department of Energy, Post Office Box 2003, Oak Ridge, Tennessee 37831–7136 or fax comments to 615–574–4724.

FOR FURTHER INFORMATION CONTACT:

For Maps and further information on this proposed action, contact: Tom Connor, Program Manager, (EW–96), U.S. Department of Energy, Post Office Box 2003, Oak Ridge, Tennessee 37831–7136 or fax comments to 615–574–4724.

For further information on general DOE floodplain/wetlands environmental review requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The proposed action consists of replacing the K–1515–C Lagoon, which functions as a settling basin for effluent from the K–1515 Sanitary Water Treatment Plant on the Oak Ridge Reservation, at the K–25 Site, with a new lagoon. Currently, settleable solids from the sedimentation basins and the filter backwash water are discharged to the K–1515–C Lagoon. The lagoon has been determined to be "waters of the state" by the Tennessee Department of Environment and Conservation (TDEC), so that an alternative method for the management of the waste water residuals must be considered. The proposed action is to construct a 1.1 million gallon lagoon to settle solids and dissipate chlorine contained in the water treatment plant effluent. A discharge pipeline to the Clinch River, a recycle line to the raw water tank, and installation of associated piping, pumps, instrumentation wiring, and electrical controls are included in the proposed action. A discharge point has been designated by the State and is included in the existing NPDES permit.

The new lagoon would be located northeast of the existing water treatment facility. A portion of the discharge pipeline would infringe upon the 100-year floodplain of the Clinch River. A wetlands survey was completed on

October 19, 1992, and the proposed new lagoon and discharge pipeline will not disturb existing wetlands. The action was proposed to meet new NPDES permit requirements for the K–25 Site. In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetlands assessment for the proposed action. This assessment will determine the impact of discontinuing filter backwash into the existing lagoon and associated wetlands. The assessment will be included in the environmental assessment (EA) being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that is issued following the completion of the EA or may be issued separately. DOE shall take no action prior to 15 days after publication of this notice.

Paul D. Grimm,

Acting Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–12002 Filed 5–19–93; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award (Grant)

AGENCY: U.S. Department of Energy (DOE), San Francisco Operations Office.

ACTION: Notice of intent to award a grant on the basis of noncompetitive financial assistance.

SUMMARY: The DOE intends to enter into a financial Assistance Award with National Hispanic University for the continuation of a project entitled: "Bilingual Science Environmental Restoration Education Project: Underrepresented Minorities at Risk," under Grant No. DE–FG03–90SF18628. The major objective of this project is to develop a classroom teaching/learning model for the elementary grades to train Bilingual Science Teachers. This preparation of the teachers in turn will motivate and stimulate Hispanic and other inner-city youths to be concerned about the Environment, to consider science as a career option and thereby contribute to the restoration and protection of the environment.

FOR FURTHER INFORMATION CONTACT: Arlene Coleman, Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612, (510) 273–7117.

SUPPLEMENTARY INFORMATION: National Hispanic University is the only Hispanic Four-year institution providing a science training program for class room teachers working with bilingual students in the United States mainland. This project has been ongoing for three years and involves three unique and important components, (1) National Hispanic University, (2) A School/Home component serving at-risk minority students and (3) involvement with parents and community based organizations. So far the curriculum and materials have been developed for grades 1–3. Materials for additional grades (4–6) will be developed starting in this fourth year. The result of this project is that students involved in it are excited about science and the environment which can motivate them to choose these areas as life long careers.

Issued in Oakland, May 3, 1993.

Joan Macrusky,

Contracts and Assistance Management Division.

[FR Doc. 93–12001 Filed 5–19–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER92–436–003, et al.]

Florida Power Corp., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

May 13, 1993.

Take notice that the following filings have been made with the Commission.

1. Florida Power Corporation

[Docket No. ER92–436–003]

Take notice that on April 30, 1993, Florida Power Corporation (Florida Power) tendered for filing its compliance refund report in the above-referenced docket.

Comment date: May 28, 1993, in accordance with Standard Paragraph E end of this notice.

2. San Diego Gas & Electric Company

[Docket No. ER93–472–000]

Take notice that on May 6, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing additional information describing in more detail: (1) The exchange terms; (2) the exchange rate; and (3) the prices for option energy contained in Docket No. ER93–472–000.

SDG&E respectfully requests waiver of the notice provisions of § 35.3 of the Commission's Regulations to permit the Subsequent Agreement to become effective May 1, 1993.

Copies of this filing were served upon the Public Utilities Commission of the State of California and BPA.

Comment date: May 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER93–593–000]

Take notice that on April 28, 1993, Northeast Utilities Service Company (NUSCO) on behalf of the Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), and Public Service Company of New Hampshire (PSNH) tendered for filing a letter agreement that amended their sales agreement with Consolidated Edison Company of New York (Con Ed).

NUSCO states that a copy of this filing has been mailed to Con Ed.

NUSCO requests that the Commission waive its regulations to the extent necessary.

Comment date: May 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Thomas E. Capps

[Docket No. ID–2787–000]

Take notice that on May 3, 1993 Thomas E. Capps (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions: Director and Chairman of the Board, Virginia Electric and Power Company. Director, NationsBank Corporation.

Comment date: May 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Company of Colorado

[Docket No. ER93–634–000]

Take notice that on May 6, 1993, Public Service Company of Colorado (PSC) tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 58.

Comment date: May 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Cambridge Electric Light Company

[Docket No. ER93–433–000]

Take notice that on May 7, 1993, Cambridge Electric Light Company (Cambridge) tendered for filing an amendment to its filing, dated March 8, 1993, of a Net Requirements Power Supply Agreement (Agreement) between Cambridge and the Town of Belmont, Massachusetts (Belmont). Pursuant to the amendment, Cambridge commits to make a filing, after the effective date of the Agreement and on or before sixty days before April 1, 1998, to revise Appendix B to the Agreement as and to the extent necessary to reflect such Commission rules, regulations and

policies as may be effective and applicable to cost-of-service formulas as the time of such filing.

Comment date: May 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Gene H. Bishop

[Docket No. ID–2785–000]

Take notice that on April 29, 1993, Gene H. Bishop (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions: Director, Southwestern Public Service Company, Director, FSW Holdings, Inc.

Comment date: May 28, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Midwest Power Systems Inc.

[Docket No. ES93–35–000]

Take notice that on May 10, 1993, Midwest Power Systems Inc. filed an application under section 204 of the Federal Power Act requesting authorization to issue not more than $250 million of promissory notes and commercial paper on or before July 31, 1995, with a final maturity date no later than July 31, 1996.

Comment date: June 9, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–11922 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP88–105–000]

Yukon Pacific Company L.P., Availability of Draft Environmental Impact Statement and Public Meetings

May 14, 1993.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has made available a draft environmental impact statement (DEIS) on the construction and operation of the liquefied natural gas (LNG) liquefaction plant, LNG storage and marine loading facilities, and LNG tanker transport proposed in the above-referenced docket.

The staff prepared the DEIS to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed action, with appropriate mitigating measures as recommended, including receipt of necessary permits and approvals, would have limited adverse environmental impact. The DEIS evaluates alternatives to various components of the proposal.

Yukon Pacific Company L.P. is seeking approval of a specific site at Anderson Bay, Port Valdez, Alaska to export LNG to destinations in Japan, Korea, and Taiwan. The proposed action involves construction of a 2.1 billion cubic feet per day LNG liquefaction plant; four above-ground 800,000-barrel LNG storage tanks; a marine facility to load two tankers within a 12-hour period, and a cargo/personnel ferry docking facility. In addition a fleet of 15 LNG tankers, each having 125,000 cubic meters of cargo capacity would make 275 trips per year. Construction of the project would take 8 years with a peak work force of nearly 4,000 workers in the fifth year.

Public Meeting Schedule

Public meetings to receive comments on the DEIS will be held on:

June 8, 1993 at 7 p.m. at the Anchorage Museum of Art and History, at 121 W. 7th Ave., Anchorage, Alaska

June 10, 1993 at 7 p.m. at Valdez City Council Chambers, Fairbanks St., Valdez, Alaska

Interested groups and individuals are encouraged to attend and present oral comments on the environmental impacts described in the DEIS. Anyone who would like to make an oral presentation at the meeting should contact the FERC Project Manager to have their name placed on the speakers' list. Priority will be given to persons representing groups. A second speakers' sign-up list will be available at the public meeting. Transcripts will be made of the meetings.

Specific Comment Request

The staff is specifically requesting comments regarding:

- The alternative locations for the construction work camp and means of transporting workers to and from the Valdez alternate campsite (see section 2.3.1).
- The alternative sites to dispose of excess excavated materials generated through the site preparation process (see section 2.3.2).

Comment Procedures

Written comments are welcome to help identify significant new issues or concerns related to the proposed action. All comments on environmental issues should contain supporting documentation and rationale.

Written comments should be filed on or before July 6, 1993, must reference Docket No. CP88–105–000, and be addressed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

A copy of the comments should also be sent to the FERC Project Manager identified below.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the DEIS, a final EIS (FEIS) will then be published by the staff and distributed. The FEIS will contain the staff's responses to timely comments received on the DEIS.

The DEIS has been placed in the public files of the FERC and is available for public inspection in the: FERC Division of Public Information, Room 3104, 941 North Capitol Street, NE., Washington, DC 20426.

Copies of the DEIS have been mailed to Federal, state, and local agencies, public interest groups, libraries, newspapers, individuals who have requested the DEIS, and other parties to this proceeding. Any person may file a motion to intervene on the basis of the Commission staff's DEIS (see 18 CFR 380.10(a) and 385.214).

Limited copies of the DEIS are available from:

Mr. Chris Zerby, Project Manager (Room 7312), Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0111.

Jerry Brossia, State Pipeline Coordinator, 411 West 4th Avenue, Suite #2, Anchorage, Alaska 99501, (907) 278–8594.

Lois D. Cashell,

Secretary.

[FR Doc. 93–11923 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

Application Filed With the Commission

May 14, 1993.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Conduit Exemption.

b. Project No.: 11409–000.

c. Date filed: May 3, 1993.

d. Applicant: North Side Canal Company.

e. Name of Project: U–3.

f. Location: On the U Canal in Jerome County, Idaho, T. 7S., R. 16E., sections 23, 24, and 25 (about 10 miles downstream from the head of the canal). The canal system originates from the Snake River near Milner Dam in the vicinity of Hazelton, Idaho.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Kip Runyan, Ida-West Energy Company, P.O. Box 7867, Boise, Idaho 83703, (208) 336–4254.

i. FERC Contact: Hector M. Perez at (202) 219–2843.

j. Description of Project: The proposed project would consist of: (1) An intake structure within the canal embankment; (2) a 150-foot-long, 10-foot-high by 10-foot-wide reinforced concrete box-shaped penstock; (3) an 8-foot-high by 8-foot-wide box-shaped bypass line; (4) a powerhouse with a 3.2-megawatt generating unit; and (5) other appurtenances. The existing canal is not part of this hydro project. The project would have an estimated average annual generation of 11,000 megawatthours.

k. With this notice, we are initiating consultation with the State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR, at § 800.4.

1. Under § 4.32(b)(7) of the Commission's regulations (18 CFR), if any resource agency, Indian Tribe, or person believes that the applicant should conduct an additional scientific study to form an adequate factual basis for a complete analysis of the application on its merits, they must file a request for the study with the Commission, not later than 60 days after the application is filed, and must serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11921 Filed 5–6–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–6–48–001]

ANR Pipeline Company; Proposed Changes in FERC Gas Tariff

May 14, 1993.

Take notice that ANR Pipeline Company ("ANR"), on May 11, 1993, tendered for filing as part of its FERC Gas Tariff, six copies of the following tariff sheets which ANR proposes to be effective May 1, 1993:

First Revised Volume No. 1

Substitute Fifth Revised Sheet No. 6

First Revised Volume No. 1–A

Substitute Fifth Revised Sheet No. 4

Original Volume No. 2

Substitute 2nd Revised Twentieth Revised Sheet No. 16
Substitute 2nd Revised Twentieth Revised Sheet No. 17
Substitute 2nd Revised Twentieth Revised Sheet No. 18
Substitute 2nd Revised Twentieth Revised Sheet No. 19
Substitute 2nd Revised Twenty-Second Revised Sheet No. 20
Substitute 2nd Revised Twenty-First Revised Sheet No. 21
Substitute 2nd Revised Nineteenth Revised Sheet No. 22

Original Volume No. 3

Substitute Eighteenth Revised Sheet No. 5

ANR states that the referenced tariff sheets are being submitted to reflect the Commission's assignment of a new docket reference and to correct a typographical error.

ANR states that each of its Volume Nos. 1, 1–A, 2 and 3 customers and interested State Commissions has been apprised of this filing via U.S. Mail.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 21, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11926 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–331–000]

Arkla Energy Resources Co.; Request Under Blanket Authorization

May 14, 1993.

Take notice that on May 6, 1993, Arkla Energy Resources Company (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP93–331–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to replace one meter station and abandon another meter station, both located in Arkansas, under AER's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

AER proposes to abandon a meter for a direct sales tap on its Line AC in Polk County, Arkansas, used for deliveries to Arkansas Louisiana Gas Company (ALG) for service to a rural commercial customer of ALG. It is stated that the meter is oversized for the deliveries made at this location. AER proposes to replace the meter with one with smaller capacity. The cost of the new meter is estimated at $1,389. It is asserted that the proposed replacement would not result in any loss of service for the customer.

AER proposes to abandon a meter station and appurtenant facilities located on its Line JM–3 in Phillips County, Arkansas, used for deliveries to an industrial end user, Nitrogen Products (NP). It is stated that NP has closed its plant and that AER has terminated service at this location. It is asserted that the facilities would be abandoned by removal.

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 § 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11934 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–337–000]

Colorado Interstate Gas Co.; Request Under Blanket Authorization

May 14, 1993.

Take notice that on May 12, 1993, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93–337–000 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 the Barbwire meter station for delivery of gas to North Texas Gas Company, Inc. (North Texas), a local distribution company, for irrigation use, under the certificate issued in Docket No. CP83–21–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG states that the Barbwire meter station will be located in Sherman County, Texas, and will have a design capacity of 1,200 Mcf per day. CIG also states that the cost of the meter station is estimated to be $20,200. It is stated that CIG will provide the transportation service to the Barbwire meter station under a new transportation agreement on an interruptible basis.

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 § 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11932 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–69–001]

CNG Transmission Corporation; Report

May 14, 1993.

Take notice that CNG Transmission Corporation (CNG), on April 26, 1993, submitted for filing documentation on its allocation of direct take-or-pay costs, as directed by Commission order dated February 25, 1993. (62 FERC ¶ 61,176, 1993).

The February 25 order directed CNG to provide a customer-by-customer accounting for the $230,527 commodity portion of direct producer take-or-pay costs, to be offset against CNG's previous collections under its suspended volumetric surcharge. CNG reports that collections under the volumetric surcharge exceed the commodity portion of direct take-or-pay costs incurred by CNG to date, but that has potential remaining liability to one producer, and may receive invoices through November 1993. CNG proposes to pay these invoices with remaining funds collected through the volumetric surcharge. Once it has satisfied its payment obligation under direct producer agreements as covered under the Stipulation and Agreement in Docket No. RP88–217, CNG states it will refund any excess collections and interest as appropriate.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 21, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11935 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–182–004]

Florida Gas Transmission Co.; Amendment

May 14, 1993.

Take notice that on May 13, 1993, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP92–182–004 to amend its application for a certificate of public convenience and necessity in Docket No. CP92–182–000, as amended, 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.

Specifically, FGT proposes to (1) relocate Compressor Station Nos. 21 and 26 and the odorization plant at Compressor Station No. 26, (2) make minor horsepower increases at four compressor stations, and (3) reroute the Port Everglades Lateral Loop.

FGT states that these changes are proposed due to environmental, engineering and manufacturing considerations.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 4, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All parties who have heretofore filed need not file again.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11919 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–143–022]

Great Lakes Gas Transmission Limited Partnership; Refund Report

May 14, 1993.

Take notice that on April 30, 1993, Great Lakes Gas Transmission Limited Partnership (Great Lakes) filed with the Federal Energy Regulatory Commission (Commission) a report of refunds, made in compliance with Article I, Paragraph 2 of a Stipulation and Agreement (S&A) approved by the Commission's February 3, 1993 order issued in Docket No. RP91–143–000, et al. Great Lakes' report states that it refunded $32,857,097, including interest, to its customers in accordance with the S&A.

Great Lakes states that copies of the letter and the refund report are being served on the public service commissions of the State of Minnesota,

Wisconsin, and Michigan, and upon all refund recipients.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 21, 1993. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11931 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–50–006]

High Island Offshore System; Refund Report

May 14, 1993.

Take notice that on May 7, 1993, High Island Offshore System (HIOS) filed with the Federal Energy Regulatory Commission (Commission) a report of refunds made in compliance with Article III of a Stipulation and Agreement (S&A) approved by the Commission order issued in Docket No. RP92–50–001, *et al.* on December 28, 1992.

HIOS states that $325,864.25 it received from ANR Pipeline Company (ANR) was flowed through to its shippers on April 22, 1993. HIOS states that ANR's refund to it involved a reduction in charges to HIOS under ANR's Rate Schedule No. X–64 that resulted from ANR's rate settlement in Docket No. RP92–45–000, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 21, 1993. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11929 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–2–53–001]

K N Energy, Inc.; Proposed Changes In FERC Gas Tariff

May 14, 1993.

Take notice that K N Energy, Inc. ("K N") on May 12, 1993 tendered for filing proposed changes in its FERC Gas Tariff to adjust the rates charged to its jurisdictional customers pursuant to the Purchased Gas Adjustment provision (Section 19) of the General Terms and Conditions of K N's FERC Gas Tariff, First Revised Volume No. 1–B to reflect changes in the Current Adjustment. The filing proposes increases (decreases) to K N's rates per Mcf as set forth in the table below:

From Previous PGA, TQ93–1–53–000, Effective 3/1/93

	Zone 1	Zone 2
CD, SF and WPS Commodity	$0.0636	$0.0636
D1 Demand	0.0009	0.0013
D2 Demand	0.0193	0.0215
WPS Demand	0.0018	0.0026
IOR Commodity	0.0838	0.0864

From Previous TQ93–2–53–000, as Filed

	Zone 1	Zone 2
CD, SF and WPS Commodity	$(0.0056)	$(0.0056)
D1 Demand	0.0002	0.0003
D2 Demand	0.0039	0.0046
WPS Demand	0.0004	0.0006
IOR Commodity	(0.0015)	(0.0007)

K N states that the filing reflects revision to its base tariff rates to update its regularly scheduled quarterly PGA, filed April 30, 1993, to reflect Colorado Interstate Gas Company's ("CIG's") rates filed under Docket No. RP 93–99. The proposed effective date for the rate changes is June 1, 1993.

K N states that copies of the filing were served upon K N's jurisdictional customers and interested public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 21, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11925 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–333–000]

Respondents; Complaint and Motion for Cease and Desist Order

Meridian Oil Inc., Complainant, vs. Southern California Gas Co. and Pacific Gas and Electric Co.

May 14, 1993.

Take notice that on May 7, 1993, Meridian Oil Inc. (Meridian), 2919 Allen Parkway, Houston, Texas 77019, filed with the Commission in Docket No. CP93–333–000 a complaint and motion for a cease and desist order, pursuant to Rule 206 of the Commission's Rules of Practice and Procedure, against Southern California Gas Company and Pacific Gas and Electric Company (jointly Respondents), alleging violations of the Natural Gas Act, Commission rules, regulations, orders, and actions interfering with interstate commerce.

Meridian requests that the Commission issue an immediate cease and desist order, followed by a permanent order, preventing Respondents from using the capacity release and/or relinquishment procedures available in the tariffs of El Paso Natural Gas Company (El Paso) and Transwestern Pipeline Company (Transwestern) until such time as: (1) The rates charged by Respondents for intrastate service to all their non-core customers no longer include any cost of firm interstate transportation capacity that Respondents own and (2) until all refunds have been made in full of the "double demand charges" collected by Respondents through intrastate rates from their customers who bought gas from or who acquired firm interstate capacity from suppliers/shippers other than Respondents.

Meridian states that it and Respondents are competitors for sales in California and for the release and relinquishment of firm interstate capacity. Complainant asserts that it and Respondents both own or purchase gas outside the state, hold firm capacity rights on interstate pipeline systems that deliver gas to California for their own behalf or as relinquished or released for use by others, and sell gas to end-users and other customers in California.

Meridian alleges that the reason for its complaint and motion is the "double demand charges" problem, whereby the

reservation or demand charges that Respondents pay to interstate pipeline companies are then passed through to all shippers using Respondents' California facilities. By virtue of that passthrough, Complainant claims that non-core customers in California who seek to use or acquire or who do use or acquire the firm interstate capacity to California of other shippers must pay the interstate transportation costs of such shippers incurred for service on El Paso and Transwestern plus, as part of the intrastate rate paid to Respondents, an amount reflecting Respondents' reservation fee obligations to the interstate pipeline companies serving California, even if the California customer does not use or acquire Respondents' firm interstate capacity. In addition, Complainant also alleges that the "double demand charge" problem will continue into the future through the imposition by the California Public Utilities Commission (CPUC) of an Intrastate Transportation Cost Surcharge (ITCS) on all core and non-core customers.

According to Complainant, the double demand charge and the ITCS interfere with interstate commerce, are inconsistent with the Commission's goals under Order Nos. 636, et al., and provide Respondents with an unlawful preference in violation of the Natural Gas Act. Meridian claims that because of the advantage emanating from the double demand charges and the ITCS, Respondents can use their firm interstate capacity, as well as the opportunity to relinquish or release that capacity, in a manner that unfairly and discriminatorily favors shippers who purchase from Respondents or who transport gas using their firm interstate capacity.

The motion for an immediate cease and desist order is warranted, according to Meridian, so that Respondents cannot take advantage of the in-state rate and priority preferences at the expense of Complainant and similarly situated shippers, particularly during the on-going California open season periods when commitments are being made by California customers for the use of firm interstate capacity on both a short and long-term basis. These preferences, Meridian argues, could allow Respondents to capture an unfair share of the market for relinquished or release firm interstate capacity, thereby reducing their reservation fee costs, while other firm shippers serving California are deprived of even the opportunity to compete for this market on a level playing field.

Complainant acknowledges that the intrastate rates of Respondents are regulated by the CPUC, and that the Commission has no direct jurisdiction over those rates. However, Meridian asserts that the Commission does have exclusive jurisdiction over Respondents' use and participation in the capacity release/relinquishment programs on El Paso and Transwestern. On that basis, Meridian asks the Commission to suspend Respondents' participation in capacity release/relinquishment on the El Paso and Transwestern systems pending (1) the CPUC's elimination of the rate preference resulting from the double demand charge and the ITCS and (2) the distribution in full of all refunds of the "double demand charges" collected by Respondents through intrastate rates from their customers who bought gas from or who acquire firm interstate capacity from suppliers/shippers other than Respondents.

Any person desiring to be heard or to make a protest with reference to Meridian's complaint should file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions, together with the answer(s) of Respondents to the motion and to the Complaint, should be filed on or before June 4, 1993. Any person desiring 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11918 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–335–000]

Michigan Gas Storage Co.; Request Under Blanket Authorization

May 14, 1993.

Take notice that on May 11, 1993, Michigan Gas Storage Company (MGSC), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CP93–335–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install a delivery tap for service to the Consumers Power Company (Consumers), a local distribution company, in Livingston County, Michigan, under MGSC's blanket certificate issued in Docket No. CP84–451–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

MGSC proposes to construct and operate the 4-inch tap and associated facilities on its 24-inch Line 400 for delivery to Consumers' Fenton, Michigan area distribution system. It is stated that MSGC will use the proposed tap for the delivery of up to 3,360 Mcf of natural gas on a peak day and 263,000 Mcf on an annual basis. The cost of installing the facilities, including the tap, 1,700 feet of 6-inch diameter pipeline, and a meter and regulator station, is estimated at $450,000. MSGC states that the new tap is needed to satisfy increased demand by Consumers' customers. It is asserted that the tap would be used for deliveries made under existing sales and transportation contracts. It is further asserted that the volumes delivered through the new tap would not exceed currently authorized total volumes for delivery by MGSC to Consumers. It is stated that MSGC has sufficient capacity to deliver the volumes to Consumers at this location.

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 § 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11933 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM93–3–7–001]

Southern Natural Gas Co.; Compliance Filing

May 14, 1993.

Take notice that on May 12, 1993, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff in compliance with the OPPR Letter Order of April 26, 1993 in the captioned docket:

First Sub. Twelfth Revised Sheet No. 4B.01
First Sub. Twelfth Revised Sheet No. 4B.02
First Sub. Twelfth Revised Sheet No. 4B.03

Southern states that these revised sheets are being filed, as required by the April 26 Order, to include language reflecting the suspension after the May 1993 billing period of the fixed charges related to United Gas Pipe Line Company's Docket No. RP89–147–000, *et al.* The proposed effective date of these tariff sheets is May 1, 1993.

Southern states that copies of the filing were mailed to all of Southern's jurisdictional purchasers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 21, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Action Secretary.

[FR Doc. 93–11924 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–170–010]

Texas Eastern Transmission Corporation; Report of Refunds

May 14, 1993.

Take notice that on April 15, 1993, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing with the Federal Energy Regulatory Commission (Commission) its report of refunds, made in compliance with Article IV of the Stipulation and Agreement dated February 18, 1991, and approved by the Commission's February 11, 1993 Order issued in Docket No. RP85–170–000, *et al.* Texas Eastern states that it refunded $16,256,610.90 to its jurisdictional customers on April 14, 1993.

Texas Eastern states that copies of the refund schedule was sent to each of Texas Eastern's affected customers and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 10416, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 21, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11928 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–415–002]

Transcontinental Gas Pipe Line Corp. and Florida Gas Transmission Co.; Amendment

May 14, 1993.

Take notice that on May 13, 1993, Transcontinental Gas Pipe Line Corporation (TGPL), Post Office Box 1396, Houston, Texas 77251 and Florida Gas Transmission Company (FGT), Post Office Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP92–415–002 a petition to amend their application for a certificate of public convenience and necessity and abandonment authority filed on March 16, 1992 in Docket No. CP92–415–000 pursuant to sections 7 (b) and (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.

Specifically, TGPL and FGT propose to (1) relocate the proposed pressure regulator facility from the vicinity of the interconnection between the Mobile Bay Pipeline and FGT's mainline near Citronelle, Alabama, to the vicinity of the interconnection between the Mobile Bay Pipeline and TGPL's mainline near Butler, Alabama, and (2) reduce the size of the tap proposed at the interconnection between the Mobile Bay Pipeline and FGT's mainline near Citronelle from a 30-inch tap to a 20-inch tap.

TGPL and FGT state that the proposed regulator relocation would eliminate the need for additional pigging facilities and reduce work in the vicinity of a gopher tortoise colony and that the reduction in tap size would allow the more efficient operation of the FGT interconnect.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 4, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protects filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All parties who have heretofore filed need not file again.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11920 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT93–47–000]

Transcontinental Gas Pipe Line Corporation; Report of Refunds

May 14, 1993.

Take notice that on April 26, 1993, Transcontinental Gas Pipe Line Corporation (TGPL) filed with the Federal Energy Regulatory Commission (Commission) a report of refunds it made on April 22, 1993, to shippers to whom it brokered its upstream transportation capacity on High Island Offshore System (HIOS).

TGPL states that the $1,070,720.38 in refunds are the flow-through of a refund it received from HIOS pursuant from the provisions of the Stipulation and Agreement approved by the Commission on December 28, 1992, in Docket Nos. RP92–50–000 and CP90–406–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rule of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before May 21, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11927 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92–47–004 and RP92–95–002]

U–T Offshore System; Refund Report

May 14, 1993.

Take notice that on May 6, 1993, U–T offshore System (U–TOS) filed with the Federal Energy Regulatory Commission (Commission) a report of

refunds made in compliance with Article I of the Stipulation and Agreement approved by the Commission's March 4, 1993 order issued in Docket Nos. RP92–47–002 and RP92–95–001. U–TOS' report states that it refunds $327,073.39, including interest, to its shippers on May 4, 1993.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 21, 1993. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93–11930 Filed 5–19–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 93–21–NG]

Victoria Gas Corp., Order Granting Blanket Authorization To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Victoria Gas Corporation (Victoria) blanket authorization to import up to 100 Bcf of natural gas and export up to 100 Bcf of natural gas from and to Mexico over a two-year term, beginning on the date of the first import or export after June 5, 1993, the date that Victoria's current blanket authorization expires.

This order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 12, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–12000 Filed 5–19–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–4656–8]

Air Pollution Control; Motor Vehicle Emission Factors—Notice of Model Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of updated and corrected highway motor vehicle emission factor model.

SUMMARY: The Clean Air Act, as amended in 1990 (CAA), required EPA to review, and if necessary, revise the emission factors used to estimate emissions of volatile organic compounds (VOC), carbon monoxide (CO), and oxides of nitrogen (NO_x) from area and mobile sources. EPA released the MOBILE4.1 highway vehicle emission factor model, which fulfilled this requirement and was used by States and others with the responsibility for preparing 1990 base year emission inventories, in November 1991. MOBILE4.1 was designed to provide the most accurate possible emission factors for calendar year 1990, but did not include many of the provisions of the 1990 Clean Air Act Amendments affecting vehicles and fuels in future years. Those Clean Air Act provisions not included in MOBILE4.1 were incorporated into EPA's MOBILE5a model, released in December 1992. (58 FR 7780, February 9, 1993.) This notice announces the completion and availability of MOBILE5a an updated and corrected version of MOBILE5. These updates and corrections do *not* affect emission factors calculated for calendar year 1990 except for a few specific areas, as detailed below. MOBILE5a is the model that will be used by States and others to develop highway vehicle emission inventories under the Act.

DATES: MOBILE5a was completed by EPA on March 26, 1993. This date appears on and in all copies of the program distributed by EPA.

FOR FURTHER INFORMATION CONTACT: Air Quality Analysis Branch, Emission Planning and Strategies Division, Office of Mobile Sources, National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. Ms. Lois Bivins, Telephone: (313) 668–4325.

SUPPLEMENTARY INFORMATION: Section 130 of the Clean Air Act as amended on 1990, requires EPA to "review and, if necessary, revise the * * * (emission factors) used * * * to estimate the quantity of emissions of carbon monoxide, volatile organic compounds, and oxides of nitrogen from sources of such air pollutants (including mobile sources). EPA's estimates of highway vehicle emission factors are developed using a program which calculates emission factors for eight types of highway vehicles over a range of user-specified conditions (e.g., average speed, ambient temperature). The previous version of this model, MOBILE4.1, was released in November 1991, and MOBILE5 was released in final form in December 1992. This notice announces the completion of MOBILE5a, which updates MOBILE5 by incorporating new regulatory requirements and from errors in the code detected since the release of MOBILE5. The corrected model, MOBILE5a, is now available for use.

The updates and corrections reflected in MOBILE5a are listed below:

- The recently promulgated start date and phase-in period of the new evaporative emission system test procedure (58 FR 16002, 3/24/93) have changed from the projection made for the release of MOBILE5; the start date and phase-in period of the final rule will be included in MOBILE5a. This change will reflect the delay in the implementation of the new standards resulting in slightly higher evaporative emissions after 1994.
- The effects of reformulated gasoline (RFG) were estimated for MOBILE5 on the basis of preliminary estimates. These estimates have been updated as of the February 26, 1993 **Federal Register** Notice of Proposed Rulemaking (58 FR 11722). This change will increase the benefits (emission reductions) of reformulated gasoline slightly for the Phase 1 period (1995–2000).
- The 4.0 g/bhp-hr emission standard for oxides of nitrogen (NO_x) from heavy-duty diesel vehicles (HDDV) was incorrectly coded as the model year 2001; the correct start date is model year 1998. NO_x emissions in all calendar years 1998 and later for HDDV and the composite fleet will be lower.
- There was an error in the application of the observed pass/fail rates of the evaporative emission control system pressure/purge tests and the interaction of these rates with the tampering rates. This error caused evaporative emission rates to increase when there were Inspection/Maintenance (I/M) programs. For future years the effect of the error becomes significant. Therefore correction of the error results in lower estimates of evaporative emissions in future years.
- There were two problems with the effective start dates for (I/M) programs. When a biennial inspection frequency is

specified, the Mobile 5 gave too much credit in the first year of operation. This inaccuracy was also true in the earlier versions of the MOBILE model. Second, an error in the logic for I/M implementation allowed full credit for I/M programs on their start date. Instead, I/M credits should gradually increase from the start date of the program at zero credit, to full credit following a full cycle of inspections. Since benefits calculated for July 1 emission factors are determined by interpolation, this error allowed for partial credit for an I/M program for the year immediately preceding the start year of an I/M program. Correcting these errors will appropriately reduce the credit for I/M programs evaluated within 6 months of the I/M start date for annual programs, and to 18 months after the I/M start date for biennial programs.

- The standard I/M credits estimated for Federal Tier 1 vehicles were not consistent with the pre-Tier 1 vehicles. Correcting the Tier 1 credits will increase the benefit of standard I/M programs applied to Tier 1 vehicles.
- If the California low-emitting vehicle (LEV) program is modeled, and internal data error resulted in MOBILE5 underestimating emissions in the first year (model year 1994) of the standard phase-in schedule for the LEV program. This causes the 1994 model year emission estimate to be low if the user specifies California LEV standards. Fixing this error will increase the emission of the 1994 model year when the LEV program is being modeled.
- There was an error in the calculation of tampering rates. The effect of this error depends on the user input of anti-tampering and I/M program start dates. Correcting this error will reduce the benefit of anti-tampering programs in future years under some conditions, depending on the user input to the model.
- There was an error in the determination of diurnal emissions for carbureted vehicles with properly operating evaporative emission control systems (passing vehicles). This error caused higher than intended evaporative emissions for some combinations of RVP and temperature. Generally, the error occurs when the fuel RVP is low. Eliminating this error will result in lower evaporative emissions in future year for these conditions.

None of the updates or corrections to the model affect the emission factors calculated for calendar year 1990, with the narrow exception of those areas affected by the error involving start dates of inspection and maintenance (I/M) programs (fifth item in the list above). Areas required to prepare base year (1990) emission inventories using MOBILE5 are affected under the following conditions: If the inventory is based on January 1, 1990 emission factors or an external interpolation of January 1, 1990 and January 1, 1991 emission factors, and either an annual I/M program with a start date of 1/1/90 or biennial I/M program with a start date of 1/1/89 or 1/1/90 was included in the modeling, the 1990 inventory must be recalculated using MOBILE5a emission factors. Also, areas which prepared 1990 emission inventories based on July 1, 1990 emission factors (internally interpolated from 1/1/90 and 1/1/91 emission factors), and included either an annual I/M program with a start date of 1/1/90 or 1/1/91 or a biennial I/M program with a start date of 1/1/89, 1/1/90, or 1/1/91, must recalculate the 1990 emission inventory using MOBILE5a emission factors.

MOBILE5a is available for three computer platforms: mainframe, IBM (and clone) personal computers, and Macintosh desktop computers. The user documentation provided is applicable for all three.

Copies of MOBILE5a have been supplied to all EPA Regional Offices for distribution to State, local, and regional government agencies with responsibility for preparing emission inventories for submission to EPA. MOBILE5a and related files have been installed on the Technology Transfer Network (TTN) computer bulletin board system (BBS) maintained by EPA's Office of Air Quality Planning and Standards (OAQPS), and is available there (in the CHIEF section of the BBS) to all interested parties. There is no charge for use of the BBS, which can be accessed by computer modem at (919) 541–5742. MOBILE5a also will be made available through the National Technical Information Service (NTIS) within six to eight weeks of this notice.

Dated: May 12, 1993.

Michael H. Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 93–11999 Filed 5–19–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4657–2]

Request for Nominations for Essential Use Exemptions for CFCs, Methyl Chloroform, Carbon Tetrachloride, and HBFCs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Through this notice, the U.S. Environmental Protection Agency requests nominations for exemptions from the production and consumption phase-out under the Clean Air Act and Montreal Protocol of chlorofluorocarbons (CFCs), methyl chloroform, carbon tetrachloride, and hydrobromofluorocarbons (HBFCs), in accordance with the "essential uses" decision adopted by the Parties to the Montreal Protocol on Substances That Deplete the Ozone Layer at their November 1992 meeting and in accordance with provisions of the Clean Air Act. The Agency had previously requested essential use nominations in the **Federal Register** notice proposing the accelerated phaseout schedule for ozone-depleting substances (58 FR 15015; March 18, 1993). That notice requested that nominations be submitted by January 1, 1994. The Agency today is accelerating the date for submissions to July 19, 1993, since it has recently learned that the Montreal Protocol parties may review the essential use nominations earlier than had originally been expected. Nominations for halon essential use exemptions are not discussed in today's notice, since the Agency already requested nominations for essential use exemptions for halons in a February 1993 notice (58 FR 6786; February 2, 1993).

DATES: Nominations for essential use exemptions for CFCs, methyl chloroform, carbon tetrachloride, and HBFCs that are to be considered at the 1994 Sixth Meeting of the Parties should be submitted to the Agency no later than July 19, 1993.

ADDRESSES: Program Manager, Essential Use Exemptions, Mail Stop 6205J, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Nina Bonnelycke, Substitutes Analysis and Review Branch, Stratospheric Protection Division (6205J), Office of Atmospheric Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 233–9079.

SUPPLEMENTARY INFORMATION:

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I. Background—Fourth Meeting of the Parties to the Protocol
II. Essential Use Exemptions for CFCs, Methyl Chloroform, HBFCs, and Carbon Tetrachloride

I. Background—Fourth Meeting of the Parties to the Protocol

At the Fourth Meeting of the Parties to the Montreal Protocol in Copenhagen on November 23–25, 1992, the Parties agreed to accelerate the phase-out

schedules for certain controlled substances, including CFCs, methyl chloroform, and carbon tetrachloride, all of which are class I substances under the Clean Air Act. The Parties also agreed to phase out the production and consumption of hydrobromofluorocarbons (HBFCs), which EPA proposed to add to the list of class I substances on March 18, 1993 (58 FR 15015). With respect to CFCs, methyl chloroform, carbon tetrachloride, and HBFCs, the Parties agreed to a phase out date of January 1, 1996. The Parties also rendered decisions on a variety of other matters, including the adoption of essential use criteria.

II. Essential Use Exemptions for CFCs, Methyl Chloroform, HBFCs and Carbon Tetrachloride

The Parties to the Montreal Protocol agreed at the 1992 meeting in Copenhagen to allow for an exemption of essential uses of controlled substances from the production and consumption phase out schedule. Language regarding essential uses was added to the Protocol provisions in article 2 governing the control of the above noted chemicals. (See also Decision IV/25 of the Fourth Meeting of the Protocol.) The Parties recognized the importance of including such an exemption because of the accelerated phaseout dates for these chemicals. The Parties will decide on specific essential use exemptions for CFCs, methyl chloroform, HBFCs, and carbon tetrachloride at the Sixth Meeting of the Parties, which the Agency recently learned may be scheduled as early as June 1994. Nominations need not be made at this time in cases where companies have possible essential uses, but where adequate supplies are available to meet near-term needs. Companies will have other opportunities in the future to submit nominations, since nominations for essential uses will also be considered at subsequent meetings of the Parties.

At their Fourth Meeting, the Parties set out criteria to apply in identifying essential uses and established a process for the Parties to decide on what uses would qualify under this provision. Decision IV/25 states that a controlled substance should qualify as "essential" only if "it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects)" and "there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health." In addition, the Parties agreed "that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances; and all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance."

Any essential use exemptions for class I substances would also have to comply with section 604 of the Clean Air Act (CAA). That section sets forth specific exemptions from the phaseout schedules contained in the CAA. To the extent that an accelerated phaseout schedule is adopted, EPA could provide exemptions beyond those specified in the Act, so long as these exemptions do not result in an exceedance of the schedule contained in 604(a). Since section 604(b) specifies the phaseout date for class I substances, that section effectively limits the authority of the Agency to provide essential use exemptions other than the exemptions specified in section 604 for periods after the termination dates (2000 for all class I substances other than methyl chloroform and 2002 in the case of methyl chloroform.)

The exemptions outlined in section 604 are limited in scope, amount and time. For example, section 604(d)(2) allows exceptions for limited production of class I substances for use in medical devices if specified conditions are satisfied. Exceptions under section 604(d) are limited to annual quantities no greater than 10 percent of the baseline year production of the person receiving the exception. Section 604(f) permits the President to issue exemptions for the production and use of CFC–114 and halons if necessary for national security. (This subsection does not provide such authority to EPA, but grants the President the authority to take this action only to the extent it is consistent with the Montreal Protocol.) In sum, for a use of a class I substance to quality for an exemption in the United States, the exemption must be consistent with both the Montreal Protocol and section 604 of the Clean Air Act.

If a user determines that alternatives to a controlled substance for an essential use are not feasible, that retrofit options are not viable, and that sources of supply from recycled or recovered chemicals do not exist, the user should prepare and submit to EPA an essential use application as described below.

In accordance with the essential use decision taken by the Parties to the Montreal Protocol in Copenhagen, only governments which are Parties may submit nominations for essential uses to the United Nations Environment Programme's Secretariat for the Montreal Protocol. For CFCs, methyl chloroform, carbon tetrachloride, and HBFCs essential uses, these nominations must be submitted at least nine months before the meeting at which the Parties will take a decision on whether to approve the essential use, e.g., by September 1993 for the Sixth Meeting of the Parties, which may be held in June 1994.

Thus, the first step in the process to qualify a use as essential is for the user to notify EPA of its candidate use and for EPA to evaluate that use for consistency with the criteria adopted by the Parties in Copenhagen. EPA will review the candidate for exemption and work with other interested federal agencies to determine whether or not it should be submitted to the Ozone Secretariat for further consideration.

Nominations submitted to the Ozone Secretariat by Parties will then be directed to the Montreal Protocol's Technology and Economic Assessment Panel, which will review such submissions and prepare recommendations for exemptions to the Parties. The Panel will review these nominations to determine whether the eligibility criteria have been satisfied and will examine the expected duration of the essential use, emission controls for the essential use application, sources of already produced controlled substances which could be made available to meet the essential use, and the steps necessary to ensure that alternatives and substitutes are available as soon as possible for the proposed essential use. The Parties also instructed the Technical Panel to consider the environmental acceptability, health effects, economic feasibility, availability and regulatory status of alternatives and substitutes. The Technical Panel must submit its report to the Parties at least three months before the Parties meet to designate essential uses. The Panel is currently working under the assumption that it may be required to submit recommendations for CFCs, methyl chloroform carbon tetrachloride, and HBFCs as early as March 1, 1994.

In order to meet these tight deadlines, the Agency must act quickly, and through this Notice requests nominations for the essential use exemptions for CFCs, methyl chloroform, carbon tetrachloride and HBFCs to be considered at the Sixth Meeting of the Parties.

Recommendations for essential use exemptions for CFCs, methyl chloroform, carbon tetrachloride, and

HBFCs should be submitted to the Agency no later than July 19, 1993, to allow the U.S. government time to review the information before the deadline for submitting nominations to the UNEP Secretariat.

The Agency already requested essential use nominations in the **Federal Register** notice proposing the accelerated phaseout schedule for ozone-depleting substances (58 FR 15015; March 18, 1993). In the March notice, the Agency requested that nominations be submitted by January 1, 1994. Since publication of that notice, the Agency has learned that the Meeting of the Parties to the Montreal Protocol could be held as early as June 1994. Because of the possibility of an earlier meeting date, and because of the nine-month lead time needed to process and review nominations prior to the meeting of the Parties, the Agency today is moving the deadline for nominations up to July 19, 1993. Without accelerating the submission date, the Agency cannot guarantee full consideration by the Montreal Protocol parties of exemption requests for essential uses submitted by U.S. companies.

All nominations should present the following information:

(1) Description of the specific use of the controlled substance, as well as the annual projected amount required;

(2) Demonstration that continued use of that substance in that application is necessary for health and safety reasons or is critical to the functioning of society;

(3) Demonstration that no alternatives, including the retrofit of existing equipment, are technically, economically or legally available;

(4) Description of the steps taken to date to find alternatives;

(5) Description of future steps to be taken to find alternatives;

(6) Demonstration that steps have been taken to secure existing stocks of the chemicals, either from a bank or from recovery sources, and that necessary quantities of appropriate quality are not available for the potential exempted use;

(7) The expected time period for which this exemption is required; and

(8) Consistency with CAA provisions on essential uses. All nominations should be sent to: Program Manager, Essential Use Exemptions, Environmental Protection Agency, 6205J, Washington, DC 20460.

The Agency will work with submitters, other interested federal agencies, and outside experts to review this information and forward nominations to the Protocol's Secretariat for consideration as appropriate and consistent with any CAA limitations.

Dated: May 12, 1993.

Robert D. Brenner,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 93–11998 Filed 5–19–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Coastal Barrier Improvement Act Property Availability: Government Lots 1, 2, 3, and 4, Boot Key, Monroe County, FL

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the "Government Lots 1, 2, 3, and 4" located in Boot Key, Florida, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or faxed to the Federal Deposit Insurance Corporation in care of AMRESCO Management, Inc. until August 18, 1993.

ADDRESSES: Copies of detailed descriptions of the property can be obtained by contacting the following person: John Gilley, AMRESCO Management, Inc., 1201 Main Street, 32nd Floor, Dallas, Texas 75202, Telephone: (214) 508–4972, Facsimile (214) 508–4438.

SUPPLEMENTARY INFORMATION: The property is a 636 acre tract of land located on the island of Boot Key, Monroe County, Florida. Boot Key and surrounding submerged lands comprise about 1100 acres. The property is zoned "NA", which is a highly restrictive zoning designed to establish undisturbed nature areas. The property forms a part of the Coastal Barrier Resource System according to the Coastal Barrier Resources Systems Maps of the U.S. Department of the Interior Fish and Wildlife Service.

Written notice of serious interest to purchase the property must be received on or before August 19, 1993 by John Gilley, at the address above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the federal government,
2. Agencies or entities of state or local government, and
3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

Form of Notice

Notices of serious interest should be in the following form:

Notice of Serious Interest re:
Boot Key
Monroe County, Florida

1. Name of eligible entity.
2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

Dated: May 14, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–11979 Filed 5–19–93; 8:45 am]

BILLING CODE 6714–01–M

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: The Federal Deposit Insurance Corporation (Corporation) has adopted a policy statement concerning 12 U.S.C. 1825(b)(2) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and 28 U.S.C. 2410(c). The policy statement and an initial listing of financial institutions in liquidation were published in July 2, 1992 edition of the **Federal Register**. The following is a list of financial institutions which have been placed in liquidation since the March 18, 1993 publication.

FEDERAL DEPOSIT INSURANCE CORPORATION ACTIVE INSTITUTIONS IN LIQUIDATION, ALPHA LISTING (NAME)

Institution name, city/state	Date closed, region	Ref. No.
American Commerce National Bank, Anaheim, CA	04/30/93, San Francisco	4576
College Blvd Ntl Bank, Overland Park, KS	04/02/93, Chicago	4571
First American Capital Bank, N.A., Laguna Beach, CA	03/04/93, San Francisco	4566
First State Bank, Vega, TX	04/01/93, Dallas	4569
First Western Bank, NA, San Diego, CA	04/15/93, San Francisco	4574
Midland Bank of Kansas, Mission, KS	04/02/93, Chicago	4572
Olympic National Bank, Los Angeles, CA	04/02/93, San Francisco	4570
Premier Bank, Northridge, CA	04/08/93, San Francisco	4573
United Bank, National Association, Lancaster, TX	03/18/93, Dallas	4567
Valley National Bank of Fremont County, Hamburg, IA	04/29/93, Chicago	4575
Westborough C.O.—CP, Westborough, MA	04/09/93, New York	3965
Wilshire Center Bank, NA, Los Angeles, CA	05/06/93, San Francisco	4577

Dated: May 14, 1993.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 93–11978 Filed 5–19–93; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

[Notice 1993–15]

Filing Dates for the Texas Special Runoff Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for a special runoff election.

SUMMARY: Texas has scheduled a special runoff election on June 5, 1993 to fill the United States Senate seat vacated by the resignation of Senator Lloyd Bentsen.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates who participate in the Texas Special Runoff Election and all other political committees not filing monthly which support candidates in this election shall file a 12-day Pre-Runoff Report on May 24, 1993, with coverage dates from the last report filed or date of first activity, through May 16, 1993, a 30-day Post-Runoff Report on July 6, 1993, with coverage dates from May 17, 1993, through June 25, 1993, and a Mid-Year Report on July 31, 1993, with coverage dates from June 26, 1993, through June 30, 1993.

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL RUNOFF ELECTION FOR COMMITTEES INVOLVED IN THE SPECIAL RUNOFF (06/05)

Report	Period covered	Regular/ certified mailing date [1]	Filing date
Pre-runoff	[2] 1/01/93–5/16/93	5/21/93	5/24/93
Post-runoff	5/17/93–6/25/93	7/6/93	7/6/93
Mid-year	6/26/93–6/30/93	7/31/93	7/31/93

[1] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.
[2] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

Dated: May 17, 1993.

Scott E. Thomas,

Chairman.

[FR Doc. 93–11977 Filed 5–19–93; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–69]

Availability of Administrative Reports of Health Effects Studies

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the availability of Administrative Reports of five ATSDR health effects studies.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Lybarger, M.D., M.S., Director, Division of Health Studies, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, N.E., Mailstop E–31, Atlanta, Georgia 30333, telephone (404) 639–6200.

SUPPLEMENTARY INFORMATION: Sections 104(i)(7) and (9) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended [42 U.S.C. 9604(i)(7) and (9)], provide the Administrator of ATSDR with the authority to conduct pilot studies, epidemiologic and other health studies, and to initiate health surveillance programs to determine the relationship between human exposure to hazardous substances in the environment and adverse health outcomes.

On February 13, 1990, ATSDR published in the **Federal Register** [55 FR 5136] a final rule entitled, "Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities." The primary purpose of that rule, which created a new regulation at 42 CFR part 90, was to set forth general procedures that ATSDR will follow relating to the conduct of health effects studies. Section 90.11 of the regulation, which concerns the reporting of results

of health assessments and health effects studies, provides that reports of health effects studies conducted under section 104(i) of the CERCLA shall be available to the general public upon request.

Availability

The reports of the health effects studies listed below are now available through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, Virginia 22151, telephone: 1–800–553–6847. There is a charge for these reports as determined by NTIS.

Health effects study	NTIS document No.
Investigation of a Cluster of Pancreatic Cancer Deaths, Livingston and Park County, Montana, ATSDR/HS–92/17	PB93–136547
Community Exposure to Polychlorinated Biphenyls, Bloomington, Indiana, ATSDR/HS–92/18	PB93–142180
Clear Creek/Central City Mine Waste Exposure Study, Part I: Smuggler Mountain Site, ATSDR/HS–92/19	PB93–151371
Neurobehavioral Test Batteries For Use In Environmental Health Field Studies, ATSDR/HS–93/20	PB93–145563
Missouri Chlordane Exposure Study: A Report On Persons Who Consumed Chlordane-Contaminated Fish, ATDSR/HS–93/21	PB93–148252

In accordance with 42 CFR 90.11, copies of these final reports have been distributed to the Environmental Protection Agency, the appropriate state and local government agencies, and the affected local communities.

ATSDR previously announced the availability of 16 final reports of health effect studies (55 FR 31445, August 12, 1990 and 57 FR 29091, June 30, 1992). Additional final reports will be announced semiannually in the **Federal Register** as they become available.

Dated: May 13, 1993.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93–11951 Filed 5–19–93; 8:45 am]

BILLING CODE 4160–70–P

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health

[Program Announcement Number 123]

Fiscal Year 1994 Grants for Education Programs in Occupational Safety and Health

Introduction

The Centers for Disease Control and Prevention (CDC) announces that applications are being accepted for Fiscal Year 1994 training grants in occupational safety and health. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority

This program is authorized under section 21(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)(1)). Regulations applicable to this program are in 42 CFR part 86, "Grants for Education Programs in Occupational Safety and Health."

Eligible Applicants

Any public or private educational or training agency or institution that has demonstrated competency in the occupational safety and health field and is located in a state, the District of Columbia, or U.S. Territory is eligible to apply for a training grant.

Availability of Funds and Recipient Activities

CDC expects approximately $12,072,000 to be available in Fiscal Year 1994.

Approximately $11,092,000 of the total funds available will be utilized as follows:

1. To award approximately thirteen non-competing continuation and one competing continuation Educational Resource Center (ERC) training grants totaling approximately $8,834,000 and ranging from approximately $400,000 to $800,000 with the average award being approximately $630,000 (for specific activities refer to **Federal Register** Announcement, 51 FR 32963, September 17, 1986);

2. To award approximately twenty-three non-competing continuation and twelve new or competing continuation long-term training project grants (TPG) totaling $2,208,000 and ranging from approximately $10,000 to $500,000, with the average award being $63,000, to support academic programs in the fields of industrial hygiene, occupational health nursing, occupational/industrial medicine, and occupational safety (for specific activities refer to **Federal Register** Announcement, 52 FR 3172, February 2, 1987); and

3. To award approximately $50,000 to conduct the peer review and evaluations of all new, competing continuation, and supplemental applications received.

Awards will be made for a 1- to 5-year project period with an annual budget period. Funding estimates may vary and are subject to change. Non-competing continuation awards within the approved project periods will be made on the basis of satisfactory progress and the availability of funds.

In addition, approximately $980,000 of the total funds available will be awarded to ERCs to support the development and presentation of continuing education and short courses and academic curricula for trainees and professionals engaged in the management of hazardous substances. These funds are provided to NIOSH/CDC through an Interagency Agreement with the National Institute for Environmental Health Sciences as authorized by section 209(b) of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (100 Stat. 1708–1710). The hazardous substance training (HST) funds are being used to supplement previous hazardous substance continuing education grant support provided to the ERCs in FY 1984 and 1985 under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended by SARA for the ERC continuing education program (for specific activities refer to the **Federal Register** Announcement, 51 FR 32963, September 17, 1986). The hazardous substance academic training (HSAT) funds are being used to supplement continuing industrial hygiene core program support to develop and offer academic curricula in the hazardous substance field primarily for industrial hygiene trainees. Program support is available for faculty and staff salaries, trainee costs, and other costs to provide training and education for occupational safety and health and

other professional personnel engaged in the evaluation, management, and handling of hazardous substances. The policies regarding project periods also apply to these activities.

Purpose

The objective of this grant program is to award funds to eligible institutions or agencies to assist in providing an adequate supply of qualified professional and para-professional occupational safety and health personnel to carry out the purposes of the Occupational Safety and Health Act.

Review and Evaluation Criteria

In reviewing ERC grant applications, consideration will be given to:

1. Needs assessment directed to the overall contribution of the training program toward meeting the job market, especially within the applicant's region, for qualified personnel to carry out the purposes of the Occupational Safety and Health Act of 1970. The needs assessment should consider the regional requirements for outreach, continuing education, information dissemination, and special industrial or community training needs that may be peculiar to the region.

2. Plans to satisfy the regional needs for training in the areas outlined by the application, including projected enrollment, recruitment and current workforce populations. The need for supporting students in allied disciplines must be specifically justified in terms of user community requirements.

3. Extent to which arrangements for day-to-day management, allocation of funds and cooperative arrangements are designed to effectively achieve Characteristics of an Educational Resource Center (**Federal Register** Announcement, 51 FR 32963, September 17, 1986).

4. Extent to which curriculum content and design includes formalized training objectives, minimal course content to achieve certificate or degree, course descriptions, course sequence, additional related courses open to occupational safety and health students, time devoted to lecture, laboratory and field experience, and the nature of specific field and clinical experiences including their relationships with didactic programs in the educational process.

5. Academic training including the number of full-time and part-time students and graduates for each core program, the placement of graduates, employment history, and their current location by type of institution (academic, industry, labor, etc.). Previous continuing education training in each discipline and outreach activity and assistance to groups within the ERC region.

6. Methods in use or proposed methods for evaluating the effectiveness of training and services including the use of placement services and feedback mechanisms from graduates as well as employers, critiques from continuing education courses, and reports from consultations and cooperative activities with other universities, professional associations, and other outside agencies.

7. Competence, experience and training of the Center Director, the Deputy Center Director, the Program Directors and other professional staff in relation to the type and scope of training and education involved.

8. Institutional commitment to Center goals.

9. Academic and physical environment in which the training will be conducted, including access to appropriate occupational settings.

10. Appropriateness of the budget required to support each academic component of the ERC program, including a separate budget for the academic staff's time and effort in continuing education and outreach.

11. Evidence of a plan describing the research and research training the Center proposes. This shall include goals, elements of the program, research faculty and amount of effort, support faculty, facilities and equipment available and needed, and methods for implementing and evaluating the program.

12. Evidence of success in attaining outside support to supplement the ERC grant funds including other federal grants, support from states and other public agencies, and support from the private sector including grants from foundations and corporate endowments, chairs, and gifts.

In reviewing long-term TPG applications, consideration will be given to:

1. Need for training in the program area outlined by the application. This should include documentation of ability and a plan for student recruitment, projected enrollment, job opportunities, regional/national need both in quality and quantity, and similar programs, if any within the geographic area.

2. Potential contribution of the project toward meeting the needs for graduate or specialized training in occupational safety and health.

3. Curriculum content and design which should include formalized program objectives, minimal course content to achieve certificate or degree, course sequence, related courses open to students, time devoted to lecture, laboratory and field experience, nature and the interrelationship of these educational approaches.

4. Previous records of training in this or related areas, including placement of graduates.

5. Methods proposed to evaluate effectiveness of the training.

6. Degree of institutional commitment: Is grant support necessary for program initiation or continuation? Will support gradually be assumed? Is there related instruction that will go on with or without the grant?

7. Adequacy of facilities (classrooms, laboratories, library services, books, and journal holdings relevant to the program, and access to appropriate occupational settings).

8. Competence, experience, training, time commitment to the program and availability of faculty to advise students, faculty/student ratio, and teaching loads of the program director and teaching faculty in relation to the type and scope of training involved.

9. Admission Requirements: Student selection standards and procedures, student performance standards and student counseling services.

10. Advisory Committee (if established): Membership, industries and labor groups represented; how often they meet; who they advise, role in designing curriculum and establishing program need.

Funding Allocation Criteria

For Educational Resource Center grants, the following criteria will be considered in determining funding allocations.

1. Academic Core Programs

a. Budget to support programs primarily for personnel and other personnel-related costs. Advanced (doctoral and post-doctoral) and specialty (master's) programs will be considered.

b. Budget to support programs based on program quality and need. Factors considered include faculty commitment/breadth, faculty reputation/strength, national/regional manpower needs, unique program contribution, interdisciplinary interaction, and technical merit.

c. Budget to support students based on the program level and the number of students supported.

d. Budget to support research training programs to establish a research base within core disciplines and for the training of researchers in occupational safety and health.

2. Center Administration

Budget to support Center administration to assure coordination and promotion of academic programs.

3. Continuing Education/outreach Program

Budget to support outreach and continuing education activities to prepare, distribute, and conduct short courses, seminars, and workshops.

4. Hazardous Substance Training Programs

Budget to support the development and presentation of continuing education courses for professionals engaged in the management of hazardous substances.

5. Hazardous Substance Academic Training Programs

Budget to support the development and presentation of specialized academic programs in hazardous substance control.

6. Agricultural Safety and Health Academic Programs

Budget to support the development and presentation of specialized academic programs and continuing education courses in agricultural safety and health.

For Long-Term Training Project grants, the following factors will be considered in determining funding allocations.

Academic Core Programs

a. Budget to support programs primarily for personnel and other personnel-related costs. Advanced (doctoral and post-doctoral), specialty (master's), and baccalaureate/associate programs will be considered.

b. Budget to support programs based on program quality and need. Factors considered include faculty commitment/breadth, faculty reputation/strength, national/regional manpower needs, unique program contribution, interdisciplinary interaction, and technical merit.

c. Budget to support students based on the program level and the number of students supported.

Catalog of Federal Domestic Assistance Number (CFDA)

The Catalog of Federal Domestic Assistance Number is 93.263.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Application Submission and Deadline

Applications should be clearly identified as an application for an Occupational Safety and Health Long-Term Training Project Grant or ERC Training Grant. The submission schedule is as follows:

New, Competing Continuation and Supplemental Receipt Date: July 1, 1993.

An original and two copies of new, competing continuation and supplemental applications (Form CDC 2.145A ERC or TPG) should be submitted to: Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, GA 30305.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Non-Competing Continuation Receipt Date: November 15, 1993.

An original and two copies of non-competing continuation applications (Form CDC 2.145B ERC or TPG) should be submitted to: Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, GA 30305.

Where to Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 123. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Adrienne S. Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, (404) 842–6630. Programmatic technical assistance may be obtained from John T. Talty, Chief, Educational Resource Development Branch, Division of Training and Manpower Development, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Cincinnati, Ohio 45226, (513) 533–8241.

Please refer to Announcement Number 123 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (telephone (202) 783–3238).

Dated: May 7, 1993.

Richard A. Lemen,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–11950 Filed 5–19–93; 8:45 am]

BILLING CODE 4160–19–P

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Requests:* New; *Title of Information Collection:* Medicare

Cataract Surgery Alternate Payment Demonstration; *Form No.:* HCFA–R–154; *Use:* The information collected will allow HCFA to evaluate the feasibility of a negotiated bundled payment for an episode of cataract surgery and will provide insight into appropriateness indicators and effective quality assurance and utilization review mechanisms for cataract surgery. The affected pubic includes only voluntary participating providers and their patients; *Frequency:* On occasion; *Respondents:* Nonprofit institutions, individuals or households, and businesses or other for profit; *Estimated Number of Responses:* Survey (562), Checklist (4,753); *Average Hours per Response:* Survey (.30), Checklist (.15); *Total Estimated Burden Hours:* 956.

2. *Type of Request:* New; *Title of Information Collection:* Study of Medicaid Utilization Management Initiatives; *Form No.:* HCFA–R–155; *Use:* Survey results will provide information on the use of utilization management programs by State Medicaid agencies. The information will be used by HCFA to modify proposed regulations and to provide data to Congress on the use of specific programs, and assist States in evaluating existing or proposed utilization management activities; *Frequency:* One-time collection; *Respondents:* State or local governments; *Estimated Number of Responses:* 50; *Average Hours per Response:* 2.6; *Total Estimated Burden Hours:* 130.

3. *Type of Request:* Extension; *Title of Information Collection:* Medicare Coverage of Screening Mammography; *Form No.:* HCFA–R–145; *Use:* This information is needed to determine if a supplier or interpreting physician is in compliance with published safety and accuracy requirements. Respondents are screening mammography suppliers and interpreting physicians; *Frequency:* Not applicable; *Respondents:* Businesses or other for profit; *Estimated Number of Responses:* 6,599; *Average Time per Response:* 4; *Total Estimated Burden Hours:* 26,396.

4. *Type of Request:* Reinstatement; *Title of Information Collection:* Psychiatric Unit Criteria Worksheet, Rehabilitation Hospital Criteria Worksheet, Rehabilitation Unit Criteria Worksheet; *Form Nos.:* HCFA–437, –437A, –437B; *Use:* Onsite verification by State agencies needs to be conducted to assure that rehabilitation hospitals and psychiatric and rehabilitation units meet criteria for exclusion from the Prospective Payment System. The State Survey agencies record on the HCFA–437 worksheets their findings on how well hospitals/units meet the criteria for exclusion; *Frequency:* Annually; *Respondents:* State or local governments; *Estimated Number of Responses:* 2,202; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 550.5.

5. *Type of Request:* Revision; *Title of Information Collection:* Questions on Other Insurance Available to Medicare Beneficiaries-Medicare Secondary Payor; *Form Nos.:* HCFA–250 through –254; *Use:* This request will be mailed to all new Medicare beneficiaries; *Frequency:* Monthly (new beneficiaries only); *Respondents:* Individuals or households; *Estimated Number of Responses:* 2.6 million; *Average Hours per Response:* .25; *Total Estimated Burden Hours:* 75,000. *Correction:* This request replaces the notice that was inadvertently published in the Federal Register on February 4, 1993.

6. *Type of Request:* Reinstatement; *Title of Information Collection:* Ambulatory Surgical Center Survey; *Form No.:* HCFA–452; *Use:* Authorization for the HCFA–452 expired September 30, 1992. However, our data collection efforts for rate updating after 1992 are incomplete. Therefore, we are requesting that part II of this two-part survey instrument be reinstated to gather new cost information; *Frequency:* Periodically; *Respondents:* Small businesses or organizations; *Estimated Number of Responses:* 250; *Average Hours per Response:* 32; *Total Estimated Burden Hours:* 8,000.

7. *Type of Request:* Reinstatement; *Title of Information Collection:* Information Collection Requirement in HCFA Publication 14–3, sections 2120.1–2125 and section 4115 of the Medicare Carriers Manual; *Form No.:* HCFA–R–88; *Use:* Verification of ambulance service compliance with State and local requirements is necessary to determine whether the ambulance service qualifies for reimbursement under Medicare. Carriers require ambulance services providing services to Medicare beneficiaries to submit documentary evidence showing that it has the equipment required; *Frequency:* On occasion; *Respondents:* Small businesses or organizations and businesses or other for profit; *Estimated Number of Responses:* 100; *Average Hours per Response:* .25 (reporting) .25 (recordkeeping); *Total Estimated Burden Hours:* 50.

8. *Type of Request:* Revision; *Title of Information Collection:* Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Report; *Form No.:* HCFA–416; *Use:* Congress and HCFA are interested in the EPSDT program's effectiveness in improving the health of Medicaid eligible children. This form, submitted by all 56 Medicaid jurisdictions, supplies data for prompt, accurate monitoring of EPSDT activities; *Frequency:* Annually; *Respondents:* State or local governments; *Estimated Number of Responses:* 56; *Average Hours per Response:* 19 (reporting), 9 (recordkeeping); *Total Estimated Burden Hours:* 1,568.

Additional Information or Comments: Call the Reports Clearance Office on 410–966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: May 13, 1993.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 93–11897 Filed 5–19–93; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Program Announcement for Scholarships for Disadvantaged Students

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1993 for the Scholarships for Disadvantaged Students (SDS) program are being accepted under the authority of section 737 (previously section 760) of the Public Health Service Act (the Act), title VII, Part B, as amended by the Health Professions Education Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Since this program was announced on March 24, 1992, the Health Professions Education Extension Amendments of 1992, Public Law 102–408, were passed by the Congress and signed by the President. Section 760 has been renumbered section 737.

Purpose

The SDS program is a program of grants to health professions and nursing schools for the purpose of assisting such schools in providing scholarships to individuals from disadvantaged backgrounds who are enrolled (or accepted for enrollment) as full-time students in the schools, as well as to undergraduate students who have demonstrated a commitment to pursuing a career in health professions.

For purposes of the SDS program in FY 1993, an "individual from disadvantaged background" is defined in 42 CFR 57.1804, subpart S, as one who:

(1) Comes from an environment that has inhibited the individual from obtaining the knowledge, skill, and abilities required to enroll in and graduate from a health professions school, or from a program providing education or training in allied health professions; or

(2) Comes from a family with an annual income below a level based on low-income thresholds according to a family size published by the U.S. Bureau of the Census, adjusted annually for changes in the Consumer Price Index, and adjusted by the Secretary for use in all health professions and nursing programs. The Secretary will periodically publish these low-income levels in the **Federal Register.**

The following income figures determine what constitutes a low-income family for purposes of the Scholarships for Disadvantaged Students program for FY 1993.

Size of parents' family [1]	Income level [2]
1	$9,419
2	12,202
3	14,523
4	18,596
5	21,930
6 or more	24,648

[1] Includes only dependents listed on Federal income tax forms.

[2] Adjusted gross income for calendar year 1992, rounded to nearest $100.

Approximately $16.9 million is available in FY 1993 for the competing applications for the SDS Program from eligible health professions and nursing schools. Of the funds available, 30 percent shall be made available to schools agreeing to expend the grants only for nursing scholarships. An estimated $5.1 million will support approximately 2,040 scholarships averaging $2,500 for students at schools of nursing. The balance of $11.8 million will support approximately 4,857 scholarships averaging $2,450 for eligible health professions students. The period of fund availability will be for one academic year.

Use of Funds

Funds awarded to a school under this program may be used as follows:

(1) To award scholarships to eligible students enrolled in the school, to be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses (as defined by the school for all students attending the school) incurred while enrolled in a school as a full-time student. The amount of the scholarship may not, for any year of attendance, exceed the total amount required for the year for the expenses specified above.

(2) To provide financial assistance to undergraduate students who have demonstrated a commitment to pursuing a career in the health professions, in order to facilitate the completion of the educational requirements for such careers, provided that the total amount used for this purpose may not exceed 25 percent of the funds awarded to the school under this program.

Any school receiving SDS funds will be required to maintain separate accountability for these funds.

School Eligibility

Grants under this program will be made available to accredited public or nonprofit private health professions schools. For purposes of the SDS program, the term "health professions schools" means schools of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or allied health or schools offering graduate programs in clinical psychology as defined in section 737(a)(3) of the Act, and which are accredited as provided in section 799(1)(E) of the Act, schools of allied health as defined in section 799(4) of the Act, and which are located in States as defined in section 799(9) of the Act, and schools of nursing as defined in section 853 of the Act. In accordance with congressional report language No. 101–804, dated October 5, 1990, funding of allied health schools or programs will be limited to the following baccalaureate and graduate programs: Dental hygiene, medical laboratory technology, occupational therapy, physical therapy and radiologic technology.

As required by statute, to qualify for participation in the SDS program, a school must be:

(1) Carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

(2) Carrying out a program for recruiting and retaining minority faculty.

In addition, each school that received funds in FY 1992 must agree in its fiscal year 1993 application to be carrying out all of the statutory requirements listed below:

(1) Ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school. This does not include normal course work, that by definition includes minority health issues (e.g., sickle cell anemia in a pathology class), but refers to course work reflecting an institutional awareness of the special health needs of minority populations;

(2) Enter into arrangements with one or more health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, for the purpose of providing students of the school with experience in providing clinical services to such individuals;

(3) Enter into arrangements with one or more public or nonprofit private secondary educational institutions and undergraduate institutions of higher education (feeder schools), for the purpose of carrying out programs regarding:

(a) The educational preparation of disadvantaged students, including minority students, to enter the health professions; and

(b) The recruitment of disadvantaged students, including minority students, into the health professions; and

(4) Establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school. This program may include the involvement of students, community health professionals, faculty, alumni, past recipients of Health Career Opportunity Program (HCOP) funds, faculty/staff of feeder schools, etc., in institutionally organized activity (e.g., tutoring, counseling, and summer/bridge programs).

Each school funded for the first time in FY 1993 will also be required to carry out each of the activities specified above by not later than 12 months from receipt of award. Funds awarded to a school under the SDS program may not be used to carry out any of the above activities which the school must be doing, or must agree to do. In addition, a school will be required to continue to carry out all described activities, and also the student/faculty recruitment and retention activities, for as long as the SDS program is in operation in the school.

Evaluation Criteria for Fiscal Year 1993

For FY 1993, applications will be evaluated on the degree to which the schools meet the statutory requirements listed above. Guidance for presenting the information will be provided in the FY 1993 application materials.

Student Eligibility: As required by statute, to qualify for the SDS program, a student must:

(1) Be a citizen, a U.S. national, an alien lawfully admitted for permanent residency in the U.S., or a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Commonwealth of Puerto Rico, a citizen of the Trust Territory of the Pacific Islands (consisting of the Republic of Palau) or a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia (both formally part of the Trust Territory of the Pacific Islands);

(2) Meet the definition of an "individual from a disadvantaged background" as defined above; and

(3) (a) Be enrolled in or accepted by an eligible school for enrollment as a full-time student; or

(b) Be an undergraduate student who has demonstrated a commitment to pursuing a career in health professions, including nursing.

Statutory Preference

The law requires that in providing SDS scholarships, the school give preference to students for whom the cost of attending an SDS school would constitute a severe financial hardship. Severe financial hardship will be determined by the school in accordance with standard need analysis procedures prescribed by the Department of Education for its Federal student aid programs.

The following Acceptability of Undergraduate Students, Definitions, Funding Preference, Methodology for Implementing the Statutory Special Consideration, the Nonstatutory Special Consideration for Baccalaureate Nursing Programs, and the Procedures for Calculating Scholarship Awards were established in FY 1991 after public comment (at 57 FR 49779) on October 1, 1991, and are being extended in FY 1993.

Acceptability of Undergraduate Students

In the instance of (3)(b) above, it has been established that the undergraduate students eligible for scholarships must be at feeder schools and have signed statements that they are interested in health professions or nursing careers.

Definitions

"Black" means a person having origins in any of the black racial groups of Africa.

"Hispanic" means a person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

"American Indian or Alaskan Native" means a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Definitions listed above are contained in Directive No. 15 of Office of Management and Budget Circular No. A–46, dated May 3, 1974.

"Native American" as defined in Public Law 101–527, means American Indian, Alaskan Native, Aleut, or Native Hawaiian.

"Minority" with respect to faculty, refers to Blacks, Hispanics, Native Americans, Filipinos, Koreans, Pacific Islanders, and Southeast Asians whose percentage among the total supply of practitioners in the applicable health profession is below that group's percentage in the total population.

Methodology for Implementing the Statutory Special Consideration

In accordance with the statute, in making awards under section 737(a), the Secretary shall give special consideration to eligible schools that have enrollments of underrepresented minorities above the national average for its particular discipline.

For purposes of determining eligibility of a school, Asians will not be included in the definition of underrepresented minorities for the school. Although certain Asian subgroups (i.e, Filipinos, Koreans, Pacific Islanders, and Southeast Asians) are considered to be underrepresented in the health professions and are included as minorities for purposes of program requirements relating to faculty recruitment and retention (see above), national data on these subgroups are not available as a basis for establishing national average enrollment of underrepresented minorities.

For purposes of the FY 1993 award cycle, the national average enrollments of Blacks, Hispanics, and Native Americans (in combination) are: for medicine 13.3 percent; osteopathic medicine 7.8 percent; nursing (RN only) 12.9 percent; dentistry 13.4 percent; pharmacy 10.6 percent; optometry 9.4 percent; podiatric medicine 17.5 percent; veterinary medicine 5.9 percent; public health 15.7 percent; allied health 17.7 percent; and clinical psychology 13 percent.

Nonstatutory Special Consideration for Baccalaureate Nursing Programs

Among schools of nursing, additional special consideration will be given to baccalaureate programs. One of the distinguishing features of baccalaureate education is the substantial focus on preparation for community health practice. Training nurses for community health practice is an integral component of the Department's access strategy.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Procedures for Calculating Awards

Awards to eligible schools which have applied will be calculated by comparing the enrollment of disadvantaged students in each eligible school with the total enrollment of the disadvantaged students in all eligible schools.

A school with an enrollment of underrepresented minority students which is above the national average (for each discipline) will be given double credit (i.e., its enrollment of disadvantaged students would be doubled for awarding purposes). A baccalaureate nursing school will be given double credit. A baccalaureate nursing school with an underrepresented minority enrollment above the national average will be given quadruple credit (i.e., its enrollment of disadvantaged students will be multiplied by four for awarding purposes).

National Health Objectives for the Year 2000

The Public Health Service is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Scholarships for Students from Disadvantaged Backgrounds program is related to the priority area of Educational and Community-Based Programs. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone (202) 783–3238).

Application Requests

The application form and instructions for this program have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB clearance number is 0915–0149.

Applications will be mailed to all eligible schools of medicine, osteopathic medicine, dentistry, pharmacy, optometry, podiatric medicine,

veterinary medicine and nursing. Upon request, applications will be mailed to schools of public health, clinical psychology and allied health.

Requests for grant application materials and questions regarding business management and program policy should be directed to: Mr. Bruce Baggett, Chief, Student and Institutional Support Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–34, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–4776.

The application deadline date is June 21, 1993. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for consideration. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

The Catalog of Federal Domestic Assistance Number for the Scholarships for Disadvantaged Students program is 93.925. This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: April 16, 1993.

John H. Kelso,

Acting Administrator.

[FR Doc. 93–11960 Filed 5–19–93; 8:45 am]

BILLING CODE 4160–15–P

Announcement of Final Definition, Post-Residency Activities and School Implementation Efforts for Primary Care Loan Program

SUMMARY: The Health Professions Education Extension Amendments of 1992 (Pub. L. 102–408, dated October 13, 1992) amend the Health Professions Student Loan (HPSL) Program, now found in sections 721–735 of Title VII of the Public Health Service (PHS) Act, to include a new section 723. Section 723 establishes the Primary Care Loan (PCL) Program. Under this program, schools of medicine and osteopathic medicine must use their new and existing HPSL funds to make loans only to students who are committed to careers as generalist physicians (i.e., family physician, general internist, general pediatrician, osteopathic general practitioner) or a specialist in preventive medicine/public health, except that previous HPSL borrowers may be funded through completion of their educational program.

These changes do not affect the HPSL program at schools of dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine. However, for schools of medicine and osteopathic medicine, the changes significantly alter the existing HPSL program by: (1) restricting HPSL funds to borrowers with a commitment to these primary health care disciplines; and (2) imposing penalties on schools that do not have a primary health care emphasis. Effectively, the law transforms the HPSL fund at schools of medicine and osteopathic medicine into a PCL fund. First-time HPSL student borrowers at schools of medicine and osteopathic medicine must agree: (A) to enter and complete a residency training program in primary health care not later than 4 years after the date on which the student graduates from such school; and (B) to practice in such care through the date on which the loan is repaid in full.

Elements of the PCL Program were proposed in the **Federal Register** at 58 FR 11610 on February 26, 1993. The announcement included a proposed definition of "residency training program in primary health care", proposed acceptable and unacceptable post-residency activities, and proposed school implementation efforts for implementing section 723(a). A comment period of 30 days was established to allow public comment concerning these proposed program elements. Sixty two comments were received from 16 associations, boards or societies and 46 educational institutions. The latter comments represented a combination of institutional or program administrators, faculty and financial aid respondents. Those comments concerning the proposed elements of the PCL Program for which comments were requested are discussed below, along with the Department's responses.

EFFECTIVE DATE: The program elements described in this notice will be applied in fiscal year (FY) 1993 and would become effective with loans made to medical and osteopathic medical students who are first-time borrowers from the loan fund on or after July 1, 1993.

Final Definition of "Residency Training Program in Primary Health Care"

Sixteen separate commenters proposed expanding the definition in terms of types of primary care practice or settings, such as general surgery in medically underserved areas, or in terms of specialties such as psychiatry, obstetrics/gynecology, and emergency medicine or a variety of relevant subspecialties. Given the definition of "primary health care" as provided in section 723(d)(5), no change was made to expand the definition of "residency training program in primary health care".

Two osteopathic associations clarified the 3–4 year osteopathic primary care educational pathways, as opposed to 2–3 year pathways described in the proposed notice. In response to their comments, separate osteopathic and allopathic wording in the proposed definition was consolidated in the second paragraph below, making it clear that the definition applies to both allopathic and osteopathic programs for all primary care specialties.

Two commenters suggested that PCL borrowers who select combined medicine/pediatric programs retain their eligibility for participation in the PCL Program. This is acceptable and has been made explicit in the revised definition. The final definition is as follows:

Section 723(d)(5) defines the term "primary health care" as family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice. The adjective "general" is not used as a modifier of internal medicine and pediatrics training programs. Residency programs that focus on training generalists are not separately approved by the Accreditation Council for Graduate Medical Education (ACGME) or listed in the National Resident Matching Program based on uniform criteria. Thus, it is difficult to discern in any given year which programs should be considered as "general." General internal medicine and general pediatrics "practice" is ultimately defined by decisions residents make following the completion of their 3-year residency programs.

"Residency Training Program in Primary Health Care" is defined as a 3-year residency program in allopathic or osteopathic family medicine, internal medicine, pediatrics, combined medicine/pediatrics, or preventive medicine approved by the ACGME or by the American Osteopathic Association (AOA) and rotating and primary health care internships and general practice

residency programs approved by the AOA.

Final Post-Residency Activities

Two respondents suggested that physicians who pursue careers in primary care research should retain their eligibility for PCL participation. This change was not adopted since most primary care research is conducted by faculty who are engaged in teaching, research and clinical activities and who are thus eligible on the basis of their teaching and clinical practice.

One respondent expressed concern that family physicians who wish to pursue additional training in the care of adolescents were not included. A formal system for recognizing added qualification in adolescent care is not in place for family physicians. However, a limited number of family medicine programs offer fellowship training in adolescent health care. Physicians who receive this training are expected to continue their generalist family physician careers. A new item #7 has been added under the list of Acceptable Activities to accommodate this training activity.

Four respondents requested that sports medicine training, which was proposed as an Unacceptable Activity, be changed to an Acceptable Activity. Unpublished data indicate that family physicians who obtain added qualification in sports medicine continue in careers as generalist physicians. It is expected that other primary health care physicians who gain added qualification in sports medicine also continue as generalist practitioners. The section on sports medicine has been deleted from the Unacceptable Activities list and added, as item #8, to the Acceptable Activities list.

Three commenters cited primary care public policy careers that PCL borrowers should be permitted to pursue. These activities are consistent with section 723 purposes and will be allowed. A new item #9 has been added. The final list of Post-Residency Activities is presented below:

Acceptable activities: Residency graduates who will qualify to retain the lower interest rate on a PCL include: (1) generalist physician graduates of a primary health care residency program who enter clinical practice; (2) preventive medicine graduates who practice in the primary health care fields of clinical preventive medicine, occupational medicine, or public health; (3) senior (chief) residents in one of the residency programs defined above; (4) faculty, administrators, or policy makers who maintain certification in one of the primary health care disciplines; (5) family physicians and internists who obtain a certificate of added qualification in geriatrics; (6) internists and pediatricians who enter training to qualify for a certificate of added qualification in adolescent medicine or board certification in adolescent pediatrics; (7) family physicians who enter post-residency training to gain added skills in the care of adolescents; (8) primary health care physicians who enter training to qualify for a certificate of added qualification in sports medicine; and (9) special training to prepare physicians for primary care faculty or public policy careers, such as a Masters degree in a Public Health program, a public policy fellowship program, or faculty development training activities.

Unacceptable activities: Physicians who will forfeit their eligibility for the lower interest rate on a PCL include those who: (1) enter medical or pediatric subspecialty training (e.g., cardiology, gastroenterology); (2) receive subspecialty certification; or (3) enter a non-primary health care specialty (e.g., obstetrics/gynecology, surgery, dermatology, radiology).

Noncompliance by Student

Public comment was not requested concerning this program element. However, several respondents expressed concern about the added effort and resources needed to monitor the borrower's compliance with the primary health care practice requirement. This would include tracking PCL graduates for 10–14 years. Because the loan agreement is between the school and the borrower, the Department feels it is reasonable to expect the school to monitor compliance. At the same time, however, the Department will work closely with associations that manage national data regarding physician education and practice in an effort to identify a system for reducing the monitoring burden on individual participating schools. This program element will be retained, as originally stated, as follows:

If a PCL recipient fails to enter and complete a primary health care residency training program within 4 years of graduation, and to practice primary health care until the loan is repaid in full, the following penalties, as provided in section 723(a)(3), will apply:

(1) The balance due on the loan will be immediately recomputed from the date of issuance at an interest rate of 12 percent per year, compounded annually; and

(2) The recomputed balance must be repaid not later than 3 years after the date on which the borrower fails to comply with the agreement.

Schools will be responsible for monitoring the borrower's compliance with the primary health care practice requirement, and for imposing the interest penalty on those who fail to comply with the terms of the agreement. Section 723(b) establishes conditions which must be met by the school to avoid penalties under the PCL program.

Final School Implementation Efforts

Thirty-six respondents objected to the proposed requirement to establish a committee to assist in the student selection process and to "fully educate" students about each of the primary health care careers. It was pointed out that schools already have established procedures for the selection of students for participation in loan programs and these procedures can be effectively adjusted to meet the particular demands of the PCL Program. Prescription of a new approach was viewed as an unnecessary intrusion into the operations of the schools. Numerous commenters described the additional time and money that it would take to implement the proposed requirement, as well as the fact that increased participation of primary care clinicians on such committees would take them away from their clinical practices. Several respondents considered the requirement to report on implementation efforts by December 31, 1993, to be particularly burdensome. In response to the comments received, the requirement for the establishment of a committee to assist in the student selection process has been deleted. However, the active involvement of the primary health care disciplines in the implementation of the PCL Program continues to be recommended as an institutional strategy for the achievement of PCL Program goals. Since implementation efforts are now recommended rather than required, the December 31, 1993, reporting requirement on program implementation efforts has also been deleted.

Seven respondents suggested that student selection based on commitment of entry level students to generalist and preventive medicine practice was unrealistic and premature. Because schools have discretion in deciding which students to select in order to best meet program goals, no change has been made based on these observations. The final wording for this program element is presented below:

In addition to the statutory requirements for schools, it is recommended that each participating school establish a committee with representation from each of the primary health care disciplines for the purpose of: (1) informing students about the primary health care specialties and the PCL program; (2) providing counseling assistance to students; (3) providing input to the student selection process; and (4) providing program assessment and recommendations for improvement.

Additional Information

If additional programmatic information is needed, please contact: Mr. Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443–1173.

Dated: May 13, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–11912 Filed 5–19–93; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

National Institute of Mental Health; Meeting

The Division of Extramural Activities of the National Institute of Mental Health announces an ad hoc concept review. This committee will be performing review of a Request for Applications entitled "Neuropsychological Test Performance in HIV/AIDS."

This meeting will be held June 1, 1993, from 2:30 p.m. to adjournment, in Room 15–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, and will be open to the public. Attendance by the public will be limited to space available. Any person wishing to attend should notify the contact person by May 24, 1993.

Other information pertaining to the meeting may be obtained from the contact person indicated.

Committee name: Ad Hoc Concept Review Committee.

Contact: Jean G. Noronha, Ph.D., Room 9C–15, Parklawn Building, Telephone: 301–496–6470.

Meeting date: June 1, 1993.

Place: Room 15–95, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20557.

Open: June 1, 2:30 p.m. to adjournment.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers 93.126, Small Business Innovation Research; 93.176, ADAMHA Small Instrumentation Program Grants; 93.242, Mental Health Research Grants; 93.281, Mental Research Scientist Development Award and Research Scientist Development Award for Clinicians; 93.282, Mental Health Research Service Awards for Research Training; and 93.921, ADAMHA Science Education Partnership Award.)

Dated: May 17, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–12048 Filed 5–19–93; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Center for Mental Health Services

ACTION: Final notice.

SUMMARY: This notice establishes final definitions for: (1) Children with a serious emotional disturbance, and (2) adults with a serious mental illness. It also describes the proposed process for developing standardized methods for identifying and estimating the size of these two populations within each State. This action is being taken to comply with the requirements of Public Law 102–321, the ADAMHA Reorganization Act, which amends and supersedes Public Law 99–660. The definitions will affect State agencies (the recipients of Federal block grant funds for mental health services) and are necessary because the new law requires States to include incidence and prevalence estimates of the two populations as part of the State application for a Community Mental Health Services Block Grant award. The definitions are intended to encourage comprehensive planning for mental health services at the State level which will address the multiple needs of both of these populations, whether or not the State agency is the provider of the planned services.

EFFECTIVE DATE: Immediately. It is the view of this Department that delaying the effective date for a period of thirty days is unnecessary and contrary to the public interest, and therefore this rule is effective immediately. This rule provides definitions for States and is necessary for State applications for Community Mental Health Services Block Grants. No party will be adversely affected by the immediate implementation of these definitions, whereas a delayed effective date will hinder comprehensive planning for mental health services by States. In any event, the provisions of 5 U.S.C. 553(d) do not apply since this rule relates to a grant program.

FOR FURTHER INFORMATION CONTACT: Irene S. Levine, Ph.D., Deputy Director, Center for Mental Health Services, (301) 443–0001.

Background

Public Law 102–321, the ADAMHA Reorganization Act, was enacted on July 10, 1992. This law, which amended the Public Health Service Act, created the Substance Abuse and Mental Health Services Administration (SAMHSA). The Center for Mental Health Services (CMHS) was established within SAMHSA to coordinate Federal efforts in the prevention and treatment of mental illnesses and the promotion of mental health. Title II of Public Law 102–321 establishes a Block Grant for Community Mental Health Services, administered by CMHS, which allows for allocation of funds to States for the provision of community mental health services to both children with a serious emotional disturbance and adults with a serious mental illness. Definitions of the terms "children with a serious emotional disturbance" and "adults with a serious mental illness" and establishment of standardized methods for making estimates of the overall number (prevalence) and the number of new cases (incidence) for these two populations are required as part of the implementation process for the new block grant.

Summary of Comments

This document reflects a thorough review and analysis of comments received in response to two earlier notices published in the Federal Register, one on August 21, 1992 (p. 37979), the other on November 6, 1992 (p. 53118).

Nearly 1,200 letters were received by the close of the public comment period, expressing either support or concern regarding the proposed definitions. Those expressing support generally praised the breadth of the proposed definitions; many of these letters were poignant in that they cited instances where individuals were denied services because their disorders were not considered "serious" despite the fact that they were associated with functional impairments that substantially interfered with or limited the performance of one or more major life activities. This segment of the respondents favored broad definitions and suggested that service priorities be established by States (with input from

concerned citizens) within these broad parameters.

Those expressing concern generally noted that the use of Federal block grant funds should be limited to individuals with the most severe and disabling disorders, such as schizophrenia and major mood disorders. These letters, which also contained compelling personal stories, noted the importance of measuring "seriousness" by both disability and duration criteria, in addition to diagnosis. The letters described eloquently the devastating effect of these illnesses upon those with the disorders, as well as their families, and noted the paucity of public funds available for even this most needy and disabled group. A smaller set of letters focused on the inclusion or exclusion of specific disorders, such as substance use disorders, developmental disorders, attention deficit disorder (ADD), and Alzheimer's disease.

These final definitions seek to strike a balance in addressing the diverse concerns outlined in this summary and discussed in greater detail below. The definitions are intended to be broad enough so that States will be able to develop an accurate description of the population in need of mental health services. Inclusion in the target populations is based on the presence of functional impairment that substantially interferes with or limits the performance of one or more major life activities, in addition to a qualifying diagnosis.

State mental health agencies play an important leadership role in planning a statewide "system of care" that draws upon Federal Community Mental Health Services Block Grant funds, as well as other public and private resources, to meet the needs of both children and adults. Since it is obvious that resources for each of these populations are inadequate in relation to need, States need to continue to set priorities to assure that the most seriously emotionally disturbed children and seriously mentally ill adults are given priority for services. In the case of adults, this most seriously mentally ill population is largely comprised of persons with schizophrenia and major mood disorders. Attention should also be given to those individuals with serious mental illnesses whose disorders have resulted in homelessness or inappropriate involvement in the criminal justice system.

Inclusion in or exclusion from the definitions is not intended to confer or deny eligibility for any other service or benefit at the Federal, State, or local levels. Additionally, the definitions are not intended to restrict the flexibility or responsibility of State or local governments to tailor publicly-funded service systems to meet local needs and priorities. However, all individuals whose services are funded through Federal Community Mental Health Services Block Grant funds must fall within the criteria set forth in these definitions. Any ancillary use of these definitions for purposes other than those identified in the legislation is outside the purview and control of CMHS.

Duration Criteria

Some comments suggested that duration criteria be added to each definition. Since duration criteria are already considered in making a specific "Diagnostic and Statistical Manual of Mental Disorders" (DSM–III–R) diagnosis, adding additional criteria for duration would either be redundant or in conflict with the duration criteria already associated with specific diagnoses. To provide additional clarification, specific language has been inserted in both definitions noting that these disorders have episodic, recurrent, or persistent features.

Severity Criteria

Some comments urged that severity criteria be added to each definition. As initially drafted, both definitions required that to qualify as "serious," a diagnosable mental, emotional, or behavioral disorder must *also* be accompanied by functional impairment. In the revised definition, the threshold for functional impairment has been more specifically described as "substantially interfering with or limiting" one or more activities. Furthermore, the severity of functional impairment will be operationally defined during the process of developing standardized methods for estimation.

Etiology of the Disorders

Some comments suggested that any definition of "serious emotional disturbance" and "serious mental illness" must include specific language explaining that these are brain diseases with a neurobiological basis. Similarly, suggestions were made to narrow the definitions so that they include only those diagnoses whose etiology has been proven to be neurobiological.

Other comments acknowledged that although there is growing scientific evidence suggesting that some disorders (e.g., schizophrenia and mood disorders) have a neurobiological component, it is still not always possible to discern definitively which disorders are exclusively biological in origin, which disorders are exclusively psychosocial in origin (with no biological component), and what the relative contributions of biological and psychosocial factors are in the etiology of these disorders.

Since rapid advances are still taking place that can be expected to enhance our understanding of the neurobiology of mental illnesses, it would be premature to limit these target populations to only those diagnoses which have to date been documented as having neurobiological etiologies or to determine the extent of neurobiological involvement in given disorders.

Need for Cultural and Ethnic Sensitivity

Concerns were raised that the definitions of a serious emotional disturbance in children and serious mental illness in adults need to be sensitive to cultural and ethnic conceptions of illness. Those expressing concerns should be assured that, in operationalizing the definitions, CMHS will make every effort to incorporate the cautions expressed in DSM–III–R (pp. xxvi–xxvii) relating to the use of diagnostic categories and the need to be sensitive to differences in language, values, behavioral standards or norms, and idiomatic expressions of distress. Experiences or behaviors that may be normative in one culture can be interpreted as pathological in another. It is also recognized that certain symptom clusters are unique to particular cultures and may be no less disabling than those appearing in DSM–III–R. These and all other cultural and ethnic concerns relating to the definitions of mental illness should be seriously considered.

Inclusion of Attention Deficit Disorder

Concerns were raised from differing points of view about whether ADD should be included in the child definition or not. Some parents raised concerns about the negative effects of stigma if children with this disorder were "labelled" as having a serious emotional disturbance. Some treatment providers and educators, on the other hand, raised concern about the difficulty in making a definitive diagnosis of ADD and the need to assure such children access to appropriate services. It was decided to include ADD in the definition because a significant group of children with functional impairments associated with this disorder might otherwise be excluded from services.

Inclusion of Alzheimer's Disease

Numerous concerns were raised about the inclusion versus exclusion of individuals with Alzheimer's disease in the definition. The group of letters

supporting inclusion noted that individuals with Alzheimer's disease often "fall through the cracks of the treatment system," despite the needs of those afflicted, for mental health services to deal with the psychiatric sequelae of this disabling disorder. Another group of comments noted that Alzheimer's disease is excluded from the definition for persons subject to Pre-admission Screening and Annual Resident Review (PSARR) under the Omnibus Budget and Reconciliation Act (OBRA) for 1987, as well as from the definition of adults with serious mental illness found in the nursing home provisions of OBRA for 1990. These letters suggested that inclusion of Alzheimer's disease in the definition of adults with serious mental illness might inadvertently be used as a rationale for denying coverage under OBRA. Because of the strong clinical rationale for inclusion, the definition includes the diagnosis of Alzheimer's disease. It should be noted, however, that this inclusion is not intended to confer or deny coverage under OBRA to individuals otherwise eligible for that coverage.

Exclusion of Substance Use Disorders

Many comments correctly pointed out that substance use plays a strong role in exacerbating mental, emotional, and behavioral disorders and particularly increases the risk for serious emotional disturbance in children and adolescents. Also, some comments accurately noted that substance use disorders are included as diagnosable mental disorders in DSM–III–R.

Nevertheless, the decision to exclude substance use disorders from these definitions is based primarily on the fact that the Federal Government (through the Center for Substance Abuse Treatment) administers a separate substance abuse treatment block grant intended to fund treatment and prevention services to the States. Separate needs assessment procedures are required by the Congress to govern award of these substance abuse funds. If substance use disorders were included in these definitions, needs assessment activities required by the two newly separated mental health and substance abuse block grant programs of the two Centers would significantly overlap. We also believe that Congress did not intend that the limited funds now available to States under the Community Mental Health Services Block Grant be used to fund substance abuse services in the absence of a diagnosable mental disorder.

Finally, it should be noted that given the frequent co-occurrence of mental and substance use disorders and the need to provide better integrated care for individuals within this population, this exclusion does not apply to individuals who meet all other criteria set forth in these definitions and have a co-occurring substance use disorder. This latter group is included in the target definitions and applicants for Community Mental Health Services Block Grant funds will be encouraged to serve these individuals.

Exclusion of Developmental Disorders

Comments were also received concerning the exclusion of developmental disorders (including mental retardation and pervasive developmental disorders). Although these disorders are included within DSM–III–R, they have been excluded from this final notice unless they co-occur with another diagnosable serious emotional disturbance or serious mental illness. While comments received cited the frequent involvement of mental health practitioners in treatment planning and service delivery for these individuals (particularly autistic children), separate Federal block grant funds and processes for needs assessments cover these population groups.

Exclusion of "V" Codes

Concerns were raised as to whether or not DSM–III–R "V" Codes should be included in the definitions. These have been excluded in the final definition because they represent conditions that may be a focus of treatment but are not attributed to a mental disorder.

Exclusion of "At Risk" Groups

Persons at risk for serious emotional disturbance or mental illness are not included in these definitions. Mental health needs are shaped by a multitude of forces, including biology, environment, and life events. It is recognized that serious emotional disturbance or mental illness occurs more predictably in the presence of certain risk factors. These factors include, but are not limited to, homelessness; family history of mental illness; physical or sexual abuse or neglect; alcohol or other substance abuse; HIV infection; chronic and serious physical or developmental disability or illness; heavy and/or persistent substance use; and, in children, multiple out-of-home placements. Nevertheless, in our deliberations, the importance of approaching the needs of children and adolescents within a developmental context was stressed. Prevention and early intervention services should focus on people experiencing any of these risk factors. It should be noted that people with specific combinations of risk factors are at much higher risk for serious emotional disturbance or mental illness.

Congruence of the Child Definition With Other Federal Definitions

Concern was also expressed that the definition of "serious emotional disturbance" in children should be congruent with the definitions of other Federal agencies and/or departments, particularly the U.S. Department of Education (DOE), which uses the identical term in the regulations implementing part B of the Individuals with Disabilities Education Act (IDEA). This was felt to be important since the same children often seek various types of services from different agencies. While it makes sense that definitions used by Federal child-serving agencies conform to one another, the fact that identical terms may be used for different purposes should be kept in mind.

The definition used in this final notice is broader than the definition used in part B of IDEA. Thus, children who are considered seriously emotionally disturbed under this definition could be classified as having a different impairment under part B of IDEA. For example, certain children with attention deficit disorder considered "seriously emotionally disturbed" under this definition, would be considered "other health impaired" under part B of IDEA.

In this regard, it should be noted that meeting the criteria for a "serious emotional disturbance" under this definition does *not* confer eligibility for special education services funded through DOE under IDEA. Children accepted for IDEA services under the category of "Serious Emotional Disturbance" must meet specific IDEA criteria. Because of the incongruity between these two Federal definitions, any referrals from States, local, or private educational agencies for IDEA services should not be made using the "serious emotional disturbance" designation developed under this statute. Referrals to these educational agencies may use DSM–III–R terminology.

Standardized Methods for Estimation

The definitions presented here will serve as the basis for developing standardized estimation methodologies by each State to determine the prevalence and incidence of serious mental illness in adults and serious emotional disturbance in children and adolescents. Although the definitions

are being made available now, it is not anticipated that the estimation methodologies will be developed and available for use by States in time for the fiscal year (FY) 1994 Community Mental Health Services Block Grant applications. Thus, while States are encouraged to utilize these new definitions in FY 1994 applications, they will not be required to do so until the estimation methodologies have been developed and disseminated.

The estimation methodologies for "adults with a serious mental illness" and "children with a serious emotional disturbance" will be developed by two separate groups of technical experts who will operationalize the key concepts in each definition on the basis of available data sets. The CMHS will continue to consult with the National Institute of Mental Health and other relevant Federal agencies in operationalizing these definitions. As noted earlier, a key activity of each group will be to develop operational measures for functional impairment. The goal will be to develop overall prevalence and incidence rates for socio-demographic subgroups that can be applied to respective population counts for a State in order to produce final State estimates. If relevant data sets are not available to achieve this goal, then the technical experts will recommend a plan and timetable through which such data can be collected.

Definitions

Definition of Children With a Serious Emotional Disturbance

Pursuant to section 1912(c) of the Public Health Service Act, as amended by Public Law 102–321 "children with a serious emotional disturbance" are persons:

- From birth up to age 18,[1]
- Who currently or at any time during the past year,[2]
- Have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM–III–R,[3]
- That resulted in functional impairment which substantially interferes with or limits the child's role or functioning in family, school, or community activities.[4]

These disorders include any mental disorder (including those of biological etiology) listed in DSM–III–R or their ICD–9–CM equivalent (and subsequent revisions), with the exception of DSM–III–R "V" codes, substance use, and developmental disorders, which are excluded, unless they co-occur with another diagnosable serious emotional disturbance. All of these disorders have episodic, recurrent, or persistent features; however, they vary in terms of severity and disabling effects.

Functional impairment is defined as difficulties that substantially interfere with or limit a child or adolescent from achieving or maintaining one or more developmentally-appropriate social, behavioral, cognitive, communicative, or adaptive skills. Functional impairments of episodic, recurrent, and continuous duration are included unless they are temporary and expected responses to stressful events in the environment. Children who would have met functional impairment criteria during the referenced year without the benefit of treatment or other support services are included in this definition.

Definition of Adults With a Serious Mental Illness

Pursuant to section 1912(c) of the Public Health Service Act, as amended by Public Law 102–321 "adults with a serious mental illness" are persons:

- Age 18 and over,[1]
- Who currently or at any time during the past year,[2]
- Have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within DSM–III–R,[3]
- That has resulted in functional impairment which substantially interferes with or limits one or more major life activities.[4]

These disorders include any mental disorders (including those of biological etiology) listed in DSM–III–R or their ICD–9–CM equivalent (and subsequent revisions), with the exception of DSM–III–R "V" codes, substance use disorders, and developmental disorders, which are excluded, unless they co-occur with another diagnosable serious mental illness. All of these disorders have episodic, recurrent, or persistent features; however, they vary in terms of severity and disabling effects.

Functional impairment is defined as difficulties that substantially interfere with or limit role functioning in one or more major life activities including basic daily living skills (e.g., eating, bathing, dressing); instrumental living skills (e.g., maintaining a household, managing money, getting around the community, taking prescribed medication); and functioning in social family, and vocational/educational contexts. Adults who would have met functional impairment criteria during the referenced year without the benefit of treatment or other support services are considered to have serious mental illnesses.

Dated: May 14, 1993.

Joseph R. Leone,

Acting Deputy Administrator, Substance Abuse and Mental Health Services Administration.

[FR Doc. 93–11959 Filed 5–19–93; 8:45 am]

BILLING CODE 4162–20–M

[1] The definition of serious emotional disturbance in children is restricted to persons up to age 18. However, it is recognized that some States extend this age range to persons less than age 22. To accommodate this variability, States using an extended age range for children's services should provide separate estimates for persons below age 18 and for persons aged 18 to 22 within block grant applications.

[2] The reference year in each of the definitions refers to a continuous 12-month period because this is a frequently used interval in epidemiological research and because it relates closely to commonly used planning cycles.

[3] It is anticipated that the fourth edition of the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders, or DSM–IV, will be published and available in late 1993 or early 1994. The tenth revision of the International Classification of Diseases (ICD–10), developed by the World Health Organization, was published in 1992, but will probably not be officially adopted in the United States until late in the 1990's. These revised nomenclatures are likely to affect both the language of mental disorders and the types of disorders currently included or excluded from these definitions. As appropriate, the definitions will be updated by CMHS accordingly.

[4] Functional impairment which "substantially" interferes will be operationally defined as part of the process of developing standardized methods for estimation.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N–93–3629]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410,

telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: May 10, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application Requirements—PIH Youth Sports Program.
Office: Public and Indian Housing.
Description of the need for the information and its proposed use: This information collection will be used by Public Housing Agencies, Indian Housing Authorities, and nonprofit organizations to apply for grant funds to use in implementing a Youth Sports Program. HUD needs this information to approve or disapprove applications for funding under this program.
Form Number: None.
Respondents: State or Local Governments and Non-Profit Institutions.
Frequency of submission: On Occasion.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Application development	500		1		24		12,000

Total estimated burden hours: 12,000.
Status: Reinstatement.
Contact: Robin Prichard, HUD, (202) 708–1197, Angela Antonelli, OMB, (202) 395–6880.

Dated: May 10, 1993.

[FR Doc. 93–11906 Filed 5–19–93; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–93–3627]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The Proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C 3535(d).

Dated: May 7, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Vacancy Reduction Program Rule (FR–3398)
Office: Public and Indian Housing.
Description of the need for the information and its proposed use: The propose of the Vacancy Reduction Program is to provide insight assessment on reducing the vacancy rate in Public Housing Agencies (PHAs). If PHAs exceed twice the average vacancy rate of all agencies, they are required to formulate a plan on how they intend to reduce the vacancy rate. The Vacancy Reduction Plan will serve as the basis for an application for funding under the Vacancy Reduction Program.
Form number: None.
Respondents: State or local government.
Frequency of submission: Annually and Recordkeeping.
Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	50		1		Varies		4,200
Recordkeeping	50		1		2		100

Total estimated burden hours: 4,300.
Status: New.
Contact: Janice D. Rattley, HUD, (202) 708–1800, Angela Antonelli, OMB, (202) 395–6880.

Dated: May 7, 1993.

Proposal: Hope for Homeownership of Single Family Homes (HOPE 3) FR–2968.
Office: Community Planning and Development.
Description of the need for the information and its proposed use: The information collection is needed to assist HUD in selecting applicants to be awarded funds for: (Planning Grants) to establish or increase their capacity to apply for and carry out a HOPE 3 program; and (Implementation Grants) to provide homeownership opportunities to low-income homeowners under a HOPE 3 program. Grantees will be required to submit program and property information to HUD in order to receive grant funds.
Form number: SF–424, HUD–40086, 40102–A, 40102–B, 40103, 40104 and 40105.
Respondents: State or Local Governments and Non-Profit Institution.
Frequency of submission: On Occasion and Annually.
Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	300		1		40		12,000
Recordkeeping	351		1		84		29,491

Total estimated burden hours: 41,491.
Status: Reinstatement.
Contact: John Garrity, HUD, (202) 708–0324, Angela Antonelli, OMB, (202) 395–6880.

Dated: May 7, 1993.

Proposal: Evaluation of HUD Supportive Housing Programs for Persons with Disabilities.
Office: Policy Development and Research.
Description of the need for the information and its proposed use: This study will provide HUD with the first systematic evaluation of supportive housing programs for persons with disabilities developed under Section 202, 162, and 811 of the housing acts.
Form number: None.
Respondents: Individuals or Households, Businesses or Other For-Profit and Non-Profit Institutions.
Frequency of submission: One-Time.
Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Survey	3,647		1		0.36		1,331

Total estimated burden hours: 1,331.
Status: New.
Contact: Priscilla J. Prunella, (202) 708–3700, Angela Antonelli, OMB, (202) 395–6880.

Dated: May 7, 1993.

[FR Doc. 93–11907 Filed 5–19–93; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–93–3626]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar

with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 30, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Certifications and Representations of Bidders/Offerors General Conditions of the Contract for Non-Construction Public and Indian Housing.

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: This information collection is needed by Housing Authorities (HAs) to award non-construction contracts. The forms are used by HAs to provide awardees standard stipulations on proper bidding practices and non-construction clauses.

Form number: HUD–5369C and HUD–5370A.

Respondents: State or Local Governments.

Frequency of submission: On Occasion.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hour per response	=	Burden hours
Recordkeeping	5,000		1		.08		400

Total estimated burden hours: 400.

Status: New.

Contact: William C. Thorson, HUD, (202) 708–4703, Angela Antonelli, OMB, (202) 395–6880.

Dated April 30, 1993.

Proposal: Public Housing Management Assessment Program (PHMAP).

Office: Public and Indian Housing.

Description of the need for the information and its proposed use: This information collection is needed so that HUD can assess the performance of public housing agencies (PHAs) and identify any deficiencies. HUD uses the information to identify troubled and mod-troubled PHAs. The forms are submitted by PHAs so that HUD can monitor the progress of the PHAs in correcting the deficiencies.

Form number: HUD–53332, 53333, 53334, and 53335.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of submission: Annually and Quarterly.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hour per response	=	Burden hours
Memorandum of Agreement	60		16		13		12,480
Improvement Plan	50		16		4		3,200
Recordkeeping	110		1		1		110

Total estimated burden hours: 15,790.

Status: New.

Contact: Wanda Funk, HUD, (202) 708–0970, Angela Antonelli, OMB, (202) 395–6880.

Dated April 30, 1993.

[FR Doc. 93–11908 Filed 5–19–93; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–93–3625]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone

numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 23, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Submission of Proposed Information Collection to OMB

Proposal: Family Self-Sufficiency Program (FR–2961–I–02).
Office: Public and Indian Housing.
Description of the Need for the Information and Its Proposed Use: The Family Self-Sufficiency (FSS) Program is authorized under Section 554 of the Cranston-Gonzalez National Affordable Housing Act (PL 101–625). The purpose of the FSS program is to develop local strategies to coordinate the use of Public and Indian Housing development assistance and Section 8 rental assistance with support services provided by public and private resources to enable families to achieve economic independence and self-sufficiency.
Form Number: None.
Respondents: Individuals or Households and State or Local Government.
Frequency of Submission: On occasion.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	600		62		2.26		84,000

Total estimated burden hours: 84,000.
Status: New.
Contact: Gwen Carter, HUD, (202) 708–3887, Angela Antonelli, OMB, (202) 395–6880.

Dated: April 23, 1993.

[FR Doc. 93–11909 Filed 5–19–93; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–93–3624]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Office, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 20, 1993.

Kay Weaver,

Acting Director, IRM Policy and Management Division.

Proposal: Application for Property Appraisal and Commitment/Directive Endorsement Statement of Appraised Value.
Office: Housing.
Description of the Need for the Information and Its Proposed Use: Form HUD–92800 application is used by the mortgage lender to describe the property; parties involved in the sale and purchase of the property; the certifications and agreements concerning the mortgage transaction.
Form Number: HUD–92800.
Respondents: Individuals or households businesses or other for-profit, and small businesses or organizations.
Frequency of Submission: On occasion.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92800	1,100,000		1		.25		275,000

Total Estimated Burden Hours: 275,000.
Status: Reinstatement.
Contact: Larry D. Toler, HUD, (202) 708–2720, Angela Antonelli, OMB, (202) 395–6880.

Dated: April 20, 1993.

Proposal: 1993 Profile of Affordable Housing Providers.

Office: Policy Development and Research.

Description of the Need for the Information and Its Proposed Use: The information collection seeks to develop a reliable database of information about non-profit and other affordable housing providers for use in program planning, marketing programs, and the development of a current mailing list of affordable housing organizations.

Form Number: None.

Respondents: State or local Governments, businesses or other for-profit and non-profit institutions.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	10,000		1		.33		3,300
Recordkeeping	667		1		1		667

Total Estimated Burden Hours: 3,967.

Status: New.

Contact: Maxine Wallace, (202) 708–3226, Angela Antonelli, OMB, (202) 395–6880.

Dated: April 20, 1993.

Proposal: HUD Conditional Commitment/Direct Endorsement Statement of Appraised Value.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Form HUD–92800.5B is an uniform form used by HUD and HUD approved lenders. This form puts forth the value, terms and conditions of a property for mortgage insurance purposes. This form is mandatory for Housing Programs.

Form Number: HUD–92800.5B.

Respondents: Individuals or households businesses or other for-profit, and small businesses or organizations.

Frequency of Submission: On Occassion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92800.5B	1,100,000		1		Varies		128,333

Total Estimated Burden Hours: 128,333.

Status: New.

Contact: Larry D. Toler, HUD, (202) 708–2720, Angela Antonelli, OMB, (202) 395–6880.

Dated: April 20, 1993.

[FR Doc. 93–11910 Filed 5–19–93; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–5440–10–ZBBB]

Termination of Land Classifications Riverside County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of termination of land classifications.

SUMMARY: Bureau of Land Management (BLM) Orders of Classification CARI–604, dated July 18, 1967, and CARI–2607, dated August 26, 1970, which classified certain lands for lease pursuant to the Small Tract Act (Act of June 1, 1938; 52 Stat. 609, as amended) are hereby terminated in their entirety. The lands consist of two five acre parcels located within Section 34, T. 3 S., R. 14 E., SBBM. The subject lands affected by the termination of the classifications remain segregated from appropriation under the terms of the Notice of Realty Action published in the Federal Register on August 13, 1992, at page 36406, for a proposed land exchange.

FOR FURTHER INFORMATION CONTACT: Verla Harle, Realty Specialist, Palm Springs-South Coast Resource Area Office, 63–500 Garnet Avenue, North Palm Springs, California 92258, (telephone 619–251–0812).

Dated: May 10, 1993.

Henri R. Bisson,

District Manager.

[FR Doc. 93–11903 Filed 5–19–93; 8:45 am]
BILLING CODE 4310–40–M

[NM–010–4333–04/G910–G30041]

Albuquerque District, NM: Emergency Off-Road Vehicle Shooting Closure on Public Lands in Rio Arriba County, NM

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: (1) Emergency off-road vehicle designations in the Fun Valley Special Management Area two miles northeast of Española, New Mexico;

(2) A two-year closure to shooting on approximately 680 acres of public lands in the Arroyo Seco-La Puebla area and to off-road vehicle use on approximately 520 acres of the same lands;

(3) A two-year limited road designation allowing vehicle access by authorized users only on the La Mesita Mesa road near Dixon, New Mexico.

SUMMARY: (1) Off-road vehicles will be limited to existing roads and trails in the 19,200 acre Fun Valley Special Management Area, T. 21 N., R. 9 & 10 E. for a three month period beginning on the date of this notice. At the end of this period the area will be restricted to designated roads and trails until transportation planning is completed within the next two years. A recent inventory of the area revealed a large number of new trails and multiple trailing, compromising soil, vegetation, watershed, cultural, paleontological, and scenic resources in the area. The emergency restrictions are necessary to prevent any further degradation to these resources. Once transportation planning is completed with public involvement, those emergency designations will be replaced.

(2) An emergency closure to shooting on 680 acres and to motorized vehicles on 520 acres of public lands in the Arroyo Seco-La Puebla area in sections 7 and 8, T. 20 N., R. 9 E, NMPM will be effective on the date of this notice for a period of two years. Vehicle use off established roads and trails is causing serious damage to soils and vegetation, and may also be disturbing wildlife and unsurveyed cultural and paleontological sites. Off-road vehicle use is also causing serious conflicts with adjacent

property owners through noise and dust generated by vehicle activity. Shooting of firearms in the area has also led to increasing conflict with other recreation users and adjacent residents. Several incidents have occurred in the past year where shots have been fired toward houses or other unseen recreationists. Recognizing the need to provide lands for vehicle play in the vicinity, a smaller portion of public lands covering about 160 acres within this block, locally known as the Motocross area, will remain open to vehicle use on existing trails.

(3) The La Mesita road would be designated as limited to authorized vehicle access only.

The limitation applies to about 1½ miles of road crossing public land which extends southwest from New Mexico State Highway 75 in sections 19 and 30, T. 23 N., R. 9 E., NMPM. The limitation is necessary to protect erosion stabilization structures constructed on the road in 1992. The emergency closures/limitations will mitigate resource conflicts while allowing BLM to work with local residents and other public land users to work out a long-term resolution of the conflicts created by vehicle and/or firearm use in these areas. The affected areas will be signed at all key access points following publication of this notice.

These actions comply with regulations contained in 43 CFR 8364.1 (closure and restriction orders). Persons who violate the closures/limitations may be subject to fines of not more than $1,000 or imprisonment for not longer than 12 months, or both. Right-of-way holders or permittees may use established routes as part of their normal business.

Maps of the affected area are available for public inspection at the Bureau of Land Management's office in Santa Fe, 1474 Rodeo Road, and in Taos, 224 Cruz Alta Road.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: Terry Humphrey, Outdoor Recreation Planner, Taos Resource Area, 224 Cruz Alta Road, Taos, NM 87571. Phone (505) 758–8851.

Dated: May 10, 1993.

M.J. Chavez,

Associate District Manager.

[FR Doc. 93–11970 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–FB–M

[NV–010–4410–04]

Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability; Draft Environmental Impact Statement for Newmont Gold Company's South Operations Area Project.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior has prepared, by a third party contractor, a Draft Environmental Impact Statement (DEIS) on Newmont Gold Company's South Operations Area Project in Northeastern Nevada, and has made copies of the document available for public review.

The DEIS analyzes the potential environmental impacts that could result from expansion of an existing open pit mining operation and the alternatives to that project. The expansion would involve deepening the Gold Quarry Mine pit by 775 feet below the water table. Mining of the sulfidic ore below the water table would necessitate dewatering of the mine pit. The DEIS identifies potential impacts associated with the mine expansion through the: (a) Dewatering process, (b) extraction of ore from two new open pit mines, and (c) construction of ancillary facilities.

DATES: Written comments on the DEIS will be accepted until close of business on July 19, 1993. Public meetings for oral and written comments have been scheduled for the following dates, places, and times:

- June 23 in Elko, Nevada, at the Elko Convention Center at 700 Moren Way; 7 p.m.–9 p.m.
- June 24 in Reno, Nevada, at the Holiday Inn Downtown at 1000 E Sixth Street; 7 p.m.–9 p.m.

ADDRESSES: A copy of the DEIS can be obtained from: Bureau of Land Management, Elko District Office, ATTN: David Vandenberg, EIS Coordinator, P.O. Box 831, Elko, NV 89803.

The DEIS is available for inspection at the following locations: BLM State Office (Reno), Carson City, Ely, and Elko County Libraries, and the University of Nevada libraries in Reno and Las Vegas.

FOR FURTHER INFORMATION CONTACT: David Vandenberg, Planning and Environmental Coordinator, Elko District Office, P.O. Box 831, Elko, NV 89803, (702) 753–0200.

Dated: May 11, 1993.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93–11972 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–010–93–4320–01]

Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Arizona Strip District, Interior.

ACTION: Notice of grazing advisory board meeting.

SUMMARY: Tour of the Mount Trumbull Resource Conservation Area, inspection of the Ponderosa Tree Planting project, and ACECs will be the agenda. Kanab Creek, Marble Canyon and the proposed Navajo Bridge Renovation will also be toured.

DATES: The tour will begin at the Ramada Inn, located at 1440 E. St. George Blvd., St. George, Utah, at 8 a.m. on June 23, 1993, and will continue to June 24.

FOR FURTHER INFORMATION CONTACT: Roger Taylor, District Manager, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770. Telephone (801) 673–3545.

SUPPLEMENTARY INFORMATION: The tour is open to the public. Any person who would like to join the tour should provide their own vehicle.

Dated: May 11, 1993.

Raymond D. Mapston,

Acting Arizona Strip District Manager.

[FR Doc. 93–11901 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–32–M

[NM–030–3130–01; NMNM 82703]

Issuance of Exchange Conveyance Documents and Order Providing for Opening of Public Land in Catron County, NM; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: In notice document 93–6018 beginning on page 14420 in the **Federal Register** issue of Wednesday, March 17, 1993, make the following correction:

On page 14420, in the third column, first paragraph, line 5, "T. 8 S., R. 15 W., NMPM" should read "T. 8 S., R. 14 W., NMPM".

Dated: May 10, 1993.

Kathy Eaton,

Acting State Director.

[FR Doc. 93–11964 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–FB–M

[WY–040–03–3110–10–K004; WYW–122407]

Realty Action: Exchange; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of reality action, exchange of public lands, Sweetwater County, Wyoming.

SUMMARY: The BLM has prepared an environmental assessment and made a decision to allow the exchange of public lands for state land needed for wilderness designation. The following described public lands have been examined through the land use planning process and in accordance with the Big Sandy Management Framework Plan, were identified as suitable for exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Sixth Principal Meridian

T. 26 N., R. 98 W.,
Sec. 29, all (Surface and minerals);
Sec. 31, all (Surface and minerals).

The above described areas aggregate 1,286.12 acres, more or less.

In exchange, the United States proposes to acquire from the State of Wyoming lands described as:

T. 26 N., R. 99 W.,
Sec. 16, all (Minerals only);
Sec. 36, all (Surface and minerals).

The above described areas aggregate 1,280 acres, more or less.

FOR FURTHER INFORMATION CONTACT: Bill LeBarron, Green River Resource Area, Bureau of Land Management, 1993 Dewar Drive, Rock Springs, Wyoming 82901, 307–362–6422.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire 1,280 acres of State land located within the Honeycomb Buttes Wilderness Study Area (WSA) for wilderness designation. The Bureau of Land Management desires to improve public land management by consoliding ownership and eliminating isolated inholdings in the WSA. The value of the lands to be exchanged is approximately equal, and the acreage will be adjsuteted if necessary to equalize values upon completion of the final appraisal.

Lands to be transferred from the United States will be subject to:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States; Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. Oil and gas leases, Bureau of Land Management serial numbers WYW–122829, WYW–108831, WYW–117817, and WYW–120558.

3. On February 4, 1993, the Bar X Sheep Company, Erramouspe Brothers, Inc., Magagna Brother, White Acorn Sheep Company, and Blair and Hay Land and Livestock Company were given a 2-year notice of the planned disposal and proposed grazing reduction.

The planning document and environmental assessment covering the proposed exchange are available for review at the Bureau of Land Management, Rock Springs District Office. For a period of 45 days from the date this notice is published in the **Federal Register**, interested parties may submit comments on the exchange to the District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82901. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this proposed realty action will become final.

Dated: May 11, 1993.

William W. LeBarron,

Green River Resource Area Manager.

[FR Doc. 93–11911 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–22–M

[OR–020–03–4370–04; G3–223]

Restriction Order of Public Use for Certain Public Land

AGENCY: Bureau of Land Management Interior.

ACTION: Notice.

SUMMARY: The BLM will restrict public use, access, individuals, vehicles, and activities at the BLM Wild Horse Corrals and adjacent public land areas to only those given permission by the authorized officer representing Burns District, BLM. The legal description of the BLM Wild Horse Corrals and adjacent lands areas is found under **SUPPLEMENTARY INFORMATION** below. The roadway entrance gate on U.S. Highway 20 to the BLM Wild Horse Corrals will be clearly posted as either "OPEN" or "CLOSED" to the public. Restrictions will be in effect when the corral area is posted "CLOSED." The restrictions will include all public uses, access, individuals, vehicles, and activities.

EFFECTIVE DATE: May 20, 1993.

FOR FURTHER INFORMATION CONTACT: E. Ron Harding, Wild Horse Management Specialist, Bureau of Land Management, HC 74, 12533 Highway 20 West, Hines, Oregon 97738, telephone (503) 573–5241.

SUPPLEMENTARY INFORMATION: The location of the BLM Wild Horse Corral facility is described at T. 24 S., R. 30 E., Section 6 SW¼ and NW¼, S½ and NW¼, N½, S½, approximately 280 acres of public land.

The restrictions are established to protect wild horses being held in the corrals, government property, and for public safety. Wild horses can easily be excited by unfamiliar circumstances involving people and vehicles, are unpredictable, and could injure employees or the public. When BLM personnel are moving, feeding, or working with the wild horses, unauthorized persons could upset the horses or cause other problems. At times, wild horses generating very high public interest are held at the Wild Horse Corral and the resulting increased public activity must be controlled. There is also considerable government property used and stored at the Wild Horse Corrals which must be safe guarded.

The restrictions will be in effect year-round. Exempted from the restrictions are agency personnel, law enforcement personnel in the performance of their duties, public health, and livestock personnel in the performance of their duties and emergency personnel, such as fire, emergency medical services, and search and rescue, in the performance of their duties.

These restrictions will take effect immediately. Authority for this restriction order is contained in 43 CFR 8364.1. Penalties for violation of this order are contained in 43 CFR 8360.0–7.

Dated: May 10, 1993.

Donald R. Cain,

Associate District Manager.

[FR Doc. 93–11973 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–33–M

[MT–060–03–4210–04]

West HiLine Resource Management Plan Amendment; Liberty County, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the West HiLine Resource Management Plan will be amended by the Great Falls Resource Area, Great Falls, Montana. The Bureau of Land Management proposes exchanging 503.44 acres of Federal surface estate to the Pugsley Ranch for 113.17 acres of private land. The Public land is legally described as Lot 6, NW¼SE¼, NE¼SW¼, and SE¼NW¼ Section 4, Lots 4 and 6, NW¼NW¼, and SE¼ Section 10, NE¼NE¼, Section 23, T. 29 N., R. 5 E., NW¼SE¼ Section 19, T. 29 N., R. 6 E., P.M.M., Liberty County, Montana. The private land is legally described as Lot 2, Section 11, T. 29 N., R 5 E., Lots 4 and 10, Section 17, Lots 4, 7, and 10, Section 18, T. 29 N., R. 6 E., PMM., Liberty County, Montana. The Pugslev

Ranch will use the land for farming and grazing. The land acquired has recreation, wildlife and riparian values. Disposal and acquisition of these lands were not analyzed in the West HiLine Resource Management Plan (RMP) and associated Environmental Impact Statement. Disposal of Federal land requires that the specific tract be identified in the land use plan with the criteria to be met for exchange and discussion of how the criteria have been satisfied. This will be part of the plan amendment and environmental assessment. The Great Falls Resource Area, Lewistown District, Bureau of Land Management will prepare an environmental assessment to analyze the effects of disposal.

PUBLIC PARTICIPATION: Comments and recommendations on this notice to amend the West HiLine RMP should be received on or before 30 days from the date of this notice.

ADDRESSES: Comments should be sent to the Great Falls Resource Area, 812 14th. St. N., Great Falls, MT 59401.

FOR FURTHER INFORMATION CONTACT: Richard L. Hopkins, Area Manager, Great Falls Resource Area, 812 14th. St N., Great Falls, MT 59401, 406–727–0503.

Dated: May 13, 1993.

David L. Mari,

District Manager.

[FR Doc. 93–11974 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–01–M

[UT–040–03–4210–05]

Kanab/Escalante Management Framework Plan, etc, Garfield County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: This notice is to advise the public that the Bureau of Land Management (BLM) is proposing to do a plan amendment for the Cedar/Beaver/Garfield/Antimony (CBGA) Resource Management Plan (RMP) and the Kanab/Escalante Management Framework Plan (MFP) located in Garfield County, Utah.

DATES: The comment period for these proposed plan amendments will commence with publication of this notice. Comments must be submitted on or before June 21, 1993.

FOR FURTHER INFORMATION CONTACT: A.J. Martinez, Area Manager, Escalante Resource Area. P.O. Box 225, Escalante, Utah 84726. Existing planning documents and information are available at the above address or telephone (801) 826–4291. Comments on these proposed plan amendments should be sent to the above address.

SUPPLEMENTARY INFORMATION: The BLM is proposing to amend the CBGA RMP and the Kanab/Escalante MFP, which includes public lands in Garfield County, Utah. The proposed amendments would be to make certain public lands available for disposal pursuant to the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.) for local government entities in Garfield County for the purpose of developing a countywide collection system for the county landfill

The public land being considered for disposal, comprising 72.5 acres, is described as follows:

Salt Lake Meridian, Utah,

Township 31 South, Range 2 West,
Section 10, NW¼SE¼SE¼;
Township 33 South, Range 4 East,
Section 35, SW¼SW¼SW¼;
Township 35 South, Range 2 East,
Section 24, NE¼SE¼NE¼;
Township 35 South, Range 3 East,
Section 29, S½S½SW¼SW¼;
Township 37 South, Range 2 West,
Section 27, N½SE¼SE¼NE¼;
Township 37 South, Range 3 West,
Section 3, NW¼NE¼NW¼;
Township 37 South, Range 3 West,
Section SW¼NE¼SE¼, NE¼SE¼NE¼SE¼, W½NW¼NE¼SE¼.

The existing plans do not identify these lands as suitable for disposal. However, because of resource values, public values, and objective involved, the public interest may be well served by disposal of these lands to local government entities. An environmental assessment will be prepared to analyze the impacts of this proposal and alternatives.

A.J. Meredith,

Acting State Director.

[FR Doc. 93–11177 Filed 5–19–93; 8:45 am]

BILLING CODE 4310–DQ–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 1205–3]

Proposed Modifications to the Harmonized Tariff Schedule Pursuant to Section 1205 of the Omnibus Trade and Competitiveness Act of 1988

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

EFFECTIVE DATE: May 11, 1993.

FOR FURTHER INFORMATION, CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (telephone 202–205–2592) or David B. Beck (202–205–2604), U.S. International Trade Commission, Washington, DC 20436.

Background and Scope of Investigation

On May 11, 1993, the Commission instituted investigation No. 1205–3, Proposed Modifications to the Harmonized Tariff Schedule of the United States, pursuant to section 1205 of the Omnibus Trade and Competitiveness Act of 1988. Section 1205 directs the Commission to keep the Harmonized Tariff Schedule of the United States (HTS) under continuous review and to recommend modifications to the HTS (1) when amendments to the International Convention on the Harmonized Commodity Description and Coding System (Harmonized System) and the Protocol thereto, are recommended by the Customs Cooperation Council (CCC) for adoption, and (2) as other circumstances warrant.

The CCC is expected to recommend in July 1993 certain modifications to the nomenclature of the international Harmonized System, in accordance with Article 16 of the Harmonized System Convention. The changes proposed to conform the HTS with the CCC's recommendations and to reflect certain other decisions taken by the Harmonized System Committee (HSC) are available in the Office of the Secretary, Room 112, United States International Trade Commission, 500 E Street SW, Washington, DC 20436 (telephone 202–205–2000). These changes cover (1) all decisions taken by the HSC during its 4th through 10th sessions and (2) certain proposals that are subject to further consideration by the HSC at its 11th session. The 11th session was scheduled for the last 2 weeks in April 1993, with a followup in the first week in June 1993. Following the end of HSC's 11th session, a second notice will be issued indicating the final resolution of these latter questions and any additional decisions taken by the HSC at that time. If necessary, a second hearing may also be scheduled.

Public Hearing

A public hearing in connection with this investigation will be held in the Main Hearing Room (room 101) of the U.S. International Trade Commission, 500 E Street, SW., Washington, DC, on June 15, 1993, at 9:30 a.m. If necessary, the hearing may be extended through June 16, 1993. All persons shall have the right to appear by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the

Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, not later than noon, June 1, 1993. Written prehearing comments (original and 14 copies) should be filed not later than noon, June 8, 1993. Post-hearing comments may be submitted by no later than June 23, 1993.

Written Submissions

Interested parties (including other Federal agencies) are invited to submit written statements concerning the subject of the report. Such statements must be submitted by not later than June 23, 1993, in order to be considered by the Commission. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on 202–205–2648.

By order of the Commission.

Issued: May 14, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–11985 Filed 5–19–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 337–TA–342]

Initial Determination Terminating Respondents on the Basis of Settlement Agreement; Certain Circuit Board Testers

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Bath Scientific, Ltd. and BSL North America.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on parties on May 13, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone (202) 205–1802.

By order of the Commission.

Issued: May 13, 1993.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–11955 Filed 5–19–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation 337–TA–348]

Certain In-Line Roller Skates with Ventilated Boots and In-Line Roller Skates with Axle Aperture Plugs and Component Parts Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above captioned investigation terminating the following respondents on the basis of a settlement agreement: Canstar Sport U.S.A., Inc. and Canstar Sports Group, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon parties on May 11, 1993.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such documents must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either

accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone (202) 205–1802.

Issued: May 11, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–11956 Filed 5–19–93; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32287]

Onondaga County Industrial Development Agency; Acquisition and Operation Exemption Lines of Consolidated Rail Corporation

Onondaga County Industrial Development Agency (Onondaga), a non-carrier, has filed a notice of exemption to acquire and operate approximately 10 miles of rail line owned by Consolidated Rail Corporation (Conrail) in Onondaga County, NY. The involved Conrail line segments include: (1) The Jamesville Industrial Track from approximately milepost 264.3 to approximately milepost 272.0; (2) the Lake Industrial Track from approximately milepost 272.0 to approximately milepost 273.5 (including the Saltland Spur); and (3) and Track 7 of the Chicago line from approximately milepost 292.0 to approximately milepost 292.8.[1] The parties expected to consummate the proposed transaction on or after April 30, 1993.[2]

Any comments must be filed with the Commission and served on: Bruce A. Smith, Esq., Devorsetz, Stinziano, Gilberti & Smith, P.C., 500 Plum St., Bridgewater Place, Syracuse, NY 13204–1428.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions 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 automatically stay the transaction.

Decided: May 14, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–11981 Filed 5–19–93; 8:45 am]

BILLING CODE 7037–01–M

[1] Onondaga concurrently filed a notice of exemption in Finance Docket No. 32288, Consolidated Rail Corporation—Trackage Rights Exemption—Onondaga County Industrial Development Agency, which was served May 10, 1993, and published on May 11, 1993, at 58 FR 27747, wherein Onondaga grants Conrail the trackage rights to conduct exclusive freight operations on the involved property. Onondaga has retained the right to grant trackage rights for rail passenger operations over the property to a third party.

[2] Under the 49 CFR 1150.32(b), an exemption does not become effective until 7 days after the notice is filed. Here, applicant filed its verified notice of exemption on April 22, 1993. Accordingly, applicant amended its proposed time schedule for consummating the transaction from on or after April 28, 1993, to April 30, 1993.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Estate of William Hranica, et al.*, C.A. No. 93–0688 (W.D.Pa.) was lodged on May 5, 1993 with the United States District Court for the Western District of Pennsylvania.

The case arise out of the disposal and releases of hazardous substances at and from the Hranica Landfill Superfund Site, located in Butler County Pennsylvania. The consent decree requires that the owner of the Site, the Estate of William Hranica, grant access to the Site for purposes of conducting and monitoring response actions pursuant to the Comprehensive, Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9601, et seq. The decree also requires that deed restrictions be placed on the property to protect the response actions being undertaken and to prevent exposure to hazardous substances.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington DC 20530, and should refer to *United States* v. *Estate of William Hranica*, DOJ Ref. No. #90–11–3–1055.

The proposed consent decree may be examined at the office of the United States Attorney, 633 United States Post Office and Court House, 7th Avenue and Grant Street, Pittsburgh, PA 15219; the Region III Office of the Environmental Protection Agency, 815 Chestnut Building, Philadelphia, PA 19107; and at the Consent Decree Library, 1120 G. Street, NW., 4th Floor, Washington, DC 20005, (202–624–0892). A copy of the proposed decrees may also be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $17.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

John C. Cruden,

Chief Environmental and Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 93–11976 Filed 5–19–93; 8:45 am]

BILLING CODE 4410–01–M

Certification of the Attorney General; Scott County, MS

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments of the Constitution of the United States in Scott County, Mississippi. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: May 17, 1993.

Janet Reno,

Attorney General of the United States.

[FR Doc. 93–12053 Filed 5–18–93; 10:21 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Native American Programs' Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and section 401(h)(1) of the Job Training Partnership Act (JTPA), as amended (29 U.S.C. 1671 (h)(1)), notice is hereby given of a meeting of the JTPA Native American Programs' Advisory Committee.

Time and Date: The meeting will begin at 9 a.m. on June 3, 1993, and continue until close of business that day; and will reconvene at 9 a.m. on June 4, 1993, and adjourn at 12 noon that day. From 3 to 5 p.m.

on June 3 will be reserved for participation and presentations by members of the public.

Place: Empire Rooms 3 and 4, Sheraton Denver Tech Center, 4900 DTC Parkway, Denver, Colorado 80237.

Status: The meeting will be open to the public.

Matters To Be Considered: The agenda will focus on the focus on the following topics:

(1) Statutory requirements of the Job Training Reform Amendments of 1992 (Pub. L. 102–367); (2) Proposed revised regulations;

(3) Technical assistance;

(4) The Native American Employment and Training Council, and nominations for membership on the Council;

(5) The General Accounting Office review of JTPA section 401 programs; and

(6) The Indian Employment Training and Related Services Demonstration Act of 1992 (Pub. L. 102–477).

Contact Person for More Information: Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, United States Department of Labor, 200 Constitution Avenue, NW., room N–4641, Washington, DC 20210. Telephone: 202–219–5500 (this is not a toll-free number).

Signed at Washington, DC, this 14th day of May 1993.

Carolyn Golding,

Acting Assistant Secretary of Labor.

[FR Doc. 93–11980 Filed 5–19–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–044]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Aviation Safety Reporting System Subcommittee.

DATES: June 15, 1993, 8:30 a.m. to 5:30 p.m.

ADDRESSES: Air Line Pilots Association, Suite 804, 1625 Massachusetts Avenue NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Dr. William Reynard, Office of Aviation Safety Reporting System, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 415/969–3969.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:.

—Operations Overview
—Research Report
—Database Development
Make/Model Identification
International Activities

Dated: May 17, 1993.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–12016 Filed 5–19–93; 8:45 am]

BILLING CODE 7510–01–M

[Notice 93–045]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting on Propulsion

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Aeronautics Advisory Committee meeting on propulsion.

DATES: June 17, 1993, 8:30 a.m. to 5 p.m.; and June 18, 1993, 8:30 a.m. to 4 p.m.

ADDRESSES: National Aeronautics and Space Administration, Lewis Research Center, Conference Room 175, Sverdrup Building, 21000 Brookpark Road, Cleveland, OH 44135.

FOR FURTHER INFORMATION CONTACT: Mr. Neal Saunders, National Aeronautics and Space Administration, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135, 216/433–2965.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—NASA Aeronautics Program Overview
—Lewis Research Center Strategic Plan
—Propulsion Program Overview
—Lewis Research Center Discipline Research Program.

Dated: May 17, 1993.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93–12017 Filed 5–19–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Office for Public Partnership Advisory Panel (State and Regional Section) will be held on June 4, 1993 from 8:30 a.m.–5 p.m. in the Whitman Room at the Sheraton Bal Harbour Hotel, 9701 Collins Avenue, Miami, FL 33154.

This meeting will be open to the public on a space available basis. The topic will be overview of the State and Regional Program.

Any interested person may observe meetings, or portions thereof, which are open to the public, and may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5439.

Dated: May 17, 1993.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 93–11988 Filed 5–19–93; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications Research

Date and Time: June 7–9, 1993; 8:30 am to 5 pm

Place: Room 543, National Science Foundation, 1800 G Street, NW, Washington, DC 20550

Type of Meeting: Closed

Contact Person: Dr. Aubrey Bush, Networking and Communications Research

Program, National Science Foundation, Room 416, Washington, DC 20550 (202 357–9717)

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Networking and Communications Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals.

These matters are exempt under 5 U.S.C. 552 b. (c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 17, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11953 Filed 5–19–93; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Physics; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis in Physics.

Date: June 7–10, 1993.

Place: Board Room, Millikan Library, California Institute of Technology, 1201 E. California Boulevard, Pasadena, California.

Type of Meeting: Part Open.

Contact Person: Dr. David Berley, Project Manager, Laser Interferometer Gravitational Observatory, Physics Division, Room 341, National Science Foundation, 1800 G Street, NW., Washington, DC 20550. Telephone: (202) 357–9575.

Purpose of Meeting: To review and provide advice and recommendations concerning major technical systems of the Laser Interferometer Gravitational-Wave Observatory (LIGO) project.

Agenda: Closed sessions: June 7, 1993 8:30 a.m.–10:00 a.m.; 5:00 p.m.–6:00 p.m.; June 8–10, 1993 8:30 a.m.–5:00 p.m.

To review and evaluate the major technical systems for the LIGO project including management, development plans, costs and construction.

Open Session:

June 7, 1993 10:00 a.m.–5:00 p.m.

Presentations of the LIGO design concept, science and technical systems.

Reason for Closing: The Project plans being reviewed include information of a proprietary or confidential nature, including technical information; information on personnel and proprietary data for present and future subcontracts. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 17, 1993.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93–11952 Filed 5–19–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Appointments to Performance Review Boards for Senior Executive Service

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Boards for Senior Executive Service.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has announced the following appointments to NRC Performance Review Boards.

The following individuals are appointed as members of the NRC Performance Review Board (PRB) responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives:

New Appointees:

Karen D. Cyr, Associate General Counsel, Office of the General Counsel.

John C. Hoyle, Assistant Secretary, Office of the Secretary.

James L. Milhoan, Regional Administrator, Region IV.

In addition to the above new appointments, the following members are continuing on the PRB:

Guy A. Arlotto, Deputy Director, Office of Nuclear Material Safety and Safeguards.

Jesse L. Funches, Deputy Controller, Office of the Controller.

Francis P. Gillespie, Director, Program Management, Policy Development & Analysis Staff, Office of Nuclear Reactor Regulation.

Clemens J. Heltemes, Jr., Deputy Director, Generic Issues & Rulemaking, Office of Nuclear Regulatory Research.

James Lieberman, Director, Office of Enforcement.

Martin Malsch, Deputy General Counsel for Licensing and Regulation, Office of General Counsel.

James G. Partlow, Associate Director for Projects, Office of Nuclear Reactor Regulation.

Luis A. Reyes, Deputy Administrator, Region II.

The following individuals will continue to serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

William C. Parler, General Counsel.

James H. Sniezek, Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research, Office of the Executive Director for Operations.

Hugh L. Thompson, Jr., Deputy Executive Director for Nuclear Materials Safety, Safeguards and Operations Support, Office of the Executive Director for Operations.

All appointments are made pursuant to Section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: May 13, 1993.

FOR FURTHER INFORMATION CONTACT: James M. Taylor, Chairman, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 504–1700.

Dated at Rockville, Maryland, this 13th day of May 1993.

For the U.S. Nuclear Regulatory Commission.

James M. Taylor,

Chairman, Executive Resources Board.

[FR Doc. 93–11990 Filed 5–19–93; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

Before Commissioners: George W. Haley, Chairman; John W. Crutcher; W. H. "Trey" LeBlanc, III; H. Edward Quick, Jr.; Wayne A. Schley.

In the Matter of: Lille, Maine 04749 (Mark J. Gendreau, *et al.*, Petitioners): Docket No. A93–16.

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. § 404(b)(5)

Issued May 14, 1993.

Docket Number: A93–16.

Name of Affected Post Office: Lille, Maine 04749.

Name(s) of Petitioner(s): Mark J. Gendreau and others.

Type of Determination: Closing.

Date of Filing of Appeal Papers: May 3, 1993.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. § 404(b)(2)(C)).
2. Effect on the community (39 U.S.C. § 404(b)(2)(A)).
3. Economic savings (39 U.S.C. § 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or,

conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. § 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before May 18, 1993.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

May 3, 1993—Filing of Petition
May 14, 1993—Notice and Order of Filing of Appeal
May 28, 1993—Last day of filing of petitions to intervene [*see* 39 C.F.R. § 3001.111(b)]
June 7, 1993—Petitioners' Participant Statement or Initial Brief [*see* 39 C.F.R. § 3001.115(a) and (b)]
June 28, 1993—Postal Service Answering Brief [*see* 39 C.F.R. § 3001.115(c)]
July 13, 1993—Petitioners' Reply Brief should Petitioners choose to file one [*see* 39 C.F.R. § 3001.115(d)]
July 20, 1993—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [*see* 39 C.F.R. § 3001.116]
August 31, 1993—Expiration of 120-day decisional schedule [*see* 39 U.S.C. § 404(b)(5)]

[FR Doc. 93–11962 Filed 5–19–93; 8:45 am]
BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32300; File No. SR–MSTC–90–08]

Self-Regulatory Organizations; Midwest Securities Trust Company; Order Approving a Proposed Rule Change Implementing a Pilot Program for Same-Day Funds Settlement Service

May 12, 1993.

On October 29, 1990, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–MSTC–90–08) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to implement a pilot program for a Same-Day Funds Settlement ("SDFS") service. Notice of the proposal was published in the **Federal Register** on November 30, 1990.[2] No comment letters were received.

I. Description

A. SDFS System

MSTC's proposed rule change establishes a pilot program for an SDFS service which provides depository and settlement services for certain securities that settle in same-day funds.[3] MSTC will process SDFS transactions separately from transactions in its next-day funds settlement ("NDFS") service.[4] Because this is a pilot program, the number of participants in the SDFS program is limited to five and the number of transactions that may be processed for those participants is limited to an average of seventy-five per day in aggregate calculated on a monthly basis.[5] Future expansion is dependent, among other things, upon MSTC's operational capabilities.[6]

Under the proposed SDFS service, MSTC will provide a full range of depository services for SDFS securities[7] including such services as acceptance of deposits for safekeeping and the processing of deliver and withdrawal orders, pledges, Institutional Delivery ("ID") system trade confirmation/affirmations, and underwriting distributions. Participants will provide SDFS instructions directly to MSTC via telecopier transmissions. MSTC will transmit SDFS transactions to DTC where MSTC will maintain an omnibus account. MSTC will act as an intermediary between its own participants and DTC's SDFS program, and MSTC solely will be accountable to DTC for the omnibus account. MSTC will have the same obligations and limitations, such as a DTC SDFS fund deposit requirement, net debit cap limitation, etc., that all other DTC SDFS service participants have. MSTC will submit SDFS data to DTA through DTC's Participant Terminal System. Net money settlement will occur directly between MSTC and its participants,[8] and MSTC will settle with DTC on a net basis through the Federal Reserve System's Fedwire.[9]

The fundamental risk in the SDFS system is that of a failure of an SDFS participant to settle with MSTC. As described below, MSTC has built risk management controls into the SDFS system to keep the failure to settle risk within manageable limits. The controls include: (1) collateralization, (2) SDFS fund, (3) net debit caps, (4) receiver-authorized deliveries,[10] (5) net and net-net settlement, and (6) resales and credit reductions.[11]

Under the proposed rule change, MSTC will require each participant to maintain sufficient collateral on all SDFS transactions to cover the participant's projected settlement obligations.[12] On each transaction, MSTC will "haircut" (*i.e.*, discount the value) SDFS securities received into a

[1] 15 U.S.C. 78 (b)(1) (1988).

[2] Securities Exchange Act Release No. 28626 (November 19, 1990), 55 FR 49726.

[3] "Same-day funds" refers to payment in funds that are available on payment date and generally are transferred by electronic means.

[4] "Next-day funds" refers to payment by means of certified checks passing between the clearing corporation and its members.

[5] For calculation purposes, a transaction is a securities delivery made to or from a participant's MSTC SDFS account whether free or against payment and whether between two MSTC participants or between an MSTC participant and a Depository Trust Company ("DTC") participant. Letter from Gerard J. Nick, Vice President, Federal Reserve Bank ("FRB ") of Chicago, to Robert J. McGrail, Executive Vice President and Chief Operating Officer, MSTC (April 6, 1993) [hereinafter "Gerard J. Nick Letter"].

[6] It will be necessary for MSTC to file an additional rule change proposal under section 19(b)(2) of the Act before expanding the pilot program.

[7] Current SDFS-eligible securities include: (1) Municipal notes, (2) zero-coupon bonds (CATS, TIGR's, etc.), (3) municipal variable-rate bonds with short-notice demand options ("VRDOS"), (4) medium-term notes, (5) negotiable certificates of deposit, (6) collateralized mortgage obligations ("CMOs") and other asset-backed securities, (7) auction-rate and tender-rate preferred stock and notes, (8) Government trust certificates, (9) Government agency securities not eligible for the Federal Reserve System's book-entry system, and (10) commercial paper.

[8] At a later stage in the pilot, MSTC may require participants to settle with a SDFS bank participant ("settling bank") and have the settling bank settle payment obligations on the participants' behalf with MSTC. The settling bank will be required to have on-line access to MSTC and Fedwire.

[9] MSTC's SDFS participants settle on a net basis with MSTC, and correspondingly, MSTC settles on a net-net basis with DTC. Telephone conversation between Larry A. Mallinger, Compliance Officer, MSTC, and Peter R. Geraghty, Attorney, Division of Market Regulation, Commission (February 24, 1993).

[10] SDFS securities will not be credited to a receiving participant's account until the receiving participant confirms and approves the delivery. This control correspondingly will prevent the receiving participant's account from being charged (*i.e.*, debited) for erroneous SDFS securities deliveries. Telephone conversation between Larry A. Malinger and Peter R. Geraghty, *supra* note 9.

[11] MSTC will resell securities delivered to a defaulting participant or reduce on a pro rata basis the credits of participants delivering to a defaulting participant.

[12] Deliveries to a participant are generally self-collateralizing because under SDFS rules clearing free additions of SDFS securities which are the subject of deliveries versus payment from another participant can be pledged as collateral.

participant's account to help protect against expected market movements. A receiving participant must have sufficient collateral to cover the difference between the value paid for the SDFS securities and their discounted value. Before MSTC will process a participant's instructions and submit them to DTC, MSTC will verify that: (1) the participant will have sufficient collateral in its account after the transaction is accepted to cover any projected net settlement; (2) the participant on the other side of the transaction ("contra-participant") will have sufficient collateral in its account immediately after the transaction to cover any projected debit balance; and (3) both the participant and the contra-participant will not have a resulting net debit settlement amount that exceeds their respective net debit caps, as described below.[13] MSTC will track continuously on a real time, on-line basis the value of each participant's collateral to ensure that it is equal to or greater than the participant's current net settlement debit. If a participant does not have sufficient collateral to cover the resulting net settlement debit from a proposed transaction, it may pledge more collateral to enable MSTC to act on the transaction instructions. However, MSTC reserves the right to limit transactions, in its sole discretion, if it determines that it does not have the operational capability to process such transactions or that the transactions might result in financial loss to participants generally or to MSTC.

Acceptable forms of collateral include: (1) the participant's mandatory deposits of cash and U.S. government securities to the MSTC SDFS fund; (2) the participant's voluntary deposits[14] to the MSTC SDFS fund; (3) U.S. government securities in the participant's SDFS account at the beginning of the processing day which are classified as collateral by the participant; (4) net additions of U.S. government securities to the participant's SDFS account during the processing day which are the subject of delivery versus payment transactions from other participants and which are reflected as incomplete transactions;[15] (5) net additions to the participant's account during the processing day from unvalued transactions[16] in SDFS securities which are not classified as customer U.S. government securities by the participant; and (6) net additions of customer U.S. government securities which are classified as collateral by the participant during the processing day.

MSTC will add a new component, the SDFS fund, to its participants fund to protect against risks associated with handling SDFS securities and related transactions. Each participant in the SDFS service must make required deposits, consisting of cash and securities,[17] into the SDFS fund. The minimum SDFS fund deposit is $20,000 in cash.[18] MSTC will calculate required deposits monthly based upon a formula of 5% of each participant's average daily gross SDFS debits and credits during the prior month. Qualifying brokers' brokers required deposits will be based on 2% of average daily gross SDFS debits for the prior month. Subject to any restrictions MSTC may impose, a participant may also make voluntary deposits into the SDFS fund to increase its collateral.

MSTC will impose a net debit cap on each SDFS participant. Each SDFS participant will be limited throughout the processing day to a net debit that is no higher than the lesser of: (1) fifteen times the participant's actual deposits to the SDFS Participant Fund;[19] (2) a percentage, currently set at 75%, of MSTC's $3 million line of credit; (3) an amount, if any, determined by the settling bank of the participant's or (4) any other amount as determined by MSTC. When a participant exceeds its net debit cap, further transactions in that participant's account are prohibited. A participant may make a settlement progress payment ("SPP")[20] to reduce the amount of its net debit to allow additional transactions to be processed. Money settlement will occur daily through Fedwire transfers to and from MSTC's account at the FRB of Chicago.

During the processing day via telecopier transmission, MSTC will provide each participant with a report of its net credit or debit positions. At the end of the processing day, MSTC will provide each participant with a net settlement amount, which is the net of the end-of-the-day debits and credits in the participant's account. If at the end of the processing day the participant has a net settlement debit, it must pay that amount no later than 3 p.m. c.s.t. by Fedwire transfer to MSTC's account at the FRB of Chicago. MSTC will pay each participant with a net settlement credit through similar means (*i.e.*, Fedwire) at approximately 4 p.m. c.s.t.

The proposed rule change provides specific steps MSTC would take if an SDFS participant fails to pay a net debit balance. First, MSTC would use the defaulting participant's mandatory and voluntary cash contributions to the SDFS fund.[21] Second, MSTC would pledge to lenders the defaulting participant's securities deposits to the SDFS fund for a loan to apply to the default. Third, MSTC would pledge to lenders other collateral of the defaulting participant including securities

[13] MSTC first will verify that a participant's transaction will not cause the participant to exceed its net debit cap at MSTC and then will verify that the transaction will not cause MSTC to exceed its net debit cap at DTC. An MSTC's participant's net debit cap is the lesser of fifteen times the participant's SDFS Participant Fund deposit or an amount determined by MSTC from time to time. MSTC's net debit cap is forty times its SDFS Participants Fund deposit at DTC.

[14] Participant's deposits to the Participants Fund in excess of the minimum cash contributions may be either:

(1) cash;

(2) unmatured negotiable debt securities which are direct obligations guaranteed as to principal and interest by the United States Government and which mature one year or less from the date of issue; or

(3) irrevocable letters of credit issued by an approved bank or trust company which contain the unqualified commitment of the issuer to pay a specified sum of money to MSTC immediately upon demand at any time prior to expiration of the letter of credit.

MSTC Rules Art. VI, Rule 2, Sec. 1(a).

[15] An "incomplete transaction" is a delivery of securities by one participant to another participant which: (1) has been effected by delivery of the securities to MSTC; (2) has not yet been redelivered to the receiver or transferred, withdrawn, or pledged pursuant to the receiver's instructions; and (3) has increased positions in the account of MSTC but not in the account of the receiver. MSTC Rules Art. I, Rule 1.

[16] "Unvalued transactions" are transactions that are not subject to delivery versus payment (*i.e.*, free deliveries). Telephone conversation between Larry A. Mallinger, Compliance Officer, MSTC, and Peter R. Geraghty, Attorney, Division of Market Regulation, Commission (March 19, 1993).

[17] The securities deposited must be securities which are direct obligations guaranteed as to principal and interest by the United States Government and which mature one year or less from the date of issue. MSTC Rules Art. VI, Rule 2, Section 1(a).

[18] Required deposits in excess of the minimum deposit may be made in cash or securities of the same type that qualify for deposit in the NDFS system fund (e.g., U.S. government securities).

[19] Given the more conservative net debit cap of fifteen times SDFS Participant Fund contribution at MSTC as opposed to forty times SDFS Participant Fund contribution at DTC, MSTC may retain a portion of SDFS Participant Fund contributions at MSTC. MSTC can use such retained contributions on a same day basis for liquidity purposes in the event of a participant's default. SDFS Participant Fund contributions at DTC would not be similarly available. MSTC has established a line of credit to assure access to needed liquidity on a same day basis. This line of credit is designed to loan cash at 100% of pledged securities value thereby lessening the need for access to SDFS Participant Fund contributions on a same day basis. Letter from Lou Klobuchar, Jr., Senior Vice President Planning & Development, MSTC, to Jeff Stehm, Assistant Director, Division of Payment and System Risk, Board of Governors of the Federal Reserve System (February 24, 1993).

[20] A participant will wire the SPP directly to DTC's MSTC SDFS account at the Federal Reserve Bank of New York.

[21] For a discussion of funds available as a result of the different net debit cap requirements of the MSTC and DTC SDFS systems, refer to note 19.

classified as net additions.[22] MSTC may change the proceeding sequence in its sole discretion.

If the foregoing procedures are insufficient to cover the default, MSTC would be authorized to take the following emergency steps. To the extent possible, MSTC would reduce on a pro rata basis net credits of participants who delivered SDFS securities to the defaulting participant on the day of default.[23] Those reductions would be limited to the amount of the net credit balance of each participant resulting from transactions with the defaulting participant. As an alternative, MSTC also may resell to delivering participants SDFS securities that those participants sold to the defaulting participant on the day of default. Finally, if the preceding step did not cover the default or if MSTC cannot reduce credits or resell securities to any participants that delivered SDFS securities to the defaulting participant, MSTC would be authorized to make on an emergency basis (1) net credit reductions on a pro rata basis for all SDFS participants with net credit balances including those participants that did not make deliveries to the defaulting participant or (2) pledge or resell any or all net additions of such defaulting participant even though initially converted to effective transactions.[24] Any loans obtained from the use of the participant's securities will be secured by the pledge of the incoming securities of the defaulting participant where payment has not been received for such defaulting participant.[25]

If the defaulting participant is solvent and pays its debit balance in same-day funds by 9 a.m. c.s.t. on the day after the default, MSTC generally would reverse the procedures followed on the day of default. MSTC would repay lenders and restore pledged securities. MSTC also would repay with interest any participants whose net credits had been reduced. MSTC would collect appropriate interest charges from the defaulting participant and is authorized to assess failure-to-settle fees against the defaulting participant.

If the defaulting participant does not cure the default, the proposed rule change is designed to initially allocate any loss to participants that made deliveries to the defaulting participant, particularly in the case where deliveries are made by nondefaulting MSTC participants. However, MSTC, in its discretion, may allocate losses to all SDFS participants including those that did not initiate deliveries to the defaulting participant. If it is necessary for MSTC to assess on an emergency basis all SDFS participants with net credit balances on the day of default, MSTC would repay those participants that did not make deliveries versus payment to the defaulting participant and assess on a pro rata basis those participants that had made deliveries to the defaulting participant. As a last resort, MSTC would assess on a pro rate basis all SDFS participants.[26]

The proposed rule change also provides that MSTC may elect to make good a loss from: (1) the mandatory SDFS fund deposits[27] and, if necessary, voluntary SDFS contributions[28] of nondefaulting participants, (2) MSTC's contingency reserve fund, or (3) MSTC's existing undivided profits and retained earnings.

If the defaulting participant also is a settling bank, MSTC would first follow the procedures outlined above. In addition, MSTC would be authorized to recover an interest loss on a pro rata basis from participants represented by the defaulting settling bank and who had net credit balances on the day of the default. Participants with net debit balances represented by the settling bank would remain obligated only to the extent of the settling bank's net-net debit.

B. Commercial Paper Program

The proposed rule change also will implement procedures for processing commercial paper ("CP") through the SDFS pilot program. Under the proposed rule change SDFS-eligible CP issues will be issued electronically by the issuer's issuing agent bank and will be distributed through DTC in book-entry-only ("BEO") form. The master CP certificate will be held through DTC by the issuer's paying agent who will act as the custodian for MSTC participants.

Because SDFS-eligible CP is BEO and its issuances are initiated electronically, MSTC's usual participant operating procedures for deposits, withdrawals, and underwriting distributions do not apply to CP. Because CP settles on the same day it is issued, traded, or used in a financing transaction (typically, a repurchase agreement), user operating procedures for ID system confirmations of CP trades will apply for recordkeeping purposes, but ID procedures for affirmations and settlement will not apply to CP.

As is the case in the general SDFS program, MSTC will offer the CP program to a limited number of depository participants on a pilot basis and transactions in the CP program are limited to MSTC's operational capabilities.[29] Collateralization requires a participant to have in its account, at all times during the processing day, collateral at least equal in value to the participant's net settlement debit.[30] The majority of CP transactions use as collateral the securities delivered against payment by other participants that created the net settlement debit. Additional protection is provided by general SDPS failure-to-settle procedures under which MSTC may, among other things, return to delivering participants securities not paid for by the defaulting receiving participant.

The collateralization control assumes that the market values of collateral securities will not suddenly and drastically decline. The failure-to-settle procedures assume that securities returned to delivering participants will not have market values so far below their settlement values that the deliverers in turn fail to settle with MSTC. These assumptions are not valid when a failure to settle is caused by a CP issuer's bankruptcy. On a day of heavy issuance, maturity activity, or sales from the dealer's inventory in the issuer's CP, bankruptcy would cause the issuer's CP collateralizing SDFS net settlement debits to instantly become

[22] "Net additions" include transactions added to a participant's account during the business day.

[23] MSTC's ability to reduce the net credits of a delivering participant is limited because MSTC only can reduce the net credits of the five MSTC participants participating in the SDFS service. If a deliverer is a DTC participant and not one of the five MSTC participants, MSTC will have to fulfill its payment obligation to the deliverer through DTC.

[24] "Effective transactions" are transactions that have already been processed in the SDFS system (*i.e.*, transactions that did not cause the participant to exceed its collateralization or net debit cap). Telephone conversation between Larry A. Mallinger and Peter R. Geraghty, *supra* note 16.

[25] For a discussion of funds available as a result of the different net debit cap requirements of the MSTC and DTC SDFS systems, refer to note 19.

[26] The Board of Governors of the Federal Reserve System has reviewed the MSTC proposal and does not raise any objections thereto based on MSTC's agreement to certain undertakings including clarifying its failure to settle and loss allocation process within the SDFS system. Gerard J. Nick Letter.

[27] The term "deposit" means the mandatory minimum amount of cash and securities the participant must maintain in the SDFS fund. Telephone conversation between Larry A. Mallinger and Peter R. Geraghty, *supra* note 16.

[28] The term "contribution" means any amount of cash and securities the participant maintains in the SDFS fund above its minimum requirement. Telephone conversation between Larry A. Mallinger and Peter R. Geraghty, *supra* note 16.

[29] The CP Program is a component of the SDFS system. Therefore, the five participants in the pilot CP program are the same five participants in the pilot SDFS system, and the limit of seventy-five SDFS transactions includes CP transactions.

[30] This collateralization requirement is no different from the collateralization requirement for other SDFS transactions.

worthless and could cause one or more participants to fail to settle with MSTC. These are unique risks of a CP program to MSTC.

MSTC seeks to insulate itself against these risks in order to avoid losses to itself, its participants in the CP program, and other participants that do not use the CP program by: (1) making only highly-raised [31] SDFS-eligible, (2) admitting only well-capitalized CP dealers, issuing agents, and paying agents to the SDFS system and/or requiring quarantees from their capitalized, corporate parents,[32] (3) allocating a representative portion of the SDFS fund to establish a CP component of the SDFS fund, (4) devaluing to zero all of an issuer's CP in MSTC's system promptly after learning of the potential or actual downgrading of that issuer's CP below the rating for MSTC eligibility, the refusal of the issuer's paying agent to pay maturity proceeds, or the issuer's bankruptcy, (5) prohibiting "free" transactions in CP received versus payment until settlement is completed,[33] (6) on the day of an issuer's default, providing for borrowing from participants that initiated deliveries of a defaulting issuer's CP to a participant who fails to settle with MSTC on the day of the issuer's default, and providing, in an emergency situation, for borrowing from all other SDFS participants even though they did not initiate deliveries of that issuer's CP to the failing participant, and (7) applying a 2% haircut to the market value of CP when calculating its value as collateral.

C. NDFS System

The primary purpose of the proposed revisions to MSTC's rules is to provide for the SDFS system and CP program. Additionally, certain revisions are intended to clarify the following MSTC procedures relating to a participant's failure to settle in MSTC's NDFS system. These revisions include: (1) MSTC's ability to accept as a pledge to the participants fund securities delivered to a receiving participant for which the receiving participant is unable to pay; (2) MSTC's ability to return securities to the delivering participant although MSTC does not cease to act for the receiving participant (i.e., does not terminate the MSTC/participant relationship); and (3) MSTC's ability, where necessary, to return to a delivering participant less than the entire amount of securities for which the receiving participant did not pay and to credit the delivering participant's settlement account only for the securities returned.

II. Discussion

A. Background

Section 17A(a)(1) of the Act sets forth Congress' findings that inefficient procedures for clearance and settlement of securities transactions impose unnecessary cost on investors and persons facilitating transactions by and acting on behalf of investors and that prompt and accurate clearance and settlement is necessary for the protection of such investors and persons facilitating transactions by and on their behalf.[34] Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[35]

1. SDFS System

The MSTC system is modeled after DTC's current SDFS system which the Commission approved in 1987.[36] MSTC will operate the SDFS system through an omnibus account maintained at DTC. Consequently, MSTC will have the same obligations and limitations, such as a DTC SDFS fund deposit requirement and net debit cap limitation, that all other DTC SDFS service participants have. MSTC's proposal is designed to centralized and automate settlements of transactions in SDFS securities through book-entry settlement procedures.

The Commission believes the safeguards proposed in the SDFS system (*e.g.* collateralization, net debit caps, SDFS fund, receiver-authorized deliveries, net and net-net settlement, and resales and credit reductions) will help protect participants and MSTC in the event a participant should fail to meet its settlement obligation to MSTC . The safeguards will operate independently but will function as an interdependent set of controls that will help ensure the safety of the proposed SDFS system.

Before a participant's instructions are processed, MSTC will review the participant's collateralization and net debit caps. Specifically, MSTC will check that the participant and contraparticipant will have sufficient collateral in their respective accounts after the transaction is processed to cover any projected net settlement debit and that the participants do not exceed their net debit caps. If there is insufficient collateralization or if either participant's net debit cap will be exceeded, the transaction will not be processed. However, the deficient participant may pledge additional collateral to collateralize sufficiently the transaction or may wire funds to reduce its outstanding debit balance so that the proposed transaction will not exceed its net debit cap.[37] MSTC will also track continuously on a real time, on-line basis with DTC the value of the collateral pledge. The Commission believes this will help ensure that MSTC will have the most current information regarding the value of a participant's collateral when deciding whether to accept or reject a participant's instructions. The Commission additionally believes the proposed net debit cap will help ensure that SDFS transactions do not place participants in a position that could result in a failure to settle.

As previously described the SDFS system and the NDFS system will be processed separately, and MSTC will create a separate SDFS fund. The Commission believes that establishing a separate SDFS fund is a prudent measure that will help ensure that any losses resulting from SDFS system are limited primarily to SDFS participants.[38]

2. Loss Recovery Measures

The Commission believes the measures MSTC will employ in the event that a participant fails to settle will help reduce the losses to MSTC and participants delivering to the defaulting

[31] Under the pilot program, all CP will be held at DTC. Therefore, MSTC's eligibility criteria for CP will be the same as DTC's. For a detailed explanation of the eligibility criteria, refer to Securities Exchange Act Release No. 30986 (July 31, 1992), 57 FR 35856 (order permanently approving DTC's CP program).

[32] CP dealers and agents will not be direct participants of MSTC during the pilot stage of MSTC's CP program.

[33] The best way to understand free transactions is through an example. A sells CP to buyer B. Before B settles with A, B sells to C (usually on an intraday basis). MSTC will prevent this practice by requiring a participant such as B to settle with A before selling to C. Telephone conversation between Larry Mallinger and Peter R. Geraghty, supra note 9.

[34] 15 U.S.C. 78q–1(a)(1).

[35] 15 U.S.C. 78q–1(b)(3)(F).

[36] Securities Exchange Act Release No. 26051 (August 31, 1988), 53 FR 34853 (order permanently approving DTC's SDFS system).

[37] Transactions that would exceed the participant's collateralization or net debit cap are recycled. The recycled transactions will be processed automatically when sufficient collateral is pledge or funds are wired to decrease the participant's net debit. However, MSTC, in its sole discretion, may limit or reject any transaction if MSTC believes that it does not have the capability to process the transaction or that the transaction might result in financial loss to MSTC or its participants.

[38] At the election of MSTC, losses may also be satisfied out of MSTC's contingency reserve fund or existing undivided profits and retained earnings. MSTC Rules Article VI, Rule 2, Section 4.

participant. As set forth above, before assessing any other participants, MSTC will attempt to satisfy losses from the defaulting participant's assets. MSTC will apply the defaulting participant's cash contributions to the SDFS fund and/or will pledge the defaulting participant's securities deposited to the SDFS fund or other deposited collateral to lenders to secure loans to be applied to the default. If these measures are insufficient, MSTC, if possible, will reduce on a pro rata basis the credits of participants delivering to the defaulting participant or resell securities delivered to the defaulting participant.[39] Only if the preceding measures are insufficient would MSTC allocate the loss to nondelivering SDFS participants with net credit positions. At its discretion, MSTC also may charge the mandatory SDFS and voluntary SDFS contributions to SDFS fund of nondefaulting participants, MSTC's clearing member contingency reserve funds, or MSTC's existing undivided profits and retained earnings. As a result of MSTC's net debit cap being more conservative than DTC's net debit cap, MSTC will have SDFS fund contributions available on a same day basis for liquidity purposes.[40] MSTC's plan and procedures for loss recovery further enhance MSTC's ability to meet its statutory obligation under section 17A(b)(3)(A)[41] of the Act to safeguard securities and funds in its custody or control or for which it is responsible.[42]

3. Commercial Paper Program

As an additional component of the SDFS system, MSTC will offer a CP program. MSTC's safeguards with respect to its CP program are modeled after and take advantage of the safeguards built into the DTC SDFS service and CP program.

Because the CP program is a component of the larger SDFS system, the same safety measures and requirements that are placed on SDFS transactions are placed on CP transactions (*e.g.*, collateralization, SDFS fund, net debit caps, receiver-authorized deliveries, net and net-net settlement, and resales and credit reductions). However, as set forth above, there are risks unique to the CP market and CP program that require additional controls. The Commission believes that the risk reduction measures that MSTC has built into the CP program to address the risks unique to CP adequately addresses such risks. For example, by making only highly-rated CP eligible for the program, MSTC reduces the potential risk of loss caused by an issuer's insolvency.[43] Creation of a separate CP component of the SDFS fund should help limit the CP risks to the participants in the CP program. Devaluing to zero an issuer's CP if, for example, the CP rating falls below the CP program's eligibility standards should better enable MSTC and CP participants to accurately assess the potential losses involved and to take the measures necessary to address the situation.

The Commission is approving MSTC's SDFS program on a pilot basis. The number of participants in the SDFS program is limited to five and the number of transactions that can be processed for those participants is limited to an average of seventy-five per day in aggregate calculated on a monthly basis. Before expanding the program beyond the pilot stage, MSTC will be required to file with the Commission an additional rule change proposal under section 19(b)(2) of the Act and will be required to receive approval of the Federal Reserve Board.

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirement of the Act and in particular with the requirements of section 17A of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act[44] that the proposed rule change (File No. SR–MSTC–90–08) be and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[45]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–11939 Filed 5–19–93; 8:45 am]

BILLING CODE 8010–01–M

[39] For a discussion of MSTC's ability to reduce credits, refer to note 23.

[40] For a discussion of funds available as a result of the different net debit cap requirements of the MSTC and DTC SDFS systems, refer to note 19.

[41] 15 U.S.C. 78q–1(b)(3)(A)

[42] In response to questions posed by the Federal Reserve Board about MSTC's SDFS proposal (File No. SR–MSTC–90–08), MSTC has clarified certain aspects of their loss recovery procedures. See Letter from Lou Klobuchar, Jr., to Jeff Stehm (February 24, 1993) *Supra* note 19.

[43] MSTC's eligibility requirements for CP issuers attempt to limit the program to financially secure issuers thereby decreasing the possibility that an issuer admitted to the CP program will become insolvent.

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

[Release No. 34–32308; File No. SR–NASD–93–29]

Self-Regulatory Organizations; Filing of Proposed Rule Change by National Association of Securities Dealers, Inc.

May 14, 1993.

In the Matter of Self—Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. to Section 5(e) of appendix F to Article III, Section 34 of the Rules of Fair Practice to Increase From $50 to $100 Per Year the Aggregate Value of Non-Cash Sales Incentive Items Allowed to be Paid by a Sponsor or Affiliate of a Sponsor of Direct Participation Programs or Rollups of Direct Participation Programs to Any Person Associated With an NASD Member.

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 May 4, 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 new language is italicized; proposed deletions are in brackets.

Rules of Fair Practice

* * * * *

Direct Participation Programs

Sec. 34

* * * * *

Appendix F

* * * * *

(e) No member or person associated with a member shall directly or indirectly accept any non-cash compensation or sales incentive item including but not limited to, travel bonuses, prizes, and awards offered or provided to such member or its associated persons by any sponsor, affiliate of a sponsor or program. Notwithstanding the foregoing, a member may provide non-cash compensation or sales incentive items to its associated persons provided that no sponsor, affiliate of a sponsor or program, including specifically an affiliate of the member, directly or indirectly participates in or contributes to providing such non-cash

compensation. Further, this section shall not prohibit a person associated with a member from accepting any non-cash sales incentive item offered directly to that person by a sponsor, affiliate of a sponsor or program where:

(1) The aggregate value of all such items paid by any sponsor or affiliate of a sponsor to each associated person during any year does not exceed [$50.00] *$100.00;*

(2) The value of all such items to be made available in connection with an offering is included as compensation to be received in connection with the offering for purposes of subsection (b) of this section; and

(3) The proposed payment or transfer of all such items is disclosed in the prospectus or similar offering document.

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

The SEC recently reviewed and approved the NASD rule filing SR–NASD–92–40 that amends Section 10(a) to Article III of the NASD Rules of Fair Practice to increase from $50 to $100 the annual value of certain non-cash payments that a member or person associated with a member may give to employees of another person.[1] The SEC is also reviewing a proposed rule change contained in SR–NASD–92–36 [2] to amend sections 26 and 29 to Article III of the Rules of Fair Practice relating to disclosure and record-keeping requirements applicable to cash and non-cash compensation received in connection with the sale of investment company shares and insurance company variable contracts.Provisions contained in SR–NASD–92–36 would allow an offeror, in connection with the sale of mutual fund shares and variable contracts, to provide gifts to associated persons, with the approval of the member, that do not exceed an annual amount fixed by the NASD Board, which amount currently is $100. Such gifts to associated persons would also not be required to be disclosed in the mutual fund or variable contract prospectus provided they are not conditioned on the sales or the promise of sales.

In connection with the SEC staff's review of SR–NASD–92–40 and SR–NASD–92–36, the NASD agreed to review the applicability of a similar dollar limit on the receipt of non-cash items contained in section 5(e)(1) of appendix F to Article III, section 34 of the Rules of Fair Practice which appendix relates to NASD member participation in the public offering of a direct participation program ("DPPs") or the rollup of a DPP. Section 5(e)(1) currently limits the aggregate value of non-cash sales incentives to $50 per year allowed to be paid by any sponsor or afffiliate of a sponsor of a DPP or DPP rollup to a person associated with a member. Upon review, the NASD believes that increasing the aggregate value on such non-cash sales incentives in Appendix F to $100 is appropriate as it would provide a consistent standard under NASD rules regarding limitations on the receipt of non-cash items. The NASD, therefore, proposes that section 5(e)(1) of appendix F to Article III, section 34 of the Rules of Fair Practice be amended to increase to $100 per year the aggregate value of non-cash sales incentive items allowed to be paid by a sponsor or affiliate of a sponsor to any person associated with an NASD member.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act [3] which requires that the Association adopt and amend its rules to promote just and equitable principles of trade, foster cooperation and coordination with regulators, and in general to protect investors and the public interest in that the proposed rule change is designed to uniformly regulate the non-cash compensation paid to persons associated with members in connection with the sales in a public offering in a direct participation program or a rollup of a direct participation program. Section 5(e)(1) of appendix F to Article III, section 34 of the rules of Fair Practice currently limits the aggregate value of non-cash sales incentives to $50 per year allowed to be paid by any sponsor or afffiliate of a sponsor of a DPP or DPP rollup to a person associated with a member. Increasing the aggregate value of such non-cash sales incentives to $100 is appropriate as it would provide a consistent standard regarding limitations on the receipt of non-cash items contained in appendix F and in similar provisions the SEC has approved in SR–NASD–92–40 and is reviewing in SR–NASD–92–36. Providing such consistency promotes just and equitable principles of trade, fosters cooperation and coordination with regulators, and protects 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-regulator 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

[1] Securities Exchange Act Release No. 31662 (December 28, 1992), 58 FR 370 (January 5, 1993).

[2] SR–NASD–92–36 was published for comment in Securities Exchange Act Release No. 31778 (January 27, 1993), 58 FR 7019 (February 3, 1993).

[3] 15 U.S.C. § 78*o*–3

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 June 10, 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. 93–11989 Filed 5–19–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Stanley Aviation, Inc.; d/b/a SKY-JET AIRLINES

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 93–5–21, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Stanley Aviation, Inc. d/b/a SKY-JET Airlines fit, willing, and able to provide commuter air service under section 419(e) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P–56, Department of Transportation, 400 Seventh Street, SW., room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than May 28, 1993.

FOR FURTHER INFORMATION CONTACT: Carol Woods, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2340.

Dated: May 13, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–11905 Filed 5–19–93; 8:45 am]

BILLING CODE 4910–62–M

Federal Highway Administration

Analysis of Federal and State Privacy Laws and Development of Safeguards to Protect Privacy

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice inviting grant applications.

SUMMARY: The Federal Highway Administration, U.S. Department of Transportation, hereby announces its interest in receiving applications for a legal research grant in support of the Intelligent Vehicle Highway System (IVHS) Program. The product of the research shall be a symposium on the application of privacy law to IVHS technologies and development of methods to safeguard personal privacy. This announcement contains instructions for submitting an application.

DATES: The closing date for submission of applications under this announcement is July 19, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Sowa, Office of Contracts and Procurement, HCP–41, (202) 366–4221; or Julie Dingle, Office of Chief Counsel, HCC–32, (202) 366–1394; Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: To obtain a copy of the grant and certifications, send in a request citing the grant number with two self-addressed labels.

Background

The aim of the IVHS program is to apply advanced technology in the areas of communications, navigation, and information systems to provide solutions to traffic congestion problems and, at the same time, improve highway safety and reduce the harm from automobile traffic to the environment. IVHS embodies a wide array of technologies, applied to five functional areas:

Advanced Traffic Management Systems (ATMS) provide the real-time means for transportation operators to effectively monitor traffic conditions and communicate to drivers, quickly adjust traffic operations, and effectively respond to incidents. Equipping vehicles with an automated identification device, which can provide for automated fare collection, for example, is also part of the ATMS technology.

Specific services provided by ATMS could include: (1) Incident detection and management through surveillance, which may involve loop detectors and video cameras with a Traffic Management Center (TMC) responding through information dissemination, diversion plans, recommendations to motorists, or specialized fleet management strategies to aid emergency vehicles; (2) demand management which includes information dissemination to aid in trip planning and encourage travel during non-peak periods; (3) traffic network monitoring whereby the TMC uses sensors and predictive models to locate disturbances in the traffic flow; (4) traffic control including strategies such as adaptive signal control, raising or lowering lane use restrictions, access control and information dissemination to respond to traffic patterns as they occur; (5) parking management which may be used for dynamic pricing or roadside parking, by providing in-vehicle information about availability and accessibility of parking facilities; (6) construction management which includes coordination of construction activities to minimize effects on traffic flows, informing motorists of planned activities and diverting traffic to alternative roadways; and (7) electronic toll collection to identify the vehicle and debit the appropriate amount from a pre-paid account, debit card or other billing arrangement.

Advanced Traveler Information Systems (ATIS) let drivers know their location and how to find desired destinations and services. ATIS permit communication between travelers and ATMS centers for continuous advice regarding traffic conditions and alternate routes.

Information could be in the form of a pre-trip advisory or an en-route advisory and could be received by the traveler at home or work via telephone lines, computer lines, television or radio, at bus stops or kiosks or invehicle through computer lines, car radio or cellular telephone. Specific traveler information services could include: (1) Traveler advisories of traffic or weather conditions; (2) traveler service information regarding businesses, services and parking availability; (3) trip planning information regarding such items as transit schedules and fares, travel times and maps; (4) location determination and display showing the vehicle's current position based on land-based satellite radio trilateration, dead-reckoning, and/or map matching; (5) route selection involving calculation of a best route of travel based on origin and destination and other information provided by the traveler; (6) route guidance based on information entered

by the traveler and taking the form of street diagrams and turn arrows; and (7) in-vehicle signing communicating information such as recommended speeds and notification of upcoming curves.

Commercial Vehicle Operations (CVO) expedite deliveries, improve operational efficiency, improve incident response, and increase safety. CVO makes use of ATIS features critical to commercial and emergency vehicles.

Services to increase the efficiency of CVO operations may include: (1) Intermodal transportation planning through improved information about network conditions and vehicle and cargo status; (2) route planning and scheduling; (3) hazardous material monitoring and tracking; (4) vehicle and cargo monitoring; (5) law enforcement, by aiding in the retrieval of lost and stolen fleet vehicles; and (6) regulatory support by using electronic technology to reduce stops for toll collection and weighing and by automating record-keeping for regulatory enforcement purposes.

Advanced Vehicle Control Systems (AVCS) are vehicle- and/or roadway-based electro-mechanical devices that enhance the control of vehicles by facilitating and augmenting driver performance and, ultimately, relieving the driver of most tasks on designated, instrumented roadways. AVCS technologies under development include automated headway and steering control; driver warning and assist systems (such as collision-avoidance); and the automated highway system.

Driver assisted vehicle control may include: (1) Adaptive cruise control using sensors to allow the vehicle to follow at a safe distance the vehicle in front of it; (2) autonomous vehicle control which would assume control of the vehicle and maintain its safe operation on the roadway; (3) collision alert warning; (4) collision avoidance control which would temporarily control the vehicle and take evasive action; (5) driver condition and performance which would monitor the operator's condition to detect possible impairment or drowsiness and provide warnings to the driver, such as a lane departure warning; (6) intersection hazard warning to detect potential incidents as a vehicle approaches an intersection and provide warnings; (7) vision enhancement through developing imaging techniques to enhance night vision or to assist drivers who are mildly vision-impaired; and (8) vehicle condition and performance monitoring to warn the driver about snow conditions, loss of traction, restricted roadways or other special roadway conditions for which the vehicle or its equipment may be inappropriate.

An automated highway system (AHS) may provide: (1) Automated check-in to ensure that the vehicle is equipped to operate on the AHS; (2) automated check-out to ensure that driver control has been assumed; (3) lateral control to maintain the vehicle's lateral position in the lane; (4) longitudinal control to maintain the vehicle's position relative to other vehicles in the same lane; (5) malfunction control to develop strategies to minimize the number and severity of collisions that occur as a result of malfunctions; and (6) traffic regulation to monitor and adjust the flow of traffic on the AHS.

Advanced Public Transportation Systems (APTS) work in conjunction with ATMS to provide mass transportation users and operators (e.g., buses, vanpools, high-occupancy vehicle (HOV) lanes, carpools, taxi cabs) with up-to-date information on the status, schedules, and availability of public transit systems. The technology can be used to improve the efficiency and safety of emergency vehicle systems.

Services provided through public transport and emergency vehicle management systems may include: (1) Planning and scheduling systems; (2) signal preemption traffic control; (3) automatic fare payment and flexible fares; (4) dynamic ride sharing by matching travelers to drivers; (5) prediction of arrivals to improve planning and user confidence in transit and emergency vehicle systems; and (6) emergency services system management including routing of vehicles through improved information on roadway conditions and fleet location.

A variety of public and private sector entities are involved in the development and deployment of IVHS systems. The Intelligent Vehicle-Highway Systems Act of 1991, Public Law 102–240, title VI, part B, 105 Stat. 2189, directs the Secretary of Transportation to conduct a program to research, develop, and operationally test IVHS and promote implementation of such systems as a component of the nation's surface transportation systems. The FHWA has been designated the lead agency for the Department of Transportation's (DOT) program. The Office of the Secretary, the National Highway Traffic Safety Administration (NHTSA), the Federal Transit Administration (FTA), and the Research and Special Programs Administration (RSPA) also play key roles within DOT. State and local governments are principally responsible for building, operating, and maintaining surface transportation systems and managing traffic, usually with Federal financial assistance. The private sector will develop the technology and market the IVHS products and services. The Intelligent Vehicle Highway Society of America (IVHS AMERICA) is a nonprofit educational and scientific association whose members include the transportation, communications, and electronics industries, government agencies and academic institutions. It provides a forum for the coordination of public and private sector IVHS activities and it serves as a Federal advisory committee to DOT.

Most funding for IVHS will be derived from the private sector in the development of IVHS products. Government funds will be expended for the necessary infrastructure and to support long-range research and development and operational tests of systems. Federal funding for the FY 1993 IVHS program totals approximately $155 million. Funding is expected to continue at this level or increase through FY 97. Additional IVHS funds have been appropriated for FTA and NHTSA.

Successful implementation of IVHS requires resolution of challenging technical issues. In addition, difficult legal and institutional issues must be addressed. One of the key legal issues which has been identified is that of information privacy and security.

Privacy interests can be threatened by technology. Information in the era of computers is highly transportable and difficult to restrict to use for its original purpose. Computer technology facilitates the collection of personal data. Data that would not previously have been collected or retained may now be entered into computer systems and stored, thereby becoming available to data collectors. This becomes even more of an issue as information collected by one organization is traded to other data networks. While technological advances open up many new possibilities, opportunities for inappropriate, unauthorized or illegal access to and use of personal information have also expanded. Computer hackers and others can gain unauthorized access to databases and networks and manipulate or destroy records.

Privacy problems with data collection may also be created when parties other than the one designated can receive the information and when information collected for one purpose is used subsequently for another. Also, the information may be inaccurate, incomplete or outdated. While these concerns have always existed about

information in any form, technological advances have exacerbated them. Virtually unlimited amounts of information can be stored, retrieved with expediency, cross-matched with other computer files and transmitted virtually anywhere instantaneously. The possibilities for threats to privacy from communication technologies are emphasized in several recent reports by Congress' Office of Technology Assessment. (OTA, Science, Technology and the First Amendment (1988), OTA, Electronic Record Systems and Individual Privacy (1986), OTA, Computer-Based National Information Systems: Technology and Public Policy Issues (1981).

IVHS is a developing technology application which has privacy implications. The activity of driving a vehicle is a very public behavior and not one which involves an expectation of privacy. Observation of vehicles and drivers, even when enhanced with devices such as video cameras, does not generally violate any enforceable legal right to privacy. Nevertheless, the ability to compile information about an individual's driving behavior, travel patterns, toll payments, and other activity, creates the potential for a database which has not previously existed in an easily accessible format.

Information obtained from ATMS technologies, automatic vehicle identification devices, or ATIS databases may be sought for purposes other than the limited purpose of operating the IVHS systems. For example, new technologies may enable law enforcement officials to collect individualized motorist data from video imaging or other technologies. Automatic vehicle identification devices could transmit information on vehicle location to a variety of public or private entities, or such transmissions could be intercepted. The data contained in the in-vehicle navigation computer could also be of interest or commercial value to certain persons. Issues of privacy and data security, if not adequately addressed, could inhibit consumer acceptance of IVHS technologies.

The Federal Highway Administration is interested in sponsoring research in support of the development of policies and guidelines for the implementation of IVHS technology as it concerns privacy and data security. The research should be directed toward balancing the rights of the individuals to control information about themselves with the legitimate need for accurate information by government and by private enterprise.

Objectives: The specific objectives of this grant are as follows:

1. To conduct research and present a symposium or symposia at which papers on the application of privacy and data security laws to IVHS will be presented.

2. To develop general principles and/or safeguards for Governments, manufacturers, operators and other participants in IVHS technology to protect personal information.

3. To publish the symposium papers and guidelines for personal information protection in an academic journal.

Eligibility Requirements: Only American Bar Association (ABA) approved law schools are eligible to apply under this announcement. Consortia of approved law schools may apply. Applications which do not meet the eligibility requirements will not be accepted or included in the review process.

Award Period: A grant will be awarded to the successful applicant for a project period of one year.

Award Amount: It is anticipated that a single award will be made as a result of this notice; however, FHWA reserves the right to make multiple awards for the effort described in this notice depending upon the relative merit of the applications received and the amount of Federal funding available. Currently, $200,000 is available for award under this notice.

Application Procedure: Each applicant must submit one original and two copies of their application package to: Office of Contracts and Procurement. Applications are due no later than 60 days after the publication of this announcement in the **Federal Register**. The applicant shall specifically identify any information in the application which is to be treated as proprietary.

Application Contents: The application package must be submitted with a Standard Form 424, Application for Federal Assistance, which shall include the certified assurances, and provide a program narrative statement which addresses the following:

1. A description of the research to be pursued which addresses:

a. The objectives, goals and anticipated outcomes of the proposed research effort;

b. The method or methods that will be used.

2. The proposed project director and other key personnel identified for participation in the proposed research effort, including a description of their qualifications and their respective organizational responsibilities.

3. A description of the applicant's previous experience or on-going research that is relevant to this proposed research effort.

4. A detailed schedule and budget for the proposed research effort, including any cost-sharing contribution proposed by the applicant as well as any additional financial commitments made by other sources.

5. A statement of any technical assistance which the applicant may require of FHWA in order to successfully complete the proposed project.

Evaluation Criteria: Proposals will be evaluated based upon the following technical factors:

1. The applicant's understanding of the purpose and unique problems represented by the research objectives of this grant as evidenced in the description of the applicant's proposed research effort, including the proposed approach, planned methodology and anticipated results.

2. The potential of the proposed research effort accomplishments to make a timely and significant contribution to the IVHS program.

3. The adequacy of the organizational and management plan for accomplishing the proposed research effort, including the qualifications and experience of the research team, the disciplines represented, and the relative level of effort proposed for professional, technical and support staff.

In addition to the above technical evaluation criteria, each proposal shall be evaluated for cost-effectiveness of the proposed research effort. The applicant must provide a sound and fully justified budget. The proposed costs must be complete, appropriate and reasonable to the activities of the project. All costs should be justified in the budget narrative or with other supporting documentation.

Terms and Conditions of the Award: The grant awarded as a result of this notice shall be subject to FHWA's general provisions for grants, OMB Circular A–110, and the cost principles of OMB Circular A–21. Attendance at the symposium/symposia funded by the grant awarded as a result of this notice shall be open to the public, subject to available space. A registration fee to cover expenses may be charged for attendance. Any registration fee shall be waived for employees of the U.S. Department of Transportation.

Reporting Requirements: The recipient shall submit quarterly progress reports which shall be due 15 days after the reporting period and a copy of the symposium/symposia proceedings within 45 days after completion of the symposium/symposia.

References: The following references are provided as an assistance to applicants researching the IVHS

program. This is not a complete list of IVHS references.

1. Intelligent Vehicle Highway Systems Act of 1991, Public Law 102–240, title VI, part B, 105 Stat. 2189 (December 18, 1991).

2. General Accounting Office Report to the Senate Appropriations Committee, *SMART HIGHWAYS: An Assessment of Their Potential to Improve Travel* (GAO/PEMD–91–18, May 1991), available from U.S. GAO, P.O. Box 6015, Gaithersburg, MD 20877, (202) 275–6241.

3. *Strategic Plan for Intelligent Vehicle Highway Systems in the United States*, available from IVHS AMERICA, 1776 Massachusetts Ave., NW., Suite 500, Washington, DC 20036, (202) 857–1202.

4. Roos, D. and Klein, H. *Advanced Vehicle and Highway Technologies*, Transportation Research Board Special Report 232 (1991). Available from TRB, 2101 Constitution Avenue, NW., Washington, DC 20418.

5. Rothberg, P. *Intelligent Vehicle Highway Systems: Challenges, Constraints, and Federal Programs*, Congressional Research Service, Library of Congress (1992). Available from CRS, Library of Congress, Washington, DC 20540.

6. Chen, K. & Stafford, F. *A Sociotechnological Perspective On Public-Private Partnership for IVHS Infrastructures*, University of Michigan IVHS Technical Report #92–01 (1992).

7. Department of Transportation, *IVHS Strategic Plan—Report to Congress*, available from FHWA (HTV–10), 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2196.

(23 U.S.C. 307; 23 U.S.C. 315; 49 CFR 148, Public L. 102–240, title VI, part B, 105 Stat. 2189, 2195)

Issued on: May 7, 1993.

E. Dean Carlson,

Executive Director.

[FR Doc. 93–11943 Filed 5–19–93; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 14, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0055.

Form Number: CF 3229.

Type of Review: Reinstatement.

Title: Certificate of Origin.

Description: This certificate is required to determine whether an importer is entitled to duty-free for goods which are the growth or product of a U.S. insular possession and which contain foreign materials representing no more than 70% of the goods total value.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 10.

Estimated Burden Hours Per Respondent: 18.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 113 hours.

OMB Number: 1515–0134.

Form Number: None.

Type of Review: Extension.

Title: Bonded Warehouses—Alterations, Suspensions, Relocations and Discontinuance.

Description: The proprietor of a bonded warehouse may wish to alter, relocate, temporarily suspend all or part of bonded space, or discontinue the bonded status of the warehouse. The district director may approve these changes upon receipt of a writer application by the proprietor.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 110.

Estimated Burden Hours Per Respondent: 1 hour, 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 193 hours.

Clearance Officer: Ralph Meyer (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.

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. 93–11991 Filed 5–19–93; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

May 14, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0070.

Form Number: IRS Form 2350.

Type of Review: Extension.

Title: Application for Extension of Time to File U.S. Income Tax Return.

Description: Form 2350 is used to request an extension of time to file in order to meet the bona fide residence or physical presence tests required to gain the benefits permitted under section 911. The information furnished is used to determine if the extension should be granted.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 22,594.

ESTIMATED BURDEN HOURS PER RESPONDENT

	Minutes
Recordkeeping	13
Learning about the law or the form	8
Preparing the form	20
Copying, assembling, and sending the form to the IRS	14

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 20,786 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Malo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Department Reports Management Officer

[FR Doc. 93–11992 Filed 5–19–93; 8:45 am]

Billing Code 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

May 14, 1993.

The Department of Treasury has made revisions and resubmitted 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—0134.
Form Number: IRS Form 1128.
Type of Review: Resubmission.
Title: Application to Adopt, Change, or Retain a Tax Year.
Description: Form 1128 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, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents/Recordkeepers: 20,000.

ESTIMATED BURDEN HOURS PER RESPONDENT/RECORDKEEPER

	Form 1128 parts I and II	Form 1128 parts I and III
Recordkeeping	9 hrs., 20 min	14 hrs., 7 min.
Learning about the law or the form	2 hrs., 47 min	4 hrs., 4 min.
Preparing and sending the form to the IRS	3 hrs., 4 min	4 hrs., 29 min.

Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 363,440 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 93–11993 Filed 5–19–93; 8:45 am]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Reporting and Information Collection Requirements Under OMB Review

AGENCY: United States Information Agency.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the Agency has made such a submission. The information collection activity involved with this program is conducted pursuant to the mandate given to the United States Information Agency under the terms and conditions of the multilateral Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character, Public Law 89–634. USIA is requesting approval for a three-year extension to an information collection entitled "Application for Certificate of International Educational Character," under OMB Control Number 3116–0007. Estimated burden hours per response is twenty-five (25) minutes. Respondents will be required to respond only one time.

DATES: Comments are due on or before June 21, 1993.

COPIES: Copies of the Request for Clearance (SF–83), supporting statement, transmittal letter and other documents submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments on the items listed should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer, Ms. Debbie Knox, United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547, telephone (202) 619–5503; and OMB review: Mr. Jeffery Hill, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone (202) 395–7340.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information (Paper Work Reduction Project: OMB No. 3116–0007) is estimated to average 25 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other apsect of this collection of information, including suggestions for reducing this burden to the United States Information Agency, M/ADD, 301 Fourth Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Application for Certificate of International Educational Character.

Form Number: IAP–17.

Abstract: This information collection is used to certify the international character of visual and auditory materials (motion pictures, videotapes, recordings, sound recordings, filmstrips, slides, maps, charts, posters, models, etc.) for producers and distributors who have an interest in exporting their materials abroad in accordance with the provisions of Public Law 89–634 and E.O. 11311.

Proposed Frequency of Responses:
Number of Respondents—2000
Recordkeeping Hours—0
Total Annual Burden—834

Dated: May 13, 1993.

Rose Royal,

Federal Register Liaison.

[FR Doc. 93–12004 Filed 5–19–93; 8:45 am]

BILLING CODE 8230–01–M

Democracy in Africa Program

AGENCY: United States Information Agency.

ACTION: Notice—request for proposals.

SUMMARY: The Office of Academic Programs (E/A) announces a competitive cooperating private institution grant program for post-secondary institutions to contribute to mutual understanding between the United States and Africa and to support the growth of economic reform and democratization in Ethiopia, Madagascar, Tanzania and Uganda. The institutional agreement is for a period of two years. Interested applicants are urged to read the complete **Federal Register** announcement before addressing inquiries to the Office or submitting their proposals.

DATES: Deadline for proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on July 22, 1993. Faxed documents will not be accepted, nor will documents postmarked on July 22, 1993 but received at a later date. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. Grant activity should begin by September 1993.

ADDRESSES: The original and *14* copies of the completed proposal application, including required forms, should be submitted by the deadline to: U.S. Information Agency, REF: Democracy in Africa Program/AEA, Office of Grants Management (E/XE), Room 336, 301 4th St., SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Interested institutions should contact Nancy Searles, Branch Chief, or Ellen Berelson, Deputy Branch Chief, Africa Branch, Office of Academic Programs, room 232, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, telephone: 202–619–5355 to request detailed application packets, which include award criteria, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION:

Overview

The Office of Academic Programs of the U.S. Information Agency (USIA) announces a program to promote scholarly exchange and innovative, published research on the relationship between economic reform and the growth of democracy in Ethiopia, Madagascar, Tanzania and Uganda. The establishment of a collaborative relationship between an eligible American institution and three African counterpart institutions in Ethiopia, Tanzania and Uganda, will foster that goal.

Eligibility

In both the U.S. and the African countries, participation in the program is open to post-secondary colleges and universities, including university-affiliated research institutes, and consortia of institutions of higher education with recognized expertise in the subject area addressed. African government officials may participate through the African partner institutions but governmental offices may not be partners in a grant agreement.

Participants traveling under support of the U.S. Information Agency must be U.S. citizens (representing the U.S. partner) and African citizens of the countries participating in the program (representing the African partner).

The U.S. institution should be prepared to exchange faculty and scholars for short-term planning, consultative and research assignments, workshops, and to receive visiting scholars from the participating African institutions. The U.S. institution is responsible for submission of the proposal after collaborating with the African partner institutions in planning and proposal preparation.

An academic institution in Uganda should be selected as the principal African partner for this program and provide the site for the regional workshop. The U.S. institution should engage a local coordinator in Uganda to facilitate project activities. While developing this multi-country project, serious thought must be given to political and organizational implications.

Guidelines

The main program component is a fellowship competition for junior African faculty to develop research proposals on economic reform and democratization in their countries. These proposals will be reviewed by an academic panel of senior American and African scholars, created for this purpose by the participating universities. Scholars with the best-ranked proposals will be invited to attend a one-week intensive workshop in Uganda on research methodology and design, and to discuss issues of economic reform and democratization in Africa.

At the conclusion of the workshop, the academic review panel will select a small number of scholars to receive fellowships to develop their proposals over a specified period of time, at least six to eight months. At the end of this period for research, the scholars will submit their conclusions to the academic panel for review and recommendation for publication.

Selected finalists will participate in a short-term study program in the U.S. for at least one month to prepare their research for publication. The finalists will also attend lectures and seminars on the theme. Arrangements will be made to publish and distribute the research results in the scholars' home countries upon return to Africa, and to provide educational materials to the participating African universities.

Special Note

The main focus of the project should be the support of innovative research which provides pragmatic solutions to the problems of economic reform and democratization in an African context, and the widespread dissemination of the published results to government officials and others who could most benefit by it. The research should produce viable strategies on how to make democracy and economic growth work together in each of the participating countries. While the project will contribute to the expansion of the research capabilities of the African partners through the provision of research opportunities and educational materials, the emphasis should be on making the research readily available to officials and leaders in the public and private sectors.

Programmatic Considerations

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

African partner institutions should provide cost-sharing or significant in-kind contributions such as local housing, transportation and workshop space, and assist in defraying costs for the research competition and publication of research results.

USIA is interested in multi-phase programs. A typical program model should consist of: A planning visit by the American institution; a research competition; an in-country workshop led by American experts on research design and methodology; research activities by the African scholars in Africa; a short-term study program in the U.S. for selected African scholars; and follow-up consultation visits by the U.S. partner to oversee publication and dissemination of research results.

Other Program Considerations

Consultation with the U.S. Information Service (USIS) staff in Ethiopia, Madagascar, Tanzania and Uganda in developing a proposal is encouraged. They are aware of developments in their country of assignment and can serve as a source of advice and suggestions. Madagascar will participate in the project through the U.S. Information Service Post in Antananarivo.

Program monitoring and oversight will be provided by the African Branch in the Office of Academic Programs of the U.S. Information Agency.

Budget

Competition for USIA funding is keen. The selection of a grantee institution will depend on program substance, cross-cultural sensitivity and ability to carry out the program successfully. Since USIA cooperative assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support.

A proposal's cost-effectiveness—including in-kind contributions and ability to keep administrative costs low—is a major consideration in the review process.

Funding for this grant is limited to $250,000. Preference will be given to the most competitive budget proposals. Qualified organizations with less than four years of successful experience in managing international exchange programs are limited to grants of $60,000.

The following program and administrative items are eligible for consideration for funding:

1. International and domestic air fares; transit costs; and ground transportation costs.

2. Per Diem. Organizations should use the published federal per diem rates for individual American and international cities for African and American participants.

3. Stipends to African scholars to conduct research.

4. Travel of U.S. faculty to participating African countries for planning, consultations and workshops.

7. Travel of selected African scholars to the United States for follow-on studies and preparation of research for publication at the American partner institution.

8. Publication and dissemination of the research results in the participating African countries.

9. Educational materials and publications (e.g. subscriptions to professional journals) for the African partners.

10. USIA-funded administrative costs are limited to twenty-two (22) percent of the total funds requested from USIA. Administrative costs are defined as salaries for grantee organization employees, benefits, other direct and indirect costs incurred in the United States. Overseas administrative—such as compensation of an employee in an overseas office—are not counted in this 22 percent limit. The U.S. Information Agency's Bureau of Educational and Cultural Affairs defines American faculty salaries as administative costs, regardless of how the faculty time is to be used.

A comprehensive line item budget should be submitted with the proposal by the application deadline. Specific guidelines for budget preparation are available in the application packet.

Application Requirements

Proposals must be structured in the following way:

1. An executive summary, not to exceed one page, single-spaced, describing the goals of the program, the institutions and major personalities involved, an outline of what will take place and the timing of the program.

2. A narrative section (20 double-spaced pages or less) showing the intellectual rationale of the program, how the program will accomplish its goals and how it relates to USIA's mission to increase mutual understanding between people of the United States and of other societies. This section should include a concise description of the project's work plan, spelling out program schedules, thematic agenda and proposed itineraries. Participant selection should be discussed in detail. This section should conclude with a discussion of any follow-up activities planned; how the organization intends to evaluate the project; and what groups, beyond the direct participants, will benefit from the project.

3. A detailed three-column budget. See application package.

4. Resumes (not to exceed two pages each) for key personnel.

5. Confirmation letters from foreign co-sponsors noting their intention to participate in the program are required.

6. USIA compliance forms, furnished with the application package, must be submitted with the proposal.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the appropriate geographic area office, and the budget and contracts offices. Proposals may also be reviewed by the Agency's Office of General Counsel. Funding decisions are at the discretion of the Associate Director for Educational and Cultural Affairs. Final technical authority for grant awards resides with USIA's contracting officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the following criteria:

1. *Quality of Program Idea:* Proposals should exhibit originality and substance, and demonstrate relevance to the Agency's mission. The rationale should persuade the reader that the U.S. taxpayer's dollar is being well-spent for a clearly defined need.

2. *Institution Reputation/Ability:* Institutions should demonstrate their potential for program excellence and/or provide documentation of successful programs. If an organization is a previous USIA grant recipient, responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts (M/KG) will be considered.

3. *Project Personnel:* Personnel's professional and logistical expertise should be relevant to the proposed program. Resumes should be relevant to the specific proposal.

4. *Thematic Expertise:* Proposal should demonstrate the organization's expertise in the subject area.

5. *Program Planning:* Detailed agenda and work plan should demonstrate substance and logistical capacity. Agenda and plan should adhere to the program overview described above.

6. *Ability To Achieve Program Objectives:* Objectives should be realistic and attainable. Proposals should clearly demonstrate how the grantee institution will meet the program's objectives.

7. *Cross-Cultural Sensitivity/Area Expertise:* Proposal should demonstrate sensitivity to historical, linguistic and other cross-cultural factors; relevant knowledge of the geographic area.

8. *Multiplier Effect:* Proposed programs should strengthen long-term mutual understanding and include maximum sharing of information.

9. *Cost-Effectiveness:* The overhead and administrative components should be as low as possible. All other items

proposed for USIA funding should be necessary and appropriate to achieve the program's objectives.

10. *Cost-Sharing:* Proposals should show cost-sharing through direct funding contributions and in-kind support from the prospective grantee institution.

11. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success.

Additional Guidance

The Office of Academic Programs offers the following additional guidance to prospective applicants:

1. Proposals for multi-country programs are subject to review and comment by the USIS post in the relevant countries, and pre-selected participants will also be subject to USIS post review.

2. Multi-country programs should clearly identify the counterpart institutions and provide evidence of the institutions' participation.

Notice: The terms and conditions published in the RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. Final award cannot be made until funds have been fully appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about August 22, 1993. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: May 14, 1993.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 93–12005 Filed 5–19–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 96
Thursday, May 20, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 4, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–12103 Filed 5–18–93; 1:14 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 25, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–12104 Filed 5–18–93; 1:14 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 18, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6414.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–12105 Filed 5–18–93; 1:14 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, June 11, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–12106 Filed 5–18–93; 1:14 pm]

BILLING CODE 6351–01–M

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NUMBER: 93–11553.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, May 20, 1993, 10:00 a.m., Meeting Open to the Public.

This Meeting Has Been Canceled.

DATE AND TIME: Tuesday, May 25, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, May 27, 1993 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Report from FEC Administrative Division.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer, Telephone: (202) 219–4155.

Delores Hardy,

Administrative Assistant.

[FR Doc. 93–12100 Filed 5–18–93; 1:14 pm]

BILLING CODE 6715–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 28445, May 13, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 12:00 noon, Monday, May 17, 1993.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting:

International banking matter.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 17, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–12046 Filed 5–17–93; 4:30 pm]

BILLING CODE 6210–01–P

LEGAL SERVICES CORPORATION

Office of the Inspector General Oversight Committee Changes

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 29025.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Meetings of the Legal Services Corporation Board of Directors and its Provision for the Delivery of Legal Services, Audit and Appropriations, Office of the Inspector General Oversight Committees will be held on May 24, 1993. The meetings will commence at 8:00 a.m. and will be held in the following order, with each meeting commencing following adjournment of the prior meeting and continuing until all business has been concluded:

1. Provision for the Delivery of Legal Services Committee;
2. Audit and Appropriations Committee;
3. Office of the Inspector General Oversight Committee; and
4. Board of Directors.

PREVIOUSLY ANNOUNCED LOCATION OF MEETING: The Legal Services Corporation, 750 1st Street, N.E., 11th Floor, The Board Room, Washington, D.C. 20002, (202) 336-8800.

CHANGES IN THE MEETING:

MATTERS TO BE CONSIDERED:

- Item number "2." is corrected to reflect the corrected date of the minutes subject to approval by the Office of the Inspector General Oversight committee as those of the February 21, 1993 meeting.
- In addition, the following will be added and considered as agenda item number "4." by the Office of the Inspector General Oversight Committee.

4. Consideration of Response to the Inspector General's Letters to Senator Ernest Hollings and Representative Neal Smith Regarding the Corporation's 1994 Appropriations.

The revised agenda for the Office of Inspector General Oversight Committee is as follows:

OFFICE OF THE INSPECTOR GENERAL OVERSIGHT COMMITTEE:

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes of February 21, 1993 Meeting.
3. Consideration of Response to the Inspector General's Semiannual Report Covering the Period Ending March 31, 1993.
4. Consideration of Response to the Inspector General's Letter to Senator Ernest Hollings and Representative Neal Smith Regarding the Corporation's 1994 Appropriations.

CONTACT PERSON FOR INFORMATION: Patricia Batie, (202) 336–8800.

Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments.

Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 336–8800.

Date Issued: May 18, 1993.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 93–12153 Filed 5–18–93; 3:44 pm]

BILLING CODE 7050–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Change in Subject of Meeting

The National Credit Union Administration Board deleted the following item from the previously announced open meeting (Federal Register, Vol. 58, No. 90, page 28092, May 12, 1993) scheduled for Wednesday, May 19, 1993.

4. Final Rule: Amendment to Part 710, NCUA's Rules and Regulations, Voluntary Liquidation.

The Board voted unanimously to delete this item from the open agenda, because consideration of the item would have been premature. Earlier announcement of this change was not possible.

The previously announced items were:

1. Approval of Minutes of Previous Open Meeting.
2. Request by Florida Horizons Federal Credit Union for a Community Charter Conversion.
3. Proposed Rule: Amendment to Part 704, NCUA's Rules and Regulations, Corporate Credit Unions.
5. Appeal by Farm Credit Employees Federal Credit Union, St. Paul, Minnesota, of Regional Director's Decision to Disapprove Request for Overlap of Field of Membership.

This meeting is scheduled for 9:30 a.m., in the Filene Board Room, 1776 G Street, N.W., Washington, D.C.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–12052 Filed 5–17–93; 5:08 am]

BILLING CODE 7535–01–M

Corrections

Federal Register

Vol. 58, No. 96

Thursday, May 20, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

[Docket No. 920788-3065]

RIN 0648-AE94

Western Pacific Bottomfish and Seamount Groundfish Fisheries

Correction

In rule document 93-10338 beginning on page 26255 in the issue of Monday, May 3, 1993, make the following correction:

On page 26255, in the third column, in the second to the last paragraph, in the second line, "50 CFR part 783" should read "50 CFR part 683".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 93-1; FCC 93-201]

Radio Scanners That Receive Cellular Telephone Transmissions

Correction

In rule document 93-9847 beginning on page 25574 in the issue of Tuesday, April 27, 1993, make the following correction:

§ 15.121 [Corrected]

On page 25575, in the 2d column, in § 15.121 (a), in the 13th line, insert "include," after "user".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-060-03-4210-04; NMNM 82227]

Realty Action, Exchange, Valencia County, New Mexico

Correction

In notice document 93-7905 beginning on page 17906 in the issue of Tuesday, April 6, 1993, make the following corrections:

On page 17906, in the second column, in the land description for New Mexico Principal Merdidian:

1. In T. 6N., R. 4E., in Sec. 4, "E½SE¼;" should read "E½SW¼;".

2. "T. 7N., 4. 4E.," should read "T. 7N., R. 4E.,".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150-AE49

FY 1991 and 1992 Proposed Rule Implementing the U.S. Court of Appeals Decision and Revision of Fee Schedules; 100% Fee Recovery, FY 1993

Correction

In proposed rule document 93-9296 beginning on page 21662 in the issue of Friday, April 23, 1993, make the following corrections:

1. On page 21672, in Table IV, the dollar ($) amounts appearing in the three lines before the footnotes should have appeared below the fourth and fifth columns of the table (for an example, see Table VI on page 21675).

2. On page 21675, in Table VI, in the second line before the footnotes, remove footnote reference "2" after "4.3 million.".

3. On page 21676, in the third column, in the table, under Annual fees, in the fifth line, "680 to 26,4001. [1]" should read "680 to 26,400. [1]".

§ 170.21 [Corrected]

3. On page 21679, in § 170.21, in the table, in the first column heading (Facility * * * type of), insert "Fees" after "of"; and in K.2., in the second line, insert a hyphen between "(1)" and "(8)".

§ 171.16 [Corrected]

4. On page 21686, in § 171.16(d), in the table at the bottom of the page, under *Low Enriched Fuel*, remove all the material that appears after the sixth line (Surcharge).

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 93-27]

Country of Origin of Textile Products From U.S. Insular Possessions

Correction

In rule document 93-8705 beginning on page 19347 in the issue of Wednesday, April 14, 1993, make the following correction:

On page 19349, in the second column, the amendatory instruction for § 12.130 should read as follows:

2. Section 12.130 is amended by redesignating paragraph (c) and its heading as paragraph (c)(1), adding a new heading to paragraph (c), and adding paragraph (c)(2) to read as follows:

BILLING CODE 1505-01-D

federal register

Thursday
May 20, 1993

Part II

Federal Housing Finance Board

12 CFR Parts 935 and 940

Federal Home Loan Bank System: Secured Loans (Advances) and Advances to Nonmember Mortgagees; Final Rule and Interim Rule

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 935 and 940

[No. 93–43]

Advances

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Board) is amending its regulations to establish revised and new requirements governing secured loans (called advances) made by the Federal Home Loan Banks (Banks). The final rule modifies or renews existing regulations and implements provisions in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), which amended the Federal Home Loan Bank Act of 1932 (Act). The rule also incorporates into the new regulations the Board's Statements of Policy on advances, to the extent deemed appropriate. These regulations are designed to facilitate the Banks' ability to provide flexible and economic funding to their members for the purpose of implementing FIRREA's increased emphasis on the Bank System's support of affordable housing finance.

EFFECTIVE DATE: June 21, 1993.

FOR FURTHER INFORMATION CONTACT: Christine M. Freidel, Financial Analyst, (202) 408–2976; Thomas D. Sheehan, Assistant Director, (202) 408–2870, District Banks Directorate; James H. Gray Jr., Associate General Counsel, (202) 408–2552; Sharon B. Like, Attorney-Advisor, (202) 408–2930; Charles J. Szlenker, Attorney-Advisor, (202) 408–2554, Office of Legal and External Affairs; Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Home Loan Bank System (System) is comprised of 12 District Banks. Each Bank is federally chartered and managed by a board of directors that sets policies pursuant to regulations and guidelines established by the Board. The Banks act as intermediaries in the capital markets, raising funds on favorable terms and passing the proceeds on to member institutions in the form of advances. Advances are required to be fully secured, primarily by residential mortgage collateral, see 12 U.S.C. 1430(a), and are made available over a range of maturities. The Board's primary duty is to ensure that the Banks operate in a financially safe and sound manner. The Board also is responsible for supervising the Banks, ensuring that they carry out their housing finance mission, and ensuring that they remain adequately capitalized and able to raise funds in the capital markets. See 12 U.S.C. 1422a(a)(3), 1422b(a)(1), as amended by the Housing and Community Development Act of 1992, Public Law 102–550, 106 Stat. 3672 (1992).

All savings associations that are regulated by the Office of Thrift Supervision (OTS) are members of the System, as are many savings banks regulated by the Federal Deposit Insurance Corporation (FDIC) and a limited number of insurance companies. With the passage of FIRREA (Pub. L. 101–73, 103 Stat. 183 (August 9, 1989)), membership in the System also was opened to federally insured commercial banks and credit unions that make long-term home mortgage loans and that have at least 10 percent of their total assets in residential mortgage loans. See 12 U.S.C. 1424(a).

Each member is required to hold stock in its Bank based upon the level of the member's mortgage-related assets or total assets and the member's level of outstanding advances. See 12 U.S.C. 1426, 1430(e) (3). Bank stock is not publicly traded and is redeemable at par. See *id.* Historically, Bank stock has paid dividends.

II. Proposed Rulemaking

On October 1, 1992, the Board published for public comment a notice of proposed rulemaking governing the Banks' advances programs (proposed rule). (57 FR 45338 (Oct. 1, 1992)). The comment period ended November 30, 1992.

The Board received letters from 32 commenters on the proposed rule. Responses were submitted by nine Banks, five trade associations, three federal regulators, nine savings association members, three commercial bank members, and three insurance companies, one of which is a member. In general, the commenters expressed overall support for the proposed rule. A discussion of the comment letters is included in the analysis of the final rule.

III. Analysis of Final Rule

Subpart A—Advances to Members

A. Primary Credit Mission of the Banks

Section 935.2 of the final rule sets forth the primary credit mission of the Banks, which is to enhance the availability of residential mortgage credit by providing a readily available, economical and affordable source of funds, in the form of advances, to their member institutions. In order to carry out this mission, the Banks shall offer competitively priced advance products and programs that satisfy their members' credit needs. Limitations on advances, beyond those specifically prescribed by statute, regulation, policy or other requirements of the Board, shall be those that protect the financial integrity of a Bank and accommodate the practical constraints associated with a Bank's ability to raise funds.

B. Bank Advances Policies and Application for Advances

Section 935.3 of the final rule continues the requirement in the Board's current regulation that each Bank's board of directors adopt, and review at least semiannually, a policy on extending advances to members of that Bank. Each Bank shall provide a copy of its advances policy, and any revisions thereto, to the Board. Each Bank's policy shall be consistent with the requirements of the Act, 12 U.S.C. 1421 *et seq.*, this part, and policy guidelines established by the Board. A Bank's board of directors may designate officers authorized to extend or deny credit, or take other actions consistent with the Bank's advances policy. Exceptions to a Bank's policy must receive the approval of its board of directors, a committee thereof, or officers specifically authorized by the board of directors to approve exceptions. Such exceptions to Bank policy must comply with the Act, this part, and policy guidelines of the Board.

Section 935.4 of the final rule requires the Banks to enter into written advances and security agreements with their members that govern the terms and conditions under which credit will be extended. Section 935.4(a) permits a Bank to accept oral or written applications for advances from its members. Section 935.4(b) specifies that a Bank shall require any member to which an advance is made to enter into a primary and unconditional obligation to repay such advance and all other indebtedness to the Bank. Section 935.4(c)(1) provides that a Bank shall make only fully secured advances to its members. Sections 935.4(c) (2) and (3) provide that a Bank shall execute a written security agreement with each borrowing member that gives the Bank a perfectible security interest in the collateral pledged to secure the advances. In practice, the advances and security agreements may be consolidated in one document. Such document may also constitute a master

agreement covering all outstanding advances by a Bank to a member.

Section 935.4(d) of the final rule requires a Bank's board of directors, or a delegated committee thereof, to approve the Bank's advances application forms, advances agreement forms, and security agreement forms. A Bank's board is not required to approve each revision to an already approved form, if the resulting document is substantially the same as the previously approved form. The Act requires that the form for the advances application, as well as the form of the document evidencing a member's obligation to repay outstanding advances, be approved by the Board, 12 U.S.C. 1429, 1430(d). The final rule deems the forms to be approved by the Board, if the terms of the documents comply with the requirements prescribed in this part. The Banks are required to provide the Board with copies of their standard forms for all advances and security agreements, as well as any substantive revisions thereto.

C. Limitations on Access to Advances

Section 935.5(a) of the final rule implements 12 U.S.C. 1429 by authorizing the Banks, in their discretion, to limit or deny a member's application for an advance, or to approve it on such additional terms as the Bank may prescribe, subject to the Act, this part, and any Board policy guidelines. Advances may be limited or denied if, in the Bank's judgment, a member is engaged or has engaged in any unsafe or unsound banking practices, has inadequate capital, is sustaining operating losses, has financial or managerial deficiencies that bear upon the member's creditworthiness, or has any other deficiencies as determined by the Bank.

A comment letter from a trade association suggested that the language in § 935.5(a) be changed from "sustaining operating losses" to "sustaining significant operating losses over time," to permit members incurring a one-time series of write-downs over several quarters to retain access to advances. However, § 935.5(a) is intended to provide general guidance to the Banks on their credit underwriting practices. Each Bank retains the discretion to develop its own underwriting standards and to approve or deny applications for advances based on a member's financial condition. As such, the Board believes the more general language is appropriate.

D. Lending to Capital Deficient Members

Provisions governing Bank advances to certain capital deficient members were published at § 935.5(b)–(e) of the proposed rule.[1] The proposed rule also included a definition of tangible capital at § 935.1.

The Board received seven comment letters addressing this section. Among them were comments from two Federal regulators with responsibility for members that could be affected by this section.

Due to the important points raised by the commenters, particularly those provided by the regulators, the Board has decided to defer action on this section of the rule until a subsequent rulemaking. Accordingly, the Board has removed proposed § 935.5(b)–(e) and the definition of tangible capital in proposed § 935.1 from the final rule.

The Board intends to consider all of the comments received on proposed §§ 935.5(b)–(e) and 935.1, including the two regulators' comments, and issue a separate rulemaking on this subject in the near future. The Board also will consider additional public comments on lending to capital deficient members as part of that rulemaking.

Until further regulatory action is taken in this area, lending to certain capital deficient members will continue to be governed by the Board's current policy adopted in April 1992 (see Board Resolution No. 92–277.1).

E. Terms and Conditions for Advances

Section 935.6 of the final rule adopts substantially all of the provisions of § 935.6 of the proposed rule. Section 935.6(a) of the final rule continues the Board's regulatory requirement that the Banks offer advances with maturities of up to ten years. The rule also authorizes each Bank to offer advances with maturities of any length, consistent with the safe and sound operation of the Bank. Section 935.6(a) finalizes an earlier rulemaking, initiated by the Board's interim final rule, see 57 FR 42888 (Sept. 17, 1992), eliminating a Board regulatory requirement that advance maturities not exceed 20 years.

The requirement that the Banks offer advances with maturities of up to ten years is designed to ensure that a sufficient variety of advance maturities is available to assist members in their asset/liability management. Members frequently hedge against interest rate movements by funding their long-term home mortgage loans, which generally have an average life of between five and ten years, with matching term Bank advances. Long-term advances provide an important funding source for non-conforming loans for which the secondary market has not been a viable financing alternative.

Allowing the Banks to offer advances with maturities greater than 20 years facilitates the Banks' support of affordable housing finance. Some participants in the Affordable Housing Program (AHP), see 12 U.S.C. 1430(j), 12 CFR part 960, have requested AHP loans with maturities greater than 20 years from Bank members in order to lock in financing over the life of a project. Members are often understandably reluctant to provide such long-term financing without matched funding. The availability of Bank advances with maturities greater than 20 years enables members to match fund such projects and avoid interest rate risk exposure.

Although offering longer-term funding could expose the Banks to additional interest rate risk, their ability to raise long-term debt, the availability of hedging options, and the Banks' expertise in asset/liability management will allow them to offer advances with a broad range of maturities without undue financial risk. The Banks will

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[1] Section 935.5(b)–(e) as proposed provided:

(b) *Advances to members without positive tangible capital*—(1) *New advances.* A Bank shall not make a new advance available to a member without positive tangible capital unless:

(i) The member's appropriate Federal banking agency or insurer requests in writing that the Bank make such advance; and

(ii) The Bank determines in its discretion that it may safely make such advance to the member. The Bank shall promptly inform the Board of any such request.

(2) *Renewal of maturing advances.* (i) A Bank may renew an existing advance to a member without positive tangible capital for successive terms of up to 30 days each if the Bank determines that it may safely make such renewals to the member.

(ii) A Bank may renew an existing advance to a member without positive tangible capital for a term greater than 30 days at the written request of the appropriate Federal banking agency or insurer if the Bank determines that it may safely make such renewal.

(c) *Members without Federal regulators.* The provisions of paragraph (b) of this section, in the case of members that are not federally insured depository institutions, may be implemented upon written request to the Bank from the member's state regulator.

(d) *Reporting.* (1) Each Bank shall provide the Board with a monthly report of the Bank's advances and commitments outstanding to each of its members.

(2) Such monthly report shall be in a format or on a form prescribed by the Board.

(3) Each Bank shall, upon written request from a member's appropriate Federal banking agency, insurer or state regulator, provide to such entity information on advances and commitments outstanding to the member.

(e) *Advance commitments.* The written advances agreement required by § 935.4(b)(2) of this part shall stipulate that the Bank shall not fund commitments for advances previously made to members whose access to advances is restricted pursuant to this section.

offer such funding only to the extent they are able to control their own interest rate risk exposure.

The Board received two comment letters on its earlier rulemaking in this area. Both letters were from depository institution trade associations, which expressed overall support for the elimination of the 20-year limit on advance maturities. One association recommended that the Board perform an annual review to assure that the Banks are meeting the needs of their members in a safe and sound manner. The second commenter urged that the Board monitor the use of long-term advances to ensure that the Banks do not incur greater interest rate risk.

The suggested monitoring is already a part of the Board's oversight of the Banks' financial operations. The Board determines whether the Banks are meeting the needs of their members in a safe and sound manner through the annual examination process. The Board also has set policy limits on the Banks' interest rate risk exposure and monitors their exposure on a quarterly basis. See Financial Management Policy, Board Resolution No. 91–214, dated June 25, 1991 (Financial Management Policy).

Section 935.6(b)(1) of the final rule eliminates a current Board policy requirement that the Banks generally price advances within a prescribed schedule of minimum and maximum mark-ups over their cost of issuing consolidated obligations (COs). Each Bank is instead required to price advances taking into account its marginal cost of raising matching maturity funds in the marketplace, as well as any administrative and operating costs associated with making the advances. Section 935.6(b)(3) provides that advances offered through a Bank's AHP are exempt from this requirement. See 12 U.S.C. 1430(j); 12 CFR part 960.

Under the Board's current policy pricing schedule, the Banks are required to price advances within a specified range above their estimated cost of issuing COs. A required minimum mark-up of 20 basis points over the cost of COs applies across the maturity spectrum. The maximum permissible mark-up on advances declines from a high of 120 basis points over the cost of COs for advances with maturities greater than six months and less than or equal to one year, to a low of 60 basis points over the cost of COs for advances with maturities greater than nine years.

At the time the pricing schedule was established, COs dominated Bank funding. However, while COs remain the Banks' primary funding source, member deposits now comprise about 18 percent of the System's liabilities. Since deposits can be a lower cost funding alternative for short-term advances, a Bank's overall short-term cost of funds may at times be lower than its cost of issuing COs. By removing the minimum mark-up, the Board is encouraging the Banks' efforts to provide attractively priced funding to their members.

Moreover, the minimum and maximum mark-ups no longer meet their intended policy objectives. The 20 basis point minimum mark-up was intended to preclude the Banks from pricing advances below their total cost of funding the advances. When the pricing schedule was established, individual Bank operating expenses, as a percentage of assets, ranged from ten to 18 basis points. The Banks have subsequently introduced operating efficiencies that have significantly reduced the cost of their operations.

Rather than continuing to use a pricing schedule based on static expense figures, which may or may not be accurate over time, § 935.6(b)(1) of the final rule provides each Bank with the discretion to determine the appropriate minimum mark-up on advances based upon its current administrative and operating costs. This flexibility should enhance the Banks' regional competitiveness, since the minimum mark-up on advances will reflect an individual Bank's, rather than the System's, funding and administrative costs.

The current maximum mark-up, which declines as advance maturities increase, was principally intended to encourage long-term lending for housing finance purposes, as well as to ensure a supply of longer-term funds at a reasonable cost to assist members in their asset-liability management. However, over the past several years the maximum mark-up has not been a binding constraint. Banks generally have priced advances well below the pricing ceiling and at relatively constant margins across the maturity spectrum.

Two Banks and two trade associations expressed support for the elimination of the pricing schedule. One member institution recommended that the Board limit the mark-up on advances to 60 basis points to cap the administrative and operating costs the Banks can pass on to their members. However, as discussed earlier, the Banks have priced advances well within the maximum allowable mark-up. The Board believes that the Banks will continue to price short- and long-term advances competitively without an explicit pricing schedule. In addition, pricing flexibility allows the Banks to include hedging costs when pricing advances, particularly when market constraints inhibit their ability to match fund advances. Therefore, § 935.6(b)(1) is published as proposed.

Section 935.6(b)(2)(i) of the final rule adopts substantially all of the proposed provisions authorizing the Banks to extend credit to individual members on varying terms, based upon the credit and other risks associated with lending to a particular member, or other reasonable criteria, provided the criteria apply equally to all members.

Section 7(j) of the Act requires that each Bank's board of directors administer the affairs of the Bank "fairly and impartially and without discrimination in favor of or against a member borrower." See 12 U.S.C. 1427(j). Section 9 of the Act gives the Banks broad authority to determine the terms of an advance, subject to statutory and regulatory requirements. Specifically, it provides that a Bank "may at its discretion deny any such application [for an advance], or, subject to the approval of the Board, may grant it *on such conditions as the [Bank] may prescribe.*" 12 U.S.C. 1429 (emphasis added).

The Board has concluded that the extension of credit on differing terms to Bank members based on the member's creditworthiness, or other reasonable criteria applied equally to all members, does not constitute "discrimination" under section 7(j) of the Act. Such a practice is consistent with the Banks' broad discretion to make advances under section 9 of the Act. It also is consistent with a Federal district court ruling in 1983 that sections 9 and 7(j) of the Act, when read together, confer upon the Banks plenary discretion in the exercise of their lending authority. See *Fidelity Financial Corp.* v. *Federal Home Loan Bank of San Francisco*, 589 F. Supp. 885, 897 (N.D. Cal. 1983), *aff'd*, 792 F.2d 432 (9th Cir. 1986), *cert. denied*, 479 U.S. 1064 (1987).

Furthermore, risk-based pricing of advances should enhance the fairness of the Banks' credit programs, since terms on advances and other Bank credit products to more creditworthy members should be more favorable than those to members posing a greater credit risk to a Bank. Risk-based pricing will allow the Banks to offer competitive rates to their more creditworthy members, thereby enabling the Banks to better carry out their housing finance mission. It also will compensate the Banks for bearing any increased credit exposure associated with lending to higher risk members.

Differential pricing of advances based upon criteria other than risk also would

be allowed, subject to the application of consistent standards to all borrowing members. For example, certain Banks have offered "volume discounts" to members who finance a certain percentage of their total assets with Bank advances.

Six commenters, three Banks, two trade associations, and one savings association member, expressed overall support for differential pricing. One Bank noted that risk-based pricing encompasses more than credit risk, which was the only risk specified in the proposed rule. The Board agrees and has revised § 935.6(b)(2)(i)(A) to explicitly permit the Banks to price advances taking into account credit and other risks, as well as other reasonable criteria that are applied equally to all members.

One trade association recommended that the Banks' differential pricing guidelines be well delineated to allow for better planning by members. The second trade association suggested that the differential pricing guidelines be included in the Banks' credit policies and reviewed periodically by the Banks' boards of directors. Section 935.6(b)(2)(ii) of the proposed rule required that the Banks establish written standards and criteria for differential pricing. To provide further clarification, § 935.6(b)(2)(ii) of the final rule requires the Banks to incorporate the standards into their advances policies, which are reviewed by the Banks' boards of directors at least semiannually.

Section 10(i) of the Act, as amended by FIRREA, requires each Bank to establish a Community Investment Program (CIP) to provide funding for members to undertake community-oriented mortgage lending. See 12 U.S.C. 1430(i). "Community-oriented mortgage lending" is defined in section 10(i) to include loans to finance the purchase and rehabilitation of housing for low- and moderate-income families, and commercial and economic development activities benefiting low- and moderate-income families or activities located in low- and moderate-income neighborhoods. *Id.*

The Act requires that the Banks price CIP advances "at the cost of consolidated [Bank] obligations of comparable maturities, taking into account reasonable administrative costs." *Id.* However, as noted previously, the Banks' overall short-term funding costs can at times be lower than their cost of issuing COs. Section 935.7 of the final rule, therefore, adopts as proposed the provision directing the Banks to price CIP advances as provided in § 935.6, except that the cost of such CIP advances shall not exceed the Bank's cost of issuing COs of comparable maturity, taking into account reasonable administrative costs.

F. Fees

The Banks currently are required by Board policy to charge prepayment fees that make them financially indifferent to a borrower's decision to prepay advances. These fees are designed to protect the Banks from interest rate risk and can be considered the price of the member's option to prepay. Since many advances are funded by Bank debt with matching maturities and prepayments occur when interest rates fall, the Banks can suffer losses if the principal portion of the prepaid advances must be invested in lower yielding assets which continue to be funded by higher cost debt.

Under current Board policy, prepayment fees must be equal to 90 to 110 percent of the present value of the lost cash flow to the Bank, based upon the difference between the contract rate on the prepaid advance and the rate for a new advance of the same remaining maturity. The discount rate for calculating the present value is the current offering rate for a new advance with the same remaining maturity.

Although theoretically designed to insulate the Banks from interest rate risk, the current prepayment fee requirement may not adequately compensate a Bank for the loss in future cash flows due to an advance prepayment. The discount rate used in the calculation assumes that the Bank can replace the prepaid advance with a new advance. However, in the current operating environment, such opportunities have not always been readily available. The Bank is then forced to invest the prepaid principal and fees in lower-yielding assets, generally at a reduced, and sometimes even a negative, spread or to retire the underlying debt, possibly at a loss.

Section 935.8(b) (1) of the final rule adopts as proposed the provision requiring that the Banks charge prepayment fees, but authorizing each Bank to determine the cost of the prepayment option. The Bank shall calculate a fee that sufficiently compensates it for providing a prepayment option on an advance, and that acts to make it financially indifferent to the borrower's decision to repay the advance prior to its maturity date.

Nine comment letters addressed the prepayment fee provisions in § 935.8 of the proposed rule. Five commenters, two trade associations and three Banks, generally supported the proposed prepayment fee provisions.

However, a federal regulator objected to the Banks' charging prepayment fees when a member that has been placed in conservatorship or receivership prepays an advance. The regulator views these fees as inappropriate and counterproductive since they could potentially increase the cost of resolving a failed institution. It recommended that the final rule waive prepayment fees on advances to members that are placed in receivership or conservatorship. The regulator also recommended that advances to members considered "undercapitalized," "significantly undercapitalized," or "critically undercapitalized" be subject to prepayment fees only with the prior written concurrence of the primary Federal regulator and insurer.

The Board recognizes that the proposed prepayment fee requirement could potentially increase the cost of a failed institution's resolution if any advances held by such member are prepaid when market interest rates are lower than the rate on the advances. However, Congress has emphasized that the Board's primary statutory mission is to ensure that the Banks operate in a safe and sound manner. See 12 U.S.C. 1422a(a)(3) (as amended by the Housing and Community Development Act of 1992 (HCDA), P.L. 102–550, 106 Stat. 3672, 4009). Incorporating the regulator's suggestions would simply transfer any losses to the Banks, which would be counter to the Board's regulatory responsibilities. As discussed above in section D, Lending to Capital Deficient Members, the Board intends to issue a separate rulemaking on lending to capital deficient members. (See sec. D., Lending to Capital Deficient Members, above.)

One trade association and one savings association member recommended that the Banks be required to set prepayment fees according to a specified formula. It is the Board's expectation that each Bank will establish and publish a formula for determining prepayment fees. To make this requirement explicit, the Board has added a new § 935.8(a) to the final rule that requires all fees charged by each Bank and any schedules or formulas pertaining to such fees to be included in the Bank's advances policy. Each Bank is required by § 935.3(a) of the final rule to have a written advances policy. Section 935.8(a) also requires that all fees shall be applied consistently and without discrimination to all members.

One savings association member recommended that the Board limit the Banks' prepayment fees to 100 percent of the direct cost to the Bank of the advance prepayment. However, the cost

to the Bank of an advance prepayment cannot be determined at the time an advance is made. Furthermore, the Board believes that a net present value calculation, such as that currently used by the Banks, provides a better measure of the economic loss associated with a prepayment.

Under § 935.8(b) (2) of the final rule, prepayment fees are not required for advances with original terms to maturity or repricing periods of six months or less, for advances funded by callable debt, or for advances which are otherwise appropriately hedged so that the Bank is financially indifferent to their prepayment. One trade association commenter apparently concluded that advances with "remaining," as opposed to "original," maturities of six months or less are exempt from prepayment fees; this is not the Board's intention. The final rule has been clarified to indicate that only advances with original maturities of six months or less are covered by the exemption.

One Bank recommended that what is now § 935.8(b)(2)(ii) of the final rule should specify that prepayment fees would not be required on advances funded by callable debt, if the callable debt funding the prepaid advance is repaid on the call dates. The Board assumes that the Banks will appropriately determine when an advance is fully hedged against prepayment risk and, therefore, did not alter the rule on this point.

Section 935.8(b)(3) of the final rule provides that a prepayment fee may be waived only by a Bank's board of directors, a designated committee of the board of directors, or officers specifically authorized by the board, and only if such prepayment will not result in an economic loss to the Bank. One Bank requested clarification that a Bank may, in its discretion, not grant a waiver, even if there is no economic loss resulting from the prepayment. The Board believes that there may be circumstances in which it may be appropriate for a Bank to exercise such discretion. However, in determining whether or not to waive a prepayment fee, a Bank shall apply consistent standards to all of its members. This position is clarified in the final rule.

One Bank requested that the requirement in proposed § 935.8(b)(3) that a Bank's board ratify all prepayment fee waivers be changed to a requirement that Bank management report prepayment fee waivers to its board. However, the Board believes that prepayment fee waivers should be treated like any other financial transaction and, in accordance with sound business practice, be ratified by a Bank's board. It is assumed that prepayment fee waivers granted by Bank management, pursuant to authority delegated to Bank management by its board, will be effective immediately.

This Bank also requested a clarification of the phrase "economic loss," noting that a Bank will always suffer a loss in income if it waives a prepayment fee. The Board intends to permit a Bank to waive a prepayment fee if such prepayment would not cause an economic loss. Section 935.8(b)(3) of the final rule has been clarified accordingly.

Section 935.8(c) of the final rule eliminates a current Board policy requirement that the Banks charge commitment fees, and provides each Bank with the discretion to charge such fees.

Section 935.8(d) of the final rule authorizes a Bank to charge other fees as it deems necessary and appropriate.

G. Eligible Collateral

Section 10(a) of the Act requires a Bank to obtain and thereafter maintain a security interest in specific types of eligible collateral at the time of origination or renewal of an advance. See 12 U.S.C. 1430(a).

Section 935.9(a) of the proposed rule, in implementing the collateral requirements, specified four categories of eligible collateral:

(1)(i) Fully disbursed, whole first mortgage loans on improved residential real property not more than 90 days delinquent; or

(ii) Whole mortgage pass-through securities as defined in § 935.1 of this part;

(2) Securities issued, insured or guaranteed by the United States Government, or any agency thereof, including without limitation mortgage-backed securities as defined in § 935.1 of this part, issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association;

(3) Deposits in a Bank;

(4)(i) Except as provided in paragraph (a)(4)(iii) of this section, other real estate-related collateral acceptable to the Bank, if:

(A) Such collateral has a readily ascertainable value; and

(B) The Bank can perfect a security interest in such collateral;

(ii) Eligible other real estate-related collateral may include, but is not limited to:

(A) Non-agency mortgage-backed securities not otherwise eligible under paragraph (a)(1)(ii) of this section;

(B) Second mortgage loans, including home equity loans;

(C) Commercial real estate loans; and

(D) Mortgage loan participations;

(iii) A Bank shall not permit the aggregate amount of outstanding advances to any one member, secured by such other real estate-related collateral, to exceed 30 percent of such member's capital, as calculated according to GAAP, at the time the advance is issued or renewed.

A "whole mortgage pass-through security" was narrowly defined in the proposed rule so that under category (1)(ii), only privately issued mortgage pass-through securities that represent ownership of all of the mortgages in the underlying pool as described in category (1)(i), could be pledged as collateral. Other privately issued mortgage-backed securities (MBSs), including privately issued mortgage debt securities, that did not meet this requirement would only qualify as collateral under category (4) under the proposed language, see 12 U.S.C. 1430(a)(4) (other real estate-related collateral).

The approach taken in the proposed rule was based on the most conservative interpretation of the phrase "securities representing a whole interest in * * * mortgages." *Id.* The Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 222, 101st Cong., 1st Sess. 427–28 (1989), *reprinted in* 1989 U.S. Code Cong. & Admin. News 432, 466–67 (FIRREA Conference Report), provides further guidance on types of eligible collateral. The FIRREA Conference Report also provides that the collateral requirements preclude acceptance of (i) securities representing only interest payments or only principal payments from an underlying pool of home mortgage loans, (ii) any security representing a subordinated interest in an underlying pool of home mortgage loans, or (iii) any security that represents an interest in residual payments or other high-risk mortgage derivative products. *Id.* The proposed rule, in accordance with the FIRREA Conference Report, precluded acceptance of these classes of higher-risk securities, except under category (4).

However, the FIRREA Conference Report states that the collateral requirements were intended to enable the Banks to continue to accept certain low-risk privately issued MBSs as collateral under category (1). The Board requested comment on two other alternative approaches that would significantly broaden the collateral eligible under category (1)(ii). The first alternative would permit the acceptance under category (1) of any privately

issued mortgage pass-through security that represents an equity interest in a *pro rata* share of the principal and interest payments from the underlying mortgage loans, including mortgage pass-through securities that do not represent ownership of the entire pool of underlying mortgage loans.

The second alternative would broaden category (1)(ii) to permit the acceptance of any privately issued MBS that represents a share of the principal and interest payments from the underlying pool of qualifying mortgage loans. This second alternative includes treating collateralized mortgage obligations (CMOs) or other mortgage debt securities as eligible collateral under category (1)(ii). The Board believes that the approach taken in the proposed rule, as well as the two alternatives under consideration, are consistent with the requirements of the Act and the legislative history as expressed in the FIRREA Conference Report. Both alternatives under consideration also excluded interest only or principal only strips, and the residual and subordinate classes of securities prohibited by the FIRREA Conference Report language from qualifying as eligible collateral under category (1).

Twenty-one comment letters addressed the Board's interpretation of § 935.9(a)(1)(ii) collateral. Nine Banks, two trade associations, and nine savings associations recommended that the Board adopt the second alternative, which would authorize the acceptance of both privately issued mortgage pass-through securities and low-risk mortgage debt securities as eligible collateral under category (1).

The comment letters generally indicated a belief that accepting low-risk, privately issued mortgage pass-through securities and CMOs is consistent with the intent of the FIRREA Conference Report, since the report specifically excludes only high-risk derivative and stripped securities. Several commenters noted that the FIRREA Conference Report explicitly permits the Banks to continue to accept privately issued MBSs, except for interest only and principal only strips, subordinated tranches, or any securities representing residual or other high-risk mortgage derivative products.

A number of commenters also suggested that basing the eligibility of privately issued MBSs on whether the MBS represents an undivided versus a fractional interest in the mortgage cash flows places undue emphasis on just one factor, which by itself does not provide an accurate measure of risk. A trade association commenter recommended that the Board utilize the risk distinctions made between different types of securities in the OTS's risk-based capital regulations at 12 CFR 567.6. Two Banks noted that privately issued CMOs backed by agency mortgage pass-through securities are of high credit quality, very liquid, and provide for an easily perfectible security interest.

Many comment letters stated that the interpretation in the proposed rule was unnecessarily restrictive since it is rare for members, especially smaller members, to own the entire issue of a mortgage security. One Bank indicated that many of its borrowing members would be adversely impacted by the proposed rule. It estimated that its largest thrift borrowers with the highest percentage of privately issued MBSs to assets would face a 40 to 50 percent reduction in their borrowing capacity, if privately issued MBSs were required to represent ownership of all the mortgages in the underlying pool. Another Bank noted that privately issued CMOs represented four percent of its pledged securities collateral and constituted the preponderance of collateral pledged by its commercial bank members.

One Bank and one member requested that the Board consider classifying the senior pieces of senior/subordinated CMO structures as eligible collateral under category (1). The Bank noted that such senior pieces have less credit risk than whole loans.

After consideration of the comment letters, the Board has decided to adopt the second alternative definition of "securities representing a whole interest." This definition permits the acceptance of senior tranches of senior/subordinated securities as collateral under category (1). See also § 935.1 definition of mortgage-backed security. The Board agrees with the comment letters that this interpretation is consistent with the FIRREA Conference Report, which implies that low-risk tranches of mortgage pass-through and mortgage derivative securities are acceptable as collateral.

The Board believes the commenters have provided convincing arguments to support the position that whether a security represents a fractional or a *pro rata* share of principal and interest should not be the sole determinant for the acceptability of such collateral. The Board believes the Banks are adequately protected from default risk if pledged mortgage pass-through securities or mortgage debt securities are of high credit quality and the Banks take steps to protect their security interest in the collateral.

The Board also is persuaded that the definition in the proposed rule would unduly restrict member access to advances since privately issued mortgage debt securities represent an important share of commercial bank members' eligible collateral and members generally do not hold all the securities representing an interest in the underlying pool of mortgages.

Thus, the final rule allows the Banks maximum flexibility to treat privately issued mortgage-backed securities as eligible collateral under § 935.9(a)(1)(ii), while still prohibiting acceptance of certain high-risk securities specifically identified in the FIRREA Conference Report. Eligible category (1) MBSs in the final rule generally include all securities which represent an ownership interest in, or which are secured by, mortgage loans which would qualify as category (1) collateral. Section 935.9(a)(1)(ii) specifically excludes the types of high-risk securities which were identified in the FIRREA Conference Report, along with such other high-risk securities as the Board in its discretion may determine to exclude.

In response to the suggestion that the Board utilize the OTS risk weights to determine eligible low-risk MBSs, the Board believes that its choice of the second alternative in the final rule has the same substantive effect as utilizing the OTS risk-weighting categories. In addition, it does not present the problems inherent in cross-referencing another agency's regulations. Furthermore, the second alternative conforms to the limits imposed by the FIRREA Conference Report.

In response to a Bank comment, the final rule has been revised to make clear that mortgage pass-through securities, mortgage participations, CMOs, REMICs and other mortgage-related security instruments backed by mortgage participations and pass-through securities that represent a share of the principal and interest payments from the underlying pools of qualifying whole mortgage loans are included within the definition of MBSs under § 935.1. The phrase "backed entirely by" qualifying mortgage loans is not intended to preclude the presence of various credit enhancements which may provide additional protection to the purchaser of the CMO, thereby reducing the risk and the rate which must be paid to attract investors.

Section 10(a)(1) of the Act provides that eligible mortgage loans under category (1) must be on "improved residential property." See 12 U.S.C. 1430(a)(1). Section 935.1 of the final rule defines "residential real property" as: one-to-four family property; multifamily property; real property to be improved or in the process of being

improved by the construction of dwelling units; or combination business or farm property, where at least 50 percent of the total appraised value of the combined property is attributable to the residential portion of the property. (One hundred percent of the appraised value of eligible combined property loans could be used to secure an advance.) "Improved residential real property" is defined in § 935.1 of the final rule as residential real property, excluding real property to be improved, or in the process of being improved, by the construction of dwelling units.

The term "residential real property" does not include "nonresidential real property," as defined in § 935.1 of the final rule. One Bank recommended defining nursing homes, dormitories, and homes for the aged as residential rather than nonresidential real property. The Board agrees that homes for the aged and dormitories, but not nursing homes, are primarily residential property for purposes of part 935, and the final rule has been revised accordingly.

The Bank also recommended amending the definition of dwelling unit to include a single room occupancy (SRO) unit. SRO structures are an important source of housing for the homeless, and the Board agrees that this definition is appropriate for purposes of this rule. The definition of dwelling unit in § 935.1 of the final rule therefore includes both a single room and a unified combination of rooms designed for residential use by one household. This definition of dwelling unit will be applicable only to this part 935 of the Board's regulations.

A comment letter from a trade association recommended that the residential portion of combination business and farm loans only be required to represent 10 percent rather than 50 percent of the total appraised value of the property. It suggested that only a very small farm property would meet the 50 percent definition. However, the Board believes that, given the Banks' focus on housing, rather than commercial or agricultural finance, at least half of a property's value should be attributable to a residential structure in order for the property to qualify as eligible collateral for a Bank advance.

Another Bank requested clarification as to whether the appraisal at loan origination or the most recent appraisal should be used when determining whether a loan meets the definition of "combination business or farm property." Consistent with the Banks' collateral practices, the most recent appraisal should be used.

Section 10(a)(2) of the Act authorizes the Banks to accept, without limitation, as collateral for an advance, all types of securities issued, insured or guaranteed by the United States government, or any agency thereof. See 12 U.S.C. 1430(a)(2). Eligible securities include, but are not limited to, those issued by the Federal Home Loan Mortgage Corporation (FHLMC) the Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA). Section 935.9(a)(2) of the final rule implements section 10(a)(2), and allows a Bank to accept as collateral stripped, residual and other high-risk securities that are issued, insured or guaranteed by the United States government or one of its agencies.

Although the Board's Financial Management Policy prohibits Bank investment in high-risk securities due to the interest rate risk associated with holding these instruments, the Board believes that, for collateral purposes, the Banks can protect themselves by adequately discounting the securities. It is expected that a Bank accepting such securities as collateral will have established systems in place to accurately value the collateral and will establish appropriate loan-to-value ratios.

Securities issued by the former Federal Savings and Loan Insurance Corporation (FSLIC) are considered eligible collateral under category (2). The Board has concluded that not only should FSLIC notes be considered securities issued by an agency of the United States government, but also that FIRREA, in transferring liability for the notes to the FSLIC Resolution Fund and making the United States Treasury ultimately responsible for their repayment, has effectively bestowed the full faith and credit of the United States on the FSLIC notes. As of December 31, 1992, there were only $166 million in outstanding Bank advances secured by FSLIC notes, which is less than one fourth of one percent of the System's total outstanding advances.

Resolution Trust Corporation (RTC) securities are not issued, insured or guaranteed by the RTC in its corporate or agency capacity, and therefore are not eligible collateral under category (2). However, such securities may qualify as category (1)(ii) or category (4) collateral if such securities meet the requirements for those collateral categories.

The Board interprets the inclusive "other real estate-related collateral" language of category (4), in conjunction with the 30 percent of capital limitation, to mean that category (4) permits limited amounts of mortgage-related collateral otherwise ineligible under category (1). For example, the following types of collateral may be considered eligible under category (4): the subordinated, derivative, or residual tranches of privately issued MBSs not otherwise eligible under category (1)(ii); second mortgage loans, including home equity loans; and mortgage loan participations. Commercial real estate loans are also eligible under category (4). This list is not intended to be all inclusive.

Section 935.9(a)(4) of the final rule interprets category (4) broadly to include any other real estate-related collateral acceptable to the Bank, if such collateral has a readily ascertainable value and the Bank can perfect a security interest in such collateral. See 12 U.S.C. 1430(a)(4). Each Bank will determine the particular types of other real estate-related collateral acceptable to that Bank, consistent with the regulatory definition of eligible collateral, and will apprise its members accordingly. However, a member's use of category (4) collateral to secure advances is limited to 30 percent of its capital, calculated according to GAAP, at the time the advance is issued or renewed.

Section 935.9(b) of the final rule provides that each Bank, in its discretion, may further restrict the types of eligible collateral it will accept as security for an advance, based upon the creditworthiness or operations of the borrower, the quality of the collateral, or other reasonable criteria.

Section 935.9(c) of the final rule implements section 10(a)(5) of the Act by authorizing each Bank to require a member to pledge additional collateral to protect the Bank's secured position on outstanding advances, even though such collateral may not constitute "eligible collateral" under § 935.9(a). See 12 U.S.C. 1430(a)(5).

Section 935.9(d) of the final rule implements section 10(c) of the Act by providing that a Bank shall automatically have a lien upon, and shall hold, the Bank capital stock owned by a member as further collateral security for all indebtedness of the member to the Bank. See 12 U.S.C. 1430(c).

Section 935.9(e) of the final rule implements section 10(b) of the Act by prohibiting a Bank from accepting as collateral for an advance a home mortgage loan otherwise eligible as collateral for an advance, if any director, officer, employee, attorney or agent of the Bank or of the borrowing member is personally liable thereon, unless the board of directors of the Bank has specifically approved such acceptance

by formal resolution, and the Board has endorsed such resolution. See 12 U.S.C. 1430(b).

H. Maintenance of Bank Security Interest in Pledged Collateral

Section 935.10 of the final rule implements section 10(f) of the Act (sometimes referred to as the "superlien" provision), by providing that, notwithstanding any other provision of law, the Banks have a priority interest in collateral pledged by a member ahead of other lien creditors, including a receiver or conservator, but not including bona fide purchasers for value of such collateral or creditors with a perfected security interest in the collateral under applicable state law. See 12 U.S.C. 1430(f).

This provision was added to the Act by the Competitive Equality Banking Act of 1987 (CEBA), Public Law 100–86, 101 Stat. 575, section 306(d) (1987). Congress, in establishing the Bank's senior lien status, stated generally that the provision recognizes the special position of the Banks as lenders to the housing finance industry. H. Rep. No. 261, 100th Cong., 1st Sess. 163 (1987). The FDIC has adopted a regulation recognizing the special status of the Banks where the borrower of a Bank is in receivership. See 12 CFR 360.1 (1992).

Section 935.11(a)(1) of the final rule provides that a Bank may allow a borrowing member that is a depository institution to retain documents evidencing collateral pledged to the Bank, provided the member executes an agreement with the Bank that certifies it will hold the collateral solely for the benefit of the Bank and subject to the Bank's direction and control.

A Bank's ability to perfect its security interest in collateral pledged by certain non-depository institution members, such as insurance companies, is dependent on state law to a greater extent than is the Bank's ability to perfect its security interest in collateral pledged by depository institutions. As in the proposed rule, § 935.11(a)(2) of the final rule requires a Bank to take any steps necessary to ensure that its security interest in collateral pledged by non-depository institutions is as secure as its security interest in collateral pledged by depository institutions.

Section 935.11(a)(3) of the final rule provides that a Bank may at any time take steps to perfect its security interest in collateral pledged to secure an advance to a member. This may include requiring a member to segregate pledged collateral, or to physically deliver collateral to the Bank or to a designated third party custodian operating on behalf of the Bank.

Section 935.11(b) of the final rule requires each Bank to regularly verify that collateral pledged to secure advances exists. A Bank shall establish written collateral verification procedures, with standards similar to those established by the Auditing Standards Board of the American Institute of Certified Public Accountants, for verifying the existence of collateral.

Under § 935.12 of the final rule, each Bank is required to determine the value of the collateral securing its advances, according to established and written valuation procedures. The procedures used to determine the value of collateral shall be applied consistently and fairly to all borrowers. A Bank may require a member to obtain an appraisal to ascertain the value of collateral pledged to the Bank. This section is published as proposed.

I. Requirements for Advances to Members That Are Not Qualified Thrift Lenders (QTLs)

While FIRREA opened membership in the System to federally insured commercial banks and credit unions, it imposed further requirements on borrowing by members that do not hold a certain level of housing-related assets, as specified in the Qualified Thrift Lender test (QTL test).[2]

Section 935.13 of the final rule implements the restrictions on advances to non-QTL members found in section 10(e) of the Act. The final rule makes only limited changes to the proposed rule as described herein and, thus, the requirements remain substantially the same as proposed.

Section 10(e) of the Act, as amended, permits members that are not QTLs to borrow from the Banks under the following conditions: (1) Non-QTLs may only use advances for housing finance purposes; (2) the aggregate amount of advances made by the System's Banks to non-QTL members shall not exceed 30 percent of total System advances;[3] and (3) in the event of limited funding availability, a Bank must grant priority for advances to QTL borrowers over non-QTL borrowers. See 12 U.S.C. 1430(e) (1), (2). In addition, a non-QTL borrower must hold Bank stock at the time it receives an advance in an amount equal to at least five percent of its total advances, divided by its actual thrift investment percentage (ATIP).[4]

1. *Applicability of non-QTL requirements.* The Board interprets the non-QTL requirements in section 10(e) to apply to all savings association members and non-savings association members that do not meet the requirements of the QTL test, except those specifically exempted by section 10(e)(4). *Id.* at 1430(e)(4). Therefore, in accordance with the statutory exemptions, § 935.13(a)(4) of the final rule provides that these limitations do not apply to: (1) A savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. 1813(g); (2) a Federal savings association in existence as such on August 9, 1989 that (i) was chartered as a savings bank or cooperative bank prior to October 15, 1982 under state law, or (ii) that acquired its principal assets from an institution that was chartered prior to October 15, 1982 as a savings bank or cooperative bank under state law.

Section 10(m) of the Home Owners' Loan Act (HOLA) administered by the OTS further restricts non-QTL savings associations' access to Bank advances. Savings associations that cease to be QTLs may not receive new Bank advances. See 12 U.S.C. 1467a(m)(3)(B)(i)(III). In addition, if such savings associations fail to regain their QTL status within three years, they must repay all outstanding Bank advances. See 12 U.S.C. 1467a(m)(3)(B)(ii)(II).

Since HOLA generally precludes non-QTL savings associations from receiving any new advances, the non-QTL requirements in section 10(e) have minimal effect on non-QTL savings associations. Thus, the section 10(e) requirements and concomitantly this

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[2] See 12 U.S.C. 1430(e)(1). The QTL test, as defined in section 10(m) of the Home Owners' Loan Act (HOLA), as amended, 12 U.S.C. 1467a(m), requires that savings associations maintain at least 65 percent of their assets in "qualified thrift investments" (QTI). QTI assets are divided into two "baskets," one available in unlimited amounts and the other limited to an amount equal to 20 percent of a savings association's portfolio assets. The unlimited basket contains housing-related assets (mortgage loans, home equity loans, and MBSs, as well as certain government agency obligations); the 20 percent basket contains consumer loans and assets associated with community lending. See 12 U.S.C. 1467a(m)(4)(C); 12 CFR 563.51(f) (1992).

[3] This requirement has been changed from the proposed rule to reflect the recent amendment to section 10(e) provided for in the Housing and Community Development Act of 1992 (HCDA), Public Law 102–550, 106 Stat. 3672, 4009. This amendment is further explained in the discussion of § 935.13(a)(1)(iii) of the final rule.

[4] See *id.* at 1430(e)(1). The ATIP, used to determine compliance with the QTL test, is a ratio whose numerator is QTI and whose denominator is "portfolio assets." The term "portfolio assets" is statutorily defined as total assets, less goodwill and other intangible assets, the value of an institution's business property, and a limited amount of liquid assets. See 12 U.S.C. 1467a(m)(4) (A), (B); 12 CFR 563.51(a), (e) (1992). See *supra* n.2 for an explanation of "QTL."

final rule have greatest applicability to advances to non-QTL, non-savings association members. See 12 U.S.C. 1430(e).

a. Comments received on non-QTL requirements. One trade association comment letter suggested that grandfathering pre-FIRREA, non-QTL members and treating them as QTLs would further Congressional intent. However, the Board is not convinced that this interpretation of Congressional intent is valid, and believes that it lacks the legal authority to create such an exemption from the QTL requirements.

Eight comment letters addressed the proposed rule's application of the non-QTL borrowing requirements to non-savings associations. One Bank commented that the requirements should not apply to non-savings association members (commercial banks, credit unions and insurance companies) because these institutions could never qualify legally as QTLs. A second Bank, two insurance industry trade associations, and three insurance companies commented that the final rule should exempt insurance companies from the non-QTL restrictions. One of the Banks submitted a second letter which included a legal analysis prepared by two Banks. These commenters believe that the non-QTL concept, introduced by CEBA and amended by FIRREA, was never intended to apply to insurance companies, which have been eligible for membership since the System was established in 1932. The comment letters also state that there is no financial or public policy purpose for applying the non-QTL requirements to insurance companies and that applying such requirements will discourage a class of eligible institutions from joining the System.

b. The Board's view of the non-QTL requirements. The Act specifically applies the non-QTL requirements to "members" and the Board does not believe there is a legal basis for providing special treatment to any class of non-QTL members that is not available to other non-QTL members (except where such treatment is specifically provided by law, as is the case for certain savings bank members, see 12 U.S.C. 1430(e)(4)). The Board agrees that these requirements may act as a disincentive for insurance companies, as well as other non-QTL members and potential members, to borrow from or join the System. For this reason, the Board has testified before Congress in favor of equal borrowing and stock purchase requirements for all System members, in conjunction with voluntary membership for all eligible institutions.

The crux of the issue is whether the word "member" as used in the phrase "member that is not a [QTL]" in section 10(e) of the Act, means all members, or whether it can be interpreted to mean only "savings association members." The commenters suggest that "member that is not a [QTL]" may be interpreted to mean only "savings association members that are not QTLs" because only savings associations come within the definition of QTL in HOLA that is cross-referenced in section 10(e)(5) of the Act.

In evaluating whether to follow the approach suggested by the commenters, the Board researched tenets established by the U.S. Supreme Court for agencies construing statutes they administer. The first inquiry is whether there is ambiguity in the statute such that congressional intent cannot be determined. See *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842 (1984). However, the Board is obliged to fulfill Congress' intent if that can be discerned from considering the statute as a whole, even though there may be ambiguity in a specific provision. See *Massachusetts* v. *Morash*, 490 U.S. 107, 115 (1989).

Under the commenters' interpretation, as of March 30, 1993, the non-QTL requirements of the Act would apply only to five savings association members.[5] The Board finds it practically inconceivable that Congress created this elaborate set of non-QTL requirements to address only five of the System's current total of 3,723 members.[6]

The better interpretation of the phrase "member that is not a [QTL]" is that the word "member" in that phrase means all members, not just a limited class of members, since any member can be a "member that is not a qualified thrift lender." This is the position the Board took in its proposed advances rule. In support of this interpretation is the fact that the Act's non-QTL requirements were meant to distinguish between members based on their commitment to housing, not based on their charter type. Savings associations are by no means the only institutions with a commitment to housing. And conversely, savings associations, commercial banks, and insurance companies—indeed all members CAFE that fail to have a substantial portion of their portfolios invested in mortgage assets—may be considered "members that are not qualified thrift lenders." If Congress had intended that the non-QTL provisions in the Act apply only to savings associations, it could have said, "A savings association member that is not a [QTL]," but Congress did not say this.

Any arguable ambiguity surrounding this language is between only two different interpretations. The only two possible plain meaning interpretations of the phrase "member that is not a [QTL]" are to apply the phrase either to all members, or only to savings associations. A number of commenters alternatively suggested that the non-QTL requirements might be applied to all members except for insurance companies. There is no plausible reading of "member that is not a [QTL]" that would support an interpretation that the phrase refers to all members except for insurance companies. The Board is permitted to resolve a statutory language ambiguity only with "a permissible construction of the statute." See *Chevron*, 467 U.S. at 843. Accordingly, even if the Finance Board did find section 10(e) to be ambiguous, insurance companies alone cannot be carved out.

In addition to the plain meaning, the legislative history strongly supports applying the non-QTL requirements to all members. Most compelling is the House Banking Committee's Report on the portion of HCDA which modified one of the non-QTL requirements. In changing the 30 percent limit on advances to non-QTL members in section 10(e)(2) of the Act from an individual Bank limit to a System limit, the committee specifically cited its desire to lessen the effects of this non-QTL provision on commercial banks. See H.R. Rep. No. 206, 102d Cong., 1st Sess. 74–75 (1991). This presents compelling evidence that Congress intended for the FIRREA non-QTL requirements to apply to commercial banks.

Also, the Senate Floor Manager for FIRREA explained during the FIRREA floor debate how the Senate migrated from its original position of requiring banks and credit unions to become QTLs in order to gain access to Bank advances, to the final position, which allows non-QTL members to borrow from the Bank if they hold additional stock. See 135 Cong. Rec. S. 10206

[5] Based on a telephone survey of Banks between March 23 and 29, 1993, by Thomas D. Sheehan, Assistant Director, District Banks Directorate, and Edwin Avila, Financial Analyst, District Banks Directorate. Of the five non-QTL savings association members, only one had outstanding advances, totaling $6.36 million. The survey also identified four additional savings associations which had failed the QTL test since the enactment of FIRREA. These four institutions are no longer System members.

[6] February 1993 membership report, District Banks Directorate. At the time FIRREA was enacted, on August 9, 1989, there were 3,217 FHLBank System members. As of February 1993, there were 3,723 FHLBank System members. *Id.*

(daily ed. Aug. 4, 1989) (statement of Sen. Riegle); see also H.R. Conf. Rep. No. 222, 101st Cong., 1st Sess. 428 (1989).

For these reasons, the final rule interprets the section 10(e) restrictions as applicable to all non-QTL System members that borrow from the Banks.

2. *Monitoring of QTL status.* The OTS is responsible for monitoring savings associations' compliance with the QTL test, and for enforcing restrictions applicable to institutions that fail the test, including the restrictions on advances to non-QTL savings associations. See 12 U.S.C. 1467a(m), 1813(q). The proposed rule provided that, unless otherwise informed by the OTS, a Bank could assume that a member savings association is a QTL. However, in its comment on the proposed rule, the OTS said that savings associations are currently required to report to the OTS when they cease to be QTLs.[7]

After carefully weighing the OTS' comment, the Board has decided that the final rule should facilitate OTS' administration of HOLA to the maximum extent possible. To make the final rule conform to the OTS process, § 935.13(c) provides that either a Bank's written advances agreement or written advances application shall require that each savings association member, which pursuant to the QTL requirements of the OTS becomes ineligible for Bank advances, immediately notify its Bank of its ineligibility. Once a Bank receives written notification, either from the member or the OTS, that a savings association member ceases to be eligible for Bank advances pursuant to the QTL requirements of the OTS, the Bank shall not make any advances to such member.

Section 935.13(a) of the proposed rule would have interpreted HOLA not to permit new advances or renewals of existing advances to non-QTL savings associations. The Board wishes to avoid implementing HOLA requirements through this rulemaking, or in any way interpreting a statute that OTS is empowered to implement. Therefore, the final rule does not address the issue of whether the restriction on advance use applies to renewals, because the Board believes it appropriate for the OTS to interpret this requirement of HOLA.

Consistent with section 10(m)(3)(B)(ii)(II) of HOLA, section 935.13(d) of the final rule provides that, if informed by the non-QTL savings association member or the OTS that the member has failed to regain its QTL status and is required to repay its outstanding advances prior to maturity, the Bank, in conjunction with the member, shall develop a schedule for the prompt and prudent repayment of all outstanding advances. The schedule shall be consistent with the Bank's and the member's safe and sound operations, and shall be provided promptly by the Bank to the OTS and the Board.

3. *Non-QTL exemption for special liquidity advances.* A Bank comment letter requested clarification as to whether a Bank could lend to a non-QTL savings association member at the request of the OTS. The OTS regulation implementing the QTL test specifies that a non-QTL savings association may be eligible for Bank advances under section 10(h) of the Act, 12 U.S.C. 1430(h), with the approval of the Director of the OTS. See 12 CFR 563.52(a)(3). Section 10(h) advances are special Bank liquidity advances available to member savings associations. See 12 CFR 935.18 of this final rule on advances. Since the OTS has the responsibility to interpret and implement restrictions on savings association access to advances under HOLA, the Board believes that such lending would be appropriate if requested by the Director of the OTS and if the Bank believes it can safely fund the advances.

4. *Monitoring compliance with the non-QTL requirements.* Section 935.13(a) of the final rule implements the Act's restrictions on advances to non-QTL members. The Act requires that non-QTL borrowers use advances only for "housing finance" purposes. See 12 U.S.C. 1430(e)(1). ("Housing finance" is defined as "residential housing finance" for purposes of this part 935.) However, the fungibility of money makes it very difficult and costly to track the actual use of an advance. Therefore, § 935.13(a)(1)(i) of the final rule ties a non-QTL member's ability to access advances to its level of "residential housing finance assets," as determined pursuant to § 935.13(a)(2).

Section 935.13(a)(1)(ii) of the final rule implements section 10(e)(1) of the Act by providing that a Bank shall require a non-QTL member to hold stock in its Bank at the time it receives an advance in an amount equal to at least five percent of the outstanding principal amount of the member's total advances, divided by the member's ATIP. The ATIP shall be calculated pursuant to § 935.13(a)(3) of the final rule. See 12 U.S.C. 1430(e)(1).

Section 935.13(a)(2) of the final rule provides that prior to granting a non-QTL member's request for an advance, a Bank shall determine that the principal amount of outstanding advances to the member does not exceed the total book value of the member's residential housing finance assets, as indicated on the most recent Call Report or financial statement made available by the member. The Board believes that a member's level of residential housing finance assets is a reasonable and measurable indicator of a non-QTL borrower's commitment to housing finance and its use of Bank advances for that purpose.

Seven comment letters addressed § 935.13(a)(2). Three Banks and two trade associations expressed support for the compliance monitoring mechanism, characterizing it as straightforward and relatively simple to implement.

One Bank suggested that members whose level of advances exceeds their level of residential housing finance assets should be permitted to borrow if they certify that the funds will be used for housing finance. However, as discussed earlier, the fungibility of funds makes such a requirement relatively meaningless. The final rule, consistent with the proposed rule, does provide that a member whose level of advances exceeds its level of residential housing finance assets may apply for CIP or AHP advances.

The Bank also suggested that a member's advances and residential housing finance assets should be measured at the same time. While it is conceptually appropriate to measure advances and residential housing finance assets simultaneously, it will be difficult to prevent a lag in timing unless the member can provide interim financial statements. The use of such financial statements is permissible under the final rule.

5. *Definition of "Residential Housing Finance Assets".* Section 935.1 of the final rule defines "residential housing finance assets" as loans secured by residential real property; securities representing an ownership interest in, or collateralized by, loans secured by residential real property; participations in such loans; loans financed by CIP advances; loans secured by manufactured housing, regardless of whether such housing qualifies as residential real property; or any loan or investment that the Board, in its discretion, otherwise determines is a

[7] Pursuant to the OTS's regulation, 58 FR 15082, 15084 (Mar. 19, 1993) (to be codified at 12 CFR 563.50(b)(2)), beginning January 1, 1993, a savings association ceases to be a QTL when its ATIP, as measured by monthly averages over the immediately preceding 12-month period, falls below 65 percent for four or more of such months. A savings association may requalify as a QTL only once, by meeting and maintaining an ATIP, as measured by monthly averages for nine out of 12 months, that is greater than or equal to 65 percent.

residential housing finance asset. This definition includes home equity loans.

Six comment letters addressed the definition of residential housing finance assets. One Bank and five member savings associations recommended that the Board use the definition of QTI, rather than the residential housing finance assets definition contained in the proposed rule, to determine access to advances. These commenters believe Congress intended that the QTL test be used to determine whether an asset is "housing-related," and that establishing a new category places an additional monitoring burden on the Banks and their members.

The Board recognizes that it may be an added operational burden to use a separate definition of residential housing finance assets. However, QTI includes assets which the Board does not consider to be housing-related (*e.g.*, consumer and student loans, and liquid assets). Therefore, as in the proposed rule, the final rule uses a separate definition of residential housing finance assets than the QTI definition.

The definition of residential housing finance assets in § 935.1 of the final rule includes all loans funded by CIP advances, although some of these loans may be for community and economic development projects and thus may be nonresidential. The Board believes this is appropriate since section 10(i) of the Act specifically includes the financing of commercial and economic activities that benefit low- and moderate-income families and neighborhoods in the definition of community-oriented mortgage lending. See 12 U.S.C. 1430(i). The Board believes that this definition indicates that all loans funded under the CIP should be included in the definition of residential housing finance assets. Otherwise, the Banks could not provide CIP advances to a non-QTL non-savings association member, or long-term CIP advances to any member, if the advances funded community and economic development projects. (The Act, as amended, requires that long-term advances only be used for purposes of funding residential housing finance, 12 U.S.C. 1430(a). See sec. J. below.) Four Banks and one trade association expressed support for including CIP advances in the definition of residential housing finance assets.

The definition of residential housing finance in § 935.1 of the final rule includes loans secured by manufactured housing. Manufactured housing loans are included in the definition of residential housing finance assets, since such manufactured housing qualifies as real property under state law. However, the Board feels that it is important that all manufactured housing loans, not just those where state law defines the manufactured housing that secures the loan as real property, be treated as residential housing finance. The Board believes this will facilitate financing for manufactured housing, an important source of affordable housing. The final rule has been revised accordingly.

6. *Monitoring the ATIP requirement.* Under § 935.13(a)(3) of the proposed rule, the Banks would be responsible for monitoring the ATIP of non-savings association members by calculating their ATIP at least annually, between January 1 and April 15, based upon financial data as of December 31 of the prior year. The Bank would use this ATIP calculation to determine the stock purchase requirement for the member's total outstanding advances. See 12 U.S.C. 1426(b)(2), 1430(e)(1).

Eight comment letters addressed this section. Two trade associations and two Banks supported the annual calculation of the ATIP. However, three Banks requested that the final rule provide them with the discretion to calculate the ATIP more frequently in order to more accurately reflect members' participation in housing finance. The Board agrees that members who have increased their ATIP should receive credit through lower stock purchase requirements, subject to the requirements of section 10(e)(1). (See section K. on capital stock requirements.) Accordingly, § 935.13(a)(3) of the final rule requires the Banks to calculate a non-savings association member's ATIP at least annually, and permits the Banks, in their discretion, to calculate the ATIP more frequently than annually.

7. *Monitoring the 30 percent non-QTL cap.* Proposed § 935.13(a)(1)(iii) was designed to implement section 10(e)(2) of the Act before its recent amendment by the HCDA, by providing that a Bank may not extend an advance to a non-QTL member if the advance would cause the Bank's aggregate amount of outstanding advances to non-QTL members to exceed 30 percent of the Bank's total outstanding advances. However, subsequent to the publication of the proposed rule, section 10(e)(2) was amended by the HCDA. The Act, as amended, now applies the 30 percent limitation to the System's, rather than each Bank's, aggregate outstanding advances. Section 935.13(a)(1)(iii) of the final rule has been revised accordingly. Outstanding advances to savings associations that are identified as non-QTLs will be included in the aggregate advances that may be held by non-QTL members. The Board will establish monitoring procedures to ensure that the Banks remain in compliance with the new provision. However, in the event that a decline in the System's level of aggregate outstanding advances to QTL members causes existing non-QTL advances to exceed 30 percent of total advances, the Banks will not be required to call any outstanding non-QTL advances in order to bring the System into compliance with the new requirement.

One member commercial bank requested that the 30 percent limitation be eliminated. As noted above, however, the restriction is statutory. Nevertheless, the modification of the requirement from a Bank-by-Bank restriction to a System restriction should partially alleviate the member's concerns about the availability of funding for housing finance to non-QTL members.

8. *Special exceptions to non-QTL requirements.* Section 935.13(a)(4) of the final rule provides that the requirements of paragraphs (a) (1), (2) and (3) of this section do not apply to certain state-chartered savings banks and certain Federal savings associations. Section 935.13(a)(5) of the final rule provides that applications from non-savings association members for AHP and CIP advances are exempt from the requirements of paragraph (a)(2) since, as part of the AHP and CIP advance application process, members supply documentation which certifies that the funds will be used for residential housing finance purposes.

9. *Advances priority for QTL members.* Section 935.13(b) of the final rule provides that if a Bank is unable to meet its members' aggregate demand for advances, the Bank shall give priority to the demands of its QTL members, taking into consideration the effect of making such advances on the Bank's financial integrity, the member's creditworthiness, the availability of compatible funding, and any other factors that the Bank determines to be relevant. The requirements of paragraph (b) do not apply to special, or otherwise limited, advance offerings by a Bank, which may be offered on a first come, first served basis. This section of the final rule implements section 10(e)(2) of the Act. See 12 U.S.C. 1430(e)(2).

The Board received one comment letter on this section. A trade association requested that the criteria to be used by Banks for rationing advances between QTLs and non-QTLs be made more specific. The Board believes that, given the Banks' ability to raise funds in the capital markets, it is unlikely that such rationing will ever be required. However, if such rationing were to occur, the Board believes the criteria in the proposed rule are adequate.

Therefore, § 935.13(b) of the final rule is published as proposed.

10. *Advance commitments.* Section 935.13(e) of the final rule requires that either the written advances agreement required by § 935.4(b)(2) of this part or the written advances application authorized in § 935.4(a) of this part shall stipulate that a Bank shall not honor advance commitments made to members whose access to advances is subsequently restricted pursuant to paragraph (a) or (c) of this section.

The proposed rule would have required that the written advances agreement required by § 935.4(b)(2) of the proposed rule stipulate that a Bank shall not fund commitments for advances previously made to members whose access to advances has subsequently been restricted pursuant to § 935.13. However, two Bank commenters requested that for purposes of greater operational flexibility, the Banks be permitted to include this stipulation in either the advances application or the advances agreement. The Board agrees that placing the provision in the advances application is substantially the same as placing it in the agreement and will provide greater operational control. Therefore, the final rule has been revised to incorporate the Banks' suggestion.

J. Limitations on Long-Term Advances

Section 10(a) of the Act, as amended by FIRREA, provides that all long-term advances shall only be made for the purpose of providing funds for residential housing finance. 12 U.S.C. 1430(a). Section 935.1 of the final rule defines a "long-term advance," for purposes of this part, as an advance with an original term to maturity greater than five years. Although there is no explicit definition of long-term advance in the Act, this proposed definition is consistent with the historic System definition of long-term, and with the definition of "long-term advances" provided in the Community Support Regulation promulgated by the Board. See 12 CFR 936.1(n).

The designation of five years or less as short-term and greater than five years as long-term derives in part from section 11(g) of the Act, see 12 U.S.C. 1431(g). That section requires that each Bank maintain investments in an amount equal to current member deposits, and includes advances with maturities of up to five years in the list of investments eligible to fulfill this liquidity requirement. In addition to this statutory foundation, the housing finance mission of the Banks points to a definition that exceeds five years, since as noted earlier, residential mortgage loans, which long-term advances are designed to finance, generally have an average life greater than five years. One Bank commented favorably on this definition of long-term.

Section 935.14(a) of the final rule implements section 10(a) of the Act by requiring that the Banks make long-term advances only for the purpose of enabling a member to purchase or fund new or existing residential housing finance assets. The Board intends to require that the Banks monitor the use of long-term advances for this purpose by using the same method proposed for monitoring advances to non-QTL borrowers in § 935.13.

Specifically, § 935.14(b)(1) of the final rule provides that, before funding an advance with a maturity greater than five years, a Bank shall determine that the borrowing member's level of outstanding advances with original maturities greater than five years does not exceed the total book value of the member's residential housing finance assets. The Bank shall use the most recent TFR, Call Report or other financial statement made available by the member to determine the total book value of the member's residential housing finance assets. Two Banks and two trade associations expressed support for this compliance monitoring mechanism.

Section 935.14(b)(2) of the final rule provides that applications for AHP and CIP advances are exempt from this requirement since these programs require certification as to the purpose for which funding will be used, and as noted above, the definition of residential housing finance assets includes loans funded with CIP advances, which means that long-term CIP advances also may fund community and economic development projects.

K. Capital Stock Requirements and Redemption of Excess Stock

The Act sets forth two minimum stockholding requirements for System members (minimum subscription requirements). See 12 U.S.C. 1426(b)(1), (4); 1430(e)(3). The first minimum stock subscription requirement provides that each member shall purchase Bank capital stock in an amount equal to one percent of the aggregate unpaid principal of its home mortgage loans, home-purchase contracts and similar obligations, but not less than $500. See 12 U.S.C. 1426(b) (1), (4).

The second minimum subscription requirement provides that each member shall purchase and maintain stock, pursuant to the one percent requirement, as if at least 30 percent of its assets consisted of home mortgage loans (*i.e.*, the minimum subscription requirement equals .3 percent of a member's total assets). This provision only has application to members that have less than 30 percent of their assets in home mortgage loans, home purchase contracts and similar obligations. For these institutions, the .3 percent of total assets requirement is greater than the one percent of aggregate unpaid loan principal requirement. See 12 U.S.C. 1430(e)(3). These statutory minimum subscription requirements will be addressed more fully in a future Board rulemaking on Bank membership requirements. See Board proposed rule, "Members of the Banks," 57 FR 58732 (Dec. 11, 1992).

In addition to the minimum subscription requirements, the Act specifies two stock purchase requirements based on advance levels (the advances-to-stock requirements). These requirements are implemented in § 935.15(a) of the final rule. All members must hold stock in an amount equal to at least five percent of outstanding advances (*i.e.*, the aggregate amount of advances to a member may not exceed 20 times the amount paid in by such member for capital stock in the Bank). See 12 U.S.C. 1430(c). In addition, non-QTL members applying for an advance must hold capital stock in the Bank at the time the advance is received in an amount equal to at least five percent of the member's total advances, divided by the member's ATIP. See *id.* at 1430(e)(1), and § 935.13(a)(1)(ii) of the final rule discussed *supra*. A member's Bank stockholdings must be at least equal to the greater of its minimum subscription requirement or its advances-to-stock requirement. See 12 U.S.C. 1426(b) (1), (2).

One Bank commenter requested clarification on the timing of requiring additional stock purchases under section 10(e)(1) where the recalculated ATIP of a non-QTL member has declined from the previous ATIP calculation on file with the Bank. Specifically, the commenter requested clarification regarding whether a lower ATIP automatically triggered the purchase of additional stock by the member, or whether the additional stock purchase would be required on the next date the Bank extended a new advance or renewed an existing advance to the member. The Board interprets section 10(e)(1) to require the additional stock purchase on the next date that a member renews an existing advance or receives a new advance from the Bank.

The Act authorizes the Banks to redeem stock in excess of the minimum

subscription requirements at a member's request, as long as such redemption will not result in the member holding less stock than is required by the advances-to-stock requirement. See *id.* at 1426(b). The Banks annually recalculate their members' minimum subscription requirement, and members holding stock in excess of the recalculated amount may request that their Banks redeem the excess stock. *Id.* at 1426(b)(1). The Act also authorizes the Banks to unilaterally redeem stock upon the termination of a stockholder's membership in the System if the terminated member has no outstanding indebtedness to the Bank. See *id.* at 1426(e). The Act does not specifically address the issue of whether a Bank has the authority to unilaterally redeem Bank stock held by a member in excess of the advances-to-stock requirements. In practice, the Banks redeem stock, at the request of a member, in excess of its advances-to-stock requirement throughout the year as advances are repaid, as long as the minimum subscription requirement is maintained.

Section 935.15(b) of the final rule provides that a Bank, after providing 15 calendar days written notice to a member, may unilaterally redeem that portion of a member's stockholdings in excess of its advances-to-stock requirement, as long as the member's minimum subscription requirement is maintained. Three comment letters addressed this section. One trade association commenter expressed opposition to allowing the Banks to unilaterally redeem excess stock. The Board continues to believe, however, that allowing the unilateral redemption of stock in excess of a member's advances-to-stock requirement is a reasonable interpretation of the Act, and will aid the Banks in managing their equity levels as part of their financial planning.

A second trade association requested that the Banks provide 45 days notice prior to unilaterally redeeming excess stock. The Board believes that the 15-day notice requirement should provide each member with adequate opportunity to identify alternative investments, given that the member will be aware, with the publication of this final rule, that excess stock will be subject to redemption by its Bank. Accordingly, the final rule retains the 15-day notice requirement.

A Bank commenter requested clarification on the timing of unilateral stock redemptions, specifically in instances where a non-QTL member's ATIP has increased, creating an excess stock position. The Board believes that allowing the Banks the discretion to determine the timing of the redemption is a reasonable interpretation of the Act. However, in exercising the unilateral redemption authority, the Banks must meet the requirements of section 7(j) of the Act for fair and impartial treatment of all members. See 12 U.S.C. 1427(j). Section 935.15(b) of the final rule has been revised accordingly.

L. Advance Participations and Intradistrict Transfers of Advances

Section 10(d) of the Act requires Board approval for the participation or sale of advances by one Bank to other Banks. See 12 U.S.C. 1430(d). Section 935.16 of the final rule incorporates existing Board policy which provides that, subject to the approval of the boards of directors of the relevant Banks, a Bank may allow any other Bank to purchase a participation interest in any advance, together with an appropriate assignment of the underlying security therefor. Participation agreements already in place are deemed to meet the requirements of this part, and will not require further approval by the Bank's board or the Board. One Bank expressed support for this provision.

Section 935.17 of the final rule provides that a Bank may allow one of its members to assume advances extended by the Bank to another of its members, provided the assumption conforms to the requirements in this part 935 for the issuance of a new advance. A Bank may charge an appropriate fee for processing the transfer.

M. Special Advances to Savings Associations

Section 935.18(a) of the final rule implements section 10(h) of the Act by providing that, upon receipt of a written request from the Director of the OTS, the Banks may make short-term advances to troubled but solvent member savings associations having reasonable and demonstrable prospects of returning to a satisfactory financial condition. See 12 U.S.C. 1430(h). Section 935.18(b) of the final rule, consistent with section 10(h) of the Act, provides that any advance made pursuant to this section shall be subject to the same collateral requirements applicable to other advances, and shall be at the interest rate applicable to short-term advances of similar type and maturity made available to other members that do not pose such a supervisory concern. The requirements of the Act, therefore, preclude risk-based pricing of advances made available under this section. The statutory provision regarding these liquidity advances makes clear that extending such advances is within the discretion of the Banks. See 12 U.S.C. 1430(h).

N. Liquidation of Advances Upon Termination of Membership

Section 935.19 of the final rule implements section 6(e) of the Act by specifying that if an institution's membership in a Bank is terminated, the indebtedness of such institution to the Bank shall be liquidated in an orderly manner, as determined by the Bank. See 12 U.S.C. 1426(e). Such liquidation shall be deemed a prepayment of any such indebtedness and subject to any applicable prepayment fees. A Bank shall not be required to call any such indebtedness prior to maturity.

Subpart B—Advances to Nonmembers

A. Scope

Section 935.20 of the final rule provides that advances to nonmembers shall be subject to all of the provisions in subpart A of this part 935, except as otherwise provided in § 935.21 of subpart B of this part 935. This requirement is designed to ensure that nonmember advance programs operate generally within the same regulatory framework as member advance programs and without special benefits to nonmembers.

B. Advances to the Savings Association Insurance Fund (SAIF)

Section 935.21(a) of the final rule implements section 11(k) of the Act, 12 U.S.C. 1431(k), by providing that upon receipt of a written request from the FDIC, a Bank may make advances to the FDIC for the use of the SAIF. Pursuant to § 935.21(b) of the final rule, such an advance shall: (1) Bear a rate of interest not less than the Bank's marginal cost of funds, taking into account the maturities involved and reasonable administrative costs; (2) be for a maturity acceptable to the Bank; (3) be subject to any prepayment, commitment or other appropriate fees; and (4) be adequately secured by collateral acceptable to the Bank. See 12 U.S.C. 1431(k).

One Bank requested clarification on whether the price of such advances must compensate the Banks for the lack of a capital investment by the FDIC in the Bank, or, alternatively, whether the Banks could require the FDIC to maintain a compensating balance. The Board believes that, absent explicit statutory authority, it should not require a U.S. government agency to provide additional compensation, either through pricing or by requiring a compensatory balance, to make up for the absence of

the capital stock investment required of members.

Advances to Nonmember Mortgagees

The proposed advances rule contained provisions implementing section 10b of the Act, 12 U.S.C. 1430b, which permits a Bank to make advances under certain circumstances to eligible nonmember mortgagees.[8] Subsequent to the publication of the proposed advances rule, the HCDA amended section 10b of the Act to establish special collateral requirements for certain advances to nonmember mortgagees that are state housing finance agencies.

The Board is publishing the nonmember mortgagee provisions implementing section 10b, as amended, in a separate interim final rule, published elsewhere in this issue of the **Federal Register**, so that it may receive comments on the new provisions implementing the HCDA amendment. The public will have 60 days to comment on the interim final rule, which will become effective the day after the effective date of this final advances rule. The Board will have the opportunity to consider comments it receives before it promulgates the final nonmember mortgagee rule.

Board Statements of Policy and Former Federal Home Loan Bank Board Policy on Advances

The final rule incorporates the Statements of Policy on advances currently contained in 12 CFR part 940, as revised herein. The final rule removes and reserves part 940. The final rule also supersedes the former Federal Home Loan Bank Board's policy on advances, adopted by minute entry on July 6, 1988. This minute entry was not published in the **Federal Register**.

Regulatory Flexibility Act

The final rule largely implements statutory requirements applicable to all System members, regardless of their size. The Board is not at liberty to make adjustments to those statutory requirements to accommodate small entities. The Board has not imposed any additional regulatory requirements that will have a disproportionate impact on small entities. Therefore, it is certified, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this final rule, as promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects

12 CFR Part 935

Credit, Federal home loan banks.

12 CFR Part 940

Federal home loan banks.

The Finance Board hereby amends subchapter B, chapter IX, title 12, Code of Federal Regulations, as follows:

1. Part 935 is revised to read as follows:

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 935—ADVANCES

Subpart A—Advances to Members

Sec.

935.1 Definitions.
935.2 Bank credit mission.
935.3 Bank advances policy.
935.4 Authorization and application for advances; obligation to repay advances.
935.5 Limitations on access to advances.
935.6 Terms and conditions for advances.
935.7 Interest rates on Community Investment Program advances.
935.8 Fees.
935.9 Collateral.
935.10 Banks as secured creditors.
935.11 Pledged collateral; verification.
935.12 Collateral valuation; appraisals.
935.13 Restrictions on advances to members that are not qualified thrift lenders.
935.14 Limitations on long-term advances.
935.15 Capital stock requirements; unilateral redemption of excess stock.
935.16 Advance participations.
935.17 Intradistrict transfer of advances.
935.18 Special advances to savings associations.
935.19 Liquidation of advances upon termination of membership.

Subpart B—Advances to Nonmembers

935.20 Scope.
935.21 Advances to the Savings Association Insurance Fund.

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1431.

Subpart A—Advances to Members

§ 935.1 Definitions.

As used in this part:

Act means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).

Actual thrift investment percentage or *ATIP* has the same meaning as used in section 10(m)(4) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)) and in the implementing regulations of the OTS at 12 CFR 563.51, except that the ATIP will be calculated and applied for purposes of this part to all members of the Banks, whether or not they are savings associations.

Advance means a loan from a Bank that is:

(1) Provided pursuant to a written agreement;

(2) Supported by a note or other written evidence of the borrower's obligation; and

(3) Fully secured by collateral in accordance with the Act and this part.

Affordable Housing Program or *AHP* means the program described in section 10(j) of the Act (12 U.S.C. 1430(j)) and part 960 of the Board's regulations.

Appropriate Federal banking agency. The term *appropriate Federal banking agency* has the same meaning as used in 12 U.S.C. 1813(q) and for federally insured credit unions shall mean the National Credit Union Administration.

Bank means a Federal Home Loan Bank established under the authority of the Act.

Board means the Federal Housing Finance Board established under the authority of the Act, its governing Board of Directors, or an official duly authorized to act on its behalf.

Combination business or farm property means real property for which the total appraised value is attributable to the combination of residential, and business or farm uses.

Community Investment Program or *CIP* means the program described in section 10(i) of the Act or a program established pursuant to section 10(j)(10) of the Act (12 U.S.C. 1430(i), (j)(10)).

Depository institution means a bank or savings association, as defined in 12 U.S.C. 1813, or a credit union, as defined in 12 U.S.C. 1752.

Dwelling unit means, for purposes of this part, a single room or a unified combination of rooms designed for residential use by one household.

FDIC means the Federal Deposit Insurance Corporation.

GAAP means Generally Accepted Accounting Principles.

HUD means the Department of Housing and Urban Development.

Improved residential real property means residential real property excluding real property to be improved, or in the process of being improved, by the construction of dwelling units.

Insurer means:

(1) The FDIC for banks and savings associations; or

(2) The National Credit Union Share Insurance Fund for credit unions.

Long-term advance means, for the purposes of this part, an advance with an original term to maturity greater than five years.

Manufactured housing means a manufactured home as defined in

[8] Eligible nonmembers must: (1) Be mortgagees approved by the Department of Housing and Urban Development, pursuant to 12 U.S.C. 1707 *et seq.*; (2) be chartered institutions having succession; (3) be subject to inspection and supervision by a government agency; and (4) lend their own funds as their principal activity in the mortgage field. The Act also provided that nonmember mortgagees could only pledge FHA-insured mortgages as collateral for Bank advances.

section 603(6) of the Manufactured Home Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5402(6)).

Member means an institution that has been admitted to membership in a Bank and, pursuant to requirements established by the Board, has purchased capital stock in the Bank.

Mortgage-backed security means, for purposes of this part:

(1) An equity security representing an ownership interest in:

(i) Fully disbursed, whole first mortgage loans on improved residential real property; or

(ii) Mortgage pass-through or participation securities which are themselves backed entirely by fully disbursed, whole first mortgage loans on improved residential real property; or

(2) A collateralized mortgage obligation, mortgage-backed bond or other debt security backed entirely by the assets described in paragraph (1)(i) or (ii) of this section.

Multifamily property means:

(1) Real property containing five or more dwelling units; or

(2) Real property containing five or more dwelling units with commercial units combined, provided the property is primarily residential.

Non-Qualified Thrift Lender member means any member that does not meet the Qualified Thrift Lender test as defined in this part.

Nonresidential real property means, for purposes of this part, real property not used for residential purposes, including business or industrial property, hotels, motels, churches, hospitals, nursing homes, educational and charitable institutions, clubs, lodges, association buildings, golf courses, recreational facilities, farm property not containing a dwelling unit, or similar types of property, except as otherwise determined by the Board in its discretion.

OCC means the Office of the Comptroller of the Currency.

One-to-four family property means any of the following:

(1) Real property containing:

(i) One-to-four dwelling units; or

(ii) More than four dwelling units if each unit is separated from the other units by dividing walls that extend from ground to roof, including row houses, townhouses or similar types of property;

(2) Manufactured housing if:

(i) Applicable state law defines the purchase or holding of manufactured housing as the purchase or holding of real property; and

(ii) The loan to purchase the manufactured housing is secured by that manufactured housing;

(3) Individual condominium dwelling units or interests in individual cooperative housing dwelling units that are part of a condominium or cooperative building without regard to the number of total dwelling units therein; or

(4) Real property containing one-to-four dwelling units with commercial units combined, provided the property is primarily residential.

OTS means the Office of Thrift Supervision.

Qualified Thrift Lender or *QTL* means the term as defined in section 10(m)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)) and in the implementing regulations of the OTS (12 CFR 563.50). A non-savings association member which meets the QTL test as applied by the Banks will be treated as a QTL for purposes of this part.

Qualified Thrift Lender test or *QTL test* means the asset test described in section 10(m) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)) and in the implementing regulations of the OTS (12 CFR 563.50), except that the QTL test will be applied for purposes of this part to all members of the Banks, whether or not they are savings associations.

Residential housing finance assets means any of the following:

(1) Loans secured by residential real property;

(2) Mortgage-backed securities;

(3) Participations in loans secured by residential real property;

(4) Loans financed by CIP advances;

(5) Loans secured by manufactured housing, regardless of whether such housing qualifies as residential real property; or

(6) Any loans or investments which the Board, in its discretion, otherwise determines to be residential housing finance assets.

Residential real property means:

(1) Any of the following:

(i) One-to-four family property;

(ii) Multifamily property;

(iii) Real property to be improved by the construction of dwelling units;

(iv) Real property in the process of being improved by the construction of dwelling units;

(v) Combination business or farm property, provided that at least 50 percent of the total appraised value of the combined property is attributable to the residential portion of the property.

(2) The term residential real property does not include nonresidential real property as defined in this section.

Savings association means a savings association as defined in section 3(b) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(b)).

State means a state of the United States, the District of Columbia, Guam, Puerto Rico or the U.S. Virgin Islands.

§ 935.2 Bank credit mission.

(a) The primary credit mission of the Banks shall be to enhance the availability of residential mortgage credit.

(b) Each Bank shall fulfill its primary credit mission by:

(1) Providing a readily available, economical and affordable source of funds in the form of advances to its members; and

(2) Offering such advances products and programs that satisfy the credit needs of its members.

(c) Notwithstanding paragraph (b) of this section, each Bank shall place such limitations on the making of advances to its members as shall:

(1) Be specifically prescribed by statute, regulation or policy;

(2) Protect the financial integrity of the Bank and accommodate the practical constraints associated with the Bank's ability to raise funds; or

(3) Be required by the Board.

§ 935.3 Bank advances policy.

(a) Each Bank's board of directors shall adopt, and review at least semiannually, a policy on advances to members consistent with the requirements of the Act, this part, and policy guidelines of the Board. Each Bank shall provide a copy of its advances policy, and any revisions thereto, to the Board.

(b) A Bank's board of directors may designate officers authorized to extend or deny credit and take other action consistent with the Bank's advances policy.

(c) A Bank may make exceptions to its advances policy only with the approval of its board of directors, a committee thereof, or officers specifically authorized by the board of directors to approve such exceptions, provided that any such exceptions shall comply with the Act, this part and policy guidelines of the Board.

(d) A Bank's board of directors shall:

(1) Require the officers designated pursuant to paragraph (b) of this section to report promptly to it, or a designated committee of the board, all actions taken under this section; and

(2) Review such actions for compliance with this section.

§ 935.4 Authorization and application for advances; obligation to repay advances.

(a) *Application for advances.* A Bank may accept oral or written applications for advances from its members.

(b) *Obligation to repay advances.* (1) A Bank shall require any member to

which an advance is made to enter into a primary and unconditional obligation to repay such advance and all other indebtedness to the Bank, together with interest and any unpaid costs and expenses in connection therewith, according to the terms under which such advance was made or other indebtedness incurred.

(2) Such obligations shall be evidenced by a written advances agreement that shall be reviewed by the Bank's legal counsel to ensure such agreement is in compliance with applicable law.

(c) *Secured advances.* (1) Each Bank shall make only fully secured advances to its members as set forth in the Act, the provisions of this part and policy guidelines established by the Board.

(2) The Bank shall execute a written security agreement with each borrowing member which establishes the Bank's security interest in collateral securing advances.

(3) Such written security agreement shall, at a minimum, describe the type of collateral securing the advances and give the Bank a perfectible security interest in the collateral.

(d) *Approval*—(1) *By the Bank's board of directors.* Applications for advances, advances agreements and security agreements shall be in substantially such form as approved by the Bank's board of directors, or a committee thereof specifically authorized by the board of directors to approve such forms.

(2) *By the Board.* Each Bank's forms for all advances applications, advances agreements and security agreements are deemed approved by the Board if such forms are consistent with the requirements of this part. Each Bank shall provide copies of its current forms for all advances agreements and security agreements, and any substantive revisions thereto, to the Board.

§ 935.5 Limitations on access to advances.

(a) *Credit underwriting.* A Bank, in its discretion, may:

(1) Limit or deny a member's application for an advance if, in the Bank's judgment, such member:

(i) Is engaging or has engaged in any unsafe or unsound banking practices;

(ii) Has inadequate capital;

(iii) Is sustaining operating losses;

(iv) Has financial or managerial deficiencies, as determined by the Bank, that bear upon the member's creditworthiness; or

(v) Has any other deficiencies, as determined by the Bank; or

(2) Approve a member's application for an advance subject to such additional terms as the Bank may prescribe, pursuant to the provisions of the Act, this part and any policy guidelines of the Board.

(b)–(e) [Reserved]

§ 935.6 Terms and conditions for advances.

(a) *Advance maturities.* Each Bank shall offer advances with maturities of up to ten years, and may offer advances with longer maturities consistent with the safe and sound operation of the Bank.

(b) *Advance pricing*—(1) *General.* Each Bank shall price its advances to members taking into account the following factors:

(i) The marginal cost to the Bank of raising matching maturity funds in the marketplace; and

(ii) The administrative and operating costs associated with making such advances to members.

(2) *Differential pricing.* (i) Each Bank may, in pricing its advances, distinguish among members based upon its assessment of:

(A) The credit and other risks to the Bank of lending to any particular member; or

(B) Other reasonable criteria that may be applied equally to all members.

(ii) Each Bank shall include in the advances policy required by § 935.3(a) of this part, standards and criteria for such differential pricing and shall apply such standards and criteria consistently and without discrimination to all members applying for advances.

(3) *Affordable Housing Program advances.* The advance pricing policies and procedures contained in paragraph (b)(1) of this section shall not apply in the case of a Bank's AHP advances made pursuant to part 960 of this chapter.

(c) *Authorization for pricing advances.* (1) A Bank's board of directors, a committee thereof, or the Bank's president, if so authorized by the Bank's board of directors, shall set the rates of interest on advances consistent with paragraph (b) of this section.

(2) A Bank president authorized to set interest rates on advances pursuant to this paragraph (c) may delegate any part of such authority to any officer or employee of the Bank.

§ 935.7 Interest rates on Community Investment Program advances.

Each Bank shall price its CIP advances as provided in § 935.6 of this part, provided that the cost of such CIP advances shall not exceed the Bank's cost of issuing consolidated obligations of comparable maturity, taking into account reasonable administrative costs.

§ 935.8 Fees.

(a) *Fees in advances policy.* All fees charged by each Bank and any schedules or formulas pertaining to such fees shall be included in the Bank's advances policy required by § 935.3(a) of this part. Any such fee schedules or formulas shall be applied consistently and without discrimination to all members.

(b) *Prepayment fees.* (1) Each Bank shall establish and charge a prepayment fee pursuant to a specified formula which sufficiently compensates the Bank for providing a prepayment option on an advance, and which acts to make the Bank financially indifferent to the borrower's decision to repay the advance prior to its maturity date.

(2) Prepayment fees are not required for:

(i) Advances with original terms to maturity or repricing periods of six months or less;

(ii) Advances funded by callable debt; or

(iii) Advances which are otherwise appropriately hedged so that the Bank is financially indifferent to their prepayment.

(3) The board of directors of each Bank, a designated committee thereof, or officers specifically authorized by the board of directors, may waive a prepayment fee only if such prepayment will not result in an economic loss to the Bank. Any such waiver must subsequently be ratified by the board of directors.

(4) A Bank, in determining whether or not to waive a prepayment fee, shall apply consistent standards to all of its members.

(c) *Commitment fees.* Each Bank may charge a fee for its commitment to fund an advance.

(d) *Other fees.* Each Bank is authorized to charge other fees as it deems necessary and appropriate.

§ 935.9 Collateral.

(a) *Eligible security for advances.* At the time of origination or renewal of an advance, each Bank shall obtain, and thereafter maintain, a security interest in collateral that meets the requirements of one or more of the following categories:

(1) *Mortgage loans and privately issued securities.* (i) Fully disbursed, whole first mortgage loans on improved residential real property not more than 90 days delinquent; or

(ii) Privately issued mortgage-backed securities, excluding the following:

(A) Securities which represent a share of only the interest payments or only the principal payments from the underlying mortgage loans;

(B) Securities which represent a subordinate interest in the cash flows from the underlying mortgage loans;

(C) Securities which represent an interest in any residual payments from the underlying pool of mortgage loans; or

(D) Such other high-risk securities as the Board in its discretion may determine.

(2) *Agency securities.* Securities issued, insured or guaranteed by the United States Government, or any agency thereof, including without limitation mortgage-backed securities, as defined in § 935.1 of this part, issued or guaranteed by:

(i) The Federal Home Loan Mortgage Corporation;

(ii) The Federal National Mortgage Association; or

(iii) The Government National Mortgage Association.

(3) *Deposits.* Deposits in a Bank.

(4) *Other collateral.* (i) Except as provided in paragraph (a)(4)(iii) of this section, other real estate-related collateral acceptable to the Bank if:

(A) Such collateral has a readily ascertainable value; and

(B) The Bank can perfect a security interest in such collateral.

(ii) Eligible other real estate-related collateral may include, but is not limited to:

(A) Privately issued mortgage-backed securities not otherwise eligible under paragraph (a)(1)(ii) of this section;

(B) Second mortgage loans, including home equity loans;

(C) Commercial real estate loans; and

(D) Mortgage loan participations.

(iii) A Bank shall not permit the aggregate amount of outstanding advances to any one member, secured by such other real estate-related collateral, to exceed 30 percent of such member's capital, as calculated according to GAAP, at the time the advance is issued or renewed.

(b) *Bank restrictions on eligible collateral.* A Bank at its discretion may further restrict the types of eligible collateral acceptable to the Bank as security for an advance, based upon the creditworthiness or operations of the borrower, the quality of the collateral, or other reasonable criteria.

(c) *Additional collateral.* The provisions of paragraph (a) of this section shall not affect the ability of any Bank to take such steps as it deems necessary to protect its secured position on outstanding advances, including requiring additional collateral, whether or not such additional collateral conforms to the requirements for eligible collateral in paragraph (a) of this section or section 10 of the Act (12 U.S.C. 1430).

(d) *Bank stock as collateral.* (1) Pursuant to section 10(c) of the Act (12 U.S.C. 1430(c)), a Bank shall have a lien upon, and shall hold, the stock of a member in the Bank as further collateral security for all indebtedness of the member to the Bank.

(2) The written security agreement used by the Bank shall provide that the borrowing member's Bank stock is assigned as additional security by the member to the Bank.

(3) The security interest of the Bank in such member's Bank stock shall be entitled to the priority provided for in section 10(f) of the Act (12 U.S.C. 1430(f)).

(e) *Collateral security requiring formal approval.* No home mortgage loan otherwise eligible to be accepted as collateral for an advance by a Bank under this section shall be accepted as collateral for an advance if any director, officer, employee, attorney or agent of the Bank or of the borrowing member is personally liable thereon, unless the board of directors of the Bank has specifically approved such acceptance by formal resolution, and the Board has endorsed such resolution.

§ 935.10 Banks as secured creditors.

(a) Except as provided in paragraph (b) of this section, notwithstanding any other provision of law, any security interest granted to a Bank by a member, or by an affiliate of such member, shall be entitled to priority over the claims and rights of any party, including any receiver, conservator, trustee or similar party having rights of a lien creditor, to such collateral.

(b) A Bank's security interest as described in paragraph (a) of this section shall not be entitled to priority over the claims and rights of a party that:

(1) Would be entitled to priority under otherwise applicable law; and

(2) Is an actual bona fide purchaser for value of such collateral or is an actual secured party whose security interest in such collateral is perfected in accordance with applicable state law.

§ 935.11 Pledged collateral; verification.

(a) *Collateral safekeeping.* (1) A Bank may permit a member that is a depository institution to retain documents evidencing collateral pledged to the Bank, provided that the Bank and such member have executed a written security agreement pursuant to § 935.4(c) of this part whereby such collateral is retained solely for the Bank's benefit and subject to the Bank's control and direction.

(2) A Bank shall take any steps necessary to ensure that its security interest in all collateral pledged by non-depository institutions for an advance is as secure as its security interest in collateral pledged by depository institutions.

(3) A Bank may at any time perfect its security interest in collateral securing an advance to a member.

(b) *Collateral verification.* Each Bank shall establish written procedures, with standards similar to those established by the Auditing Standards Board of the American Institute of Certified Public Accountants, for verifying the existence of collateral securing the Bank's advances, and shall regularly verify the existence of the collateral securing its advances in accordance with such procedures.

§ 935.12 Collateral valuation; appraisals.

(a) Each Bank shall establish written procedures for determining the value of the collateral securing the Bank's advances, and shall determine the value of such collateral in accordance with such procedures.

(b) Each Bank shall apply the valuation procedures consistently and fairly to all borrowing members, and the valuation ascribed to any item of collateral by the Bank shall be conclusive as between the Bank and the member.

(c) A Bank may require a member to obtain an appraisal of any item of collateral, and to perform such other investigations of collateral as the Bank deems necessary and proper.

§ 935.13 Restrictions on advances to members that are not qualified thrift lenders.

(a) *Restrictions on advances to non-QTL members.* (1) Except as provided in paragraphs (a)(4) and (a)(5) of this section, a Bank may make or renew an advance to a non-QTL member only under the following conditions:

(i) The advance is for the purpose of purchasing or funding new or existing residential housing finance assets, as determined pursuant to paragraph (a)(2) of this section;

(ii) The member holds Bank stock at the time it receives the advance in an amount equal to at least five percent of the outstanding principal amount of the member's total advances, divided by such member's ATIP, calculated pursuant to paragraph (a)(3) of this section; and

(iii) Making the advance will not cause the aggregate amount of advances issued by the twelve Banks to non-QTL members to exceed 30 percent of the aggregate amount of the twelve Banks' total outstanding advances.

(2) Prior to approving an application for an advance by a non-QTL member,

a Bank shall determine that the principal amount of all advances outstanding to the member at the time the advance is requested does not exceed the total book value of residential housing finance assets held by such member, which shall be determined using the most recent Report of Condition and Income or financial statement made available by the member.

(3) A Bank shall calculate each non-savings association member's ATIP at least annually, between January 1 and April 15, based upon financial data as of December 31 of the prior calendar year. The Bank may, in its discretion, calculate a member's ATIP more frequently than annually.

(4) The requirements of paragraphs (a)(1), (2), and (3) of this section shall not apply to:

(i) A savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(g)); or

(ii) A Federal savings association in existence as such on August 9, 1989 that:

(A) Was a state chartered savings bank or cooperative bank before October 15, 1982; or

(B) Acquired its principal assets from an institution that was a state chartered savings bank or cooperative bank before October 15, 1982.

(5) The requirements of paragraph (a)(2) of this section shall not apply to applications from non-savings association members for AHP or CIP advances.

(b) *Priority for QTL members.* (1) Except as provided in paragraph (b)(3) of this section, if a Bank is unable to meet the aggregate advance demand of all of its members, the Bank shall give priority to applications for advances from its QTL members, subject to the following considerations:

(i) The effect of making the advances on the financial integrity of the Bank;

(ii) The member's creditworthiness;

(iii) The availability of funding with maturities compatible with advances applications; and

(iv) Any other factors that the Bank determines to be relevant.

(2) The institutions identified in paragraph (a)(4) of this section shall be treated as QTLs for purposes of this paragraph (b).

(3) The requirement of paragraph (b)(1) of this section shall not apply to a Bank's special, or otherwise limited, advance offerings.

(c) *Additional restrictions on advances to non-QTL savings associations.* (1) Either the Bank's written advances agreement required by § 935.4(b)(2) of this part or the written advances application authorized in § 935.4(a) of this part shall require that each savings association member, which pursuant to the QTL requirements of the OTS becomes ineligible for Bank advances, immediately provide its Bank with written notification of its ineligibility.

(2) Except as requested in writing by the OTS, or as authorized in § 935.18(c) of this part, a Bank shall not make an advance to a savings association member after receiving written notification from such member or from the OTS that such member is ineligible for advances pursuant to the QTL requirements of the OTS.

(d) *Repayment of advances by non-QTL savings association members.* (1) Each Bank, if informed by a savings association member or the OTS that the member has failed to regain its QTL status and is required to repay said member's advances prior to maturity, shall, in conjunction with the non-QTL savings association member, develop a schedule for the prompt and prudent repayment of any outstanding advances held by that member, consistent with the member's and the Bank's safe and sound operations.

(2) The schedule agreed to under paragraph (d)(1) of this section shall be provided promptly by the Bank to the Board and the OTS.

(e) *Advance commitments.* Either the Bank's written advances agreement required by § 935.4(b)(2) of this part or the written advances application authorized in § 935.4(a) of this part shall stipulate that the Bank shall not honor advance commitments previously made to members whose access to advances is subsequently restricted pursuant to paragraphs (a) or (c) of this section.

§ 935.14 Limitations on long-term advances.

(a) A Bank shall make long-term advances only for the purpose of enabling a member to purchase or fund new or existing residential housing finance assets.

(b) (1) Prior to approving an application for a long-term advance, a Bank shall determine that the principal amount of all long-term advances currently held by the member does not exceed the total book value of residential housing finance assets held by such member. The Bank shall determine the total book value of such residential housing finance assets, using the most recent Thrift Financial Report, Report of Condition and Income, or financial statement made available by the member.

(2) Applications for AHP and CIP advances are exempt from the requirements of this section.

§ 935.15 Capital stock requirements; unilateral redemption of excess stock.

(a) *Capital stock requirement for advances.* (1) At no time shall the aggregate amount of outstanding advances made by a Bank to a member exceed 20 times the amount paid in by such member for capital stock in the Bank.

(2) A non-QTL member shall hold stock in the Bank at the time it receives an advance in an amount equal to at least the amount of stock required to be held pursuant to § 935.13(a)(1)(ii) of this part.

(b) *Unilateral redemption of excess stock.* A Bank, after providing 15 calendar days advance written notice to a member, may unilaterally redeem that amount of the member's Bank stock that exceeds the stock requirements set forth in paragraph (a) of this section or, in the case of a non-QTL member, the stock requirements set forth in § 935.13(a)(1)(ii) of this part, provided the minimum amount required in sections 6(b)(1) and 10(e)(3) of the Act is maintained. The Banks shall have the discretion to determine the timing of such unilateral redemption, provided that the Bank's redemption policy is consistent with the requirement of section 7(j) of the Act (12 U.S.C. 1427(j)) which provides for fair and impartial treatment of all members.

§ 935.16 Advance participations.

A Bank may allow any other Bank to purchase a participation interest in any advance, and any other Bank may accept a participation interest therein, together with an appropriate assignment of security therefor, subject to the approval of the boards of directors of the relevant Banks.

§ 935.17 Intradistrict transfer of advances.

A Bank may allow one of its members to assume advances extended by the Bank to another of its members, provided the assumption complies with the requirements of this part governing the issuance of new advances. A Bank may charge an appropriate fee for processing the transfer.

§ 935.18 Special advances to savings associations.

(a) *Eligible institutions.* (1) A Bank, upon receipt of a written request from the Director of the OTS, may make short-term advances to a savings association member.

(2) Such request must certify that the member:

(i) Is solvent but presents a supervisory concern to the OTS because of the member's financial condition; and

(ii) Has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

(b) *Terms and conditions.* Advances made by a Bank to a member savings association under this section shall:

(1) Be subject to all applicable collateral requirements of the Bank, this part and section 10(a) of the Act (12 U.S.C. 1430(a)); and

(2) Be at the interest rate applicable to advances of similar type and maturity that are made available to other members that do not pose such a supervisory concern.

§ 935.19 Liquidation of advances upon termination of membership.

If an institution's membership in a Bank is terminated, the Bank shall determine an orderly schedule for liquidating any indebtedness of such member to the Bank; this section shall not require a Bank to call any such indebtedness prior to maturity of the advance. The Bank shall deem any such liquidation a prepayment of the member's indebtedness, and the member shall be subject to any fees applicable to such prepayment.

Subpart B—Advances to Nonmembers

§ 935.20 Scope.

The requirements of subpart A of this part apply to this subpart, except as otherwise provided in § 935.21 of this subpart.

§ 935.21 Advances to the Savings Association Insurance Fund.

(a) A Bank may, upon receipt of a written request from the FDIC, make advances to the FDIC for the use of the Savings Association Insurance Fund. The Bank shall provide a copy of such request to the Board.

(b) Such advances shall:

(1) Bear a rate of interest not less than the Bank's marginal cost of funds, taking into account the maturities involved and reasonable administrative costs;

(2) Be for a maturity acceptable to the Bank;

(3) Be subject to any prepayment, commitment or other appropriate fees of the Bank; and

(4) Be adequately secured by collateral acceptable to the Bank.

PART 940—[REMOVED]

2. Part 940 is removed and reserved.

Dated: April 26, 1993.

By the Federal Housing Finance Board

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93–11305 Filed 5–19–93; 8:45 am]

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FEDERAL HOUSING FINANCE BOARD

12 CFR Part 935

[No. 93–44]

Advances to Nonmember Mortgagees

AGENCY: Federal Housing Finance Board.

ACTION: Interim final rule and request for comments.

SUMMARY: The Federal Housing Finance Board (Board) is amending its final rule on Federal Home Loan Bank (Bank) advances to establish revised and new requirements governing advances to nonmember mortgagees, and to implement provisions of the Housing and Community Development Act of 1992 (HCDA) making it easier for qualified nonmember mortgagees that are state housing finance agencies (SHFAs) to receive special purpose advances.

DATES: *Effective date:* June 22, 1993.

Comment date: Comments must be received by July 19, 1993.

ADDRESSES: Send comments to Elaine L. Baker, Executive Secretary, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Christine M. Freidel, Financial Analyst, (202) 408–2976, Thomas D. Sheehan, Assistant Director, (202) 408–2870, District Banks Directorate; James H. Gray Jr., Associate General Counsel, (202) 408–2552, Sharon B. Like, Attorney-Advisor, (202) 408–2930, Charles Szlenker, Attorney-Advisor, (202) 408–2554, Brandon B. Straus, Attorney-Advisor, (202) 408–2589, Office of Legal & External Affairs; Federal Housing Finance Board, 1777 F Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

I. Introduction

On October 1, 1992, the Board published for public comment a proposed rule containing amendments to its regulations governing Bank advances. See 57 FR 45338 (Oct. 1, 1992). The proposed rule included a discussion of the terms and conditions under which the Banks may extend credit in the form of advances to nonmember mortgagees under section 10b of the Federal Home Loan Bank Act (Act). 12 U.S.C. 1430b. Subsequent to publication of the proposed rule, Congress enacted the HCDA, Pub. L. 102–550, 106 Stat. 3672 (1992). HCDA section 1392 amended section 10b of the Act, 106 Stat. at 4009 (*to be codified at* 12 U.S.C. 1430b(b)), by recodifying the existing text of section 10b as section 10b(a), and creating a new section 10b(b).

New section 10b(b) of the Act establishes special collateral requirements for advances to SHFAs that are made for the purpose of facilitating mortgage lending that benefits individuals and families meeting the income requirements specified in sections 142(d) or 143(f) of the Internal Revenue Code of 1986 (IRC), 26 U.S.C. 142(d), 143(f).

In general, under section 10b(a) of the Act, eligible nonmember mortgagees may pledge only FHA-insured mortgages or securities backed by such mortgages as collateral for Bank advances. However, pursuant to new section 10b(b) of the Act, an advance to a SHFA eligible under the nonmember mortgagee lending requirements may be secured by collateral other than FHA-insured mortgages, provided the advance proceeds are used for the purpose of facilitating mortgage lending that benefits certain low- and moderate-income individuals and families, the advance otherwise meets the requirements of section 10(a) of the Act, and any real estate collateral pledged as security for the advance is comprised of single family or multifamily residential mortgages.

The HCDA amendment to the Act requires changes to the nonmember mortgagee provisions in the proposed advances rule. Instead of withdrawing the proposed advances rule and reissuing it for comment with these changes incorporated, the Board is addressing the nonmember mortgagee requirements in this interim final rule. The final advances rule, which does not include the nonmember mortgagee provisions, will be published elsewhere in this issue of the **Federal Register.**

The Board received four comment letters addressing the nonmember mortgagee provisions published in its proposed advances rule. In general, the letters expressed support for the proposed provisions. A discussion of the comment letters is included in the analysis of this interim final rule.

The Board invites comments on all aspects of this interim final rule on nonmember mortgagee advances.

II. Advances to Nonmember Mortgagees

A. Section by Section Analysis

This interim final rule amends § 935.20 of the final advances rule to provide that advances to nonmember mortgagees generally shall be subject to the provisions in subpart A of part 935, governing advances to Bank members, except as otherwise provided in § 935.22 of subpart B, which applies specifically to advances to nonmembers. This ensures that advances to nonmembers operate within the same regulatory framework as member advance programs and without special benefits to nonmembers.

Section 935.22(a) of this interim final rule authorizes a Bank, subject to the Act and this part 935, to make advances to an entity that is not a member of the Bank, if the entity qualifies as a nonmember mortgagee pursuant to section 10b(a) of the Act and § 935.22(b) of the interim final rule.

Under section 10b(a) of the Act, as amended, a Bank may make advances to nonmembers that are approved mortgagees under title II of the National Housing Act (NHA), 12 U.S.C. 1707 *et seq.* *See* 12 U.S.C. 1430b(a). The administration of title II of the NHA is the responsibility of the Federal Housing Administration (FHA), a unit of the Department of Housing and Urban Development (HUD). HUD approval of an entity as a mortgagee authorizes such entity to buy and sell FHA-insured mortgages.

Section 935.22(b) of the interim final rule incorporates the four statutory eligibility requirements that an entity must meet in order to be designated a nonmember mortgagee eligible to borrow from a Bank:

(1) The mortgagee must be chartered under law and have succession. A corporation, or other entity that has rights, characteristics and powers under applicable law similar to those granted a corporation, or a government agency, meets this requirement;

(2) The mortgagee must be subject, pursuant to statute or regulation, to the inspection and supervision of a Federal, state or local government agency;

(3) The mortgagee must lend its own funds as its principal activity in the mortgage field; and

(4) The mortgagee must be approved by HUD pursuant to HUD's regulations (24 CFR part 202), under title II of the NHA (12 U.S.C. 1707 through 1715z–20).

One comment letter recommended that the language in the Act defining nonmember mortgagees specifically include the mortgage banking subsidiaries of member institutions. Such a change would require amendment of the Act by Congress. However, Bank advances may be available to such entities under the Banks' authority to lend to eligible nonmember mortgagees, if they meet the eligibility criteria set forth in the Act and in this interim final rule.

The Act provides that advances made under section 10b(a) are not subject to certain other provisions of the Act. See 12 U.S.C. 1430b(a). For example, such advances are not subject to member stock purchase and collateral requirements, or to restrictions on Bank lending to members that are not Qualified Thrift Lenders (QTLs). See, *e.g.*, 12 U.S.C. 1426(b), 1430(a), 1430(e)(1)–(3). However, as noted above and as provided in the proposed advances rule, § 935.20 of the interim final rule makes the regulatory requirements applicable to the Banks' member advances programs also applicable to their nonmember advances programs, except as specifically provided in § 935.22 of the interim final rule. The Board expects the Banks to apply the advance application requirements, credit underwriting standards, collateral and safekeeping procedures, restrictions on lending to institutions without positive tangible capital, advance maturity requirements, prepayment fees, and other requirements applicable to members under subpart A of part 935 and the Board's policy guidelines, no less stringently to eligible nonmember mortgagees.

Section 935.22(c) of the interim final rule establishes the procedure by which an entity qualifies as a nonmember mortgagee eligible to receive Bank advances under section 10b of the Act. An entity seeking to establish its eligibility for advances as a nonmember mortgagee is required to submit documentation evidencing that it meets all of the requirements set forth in § 935.22(b), to the Bank whose district includes the state in which the entity maintains its principal place of business. The Bank also shall require any financial or other documentation needed to enable the Bank to determine that advances may be safely made to the entity. Further, an entity seeking to qualify as a SHFA must submit documentation evidencing that it meets the definition of a SHFA under § 935.1 of this part. The Bank shall then forward the documentation, along with its evaluation of the applicant's financial condition, to the Board. The Board will review the documentation and notify the Bank of its determination regarding the nonmember's eligibility to receive advances under section 10b (a) and (b).

This provision is a change from the proposed advances rule, under which the Banks would have had the responsibility for determining nonmember mortgagee eligibility. This interim final rule retains the authority to determine nonmember mortgagee eligibility with the Board to ensure that a uniform review process is developed to determine nonmember mortgagee eligibility.

Section 935.22(d)(1) of the interim final rule implements the Act by providing that nonmember mortgagee advances shall, in general, be collateralized by FHA-insured mortgages. See 12 U.S.C. 1430b(a). This section permits a Bank to additionally accept as collateral, securities representing an interest in the principal and interest payments due on a pool of FHA-insured mortgage loans, provided the Bank obtains evidence from the nonmember mortgagee that the securities are backed solely by FHA-insured mortgages.

Section 935.22(d)(2) of the interim final rule implements the special collateral requirements applicable to certain advances to SHFAs under section 10b(b) of the Act. Such advances may be secured by collateral other than FHA-insured mortgages, provided that the advances otherwise meet the requirements of section 10(a) of the Act and any real estate-related collateral is comprised of single family or multifamily residential mortgage loans as described specifically in § 935.22(d)(2)(i) herein. In order for advances to qualify for the expanded collateral treatment, the advance proceeds must be used for the purpose of facilitating mortgage lending that benefits individuals or families with income levels specified in sections 142(d) or 143(f) of the IRC. See 26 U.S.C. 142(d), 143(f).

Section 935.22(d)(2)(i)(A) of the interim final rule provides that SHFAs using advances for the special purpose described above may pledge collateral eligible under sections 10(a) (1) or (2) of the Act, *i.e.*, fully disbursed, whole first mortgages on improved residential real property, agency and privately issued mortgage-backed securities, and government securities. See 12 U.S.C. 1430(a) (1), (2). SHFAs may not pledge deposits in a Bank, generally eligible under section 10(a)(3) of the Act, see *id.* section 1430(a)(3), because SHFAs generally are not eligible under the Act to maintain such deposits, except for the limited purpose of maintaining compensating balances as discussed below. See 12 U.S.C. 1431(e)(1).

Special purpose advances may, to a limited extent, be secured by collateral

eligible under section 10(a)(4) of the Act, see *id.* section 1430(a)(4), provided the collateral is comprised of single family or multifamily residential mortgage loans and, pursuant to section 10(a)(4) of the Act, a security interest in such collateral can be perfected. Consistent with the limit on category (4) collateral pledged by members under section 10(a)(4) of the Act, § 935.22(d)(2)(i)(B) of the interim final rule limits collateral pledged under this section to 30 percent of a SHFA's capital, calculated according to Generally Accepted Accounting Principles (GAAP), as determined by the Bank.

Section 935.22(d)(2)(ii) of the interim final rule requires that a Bank, prior to funding an advance pursuant to paragraph (d)(2), obtain written certification from the SHFA that the proceeds of the advance shall be used for the purposes described in section 10b(b) of the Act. The interim final rule does not provide for the use of a proxy mechanism, similar to that used in the final advances rule to ensure that advances to non-QTLs are used only for residential housing finance purposes because, unlike commercial banks and savings associations, SHFAs do not produce uniform financial statements on a regular basis. See 12 CFR 935.13.

Section 935.22(e)(1) of the interim final rule provides that a Bank, in its discretion, shall determine whether, and on what terms, it will make advances to eligible nonmember mortgagees, subject to the provisions of this paragraph (e). As in the proposed advances rule, § 935.22(e)(2) requires the Banks to price advances to nonmember mortgagees to cover the funding, operating and administrative costs associated with making such advances. The pricing may reflect the credit risk associated with lending to the nonmember mortgagee, and other reasonable differential pricing criteria, provided that the Bank applies the criteria for such differential pricing equally to all nonmember mortgagee borrowers. One Bank comment letter expressed support for these pricing provisions.

Consistent with the proposed advances rule, § 935.22(e)(2)(ii) of the interim final rule provides that the pricing of advances to a nonmember mortgagee shall compensate the Bank for the absence of a capital stock investment by the nonmember mortgagee in the Bank. A Bank may implement this provision by requiring the nonmember mortgagee to maintain a compensating balance with the Bank. In response to a Bank comment letter requesting clarification as to whether a compensating balance maintained by a nonmember mortgagee may be interest bearing, the interim final rule provides the Banks with the discretion to make such a determination.

Section 935.22(e)(3) of the interim final rule provides that, in accordance with section 10b(a) of the Act, the principal amount of any advance made to a nonmember mortgagee may not exceed 90 percent of the unpaid principal of FHA mortgage collateral pledged as security. This requirement does not apply to collateral pledged by SHFAs to secure special purpose advances as described in § 935.22(d)(2).

Section 935.22(f)(1) of the interim final rule provides that a Bank shall require a nonmember mortgagee applying for an advance to agree in writing to inform the Bank promptly of any change in its status as a nonmember mortgagee. The Bank will not be required to call outstanding advances to an entity that loses its HUD-approved mortgagee status or otherwise ceases to fulfill the eligibility qualifications for a nonmember mortgagee under § 935.22(b) of the interim final rule. However, pursuant to § 935.22(f)(2) of the interim final rule, the Bank may not extend a new advance or renew an existing advance to the entity, until the Board is satisfied that the entity again fulfills the requirements in § 935.22(b).

Section 935.22(g) of the interim final rule provides that a Bank may, from time to time, require a nonmember mortgagee borrower to provide evidence that it continues to satisfy all of the qualifications and requirements contained in this section.

A comment letter from a trade association recommended that advances to nonmember mortgagees be included in the statutory 30 percent Bank System limit on advances to members that are not QTLs. See 12 U.S.C. 1430(e)(2), as amended. However, the Act does not require that advances to nonmembers be included in the aggregate limit on Bank advances to non-QTLs. The non-QTL borrowing restrictions in the Act apply only to members, and the eligible mortgagees that borrow funds from the Banks under the authority of section 10b are not members. Therefore, advances to nonmember mortgagees have not been made subject to this requirement.

III. Notice and Public Participation

A. Administrative Procedure Act

For the reasons discussed below, the Board is not required by the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.*, to publish a general notice of proposed rulemaking for this interim final rule. However, the Board considers comments from the public helpful in formulating clear and effective regulations. Accordingly, the Board is requesting public comment on this interim final rule.

Publication of notice of a proposed rulemaking is not required because the Board finds good cause that notice and comment procedure is impractical, unnecessary, and contrary to the public interest in this instance. See 5 U.S.C. 553(b)(B). Compliance with public procedure requirements in the adoption of this interim final rule would be contrary to the public interest. HCDA section 1392 amended the Act to expand the availability of Bank credit to SHFAs eligible to borrow from the Banks as eligible nonmember mortgagees and who are engaged in lending that supports a specific public purpose. The Board believes that it is important to expedite SHFA access to Bank advances in order to facilitate the flow of funds for the development of housing for low- and moderate-income individuals and families.

Compliance with public notice and comment procedures also would be impractical because the amendments made by the interim final rule are part of a group of amendments to the Board's regulations on Bank advances that were published as a final rule in May 1993, and that will become effective in June 1993. The burden on the Banks, their members, nonmember mortgagees and others seeking to understand and comply with the Board's regulations is made easier by having all of the regulations pertaining to Bank advances considered concurrently. In order to preserve the regulatory process initiated by the Board's revisions to its advances regulations, the interim final rule should be published concurrently with the final advances rule.

In addition, publication of portions of this interim final rule for notice and comment is unnecessary because those provisions of the interim final rule incorporated from the previously published proposed rule on advances have already been subject to public notice and comment procedures. See 57 FR 45338 (Oct. 1, 1992).

The Board therefore finds good cause that compliance with notice and comment procedures in adoption of this interim final rule would be impractical, unnecessary and contrary to the public interest. See 5 U.S.C. 553(b)(B).

B. Effective Date

The Board is adopting this rule as an interim final rule, to be effective on June 22, 1993. However, the Board is incorporating a 60-day comment period from the date of publication of this rule

in the **Federal Register**, because the Board recognizes the importance and value of public input on Bank System operations. The comments received during this 60-day period may result in revisions to this rule after its effective date.

Regulatory Flexibility Act

The Board is not required by the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, to prepare a regulatory flexibility analysis for this interim final rule. The Regulatory Flexibility Act requires that a regulatory flexibility analysis be prepared whenever an agency promulgates a proposed or final rule after being required by APA section 553, *id.* at sec. 553, to publish a general notice of proposed rulemaking. *See* 5 U.S.C. 603(a), 604(a). The Board is not required to publish a general notice of proposed rulemaking for this interim final rule, because the Board has found good cause that notice and comment is impractical, unnecessary and contrary to the public interest in the adoption of this interim final rule. *See id.* sec. 553(b)(B), and III.A. above. Accordingly, the Board is not required to prepare such an analysis for this interim final rule.

Paperwork Reduction Act

The information collection requirements contained in this interim final rule have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35. The Finance Board has requested that OMB approve the information collection by the date this interim final rule becomes effective.

The information collection is entitled "Evidence of Nonmember Mortgagee Status," and is described in more detail in the discussion of § 935.22 (b) and (c) of this part. Any institution that is not a member of a Bank that seeks advances as a nonmember mortgagee will be required to provide documentation to the Board evidencing that the nonmember meets the eligibility requirements to receive Bank advances as a nonmember mortgagee described in § 935.22(b) of this part.

Further, a nonmember mortgagee that seeks to qualify as a SHFA in order to use the additional collateral eligible for special advances to SHFAs must provide documentation to the Board evidencing that it qualifies as a SHFA pursuant to § 935.22(c)(3) of this part.

Any comments on this information collection should be sent to Gary Waxman, Paperwork Reduction Project, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

In accordance with 5 CFR 1320.12 and 1320.15, the following table discloses the estimated annual reporting burden for the collection of information in this interim final rule:

ESTIMATED ANNUAL REPORTING BURDEN

Description of information collected	Average number of respondents	x	Average number of responses per respondent	=	Total average responses	x	Average hours per response	=	Total average hours
Evidence of nonmember mortgagee status	20		1		20		5		100
Total	20		1		20		5		100

List of Subjects in 12 CFR Part 935

Credit, Federal home loan banks, Reporting and recordkeeping requirements.

Accordingly, the Board hereby amends title 12, chapter IX, subchapter B, part 935, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 935—ADVANCES

1. The authority citation for part 935 is revised to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a)(1), 1426, 1429, 1430, 1430b, 1431.

2. Section 935.1 is amended by adding the definition of "State housing finance agency" in appropriate alphabetical order to read as follows:

§ 935.1 Definitions.

* * * * *

State housing finance agency or *SHFA* means a public agency, authority or publicly sponsored corporation that:

(1) Serves as an instrumentality of any state or any political subdivision of any state; and

(2) Functions as a source of residential mortgage loan financing in that state.

3. Section 935.20 is revised to read as follows:

§ 935.20 Scope.

The requirements of subpart A of this part apply to this subpart, except as otherwise provided in § 935.21 and § 935.22 of this subpart.

4. Section 935.22 is added to read as follows:

§ 935.22 Advances to nonmember mortgagees.

(a) *Authority.* Subject to the provisions of the Act and this part, a Bank may make advances to an entity that is not a member of the Bank if the entity qualifies as a nonmember mortgagee pursuant to section 10b(a) of the Act, as amended (12 U.S.C. 1430b(a)), and paragraph (b) of this section. A Bank may lend only to a nonmember mortgagee whose principal place of business, as defined in part 933 of this chapter, is located in the Bank's district.

(b) *Eligible nonmember mortgagee.* To qualify for an advance as a nonmember mortgagee, an entity must meet the following requirements:

(1) *Charter.* It must be chartered under law and have succession. A corporation, another entity that has rights, characteristics and powers under applicable law similar to those granted a corporation, or a government agency, meets this requirement;

(2) *Regulation.* It must be subject, pursuant to statute or regulation, to the inspection and supervision of a Federal, state or local government agency;

(3) *Housing finance activity.* (i) The entity's principal activity in the mortgage field must consist of lending its own funds, which may include appropriated funds in the case of a Federal, state or local government agency;

(ii) An entity meets the requirement in paragraph (b)(3)(i) of this section, notwithstanding that the majority of its total operations are unrelated to mortgage lending, if the majority of its mortgage activity conforms to this requirement;

(iii) An entity that acts principally as a broker for others making mortgage loans, or whose principal activity is to

make mortgage loans for the account of others, does not meet the requirement in paragraph (b)(3)(i) of this section; and

(4) *HUD approval.* The entity must be approved by the Department of Housing and Urban Development (HUD) as a "mortgagee" pursuant to HUD regulations (24 CFR part 202), under title II of the National Housing Act (12 U.S.C. 1707 through 1715z-20).

(c) *Determination of nonmember mortgagee and SHFA eligibility.* (1) To qualify for advances under section 10b of the Act (12 U.S.C. 1430b), an applicant must be certified as an eligible nonmember mortgagee by the Board or its designee.

(2) A nonmember seeking access to advances under section 10b of the Act shall submit to the appropriate Bank:

(i) Documentation evidencing that it meets all of the requirements in § 935.22(b) of this part; and

(ii) Financial or other information, as required by the Bank, that will enable the Bank to determine that advances may be safely made to the nonmember.

(3) A nonmember seeking access to advances as a SHFA under section 10b(b) of the Act (12 U.S.C. 1430b(b)) shall submit to the appropriate Bank documentation evidencing that it is a SHFA as defined in § 935.1 of this part.

(4) The appropriate Bank shall be the Bank whose district includes the state where the nonmember's principal place of business, as defined in part 933 of this chapter, is located.

(5) The documentation submitted to the Bank by the nonmember, and the Bank's evaluation of the nonmember's financial condition, shall be forwarded by the Bank to the Board for review and approval.

(6) The Board will notify the Bank of the Board's determination regarding the nonmember's eligibility to receive advances under section 10b(a) and (b) of the Act.

(d) *Eligible collateral for advances to nonmember mortgagees*—(1) *General.* A Bank may grant an advance to a nonmember mortgagee pursuant to this section on the security of the following collateral:

(i) Mortgage loans insured by the Federal Housing Administration of HUD, pursuant to title II of the National Housing Act (12 U.S.C. 1707 through 1715z-20); or

(ii) Securities representing an interest in the principal and interest payments due on a pool of mortgage loans, all of which mortgage loans meet the requirements of paragraph (d)(1)(i) of this section. A Bank shall require a nonmember mortgagee using collateral as described in this paragraph (d)(1)(ii) to provide evidence that such securities are backed solely by mortgages of the type described in paragraph (d)(1)(i) of this section.

(2) *Additional eligible collateral for special advances to SHFAs*—(i) *Eligible collateral.* Advances made to SHFAs for the purpose of facilitating mortgage lending that benefits individuals or families meeting the income requirements set forth in 26 U.S.C. 142(d) or 143(f) may also be secured by:

(A) Collateral described in § 935.9(a) (1) or (2) of this part; or

(B) Other real estate-related collateral, eligible under § 935.9(a) (4) of this part, provided such collateral is comprised of mortgage loans on one-to-four family or multifamily property and the acceptance of such collateral will not increase the total amount of advances to such SHFA secured by such collateral beyond 30 percent of the SHFA's GAAP capital, as computed by the Bank.

(ii) *Use of funds.* Prior to making an advance pursuant to this paragraph (d)(2), a Bank shall obtain written certification from the SHFA that the advance proceeds shall be used for the purpose described in paragraph (d)(2)(i) of this section.

(e) *Terms and conditions*—(1) *General.* A Bank, in its discretion, shall determine whether, and on what terms, it will make advances to eligible nonmember mortgagees, subject to the provisions of this paragraph (e).

(2) *Advance pricing*—(i) *Costs.* Each Bank making an advance to a nonmember mortgagee:

(A) Shall price such advance to cover the funding, operating and administrative costs associated with making the advance; and

(B) May price such advance to reflect the credit risk of lending to the nonmember mortgagee, and may apply other reasonable differential pricing criteria associated with such lending, provided each Bank applies such pricing criteria equally to all of its nonmember mortgagee borrowers.

(ii) *Compensation for lack of capital investment.* (A) The price of an advance to a nonmember mortgagee shall compensate the Bank for the lack of a capital stock investment by the nonmember mortgagee in the Bank.

(B) A Bank may satisfy this requirement by requiring the nonmember mortgagee to maintain with the Bank a compensating balance. At the discretion of the Bank, such compensating balance may bear interest.

(3) *Limits on advances.* The principal amount of any advance made to a nonmember mortgagee may not exceed 90 percent of the unpaid principal of the mortgage loans or securities described in paragraph (d)(1) of this section that are pledged as security for the advance. This requirement does not apply to collateral pledged by SHFAs to secure special advances as described in § 935.22(d) (2) of this part.

(f) *Loss of eligibility.* (1) A Bank shall require each nonmember mortgagee that applies for an advance under this section to agree in writing to inform the Bank promptly of any change in its status as a nonmember mortgagee.

(2) If a nonmember mortgagee borrower ceases to fulfill the eligibility requirements for a nonmember mortgagee pursuant to paragraph (b) of this section, a Bank may not extend a new advance or renew an existing advance to such entity, until the entity has satisfied the Board that the entity again fulfills the requirements for a nonmember mortgagee contained in this section.

(g) *Verification of nonmember mortgagee requirements.* A Bank may, from time to time, require a nonmember mortgagee borrower to provide evidence that such institution continues to satisfy all of the qualifications and requirements contained in this section.

Dated: April 26, 1993.

By the Federal Housing Finance Board.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93–11306 Filed 5–19–93; 8:45 am]

BILLING CODE 6725–01–M

federal register

Thursday
May 20, 1993

Part III

Information Security Oversight Office

Hearing; Changes to the Security Classification System; Notice

INFORMATION SECURITY OVERSIGHT OFFICE

Hearing: Changes to the Security Classification System

Take notice that on June 9 and 10, 1993, an interagency Task Force chaired by the Information Security Oversight Office (ISOO) will convene to hear oral presentations by interested parties on proposals to change the system under which information is classified, safeguarded, and declassified in the interest of national security. That system is currently embodied in Executive Order 12356, entitled "National Security Information," 47 FR 27836, April 6, 1982.

Background

By Presidential Review Directive, an interagency Task Force chaired by ISOO is responsible for drafting and proposing to the National Security Council no later than November 30, 1993, a security classification system to replace E.O. 12356. The Task Force has been divided into seven Committees to gather input, consider proposals, and recommend changes to be incorporated into the draft order. These Committees are as follows:

Committee on Classification Standards: This Committee is responsible for responding to the following questions: In the post Cold War era, what types of information continue to require protection through classification in the interest of our national security? Do we need three levels of classification?

Committee on Excessive Classification: This Committee is responsible for responding to the following question: What steps can be taken to avoid excessive classification?

Committee on Duration of Classification: This Committee is responsible for responding to the following question: What steps can be taken to declassify information as quickly as possible?

Committee on Declassification: This Committee is responsible for responding to the following question: What steps can be taken to declassify or otherwise dispose of the large amounts of classified information that currently exist in Government archives or other repositories?

Committee on Access and Dissemination: This Committee is responsible for responding to the following questions: What steps can be taken to control unnecessary distribution and reproduction of classified information? What steps can be taken to enforce the "need-to-know" principle?

Committee on Oversight: This Committee is responsible for responding to the following questions: What steps can be taken to reduce the number of, and to provide adequate oversight and control over, special access programs? What steps can be taken to increase individual accountability for the operation of the classification system? What steps can be taken to improve oversight of the classification program generally?

Committee on Safeguards: This Committee is responsible for responding to the following questions: In what way should the executive order address information systems security? What requirements, restrictions, and other safeguards should be specifically addressed in the executive order taking into account (i) damage from unauthorized disclosures; (ii) existing or anticipated threats; and (iii) the short- and long-term costs of the requirements, restrictions, or other safeguards?

Purpose

To help assure that all organizations and individuals that have an interest in the security classification system have an opportunity to present their views and proposals, the Task Force Committees will convene to receive oral presentations, statements and testimony.

Location

The Great Hall, First Floor, Department of Justice Headquarters Building, Constitution Avenue, between 9th and 10th Streets, Northwest, Washington, DC. Please enter at middle entrance on Constitution Avenue.

Times

June 9, 1993:
- Committee on Classification Standards: 9–10:30 a.m.
- Committee on Excessive Classification: 10:30 a.m.–noon.
- Committee on Oversight: 1:30–3 p.m.
- Committee on Safeguards: 3–4:30 p.m.

June 10, 1993:
- Committee on Duration of Classification: 9–10:30 a.m.
- Committee on Declassification: 10:30–noon.
- Committee on Access and Dissemination: 1:30–3 p.m.

Times are subject to change depending on expressed interest. Parties with appointments will be notified of any changes as soon as possible.

Appointments

Oral presentations will be scheduled by appointment. To reserve an appointment time, please contact June Brown or Dorothy Cephas of ISOO, at (202) 634–6150. Presenters are requested to keep their prepared statements as concise as possible, and to provide specific written proposals for changes to particular provisions of E.O. 12356. The presentations will be open to the public.

Written Proposals

The Task Force will accept and consider written proposals for changes to E.O. 12356. Written proposals should be submitted as early as possible for adequate dissemination and consideration, but no later than July 14, 1993. Please address such proposals to the Information Security Oversight Office, 750 17th Street, NW., suite 530, Washington, DC 20006, Attention: PRD Task Force.

Steven Garfinkel,

Director, Information Security Oversight Office.

[FR Doc. 93–11942 Filed 5–19–93; 8:45 am]

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Federal Register

Thursday
May 20, 1993

Part IV

Department of Transportation

Coast Guard

33 CFR Part 151
Recordkeeping of Refuse Discharges From Ships; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

[CGD 92–71]

RIN 2115–AE17

Recordkeeping of Refuse Discharges From Ships

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to require that all manned, oceangoing U.S. vessels 40 feet or more in length engaged in commerce and all manned fixed or floating platforms keep records of garbage discharges and disposals. Regulations specifying the vessels and platforms required to maintain these records are mandated by statute. The use of shipboard garbage discharge and disposal records would promote compliance, facilitate enforcement, and reduce the amount of plastics discharged into the marine environment.

DATES: Comments must be received on or before July 6, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA–2/3406) (CGD 92–71), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection and copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Claudia C. Gelzer, Project Manager, Marine Environmental Protection Division (G–MEP), (202) 267–6714.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 92–71) and the specific section of this proposal to which each comment applies, and give a reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

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

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

Drafting Information

The principal persons involved in drafting this document are Lieutenant Junior Grade Claudia C. Gelzer, Project Manager, Marine Environmental Protection Division, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background and Purpose

The Marine Plastic Pollution Research and Control Act of 1987 (the Act) implemented Annex V of MARPOL 73/78. Section 2107 of the Act requires that the Secretary of the Department in which the Coast Guard is operating prescribe regulations which (a) require certain U.S. "ships" (defined in the Act to include fixed or floating platforms, as well as vessels) to maintain refuse record books and (b) specify the ships to which the regulations apply (33 U.S.C. 1903 (b)(2)(A)). Refuse record books would be used to document waste discharges from the ships. These statutory provisions were addressed in a Coast Guard notice of proposed rulemaking (54 FR 37084; September 6, 1989) but the regulatory section, as proposed, failed to receive OMB approval under the Paperwork Reduction Act and was deleted from the interim rule published on May 2, 1990 (55 FR 18578).

Despite implementation of other Coast Guard Annex V regulations to date, large amounts of plastic continue to wash ashore, obstruct navigation, and entangle marine life. Very likely, much of this plastic was illegally discharged as garbage from ships. According to the Coast Guard's "MARPOL Reception Facility Study," an informal survey of all Annex V reception facilities on the East and Gulf coasts, less than 20 percent of the vessels calling at these ports off-load garbage at a reception facility. Yet, Coast Guard boarding officers frequently find no trace of garbage or incinerated ash on ships that doubtlessly generate large quantities of garbage, such as vessels on long voyages with large crew, or large, permanently-manned platforms. The evidence strongly suggests that, despite current regulations, large amounts of garbage are still being discharged overboard before plastics are separated out for later disposal ashore or incineration aboard.

Though no regulation can stop a crew member intent on violating the regulation from illegally discharging garbage, certain measures can be taken to reduce the number of intentional, as well as negligent, illegal discharges. Under 33 CFR 151.63(a), the master or person in charge of a "ship" is made personally responsible for all discharge or disposal operations. Therefore, a requirement for the master or person in charge to maintain detailed records of each disposal operation should promote knowledge of the discharge regulations and awareness of waste handling practices on the ship, and provide a means of verifying that he or she is carrying out this responsibility. These records would provide a more complete and accurate source of information for boarding officers than would the recollections, over the duration of a voyage, of the master or person in charge. The Coast Guard has already identified the benefits of records by stating in 33 CFR 151.63(b)(2) that log entries indicating discharge operations may be considered by enforcement personnel in evaluating compliance.

Furthermore, the Coast Guard survey on MARPOL Annex V reception facilities states that refuse recordkeeping is critical to strengthening enforcement efforts. It is clear that the present regulations have failed to curtail the growing pollution problem. The waste management plan regulations in 33 CFR 151.57, which, it was hoped, would satisfy the statutory mandate for a refuse record book, have in and of themselves produced inadequate results. It is now believed that, in conjunction with waste management plans, refuse recordkeeping should measurably improve the management of refuse aboard ships. In addition, it would provide research material for evaluating this regulatory program and its effect on

the environment. Coast Guard boarding officers are noting with continued frequency that foreign vessels are maintaining refuse records in order to have documentation of proper discharge procedures.

In addition to this rulemaking, the Coast Guard is pursuing adoption of an international requirement for refuse recordkeeping through the International Maritime Organization (IMO). In this regard, the Coast Guard plans to present an action paper at IMO's Marine Environment Protection Committee meeting in July 1993.

Discussion of Proposed Amendments

This proposal, if adopted, would be inserted in 33 CFR 151.55, which is reserved for recordkeeping requirements. The proposal uses terms that are currently defined in 33 CFR 151.05. Some of the more important definitions are repeated here as an aid to understanding this proposal.

Length means the horizontal distance between the foremost part of a ship's stem to the aftermost part of its stern, excluding fittings and attachments.

Ship means a vessel of any type whatsoever, operating in the marine environment. This includes hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating drilling rigs and other platforms.

Oceangoing ship means a ship that—

(1) Is operated under the authority of the United States and engages in international voyages;

(2) Is operated under the authority of the United States and is certificated for ocean service;

(3) Is operated under the authority of the United States and is certificated for coastwise service beyond three miles from land;

(4) Is operated under the authority of the United States and operates at any time seaward of the outermost boundary of the territorial sea of the United States as defined in 33 CFR 2.05; or

(5) Is operated under the authority of a country other than the United States.

It should be noted that a Canadian or U.S. ship being operated exclusively on the Great Lakes of North America or their connecting tributary waters or exclusively on the internal waters of the United States and Canada is not an oceangoing ship.

The proposed regulations would apply only to—

(1) Manned oceangoing U.S. ships of 40 feet or more in length that are engaged in commerce and are documented under the laws of the United States or numbered by a State; and

(2) Manned fixed or floating platforms subject to the jurisdiction of the United States.

The proposal is limited to U.S. oceangoing vessels because these are the only vessels operating in the waters beyond 3 nautical miles, where certain garbage can be discharged legally. (Within 3 nautical miles of shore, the discharge of any type of garbage has long been prohibited.) These vessels tend to operate farther from shoreside reception facilities, tend to engage in lengthier voyages which result in the production of more garbage per voyage, and tend to operate in the waters far from shore where illegal discharges are more difficult to detect.

In drafting these proposed rules, the Coast Guard considered the sources and amounts of garbage produced by different categories of "ships", as defined in the Act. The purpose was to determine which ships were generating the largest amounts of trash, particularly plastic, and which would most benefit enforcement efforts by keeping records of their permitted discharge and disposal operations.

The refuse recordkeeping proposal is limited to vessels 40 feet or more in length engaged in commerce. The proposal exempts recreational vessels, but includes the bulk of commercial fishing vessels. While many fishing vessels are in the same size category, they generally sail for longer periods of time and at further distances from shore than do recreational vessels. Fishing vessels carry larger crews than recreational vessels and, therefore, tend to generate more trash. They generate large amounts of operational waste during fishing activities, particularly plastic buckets, synthetic fishing line, and nets that are particularly hazardous to marine life. This kind of operational waste is not normally generated by recreational vessels, which generate trash primarily as a result of food consumption.

The Coast Guard has concluded that a blanket regulation applying to all ships would create a large unnecessary burden on the public. There is less need for recreational vessels to document discharge or disposal operations because they normally do not generate large amounts of garbage and make shorter trips than commercial vessels. In addition, they have greater ability to retain garbage on board until returning to port where they often have access to trash receptacles at the marina.

Commercial oceangoing vessels generally travel beyond 3 nautical miles from shore where they are permitted to discharge certain types of waste. They generate significantly larger amounts of trash than do recreational vessels and should be held accountable for their waste disposal practices through refuse recordkeeping.

Section 151.55 proposes the use of refuse recordkeeping because the Coast Guard believes that manned U.S. oceangoing ships 40 feet or more in length engaged in commerce are likely to generate and discharge garbage in areas where there is little outside incentive to comply with the regulations concerning the disposal of garbage. Having to record garbage discharge would encourage compliance among vessels in this category and lessen incidence of illegal dumping at sea. Also, applying the regulations to vessels 40 feet or more in length is consistent with 33 CFR 151.57, regulations that require vessels 40 or more in length to develop and follow waste management plans.

The regulations would require the master to maintain a record of the following information: date, time, and location of the discharge; explanation of how garbage was disposed; an estimate of the amount disposed; and a description of the garbage discharged. The regulations would not specify the document or format to be used in recording this information, but would require that the master or person in charge personally certify that the entries are correct.

Each entry should take approximately two minutes to complete. The records would be required to remain on the vessel or platform for two years and to be made available on request by Coast Guard officials.

The citation in 33 CFR 151.63 would be revised to reference the proposed 33 CFR 151.55.

Regulatory Evaluation

This rule is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). A draft Regulatory Evaluation is available in the docket for inspection or copying where indicated under "ADDRESSES".

The total annual projected cost to industry of requiring that refuse records be maintained by U.S. manned fixed or floating platforms and certain U.S. vessels is estimated to be $4.5 million.

The Coast Guard based the implementation costs of these regulations on the following categories of U.S. ships: freight and tank vessels, tug/tow vessels, small fishing vessels (less than 300 gross tons), large fishing vessels (300 gross tons or more), passenger vessels, cruise vessels, vessels engaged in offshore oil and gas

operations, research and other miscellaneous classes of vessels, and manned fixed or floating platforms. The annual cost for a ship to comply with these regulations was calculated by multiplying the time it would take to complete a refuse record entry (two minutes) by the average wage per minute of the deck officer, chief steward, or operator aboard each category of ship by the average number of discharges per year for each category of ship.

The annual cost per ship in each category is estimated to be: Freight or tank vessel: $804.67; tug/tow vessel: $301.75; small fishing vessel: $175.68; large fishing vessel: $219.46; passenger vessel: $301.75; cruise vessel: $2,414.01; offshore oil and mineral vessel: $332.23; research or other miscellaneous class of vessel: $158.50; and manned fixed or floating platform: $48.76.

The estimated numbers of ships affected in each category are: 586 freight and tank vessels, 23 tug/tow vessels, 16,948 small fishing vessels, 224 large fishing vessels, 2,870 passenger vessels, 4 cruise vessels, 276 offshore oil and mineral vessels, 124 research and other miscellaneous classes of vessels, and 1,000 manned fixed or floating platforms.

The total annual cost for each ship category was calculated by multiplying annual cost per ship by estimated number of ships affected in each category: Freight and tank vessels: $471,536; tug/tow vessels: $6,940; small fishing vessels: $2,977,424; large fishing vessels: $49,159; passenger vessels: $866,022; cruise vessels: $9,656; offshore oil and mineral vessels: $91,695; research and other miscellaneous classes of vessels: $19,654; and manned fixed or floating platforms: $48,760.

The average annual burden of this requirement per respondent is estimated to be 7.7 hours. This average was calculated by dividing the total number of hours spent on recordkeeping annually, by the total number of applicable vessels.

Small Entities

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

The Coast Guard is proposing to adopt the definition of "small business" used by the Small Business Administration when considering loans to concerns engaging in marine transportation (13 CFR 121.2, table 2). Under this definition, a concern is considered "small" if its annual receipts do not exceed $3.5 million.

The Coast Guard does not have accurate information on how many vessels or manned fixed or floating platforms would qualify as small entities and what the economic impact on them would be. However, because the proposed recordkeeping is expected to require only two minutes per day for smaller vessels and no particular record book or format is prescribed, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business qualifies as a small entity and that this proposal will have a significant economic on your business, please submit a comment (see "ADDRESSES") explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection of information requirements in the following section: § 151.55. The following particulars apply:

DOT No.: 2115.

OMB Control No.: 2115–0025.

Administration: U.S. Coast Guard.

Title: Recordkeeping of Refuse Discharge from Ships.

Need for Information: To allow enforcement officers a means by which to evaluate compliance with Annex V of MARPOL 73/78.

Frequency of Response: Whenever garbage is disposed or discharged.

Burden Estimate: 169,372 annual burden hours.

Respondents: Freight and tank vessels, 586; tug/tow vessels, 23; fishing vessels, 17,172; passenger vessels, 2,870; cruise vessels, 4; offshore oil and mineral vessels, 276; research and miscellaneous vessels, 124; manned fixed and floating platforms, 1,000.

Form(s): No standard form would be required, only specified information.

Average Burden Hours Per Respondent: 7.7 annual burden hours.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under "ADDRESSES."

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. The regulations are administrative in nature and are expected to have some positive but no negative impact on the environment. The regulations should contribute to the reduction of the occurrence of plastic, as well as other ship-generated garbage, in the marine environment. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 151

Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 151 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

1. The authority citation for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C) and 1903(b); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

2. Section 151.55 is amended by adding text to read as follows:

§ 151.55 Recordkeeping requirements.

(a) This section applies to the following:

(1) Each manned oceangoing ship (other than a fixed or floating platform) of 40 feet or more in length that is

engaged in commerce and that is documented under the laws of the United States or numbered by a State.

(2) Each manned fixed or floating platform subject to the jurisdiction of the United States.

(b) The master or person in charge of each ship under paragraph (a)(1) or (a)(2) of this section shall ensure that a written record is maintained on the ship of each of the following garbage discharge or disposal operations:

(1) Discharge overboard.

(2) Discharge to another ship.

(3) Discharge to a reception facility.

(4) Incineration on the ship.

(c) The record under paragraph (b) of this section must contain the following information on each discharge or disposal operation:

(1) The type of operation as described under paragraphs (b)(1) through (b)(4) of this section.

(2) The date and time of the operation.

(3) If the operation was conducted at a port, the name of the port.

(4) If the operation was not conducted at a port, the latitude and longitude of the location where the operation was conducted and the distance of that location from shore. If the operation involved offloading to another ship, the identity of the receiving ship.

(5) The amount of garbage involved, described by volume (e.g., the number of bags or dumpsters) or by weight.

(6) The contents of the garbage, described by the following categories:

(i) Plastic material.

(ii) Floating dunnage, lining, or packing material.

(iii) Ground paper, rags, glass, metal, bottles, crockery, or other similar garbage.

(iv) Unground paper, rags, glass, metal, bottles, crockery, or other similar garbage.

(v) Ground food wastes.

(vi) Unground food wastes.

(vii) Incinerated ash.

(viii) Incinerated plastic residue.

(d) The record under paragraph (b) of this section must be prepared at the time of the operation, certified as correct by the master or person in charge of the ship, maintained on the ship for two years following the operation, and made available for inspection by the Coast Guard.

3. In § 151.63, paragraph (b)(2) is revised to read as follows:

§ 151.63 Shipboard control of garbage.

* * * * *

(b) * * *

(2) Records under § 151.55 or log entries of garbage discharges.

* * * * *

Dated: April 15, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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May 20, 1993

Part V

Department of Transportation

Coast Guard

46 CFR Parts 159 et al.
Personal Flotation Device Components;
Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 159, 160 and 164

[CGD 84–068]

RIN 2115–AB70

Personal Flotation Device (PFD) Components

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures for obtaining Coast Guard acceptance of non-standard components, requirements for oversight of non-standard components, self-certification requirements for standard components, and production quality control requirements for all components used in the manufacture of Coast Guard-approved personal flotation devices (PFDs). This final rule also prohibits the use of cotton thread as a PFD component, designates specified nylon and polyester threads as standard components, and adds new performance requirements for non-standard thread. The regulations in this final rule relating to standard PFD components and to certain non-standard PFD components, for the most part, represent a codification of longstanding procedures and requirements that are currently applied to those components.

DATES: This rule is effective on November 16, 1993. The Director of the Federal Register approves as of November 16, 1993 the incorporation by reference of certain publications listed in the regulations.

ADDRESSES: Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying at the office of the Executive Secretary on file with the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street, SW., room 3406, Washington, DC 20593–0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Ensign Jerry Johnson, Office of Marine Safety, Security, and Environmental Protection (G–MVI–3), (202) 267–1444.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Ensign Jerry Johnson, Office of Marine Safety, Security, and Environmental Protection and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Regulatory History

On November 13, 1989, the Coast Guard published a notice of proposed rulemaking entitled Personal Flotation Device (PFD) Components in the **Federal Register** (54 FR 47234). The Coast Guard received three letters commenting on the proposal. A public hearing was not requested and one was not held.

Background and Purpose

Each of the existing PFD subparts in 46 CFR part 160 contains a section or sections containing requirements for the materials (generally referred to as components) used in the construction of the PFD covered by that subpart. Components that comply exactly with all of the requirements of one of these subparts are commonly referred to as standard components. Standard components currently include such items as cotton fabric and webbing, cotton and synthetic threads, and metal closure hardware. Existing regulations in part 160 require component manufacturers to provide affidavits as certification that the components they provide comply with all applicable requirements. The regulations also require PFD manufacturers to retain these affidavits in their records. The existing regulations do not include requirements regarding the contents of the affidavits.

In most cases, standard components must comply with military or Federal specifications which have been incorporated by reference into the regulations and which contain detailed quality control provisions. The quality control requirements in part 160 are geared toward the end product, or PFD, and require periodic visits to the PFD manufacturing plant by marine inspectors or independent laboratory representatives. Periodic inspection of specific PFD components in production is permitted but not required. Because concisely defined standard components were used almost exclusively in PFD manufacture at the time the existing regulations in part 160 became effective, visual inspections of PFD's in production were considered adequate to assure quality control of both components and the end product.

In the ensuing decades, however, many new materials and technologies were developed which demonstrated potential for equivalent or improved performance at similar or lower cost when properly used. Since the 1970's, the Coast Guard has evaluated these materials (such as synthetic fabrics in place of cotton, and plastic buckles in place of metal closure hardware) on an individual basis for suitability as PFD components. Components demonstrated to be equivalent in performance to standard components are commonly referred to as "non-standard components" and are accepted by the Coast Guard for use in PFDs in lieu of standard components. Non-standard components are now in extensive use.

Individual performance testing of non-standard components, which was established in the 1970's as non-standard components first came into usage, was intended to control and monitor the quality of materials for which there originally was little field service history. Because there was little or no practical experience with entire generic categories of non-standard components (e.g., nylon fabrics), each prospective non-standard component had to be evaluated for equivalence individually rather than based upon known characteristics of a large group of similar products.

Two methods have been in use by the Coast Guard for determining equivalence and accepting non-standard components. These methods are: (1) the Coast Guard "letter of acceptance"; and (2) "component recognition" by a recognized laboratory. Component manufacturers have had the option of which method to use.

Under the existing Coast Guard letter of acceptance program for non-standard components, the component manufacturer submits data directly to the Coast Guard (in the form of test results, samples, etc.) demonstrating that the component meets the appropriate equivalence requirements. The Coast Guard, after reviewing the application, issues the letter of acceptance which establishes the conditions and restrictions under which the component was accepted for use in approved PFD's. Under the existing procedures, a Coast Guard letter of acceptance is valid for a period of five years (the same as for Coast Guard approval of PFD's and other materials and equipment), after which the manufacturer may resubmit performance data and product specifications for a new acceptance. Component manufactures provide an affidavit with each shipment of standard components that references the letter of acceptance and which certifies that the components shipped meet all of the conditions of the acceptance and all of the applicable performance requirements.

Each letter of acceptance also states that the acceptance is contingent upon the component manufacturer maintaining a quality control program. The existing regulations do not define

specifically the standards which a quality control program must meet. The regulations adopted by this final rule include such standards.

Component recognition by a recognized laboratory, the other existing method of obtaining acceptance as a non-standard component, has been handled directly by the recognized laboratory. Under this method, the component manufacturer submits samples of the prospective non-standard component to the recognized laboratory for testing. The recognized laboratory then prepares a test report and draft procedures for production inspections of the component, which are submitted to the Coast Guard for review. The Coast Guard reviews the report for both adequacy of the test results and accuracy and completeness of the product description in the production inspection procedure. After resolving any discrepancies, the Coast Guard notifies the laboratory in writing that the submission is acceptable if the product is found to meet all of the applicable requirements. The laboratory then tests the product in accordance with its established procedures, and authorizes the product to be marked in production with the "recognition mark" of the laboratory. The recognition mark has been considered adequate evidence that a component met appropriate non-standard component performance requirements, and served the same function as an affidavit under the letter of acceptance program.

The key difference between component recognition and the Coast Guard letter of acceptance program for non-standard components is that under component recognition, the component manufacturer's production quality control program is supplemented by a program of oversight by the recognized laboratory. This quality control oversight program calls for the recognized laboratory to periodically witness or supervise the manufacturer's performance of tests and inspections, audit the manufacturer's quality control records, and select random product samples for follow-up product testing at the laboratory. Other than required product testing to obtain acceptance every five years, the existing Coast Guard letter of acceptance program contains no specific provisions for Coast Guard or independent laboratory oversight over quality control in production.

While the use of non-standard components in PFD's was in the developmental stage, the existing procedures for acceptance functioned generally well. However, the use of non-standard components has now increased to almost completely replace standard components in the manufacture of PFDs. Experience with certain generic categories of components has grown to the extent that individual testing has become, in many cases, redundant. Many non-standard components are virtually identical, and many generic products have established a sufficient satisfactory field service history that they may now be considered, as classes, to provide a degree of safety equivalent to standard components. The current volume of testing, coupled with the associated administrative efforts involved in processing requests for Coast Guard letters of acceptance, has overloaded the system to create a perpetual backlog of acceptance requests. This backlog often causes lengthy delays in processing new requests. These delays limit the flexibility of PFD manufacturers in selecting component suppliers, which can lead to production delays and additional production costs which are then passed on to the consumer. The staff time required to effectively administer the program has also caused inordinate delays in other activities of interest to the industry, such as approval of PFD's and other equipment. Also, the lack of required oversight in production quality control under the Coast Guard letter of acceptance program for non-standard components led to the use of unsatisfactory components in the production of Coast Guard-approved PFDs. Failure of PFD components creates a serious risk of injuries and fatalities.

New Requirements for Production Quality Control and Quality Control Oversight Requirements

These concerns regarding lack of oversight and inordinate delays are addressed in new subpart 164.019, which is adopted in this final rule. Subpart 164.019 establishes detailed production quality control requirements for all components in conjunction with requirements for quality control oversight of non-standard components by a recognized laboratory (component recognition). Quality control oversight of non-standard components in production by a recognized laboratory is required at the component manufacturer's expense. The presence of an independent oversight organization is intended to ensure an adequate quality control program. For manufacturers, this will mean exerting additional control and oversight over the various facilities involved in the manufacturing process. Therefore, the potential for unsatisfactory non-standard components entering the market will be significantly reduced. The reduced Coast Guard review time for submissions for component recognition as compared to the time involved in processing letters of acceptance will reduce the backlog of submissions and consequently reduce delays in acceptance of components.

The quality control requirements for standard components and recognized non-standard components adopted by this final rule, principally represent a codification of long standing practice. Standard components and recognized non-standard components have had a generally good record of quality control. Accordingly, these rules, as they pertain to standard components and previously recognized non-standard components, should have little or no impact.

Performance Requirements for Thread

In new subpart 164.023, this final rule establishes performance requirements, acceptance tests, and production testing and inspection requirements for thread used in the construction of PFDs approved under 46 CFR part 160. The existing requirements for thread used in PFDs are contained in 46 CFR 160.001–2(j), which requires that thread for wearable PFDs, depending upon its composition, meet the requirements of one of three Federal specifications. The three acceptable compositions listed in table 160.001–2(j) are cotton, nylon, and polyester. Requirements for thread for securing beckets on commercial ring buoys (throwable PFDs) are contained in 46 CFR 160.050–3(e). That provision requires that the thread meet the requirements of a Federal specification for nylon thread and also allows for other threads of equivalent size and strength.

Cotton thread has been the cause of several reported PFD failures. It is susceptible to deterioration from fungal attack (i.e., mildew). Field reports of equipment failures strongly suggest that cotton thread's vulnerability to environmental elements make it unsuitable for use in PFDs. Due to the nature of the thread's role in a PFD, failure of thread could lead to a total failure of the device in which it is used. For that reason, these rules eliminate cotton thread as an acceptable PFD component in structural applications unless demonstrated to the Commandant to be equivalent to standard thread in durability in all foreseeable conditions of use and stowage. Section 160.001–2(j) is amended by removing the reference to cotton as an acceptable composition and requiring that the thread meet a specification listed in new table 164.023–5(a). Accordingly, table

160.001–2(j), which included cotton thread, is removed.

This restriction on the use of cotton thread will have no impact on the industry since there are presently no PFD manufacturers using cotton thread in construction. Cotton thread is generally not considered to be suitable for use with synthetic fabrics. Therefore, the industry has already converted to the use of synthetic thread.

An analysis of all thread acceptances issued since the inception of the component acceptance program revealed that all accepted threads to date have met the requirements of either a Federal specification or a military specification. In view of the excellent field service history and lack of failures (in either the field or the laboratory) involving these currently non-standard threads, quality control oversight is not considered to be necessary. Accordingly, these rules redesignate as standard components all synthetic threads certified to comply with the specified portions of Federal and military specifications. It is anticipated that there will be few, if any, non-standard threads.

Future Additional Projects

Future proposed rules will address performance requirements for fabric and other PFD components. A separate subpart will be devoted to each component. In this final rule, only the general subpart 46 CFR 164.019, which applies to all components, and 46 CFR 164.023, which deals specifically with thread, are included. It is envisioned that future proposed rules relating to other components will follow closely the structure and format of the thread subpart and will include proposals to adopt performance standards similar to those currently applied to non-standard components under the Coast Guard letter of acceptance program.

Cross Reference to New Regulations

As discussed in the NPRM, some revisions to regulations in title 46, Code of Federal Regulations, are necessary to implement these rules. References to the component acceptance procedures and quality control and certification requirements in new subpart 164.019 are added to the "Materials" section(s) of each of existing subparts 160.001, 160.002, 160.005, 160.047, 160.048, 160.049, 160.050, 160.052, 160.053, 160.055, 160.060, 160.064, 160.077, and 160.076. Former requirements for thread in the "Materials" section(s) of each of existing subparts 160.001, 160.002, 160.005, 160.047, 160.048, 160.049, 160.050, 160.052, 160.053, 160.055, 160.060, 160.064, 160.077, and 160.176 are replaced with references to the requirements in new subpart 164.023.

Discussion of Comments and Changes

Of the three comments received, one comment supported the rule as proposed. Another comment stated that the proposed rule was too restrictive in the sizes outlined in table 164.023–5(A). The comment suggested that the Coast Guard expand the list to include sizes F, FF for the V–T–285 and V–T–295 threads, ticket sizes 20, 16, and 12 for MIL–T–43624A, and ticket sizes 24, 16 and 12 for MIL–T–43548C threads. The Coast Guard has determined that the suggested expansion of allowable thread sizes is appropriate and will allow PFD manufacturers more flexibility in design considerations. Therefore, this suggestion is adopted in this final rule. Table 164.023–5(a) reflects these changes.

The comment also suggested that cotton covered polyester core thread be included as standard components. The Coast Guard's research of PFD records revealed that only one manufacturer has ever requested acceptance of this thread as a non-standard component, and that there is no record of wide usage of this thread in the manufacture of PFDs. Accordingly, cotton covered polyester thread will not be included in the listing of standard components. However, the Coast Guard will, upon individual application, process requests for the use of this thread in Coast Guard-approved PFDs on a case-by-case basis.

The third comment recommended that the Coast Guard delete the requirement for composition testing in § 164.023–13(f)(l) if the Coast Guard intended to require that the test be done on a routine basis. The testing required by § 164.023–13(f)(l) is to be used only to identify the makeup of the thread being tested and is required annually on one sample of each thread. The Coast Guard has determined that this testing is necessary and, since it is required merely annually, it does not represent an undue burden on the industry. Therefore, the comment is not adopted in this final rule.

The third comment also suggested that the standard lot size for thread be raised from 100 pounds to 500 pounds, but provided no rationale for this position. After examination of various Federal and military specifications available for thread, the Coast Guard discovered that, generally, lot sizes are not established for threads. Of all the specifications and standards that are used by thread manufacturers, only appendix D of Underwriters Laboratories (UL) Manufacturer's Follow-up Procedure contains a reference to lot size, which is established at 100 pounds or less. Because of the need for precise traceability of thread for recall purposes, the Coast Guard has adopted the UL standard for lot sizing of thread. The comment, therefore, is not adopted in this final rule.

The final issue raised by the comment pertains to the requirement in § 164.023–13(f)(2) for quarterly thread breaking strength tests. The comment suggested that this test be required annually rather than quarterly. Because of the critical importance of breaking strength to thread, the Coast Guard considers this test to be essential to the quality of the end product, and has determined that the quarterly test schedule is appropriate. This schedule is consistent with past test procedures for UL inspector follow-up programs. The comment is not, therefore, adopted in this final rule.

The NPRM noted that the Coast Guard would be making revisions to the cross-references within specified regulations of title 46, Code of Federal Regulations. These revisions are necessary due to the addition of the two new subparts in this rulemaking. Several sections of existing subparts were overlooked in the proposed rule but have been included in this final rule. The additional subparts being revised are 160.060, 160.064, and 160.176. Review of existing subparts 160.060, 160.064, and 160.176 revealed that the materials section of these subparts contained reference to the table in § 160.001–2(j) which is superseded by the requirements in new subparts 164.019 and 164.023. Accordingly, these existing subparts are revised to accurately reference the applicable new subparts. Other revisions have been made for clarity and consistency. Several of these revisions are detailed below.

Section 164.019–3 Definitions

The term "Inspector" has been revised to mean a Coast Guard marine inspector or authorized representative of the Coast Guard or a recognized laboratory representative. The term "Use Code" has been expanded to allow more flexibility in identifying components accepted with unique Use Codes assigned by the Commandant (G–MVI–3). This is needed in order to accommodate special or multiple use components or components not covered by present Use Codes, in accordance with § 164.019–7(e). Also, the Use Code of 5H has been added to table 164.019–3 in order to designate the components acceptable for use in Type V Hybrid PFDs.

Section 164.019–4 Component Requirements

The requirements proposed in §§ 164.019–1(d) and 164.019–1(e) have been moved to new § 164.019–4. This represents an organizational change to appropriately separate the description of the scope of subpart 164.019 from regulatory requirements.

Section 164.019–5 Standard Components; Acceptance Criteria and Procedures

The proposed title has been changed, proposed paragraphs have been reorganized and retitled, and several paragraphs have been added so that this section would have a parallel construction to § 164.019–7. This section now provides for a paragraph which states general requirements for standard components. The method of acceptance and the required contents of the affidavit used as documentation of acceptance are now addressed in this section. As with other Coast Guard-approved equipment, the procedures for suspension or termination of acceptance contained in 46 CFR 2.75–40 and 2.75–50 apply to acceptances of PFD components. Accordingly, a reference to these provisions has been added to § 164.019–5.

Section 164.019–7 Nonstandard Components; Acceptance, Criteria and Procedures

This final rule changes the name of this section from "Nonstandard Components" to "Nonstandard Components; acceptance criteria and procedures," which better describes the section. The zipper listed in § 164.019–7(c)(1)(ix), has been deleted as a separate "intended use" item in order to avoid redundancy. The zipper has been more appropriately combined with "Closure and Adjustment Hardware" listed in § 164.019–7(c)(1)(iv). When requesting acceptance for marine fabric, one (1) linear yard is established as the appropriate sample size to be submitted by the manufacturer in accordance with § 164.019–7(c)(4). Paragraph 164.019–7(c)(7) of this section regarding production tolerances has been revised. For clarification, this final rule establishes that dimensional and performance tolerances (as appropriate) must accompany all requests for component acceptance.

Section 164.019–11 Certification (Affidavits)

The NPRM inadvertently included independent laboratories among those required to provide certifying affidavits, which would be contrary to proposed § 164.019–5(b). This has been corrected in § 164.019–5(d) of the final rule.

Section 164.019–17 Recognized Laboratory

The requirement to regularly engage in inspection and testing of materials as proposed by § 164.019–17(a)(2) already exists in § 159.010–3(a)(1). Accordingly, the proposed § 164.019–17(a)(2) is deleted and all remaining paragraphs renumbered to avoid redundancy.

Section 164.023–1 Scope

Reference to subpart 164.019 has been added to this section to make it clear that the provisions of this subpart must be applied in combination with subpart 164.019. Also, the requirement that PFD components be used in the construction of PFDs only in accordance with their Use Codes was added to this section.This language is included in this final rule for clarification and should reduce the number of questions about how the regulations are to be applied.

Section 164.023–13 Production Tests and Inspections

The number of samples required to be provided or tested by the manufacturer for several production tests and inspections was listed in the proposed rule as one (1). This final rule clarifies that each sample must consist of at least five (5) specimens (unless otherwise specified in the test procedure), in order to ensure complete, accurate test results. This requirement is not overly burdensome to the industry because it is in accordance with current practice as reflected in many Federal and military standards and Underwriters Laboratories Followup Procedures.

As proposed, the requirements in § 164.023–13(g) dealt with nonstandard components because only nonstandard components have "acceptance testing values". In the final rule, § 164.019–13(m) provides that for standard components, the applicable Federal or military standard "may" be used for the quality control of standard components. To clearly cover production quality control of standard components, reference to § 164.019–13(m) has been added to § 164.023–13(g). Also, the minimum performance level for each tested characteristic has been added to each subparagraph in § 164.023–13(g) to cover standard components when the § 164.019–13(m) procedures are not used. These revisions are in accordance with long-standing policy on component quality control.

Correction of Errors

Review of the proposed rule revealed several spelling, consistency, format, and typographical errors which have been corrected in this final rule. The affected sections include: §§ 164.019–1, 164.019–5, 164.019–7, 164.019–9, 164.019–11, 164.019–13, and 164.019–15.

Numerical values presented in English units in the proposed rule are presented in metric units in this final rule with the English unit equivalent in parentheses.

Incorporation by Reference

The Director of the Federal Register has approved the material in § 164.023–3 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. The material is available as indicated in that section.

Regulatory Evaluation

These regulations are considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A final Regulatory Evaluation has been prepared and placed in the rulemaking docket. It may be inspected and copied at the address listed under **ADDRESSES**. Copies also may be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

The cost of these rules is estimated to be $11,500.00 annually for the first five years. This figure represents the cost for five existing manufacturers or converters of nonstandard component fabrics not currently under a quality control oversight program of a recognized laboratory to enter and maintain their products in such a program over that period. Based upon an average 7 million PFDs produced and sold each year, this cost will be reflected in an increase in the cost of an approved PFD of 0.815 cents over the initial five-year period if all added component manufacturer costs are passed on to the PFD manufacturer and then to the consumer. The Coast Guard estimates that continuing costs in subsequent years will be similar.

Thread is the only PFD component other than fabric for which a significant number of nonstandard products not under recognized laboratory quality control oversight are in use. However, because these rules in effect convert all existing nonstandard component threads to standard components, the requirement for quality control oversight for nonstandard components is not expected to result in any increased costs for thread manufacturers.

The Coast Guard expects the production quality control requirements to have little or no impact on

manufacturers of standard components and nonstandard components currently under recognized laboratory quality control oversight. As stated previously, the regulations essentially represent a codification of long-standing procedures and requirements that are currently applied to these components.

These rules are expected to result in a savings to the Coast Guard of an estimated one-half man-year of professional staff effort currently spent in the administration of the non-standard component letter of acceptance program. This will result in a savings of approximately $30,000.00 annually. The increase in available staff time will also benefit PFD and PFD component manufacturers, because it will expedite the processing of PFD approval and component acceptance submissions, thus reducing the potential for manufacturing and delivery delays due to long waits for Coast Guard review.

The effective conversion of all non-standard component threads currently accepted under Coast Guard letters of acceptance to standard components will result in a savings to the industry of an estimated $500.00 per product every five years. This figure represents the cost of sending detailed product specifications and performance test results to the Coast Guard for renewal of the letter of acceptance every five years. Based on approximately 25 products currently accepted under letters of acceptance, the total savings to the industry will be $12,500.00 over a five year period or an average of $2,500.00 per year.

It is expected that the additional quality control requirements for non-standard components will reduce the incidence of failures of these components currently seen in random performance testing. Although difficult to quantify, the potential for future injuries or fatalities due to failures of components which do not meet the specified minimum performance requirements will therefore be reduced.

An intangible benefit of these rules is that previously unpublished policies and procedures will be made readily available to the public, reducing the likelihood of errors and misinterpretations of existing policy.

Environment

The Coast Guard has considered the environmental impact of this final rule and it has been determined to be categorically excluded from further environmental documentation in accordance with sections 2.B.2.c. and 2.B.2.1 of Commandant Instruction (COMDTINST) M16475.1B. A Categorical Exclusion Determination statement has been prepared and is included as part of the regulatory package. This final rule establishes acceptance procedures and quality control oversight and clearly will have no impact on the environment.

Federalism

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to establish standards for the approval of lifesaving equipment to be carried on board vessels has been committed to the Coast Guard by Federal statutes. Further, PFDs are distributed in a national marketplace and divergent requirements regarding their manufacture would lead to confusion, added expense, and reduced safety. Therefore, the Coast Guard intends to preempt state and local regulations on the same subject matter that are inconsistent with this final rule.

Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard has considered whether these regulations will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

There are an estimated five fabric manufacturers or converters who will be required to obtain component recognition for PFD component fabric under these rules. The added cost per manufacturer will be an estimated $11,435.00 over the initial five year period, or $2,287.00 per year. Based upon the quantity of fabric produced, this cost will represent less than one tenth of one percent of gross revenues for PFD component fabric. It is likely that this cost will be partially or entirely passed on to the PFD manufacturer and ultimately the PFD buyer. In view of these considerations, and the fact that PFD component fabric generally represents only a small portion of a fabric manufacturer's business, the impact on these manufacturers is considered to be minor.

Based upon these estimates, the impact of these regulations on small entities is considered to be minimal. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that these regulations will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rulemaking contains information collection and recordkeeping requirements. The Coast Guard has submitted these requirements to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them. The section numbers are: §§ 164.019–5, 164.019–7, 164.019–9, 164.019–13, 164.019–15, and 164.023–15 and the corresponding OMB number is 2115–0141.

OMB Control Numbers for regulations within certain parts of title 46, Code of Federal Regulations are displayed in a table appearing at 46 CFR 159.001–9. This final rule updates that table to display the assigned OMB Control Numbers for the regulations noted.

List of Subjects

46 CFR Part 159

Business and Industry, Laboratories, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 160

Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 164

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Incorporation by reference.

For the reasons set out in the preamble, the Coast Guard amends 46 CFR parts 159, 160 and 164 as follows:

PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

1. The authority citation for part 159 continues to read as follows:

Authority: 46 U.S.C. 3308, 3703; 49 CFR 1.45, 1.46; section 159.001–9 also issued under the authority of 44 U.S.C. 3507.

2. In § 159.001–9, paragraph (b) is amended by adding the following new entries in numerical order to read as follows:

§ 159.001–9 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

* * * * *

§ 164.019–5	2115–0141
§ 164.019–7	2115–0141
§ 164.019–9	2115–0141
§ 164.019–13	2115–0141

§ 164.019–15	2115–0141
§ 164.023–15	2115–0141

PART 160—LIFESAVING EQUIPMENT

3. The authority citation for part 160 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, and 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

§ 160.001–1 [Amended]

4. In § 160.001–1(a)(1), remove the words "V–T–276H–Thread, Cotton.".

5. In § 160.001–2, table 160.001–2(j)–THREAD is removed and paragraphs (a) and (j) are revised to read as follows:

§ 160.001–2 General characteristics of life preservers.

(a) A life preserver must be of such construction, material and workmanship that it can perform its intended function in all weathers and at all temperatures which may be expected in the normal usage of the life preserver. All components used in the construction of a life preserver must meet the applicable requirements of subpart 164.019 of the chapter.

* * * * *

(j) Each thread in a life preserver regulated under subparts 160.002, 160.005 and 160.055 of this part must meet the requirements of a Federal or military specification in table 164.023–5(a) of this chapter. Only one kind of thread may be used in each seam.

6. In § 160.002–3, introductory text is added and paragraph (i) is revised to read as follows:

§ 160.002–3 Materials.

All components used in the construction of the life preserver must meet the applicable requirements of subpart 164.019 of this chapter and the following requirements apply to individual components;

* * * * *

(i) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

* * * * *

7. In § 160.005–3, introductory text is added and paragraph (i) is revised to read as follows:

§ 160.005–3 Materials.

All components used in the construction of a life preserver must meet the applicable requirements of subpart 164.019 of this chapter and the following requirements apply to individual components:

* * * * *

(i) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

* * * * *

8. In § 160.047–3, paragraphs (a) and (h) are revised to read as follows:

§ 160.047–3 Materials.

(a) *General.* All components used in the construction of buoyant vests must meet the applicable requirements of subpart 164.019 of this chapter. The requirements for materials specified in this section are minimum requirements, and consideration will be given to the use of alternate materials in lieu of those specified. Detailed technical data and samples of all proposed alternate materials must be submitted for approval before those materials are incorporated in the finished product.

* * * * *

(h) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

9. In § 160.048–3, paragraph (a) and (g) are revised to read as follows:

§ 160.048–3 Materials.

(a) *General.* All components used in the construction of buoyant cushions must meet the applicable requirements of subpart 164.019 of this chapter.

* * * * *

(g) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

* * * * *

10. In § 160.049–3, paragraph (a) and (e) are revised to read as follows:

§ 160.049–3 Materials.

(a) *General.* All components used in the construction of buoyant cushions must meet the applicable requirements of subpart 164.019.

* * * * *

(e) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

* * * * *

11. In § 160.050–3, Paragraph (a) and (e) are revised to read as follows:

§ 160.050–3 Materials.

(a) *General.* All exposed materials must be resistant to oil or oil products, salt water and anticipated weather conditions encountered at sea. All components used in construction of buoys and life rings must meet the applicable requirements of subpart 164.019 of this chapter.

* * * * *

(e) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

12. In § 160.052–3 paragraphs (a) and (f) are revised to read as follows:

§ 160.052–3 Materials—standard vests.

(a) *General.* All components used in the construction of buoyant vests must meet the applicable requirements of subpart 164.019 of this chapter. The requirements for materials specified in this section are minimum requirements, and consideration will be given to the use of alternate materials in lieu of those specified. Detailed technical data and samples of all proposed alternate materials shall be submitted for approval before those materials are incorporated in the finished product.

* * * * *

(f) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

13. In § 160.053–3, paragraph (a) is revised and paragraph (d) is added to read as follows:

§ 160.053–3 Materials, construction, and workmanship.

(a) *General.* Except as otherwise specifically provided by this subpart and subparts 164.019 and 164.023 of this chapter, the materials, construction, and workmanship of unicellular plastic foam work vests specified by this subpart shall conform to the requirements of Military Specification MIL–L–17653A.

* * * * *

(d) *Materials; acceptance and quality.* All components used in the construction of work vests must meet the applicable requirements of subpart 164.019 of this chapter.

14. In § 160.055–3, paragraphs (a) and (d) are revised to read as follows:

§ 160.055–3 Materials—standard life preservers.

(a) *General.* All components used in the construction of life preservers must meet the applicable requirements of subpart 164.019 of this chapter. The requirements for materials specified in this section are minimum requirements, and consideration will be given to the use of alternate materials in lieu of those specified. Detailed technical data and samples of all proposed alternate materials must be submitted for approval before those materials are incorporated in the finished product.

* * * * *

(d) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

* * * * *

15. In § 160.060–3, paragraphs (a) and (f) are revised to read as follows:

§ 160.060–3 Materials—standard vests.

(a) *General.* All components used in the construction of buoyant vests must meet the applicable requirements of subpart 164.019 of this chapter. The requirements for materials specified in this section are minimum requirements, and consideration will be given to the use of alternate materials in lieu of those specified. Detailed technical data and samples of all proposed alternate materials must be submitted for approval before those materials are incorporated in the finished product.

* * * * *

(f) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam.

§ 160.064–3 [Amended]

16. In § 160.064–3 paragraph (c) is amended by adding the words "must meet the applicable requirements of subpart 164.019 of this chapter and" after the word "subpart" in the first sentence, and replacing the words "webbing, and thread" in the fourth sentence with, the words "and webbing".

17. In § 160.077–11, paragraphs (a)(3), (a)(4) and (e) are revised to read as follows:

§ 160.077–11 Materials—recreational hybrid PFDs.

(a) * * *

(3) *Acceptance, certification, and quality.* All components used in the construction of hybrid PFDs must meet the applicable requirements of subpart 164.019 of this chapter.

(4) *Temperature range.* Unless otherwise specified in standards incorporated by reference in this section, all materials must be designed for use in all weather conditions throughout a temperature range of −30 °C to +65 °C (−22 °F to +150 °F).

* * * * *

(e) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam. Thread and fabric combinations must have similar elongation and durability characteristics.

* * * * *

18. In § 160.176–8, paragraphs (a)(1) and (d) are revised to read as follows:

§ 160.176–8 Materials.

(a) *General*—(1) *Acceptance, certification, and quality.* All components used in the construction of lifejackets must meet the requirements of subpart 164.019 of this chapter.

* * * * *

(d) *Thread.* Each thread must meet the requirements of subpart 164.023 of this chapter. Only one kind of thread may be used in each seam. Thread and fabric combinations must have similar elongation and durability characteristics.

* * * * *

PART 164—MATERIALS

19. The authority section for part 164 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

20. Subpart 164.019, consisting of §§ 164.019–1 through 164.019–17, is added to read as follows:

Subpart 164.019—Personal Flotation Device Components

Sec.

164.019–1 Scope.
164.019–3 Definitions.
164.019–4 Component requirements.
164.019–5 Standard components; acceptance criteria and procedures.
164.019–7 Non-standard components; acceptance criteria and procedures.
164.019–9 Procedure for acceptance of revisions of design, process, or materials.
164.019–11 Certification (affidavits).
164.019–13 Production quality control requirements.
164.019–15 Component manufacturer records.
164.019–17 Recognized laboratory.

Subpart 164.019—Personal Flotation Device Components

§ 164.019–1 Scope.

(a) This subpart contains general requirements for standard personal flotation device (PFD) components, procedures for acceptance of non-standard PFD components, and production quality control requirements for all PFD components, used in the construction of PFDs approved under part 160 of this subchapter.

(b) Other subparts of this part contain specific requirements applicable to particular PFD components used in the construction of Coast Guard-approved PFDs.

(c) Part 160 of this chapter contains specific requirements and limitations concerning the use of PFD components in the construction of particular Coast Guard-approved PFDs.

§ 164.019–3 Definitions.

Acceptance means certification by the Coast Guard that a component is suitable for use in the manufacture of Coast Guard-approved PFDs.

Commandant means the Chief of the Survival Systems Branch, Office of Marine Safety, Security, and Environmental Protection, U.S. Coast Guard. Address: Commandant (G–MVI–3/14), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593–0001. Telephone: 202–267–1444

Component manufacturer means either a component manufacturer or supplier seeking acceptance of a component, or a component manufacturer or supplier who has obtained acceptance of a component.

Inspector means a Coast Guard marine inspector, authorized representative of the Coast Guard, or a recognized laboratory representative.

Non-standard component means a PFD component which is equivalent in performance to a standard component.

PFD Type means the performance type designation as indicated in 33 CFR part 175 and this subchapter.

Standard component means a PFD component which complies in all respects with the material, construction, and performance requirements of a subpart of this part or part 160 of this chapter.

Use Code means an alphanumeric code assigned by the Commandant (G–MVI–3) to a PFD component to designate the PFD Type(s) in which it may be used. Assigned Use Codes are listed in table 164.019–3.

TABLE 164.019–3

Use code	PFD type acceptable for use
1	I, II, and III.
2	II and III.
3	III.
4B	IV (all Ring Buoys).
4BC	IV (Buoyant Cushions).
4RB	IV (Recreational Ring Buoys only).
5	Wearable Type V (intended use must be specified).
5H	V (Hybrid).
5R	V (Recreational Style).
5SB	V (Sailboard vests).
5WV	V (Work vests).
6	Special, limited, or restricted use.
Suffix A	Adult only.
Suffix C	Child only.

§ 164.019–4 Component requirements.

(a) PFDs may be constructed only with Coast Guard-accepted PFD components meeting the requirements of this subchapter.

(b) PFD components may be used in the construction of PFDs only in accordance with their Use Codes.

§ 164.019–5 Standard components; acceptance criteria and procedures.

(a) *General.* Standard components used in the construction of PFDs must

meet the applicable requirements of this part or part 160 and the documentation requirements of this section.

(b) *Use Codes.* Each standard component is assigned a Use Code as indicated in table 164.019–3. Additional Use Codes may be assigned by the Commandant.

(c) *Method and documentation of acceptance.* Except as provided in paragraph (d) of this section, the following requirements pertaining to the shipment of standard components must be met in order for the standard components to be considered Coast Guard-accepted standard components:

(1) Each shipment of standard components must be accompanied by an affidavit complying with § 164.019–11.

(2) A sample affidavit, or a copy of the affidavit, provided with the first shipment of standard components to a PFD manufacturer, must be provided to the Commandant.

(3) A revised sample affidavit, or a copy of the revised affidavit, must be provided to the Coast Guard any time the information on the affidavit accompanying a shipment of standard components materially changes.

(d) *Exception.* Affidavits are not required to be provided for standard components that are under the quality control oversight program of a recognized laboratory meeting the requirements of § 164.019–17.

(e) *Suspension or termination of acceptance.* The procedures in §§ 2.75–40 and 2.75–50 of this chapter for suspension and termination of approvals also apply to Coast Guard acceptances of PFD components.

§ 164.019–7 Non-standard components; acceptance criteria and procedures.

(a) *General.* Non-standard components may be used in the construction of PFDs only if they have been accepted by the Coast Guard in accordance with the requirements of this section.

(b) *Use Codes.* Each non-standard component is assigned a Use Code as indicated in table 164.019–3. Additional Use Codes may be assigned by the Commandant.

(c) *Request for acceptance.* The component manufacturer or the recognized laboratory that performs the acceptance testing required by the applicable subpart of this part or part 160 of this chapter must submit, in writing, to the Commandant, a request for acceptance of any non-standard component. The request must include the information, supporting documentation, and samples required by this section.

(1) The request must include a statement of the intended use of the component by the PFD manufacturer, and the Use Code(s) for which acceptance is requested. Intended uses must be for one or more of the following—

(i) Outer Envelope Fabric (exterior fabrics on wearable PFDs);

(ii) Cover Fabric (for throwable PFDs);

(iii) Inner Envelope Fabric;

(iv) Closure (including zippers) or Adjustment Hardware;

(v) Body Strap;

(vi) Grab Strap (applies to buoyant cushions only);

(vii) Tie Tape;

(viii) Reinforcing Tape;

(ix) Thread;

(x) Flotation Foam; or

(xi) Other (specify).

(2) The request must include a statement identifying the component in detail and including the unique style, part, or model number, the identification data required by the applicable subpart of this part, and any other manufacturer's identifying data. No two components which differ in any way, e.g., size, material composition, construction, may utilize the same identification number.

(3) The report of a recognized laboratory's test data in accordance with the "acceptance tests" required by the applicable subpart of this part or part 160 must be submitted with the request. Each report must include the name of the laboratory and a description of the test equipment and test methods used, and must be signed and dated by an authorized laboratory official.

(4) A sample of each component that is being considered must be submitted with the request. Where the lightest and darkest colors are being tested, samples of both colors must be submitted. A one linear yard sample is required in the case of textiles.

(5) The request must include a list of all materials used in the construction of the particular component. The list must contain specific identification and quantity of all materials used.

(6) For hardware and other mechanical components, the request must include scaled drawings showing details and dimensions of the mechanism.

(7) A statement of dimensional and performance tolerances, as appropriate, that will be maintained in production must be submitted with request.

(8) The request must include a description of the quality control procedures that will be in effect during production.

(9) The request must include a detailed description of the recognized laboratory's procedures for oversight of the manufacturer's program of production quality control, including a description of the laboratory's certification marking(s).

(10) The request must include any appropriate installation or use guidelines for the component.

(d) *Documentation of acceptance.* When an acceptance is granted, the Commandant provides written notice to the applicant.

(e) *Alternate requirements.* When an acceptance is granted, the Commandant provides written notice to the applicant.

(1) Meets other requirements prescribed by the Commandant in lieu of or in addition to the requirements of this subpart; and

(2) Provides at least the same degree of safety as provided by a component that does comply with this subpart.

(f) *Additional tests and documentation.* The Commandant may prescribe additional tests or request additional documentation, if necessary, to determine the acceptability or suitability of a particular product.

(g) *Suspension or termination of acceptance.* The producers in § § 2.75–40 and 2.75–50 of this chapter for suspension and termination of approvals also apply to Coast Guard acceptances of PFD components.

§ 164.019–9 Procedure for acceptance of revisions of design, process, or materials.

(a) The manufacturer shall not change the design, material, manufacturing process, or construction of a non-standard component unless it has been previously approved by the Commandant, in accordance with paragraph (b) of this section.

(b) The manufacturer or the recognized laboratory that performs the acceptance testing required by the applicable subpart of this part or part 160 of this chapter shall submit requests for acceptance of revisions in design, material, manufacturing process, or construction of a non-standard component in writing and describe the revision in detail similar to the original request for acceptance.

§ 164.019–11 Certification (affidavits).

General. Affidavits required by § 164.019–5(c) must be notarized, and certify that a component complies in all respects with the material and construction requirements of a subpart of this part or part 160 of this chapter. Each affidavit must contain the following information:

(a) Name and address of company.

(b) Name and title of signing company official.

(c) Description of the component by use of the unique style, part, or model

number and other applicable distinctive characteristics such as weight, size, denier, treatments or coatings, etc.

(d) Production data (to include lot, batch number, and quantity shipped) in sufficient detail to enable the manufacturer or purchaser to trace a shipment of components back to the lots of raw materials used in its manufacture.

(e) The intended use of the component, from the list in § 164.019–7(c)(1).

(f) The PFD Type(s) for which the component is a standard component, as determined by—

(1) The standard material component requirements of part 160 of this chapter with which the component complies; or

(2) The Use Code(s) of the component.

(g) A statement indicating the specific provision(s) of this subchapter with which the component complies.

(h) A copy of the records of all required production tests performed on the component lots that are covered by the affidavit.

§ 164.019–13 Production quality control requirements.

(a) *General.* Each component manufacturer shall establish procedures for maintaining quality control of the materials used in production, manufacturing operations, and the finished product.

(b) *Recognized laboratory oversight.* Each manufacturer on non-standard components shall supplement its procedures for assuring production quality control with a program of oversight by a recognized laboratory, as described in the oversight procedures submitted to the Coast Guard in accordance with § 164.019–7(c)(9). The laboratory's oversight program must be performed at the place of manufacture unless alternate procedures have been accepted by the Commandant.

(c) *Production tests and inspections.* Production tests and inspections must be conducted in accordance with this section and subpart 159.007 of this chapter.

(d) *Responsibilities; component manufacturers.* Each component manufacturer shall—

(1) Perform all production tests and inspections required by the applicable subpart of this part;

(2) Adhere to the accepted quality control procedures for the component as submitted to the Coast Guard in accordance with § 164.019–7(c)(8); and

(3) Establish a continuing program of employee training and a program for maintaining production and test equipment.

(e) *Responsibilities; recognized laboratories.* The same recognized laboratory that performed the acceptance testing shall, at least quarterly, or more frequently if required by the applicable subpart of this part or by the oversight procedures submitted in accordance with § 164.019–7(c)(9)—

(1) Audit the component manufacturer's records required by § 164.019–15;

(2) Perform, or supervise the performance of, the tests required by this section, the applicable subpart of this part, and the accepted quality control and oversight procedures; and

(3) Verify, during each inspection, compliance by the manufacturer with the manufacturer's established quality control program and provide a summary report of any noncompliance to the Commandant at least annually.

(f) *Component lots.*

(1) *Lot numbers.* The manufacturer shall assign a lot number to each group of components manufactured. A new lot must be started whenever any change is made in materials, design, or production method, and whenever any substantial discontinuity in the manufacturing process (such as a change in shift) occurs. Changes in lots of incoming materials must be treated as changes in materials. Lots must be numbered serially. The lot number assigned, in combination with the unique product name or identification, must enable the component manufacturer (or supplier), by referring to the records required by this subpart, to determine the source(s) of all raw materials used in that lot.

(2) *Lot size.* The maximum lot size for any particular component must be as defined in the applicable subpart of this part.

(g) *Samples.* (1) Procedures for selection of test samples, and required sample sizes, must be in accordance with the applicable subpart of this part.

(2) The inspector shall select different samples than were tested by the manufacturer.

(h) *Detailed product examination.*—(1) *General.* In addition to the tests and inspections required by the applicable subpart of this part, the manufacturer or the inspector shall examine each sample component to determine that—

(i) The construction, markings, and workmanship conform to the information submitted in the request for acceptance; and

(ii) The component is not otherwise defective.

(2) *Inspection responsibility.* The manufacturer shall ensure that the inspection required by paragraph (h)(1) of this section is performed by a manufacturer's representative familiar with the performance requirements for the component, and all of the production quality control requirements. The manufacturer's representative must not be responsible for meeting production schedules, or be subject to supervision by someone responsible for meeting production schedules.

(i) Reserved.

(j) *Accept/reject criteria.* (1) A component lot passes production testing and is therefore accepted if each sample tested passes each test.

(2) A lot having a production test failure may be accepted if it meets the following additional test requirements.

(i) When the basis of acceptability is an average result, a second sampling with an identical number of samples is taken. The results of this second sampling must be averaged with the initial results. If the average result passes the test, then the lot may be accepted.

(ii) When the basis of acceptability is individual sample results, a second sampling is taken. The size of the second sampling must be as specified in the subpart of this part which covers the component. If each sample in this sampling passes the test, the lot may be accepted.

(3) A rejected lot of components may be resubmitted for testing, examination, or inspection if—

(i) The manufacturer first removes each component having the same type of defect or;

(ii) After obtaining authorization from the Commandant or the recognized laboratory, the manufacturer reworks the lot to correct the defect.

(4) A rejected lot or rejected component may not be sold or offered for sale with the representation that it meets the requirements of this subpart or is accepted by the Coast Guard, and may not be used in the construction of Coast Guard-approved PFDs.

(k) *Facilities and equipment.*—(1) *General.* The manufacturer shall provide the test equipment and facilities for performing production tests, examinations, and inspections described in the applicable subpart of this part and in the quality control and oversight procedures submitted in accordance with § 164.019–7(c) (8) and (9).

(2) *Calibration.* The manufacturer shall have the calibration of all test equipment checked at least every 6 months by a weights and measures agency or by the equipment manufacturer, distributor, or dealer.

(3) *Facilities for inspector's use.* The manufacturer shall provide a suitable place and the necessary apparatus for the inspector to use in conducting or supervising tests. For the detailed

product examination, the manufacturer shall provide a suitable working environment and a smooth-top table for the inspector's use.

(4) *Access to facilities.* The manufacturer shall permit the inspector to have access to any place in the factory where work is being done on PFD components or where components are stored. The inspector may take samples of parts or materials entering into production or completed components, for further examinations, inspections, or tests.

(l) Reserved.

(m) *Alternate procedures for standard components.* In lieu of the quality control procedures specified in this section, manufacturers of standard components may follow the quality control procedures in a Federal or military specification with which the component is required to comply by this subchapter, or equivalent procedures accepted by the Commandant.

(n) *Additional tests.* The Commandant may prescribe additional production tests and inspections to maintain quality control. A representative of the Commandant may conduct inspections for compliance with the requirements of this subpart.

§ 164.019–15 Component manufacturer records.

(a) Each component manufacturer shall retain records as required by § 159.007–13 of this chapter.

(b) The records required by paragraph (a) of this section must include the following information:

(1) For each test, the serial number of the test instrument used if there is more than one available.

(2) For each test and inspection, the identification of the samples used, the lot number, the unique component identification, and the quantity of the component in the lot.

(3) The cause for rejection, any corrective action taken, and the final disposition of each lot rejected.

(c) Manufacturers utilizing procedures and apparatus meeting the requirements of the applicable subpart of this part or the independent laboratory's accepted follow-up inspection procedures are not required to include the description of procedures or photographs or apparatus required by § 159.007–13 of this chapter in the manufacturers' records.

(d) In addition to the records required by paragraphs (a) and (b) of this section, each component manufacturer shall retain the following:

(1) Records for all materials used in production, including name and address of the supplier, date of purchase and receipt, and lot number.

(2) A copy of this subpart, and other subparts applicable to the component manufactured.

(3) Each document incorporated by reference in the applicable subpart(s) of this part.

(4) A copy of the accepted component specifications and identifying data.

(5) Records of calibration of all test equipment, including the identity of the agency performing the calibration, date of calibration, and results.

(e) Manufacturers shall retain the records required by paragraph (d)(1) of this section for at least 60 months.

(f) Upon request, manufacturers shall make available to the inspector or to the Commandant records of tests conducted by the manufacturer and records of materials entering into construction, including affidavits by suppliers certifying that applicable requirements are met.

§ 164.019–17 Recognized laboratory.

(a) *General.* A laboratory may be designated as a recognized laboratory under this subpart if it is—

(1) Accepted by the Coast Guard as an independent laboratory under subpart 159.010 of this subchapter; and

(2) Established in the inspection of factory production, listing, and labeling, by having an existing program and standards for evaluation, listing, and marking components, that are acceptable to the Commandant.

(b) *Designated recognized laboratories.* A current listing of recognized laboratories is available from the Commandant upon request.

21. Subpart 164.023, consisting of §§ 164.023–1 through 164.023–15, is added to read as follows:

Subpart 164.023—Thread for Personal Flotation Devices

Sec.

164.023–1 Scope.
164.023–3 Specifications and standards incorporated by reference.
164.023–5 Performance; standard thread.
164.023–7 Performance; non-standard thread.
164.023–9 Samples submitted for acceptance.
164.023–11 Acceptance tests.
164.023–13 Production tests and inspections.
164.023–15 Marking.

Subpart 164.023—Thread for Personal Flotation Devices

§ 164.023–1 Scope.

This subpart contains performance requirements, acceptance tests, and production testing and inspection requirements for thread used in the construction of personal flotation devices (PFDs) approved under part 160 of this subchapter. Manufacturers must also comply with the requirements of subpart 164.019 of this chapter.

§ 164.023–3 Specifications and standards incorporated by reference.

(a) Certain materials are incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than the one listed in paragraph (b) of this section, notice of change must be published in the **Federal Register** and the material made available to the public. All approved material may be inspected at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC and at the U.S. Coast Guard, Survival Systems Branch (G–MVI–3), Washington, DC 20593–0001, and is available from the source indicated in paragraph (c) of this section.

(b) The materials approved for incorporation by reference in this subpart, and the sections affected are:

Federal Standards and Test Method Standards

The following test methods in Federal Test Method Standard No. 191A, Textile Test Methods, July 20, 1978:

(1) Method 4010, Length-Weight Relation; Thread; Yards Per Pound (m/kg)—164.023–11.

(2) Method 4100, Strength and Elongation, Breaking; and Tenacity; of Thread and Yarn; Single Strand—164.023–7.

(3) Method 5804, Weathering Resistance of Cloth; Accelerated Weathering Method—164.023–7.

Federal Specifications

(4) V–T–285E—Thread, Polyester, August 21, 1986—164.023–5.

(5) V–T–295E—Thread, Nylon, August 1, 1985—164.023–5.

Military Specifications

(6) MIL–T–43548C—Thread, Polyester Core: Cotton-, Rayon-, or Polyester-Covered, September 30, 1986—164.023–5.

(7) MIL–T –43624A—Thread, Polyester, Spun, January 22, 1982—164.023–5.

(c) All reference materials are available from the Naval Publications and Forms Center, Customer Service, Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120.

§ 164.023–5 Performance; standard thread.

(a) *Use Codes 1, 2, 3, 4BC, 4RB, 5 (any).* Each thread which complies with all of the requirements of a specification

listed in table 164.023–5(a) is assigned Use Codes 1, 2, 3, 4BC, 4RB, and 5 (any).

TABLE 164.023–5(a)

[Use codes 1, 2, 3, 4BC, 4RB, 5(any)]

Federal or military specification	Material	Type	Class	Ticket No. or size range
V–T–285E	Polyester	I or II	1	E, F, FF.
V–T–295E	Nylon	I or II	A	E, F, FF.
MIL–T–43624A	Polyester			24 through 12.
MIL–T–43548C	Polyester covered only			24 through 12.

(b) *Use Code 4B.* Each thread which meets the requirements of Federal Specifications V–T–295, Type II, Class A, number size 4, is assigned Use Code 4B.

§ 164.023–7 Performance; non-standard thread.

(a) *Use Codes 1, 2, 3, 4BC, 4RB, 5 (any).* Each non-standard thread which meets all of the requirements of paragraphs (a)(1) through (a)(3) of this section is assigned Use Codes 1, 2, 3, 4BC, 4RB, and 5 (any).

(1) *Single strand breaking strength.* The thread, as received, must have a single strand breaking strength of not less than 25 N (5.7 lb.), when tested in accordance with Test Method 4100 in Federal Test Method Standard No. 191A using a Constant-Rate-of-Traverse (CRT) testing machine.

(2) *Single strand breaking strength (after weathering).* After exposure in a sunshine carbon-arc weatherometer in accordance with Test Method 5804 in Federal Test Method Standard No. 191A for a period of 100 hours, the thread must retain at least 60 percent of its single strand breaking strength as received, and have a breaking strength of at least 21 N (4.7 lb.).

(3) *Loop breaking strength.* The thread, as received, must have a loop breaking strength of not less than 45 N (10.0 lb.), when tested in accordance with Test Method 4100 in Federal Test Method Standard No. 191A using a CRT testing machine, except that—

(i) Each specimen must consist of two 35 cm (14 in.) pieces of thread; and

(ii) Both ends of one piece of thread must be secured without twisting in one clamp of the testing machine so that the length of the loop formed equals one half the distance between the clamps. One end of the second piece must then be passed without twisting through the loop formed by the first, and both ends must be secured in the other clamp of the machine. The breaking strength must then be determined under the single strand test.

(b) *Use Code 4B.* Each non-standard thread which meets all of the requirements of paragraphs (b)(1) and (b)(2) of this section is assigned Use Code 4B.

(1) *Single strand breaking strength.* The thread as received must have a single strand breaking strength of not less than 160 N (36.0 lb.) when tested in accordance with Test Method 4100 in Federal Test Method Standard No. 191A using a CRT testing machine.

(2) *Single strand breaking strength (after weathering).* After exposure in a sunshine carbon-arc weatherometer in accordance with Test Method 5804 in Federal Test Method Standard No. 191A for a period of 100 hours, the thread must retain at least 60 percent of its single strand breaking strength.

(c) *Prohibited threads.* Cotton thread, and monofilament thread of any composition, will not be accepted for use in structural applications unless demonstrated to the Commandant to be equivalent to standard thread in durability in all foreseeable conditions of use and stowage.

§ 164.023–9 Samples submitted for acceptance.

Application samples. A product sample submitted for acceptance as required by § 164.019–7(c)(4) must consist of at least one unit of put-up of thread.

§ 164.023–11 Acceptance tests.

(a) *Performance testing.* Manufacturers shall ensure that the performance tests described in § 164.023–7 (a) or (b), as appropriate, are performed on a minimum of five samples in each of the lightest and darkest colors submitted for acceptance.

(b) *Identification testing.* Manufacturers shall ensure that the following identification tests are conducted:

(1) The average length/weight ratio of the thread in meters per kilogram (yards per pound) must be determined in accordance with Test Method 4010 in Federal Test Method Standard 191A.

(2) The generic chemical composition of the thread must be determined by qualitative infrared analysis, thermogravimetric analysis, differential scanning calorimeter, or other equivalent means adequate to conclusively identify the composition of the product tested.

(3) Elongation at break must be determined on the same samples tested for single strand breaking test in accordance with § 164.023–7(a)(1) or (b)(1), as appropriate.

§ 164.023–13 Production tests and inspections.

(a) *Manufacturer's test equipment and facilities.* The manufacturer shall provide the following test equipment and facilities for use in production tests and inspections:

(1) A Constant Rate of Traverse tensile testing machine, capable of initial clamp separation of ten inches and a rate of separation of 30 cm (12 in.) per minute.

(2) Fletcher, Callaway, U.S. Rubber clamps, or equivalent cam-actuated clamps to prevent slippage and twist of the samples.

(3) An analytical balance or grain-yarn scale, accurate to within 0.25 percent of the measured value.

(b) *Lot size.* Lot size must not exceed 460,000 meters (500,000 yds.) or 45 kg (100 lb.) of any color.

(c) *Sample selection.* Samples must be selected at random by the manufacturer (or inspector, as applicable) after the entire lot of thread has been completed.

(d) *Second sampling.* A second sampling, where required, must consist of five times the original sample size.

(e) *Manufacturer's production tests.* The component manufacturer shall perform the following tests on the samples indicated (each sample to include at least 5 specimens unless otherwise specified in the referenced test procedure) on each lot of thread:

(1) *Breaking strength.* One sample must be tested in accordance with

§ 164.023–7(a)(1) or § 164.023–7(b)(1), as applicable.

(2) *Length/weight ratio.* One sample must be tested in accordance with § 164.023–11(b)(1).

(f) *Recognized laboratory production tests.* Manufacturers shall ensure that the following tests and inspections are performed on non-standard components by a recognized laboratory:

(1) *Composition.* At least annually, one sample of each accepted thread must be tested in accordance with § 164.023–11(b)(2).

(2) *Breaking strength.* At least quarterly, one sample in each of the lightest and darkest colors accepted must be tested in accordance with § 164.023–7(a)(1) or § 164.023–7(b)(1), as applicable. This test may be performed by a recognized laboratory, or witnessed by a recognized laboratory inspector at the manufacturer's plant, at the laboratory's discretion.

(3) *Elongation.* At least annually, one sample of each accepted thread in each of the lightest and darkest colors accepted must be tested in accordance with § 164.023–11(b)(3). This test may be performed by a recognized laboratory, or witnessed by a recognized laboratory inspector at the manufacturer's plant, at the laboratory's discretion.

(g) *Accept/reject criteria.* Unless the alternate procedures as permitted by § 164.019–013(m) are followed, the results of required production testing on a lot must meet the following criteria for the lot to be shipped as Coast Guard-accepted thread:

(1) Breaking strength test results must be within 10 percent below and 20 percent above the acceptance testing values but not less than the performance minimums.

(2) Length/weight values must be within 5 percent of the acceptance testing values but not less than the performance minimums.

(3) Elongation values must be within 20 percent of the acceptance testing values but not less than the performance minimums.

(4) Composition testing must indicate that the sample tested is of identical composition to the sample tested for acceptance or in accordance with the performance specification.

§ 164.023–15 Marking.

(a) *General.* The manufacturer must ensure that each shipping label, and each spool or individual unit of put-up, is permanently and clearly marked in a color which contrasts with the color of the surface on which the marking is applied. Each label must be marked with—

(1) The manufacturer's or supplier's name, trade name, or symbol;

(2) The unique style, part, or model number of the thread;

(3) The size of the thread;

(4) The composition of the thread; and

(5) The lot number of the thread.

(b) *Non-standard thread.* In addition to the markings specified in paragraph (a) of this section, each unit of put-up of non-standard thread must be marked with the appropriate recognized laboratory's certification marking(s).

Dated: May 14, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

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Part VI

Department of Transportation

Coast Guard

46 CFR Part 28

Immersion Suits for Documented and Undocumented Commercial Fishing Industry Vessels Operating on Coastal Waters That Are Only Seasonally Cold; Proposed Rules

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 88–079c]

RIN 2115–AD12

Immersion Suits for Documented and Undocumented Commercial Fishing Industry Vessels Operating on Coastal Waters That Are Only Seasonally Cold

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing a regulation to require the carriage of immersion suits for each individual on board undocumented commercial fishing industry vessels operating on coastal waters which are only seasonally cold; and documented commercial fishing industry vessels operating inside the Boundary Line on coastal waters which are only seasonally cold. This regulation is intended to improve the overall safety of commercial fishing industry vessels.

DATES: Comments must be received on or before August 18, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 88–079c), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except holidays. The telephone number is (202) 267–1477 for further information regarding submission of comments.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Tim Skuby, Office of Marine Safety, Security and Environmental Protection (G–MVI–4), room 1405, U.S. Coast Guard Headquarters, Washington, DC 20593–0001, (202) 267–2307.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 88–079c) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

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

Public Hearings

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

Drafting Information

The principal persons involved in drafting this document are Lieutenant Commander Tim Skuby, Project Manager, Office of Marine Safety, Security and Environmental Protection, and Lieutenant Ralph L. Hetzel, Project Counsel, Office of Chief Counsel.

Background and Purpose

Public Law 100–424, known as the "Commercial Fishing Industry Vessel Safety Act of 1988" (the Act), required the Secretary of Transportation to prescribe regulations for certain safety equipment and vessel operating procedures for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels. In particular, 46 U.S.C. 4502(a)(2) requires that all vessels have "at least one readily accessible life preserver or other lifesaving device for each individual on board." In addition, 46 U.S.C. 4502(b)(3) requires that all documented vessels that operate beyond the Boundary Line or that operate with more than 16 individuals on board, have "at least one readily accessible immersion suit for each individual on board that vessel when operating on the Atlantic Ocean north of 32 degrees North latitude or south of 32 degrees South latitude and in all other waters north of 35 degrees North latitude or south of 35 degrees South latitude." The notice of proposed rulemaking (NPRM) (CGD 88–079), which was published in the **Federal Register** on April 19, 1990 (55 FR 14924), proposed the requirement that there be an immersion suit for each individual on board all vessels operating on either the east or west coasts of the United States, beyond the Boundary Line and north of 32°N or south of 32°S; or on the Great Lakes. The proposal did not include requiring immersion suits for each individual on board vessels operating near shore, or on inland or coastal waters that were also "cold waters." Additionally, the NPRM proposed that the 32°N and 32°S latitudes be adopted as the exemption lines for all waters for commercial fishing industry vessels, in lieu of 32°N and 32°S for the Atlantic and 35°N and 35°S for all other waters as prescribed in 46 U.S.C. 3102. The rationale for this proposal, as presented in the preamble to the final rule (CGD 88–079), centered around the fact that the winter water temperatures in the Pacific Ocean near the coastline of the U.S. are actually colder than in the Atlantic Ocean at the same time of the year. Therefore, the Pacific and other waters should be similarly covered by at least the same exemption lines.

In the preamble to the final rule (CGD 88–079), the Coast Guard also stated its conclusion that immersion suits were of critical importance in cold waters where hypothermia could cause death in a matter of minutes. Additionally, it was the Coast Guard's opinion that the authority to extend the requirement for immersion suits for certain vessels was provided in section 4502(a)(2) of the Act. Therefore, the Coast Guard decided to require all commercial fishing industry vessels, documented and undocumented, to have immersion suits for each individual on board when operating on or beyond the following coastal waters when they are also "cold waters":

1. The territorial seas of the United States;
2. The U.S. waters of the Great Lakes (Lake Erie, Huron, Michigan, Ontario, and Superior); or
3. Those Waters directly connected to the Great Lakes or territorial seas (i.e. bays, sounds, harbors, rivers, inlets, etc.) where any entrance exceeds 2 nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to 2 miles, as shown on the current edition of the appropriate National Ocean Service chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the distance between opposite shorelines.

The final rule (CGD 88–079) was published in the **Federal Register** on August 14, 1991 (56 FR 40364), and became effective September 15, 1991, except that vessels were not required to be in compliance with the immersion suit requirements until November 15, 1991.

In order to specify the safety/survival equipment carriage requirements for waters other than "oceans", the definition of "coastal waters" contained in 33 CFR 175.105 was utilized as it was in defining the requirements for distress signals. However, use of the "coastal waters" concept as a means of defining the waters where personal flotation devices and immersion suits are required was not presented in the NPRM and the public did not have the opportunity to comment on its use for that purpose. Similarly, the requirement to have immersion suits was tied to "cold water" as defined in 46 CFR 28.50. This term not only served to limit the geographic coverage of the term "coastal waters", it also provided for the seasonal application of the requirements. For example, a vessel operating in "coastal waters" that are never cold is not required to have immersion suits onboard. Since the publication of the final rule, the Coast Guard received comments indicating that their was confusion concerning where and when vessels operating in certain inland waters were required to carry immersion suits and comments that the expense of carrying immersion suits was not justified for vessels operating close to shore, generally within the territorial sea. It appeared that the rulemaking would have benefited from the more thorough consideration of, and comments on, when and where immersion suits should be required, other than for ocean areas, which would have resulted if the NPRM had specifically proposed a coverage requirement for these waters. Therefore, the Coast Guard published an interim rule, which deleted the requirement for vessels to carry immersion suits for each individual on board undocumented commercial fishing industry vessels operating on coastal waters which are only seasonally cold, and documented commercial fishing industry vessels operating inside the Boundary Line on coastal waters which are only seasonally cold. "Coastal waters that are only seasonally cold" are defined as the U.S. waters of the Great Lakes, except for Lake Superior; the coastal waters on the entire east coast of the United States; and the coastal waters on the west coast of the United States, south of Point Reyes, CA. This interim rule was published in the Federal Register on August 3, 1992 (57 FR 34188), and became effective the same date. As a result of this action all documented commercial fishing industry vessels that operate:

(1) On the U.S. waters of the Great Lakes, except for Lake Superior;
(2) Inside the Boundary Line on coastal waters on the entire east coast of the United States; or
(3) Inside the Boundary Line on coastal waters on the west coast of the United States, south of Point Reyes, CA., and

all undocumented commercial fishing industry vessels that operate on:

(1) The U.S. waters of the Great Lakes, except for Lake Superior;
(2) Coastal waters along the entire east coast of the United States; or
(3) Coastal waters along the west coast of the United States, south of Point Reyes, CA.,

are no longer required to carry immersion suits for each individual on board. In the interim, these vessels are required to meet the personal flotation device requirements in 46 CFR part 25, subpart 25.25.

For waters not described above, the monthly mean temperature is below 59°F (15°C) at all times. This includes the waters of Lake Superior and the coastal waters along the west coast of the United States, north of Point Reyes, CA. Documented and undocumented commercial fishing industry vessels that operate on these waters, at any time, are unaffected by the suspension of the immersion suit carriage requirement and are still required to carry an immersion suit for each individual on board.

As noted in the interim rule, the Coast Guard solicited proposals from the Commercial Fishing Industry Vessel Advisory Committee ("the Committee") at its May 1992 meeting, concerning the carriage of immersion suits on undocumented commercial fishing industry vessels that operate on coastal waters which are only seasonally cold, and documented commercial fishing industry vessels that operate inside the Boundary Line on coastal waters which are only seasonally cold. The Committee recommended that the Coast Guard propose to reinstate the immersion suit requirement as it was in the final rule (CGD 88–079) published on August 14, 1991. This would mean that these vessels would be required to carry an immersion suit for each individual on board a fishing vessel that is operating on coastal waters when they are also considered to be "cold waters" as defined in 46 CFR 28.50.

The Committee also recommended that these vessels be allowed to carry a Coast Guard approved Type V PFD anti-exposure coverall (approval series 46 CFR 160.053), as an alternative for the immersion suit, provided it is worn when an individual is working on the deck of a vessel underway. The Committee also recommended that this alternative not be allowed for commercial fishing industry vessels, documented or undocumented, that operate beyond coastal waters that are also cold waters; on coastal waters on the west coast of the United States north of Point Reyes, CA; or on Lake Superior. The Committee noted that the affected vessels generally operate near shore and in close proximity to other vessels. Because of this, there is a tendency for fishermen to have a false sense of security and a reluctance to don immersion suits promptly in an emergency. The Committee agreed that because immersion suits are bulky and cumbersome to work in, fishermen will not wear or don them until every attempt is made to save their vessel and their livelihood. Often this results in donning them too late or not at all.

While the anti-exposure coverall does not provide the same flotation or thermal protection as an immersion suit, fishermen will be able to work while wearing them. This will provide some protection in the event of an accidental fall overboard or if the vessel begins to sink. Additionally, in the latter case, by already wearing the anti-exposure coverall, the fishermen would extend the time that they could use in attempting to save the vessel without increasing the risk of losing their life to the effects of cold water if they were forced to enter the water. The Committee also noted that these anti-exposure coveralls are commonly used by fishermen fishing in the waters in the Northeast. The Coast Guard has taken into account the Committee's recommendation for the anti-exposure coverall alternative and has included a modified version of the alternative in this proposed rule.

The Committee and the Coast Guard both strongly support the need for immersion suits on all fishing vessels that operate on cold waters. However, considering the areas of operation, the close proximity to land, and the congestion of these waters, a relaxation of the requirement, with little adverse effect on safety, may be warranted for vessels operating in coastal waters that are only seasonally cold. For this reason the Coast Guard is proposing to reinstate the immersion suit requirement, as originally published in the final rule (CGD 88–079) on August 14, 1991 (56 FR 40364), and allow the use of a Type V PFD anti-exposure coverall, in lieu of the immersion suit, for documented vessels operating inside the Boundary Line on coastal waters that are only seasonally cold and for undocumented vessels operating on coastal waters that are only seasonally cold. This includes

the following coastal waters when they are considered to be "cold waters":

1. The territorial seas of the United States;
2. The U.S. waters of the Great Lakes (Lake Erie, Huron, Michigan, Ontario, and Superior); or
3. Those waters directly connected to the Great Lakes or territorial seas (i.e. bays, sounds, harbors, rivers, inlets, etc.) where the entrance exceeds 2 nautical miles between opposite shorelines to the first point where the largest distance between shorelines narrows to 2 miles, as shown on the current edition of the appropriate National Ocean Service chart used for navigation. Shorelines of islands or points of land present within a waterway are considered when determining the distance between opposite shorelines.

With regard to the substitution of the Type V PFD anti-exposure coverall for the immersion suit, the Coast Guard will not require that the Type V PFD anti-exposure coverall be worn to be accepted as an appropriate substitute. Instead, the Coast Guard proposes that the Type V PFD anti-exposure coverall merely be required to be onboard. It should be noted that the Type V PFD anti-exposure coverall carries an approval restriction which requires that the PFD be worn in order to be considered acceptable. The Coast Guard is proposing that this restriction be removed when the Type V PFD anti-exposure coverall is carried onboard documented vessels operating inside the Boundary Line on coastal waters that are only seasonally cold and for undocumented vessels that operate on coastal waters that are only seasonally cold, and that the Type V PFD anti-exposure coverall be granted a new approval number. The approval restriction would remain in effect for all other vessels and operating areas. If adopted, new Type V PFD anti-exposure coveralls would be labeled accordingly. Additionally, existing approved Type V PFD anti-exposure coveralls used on these vessels operating in the affected waters would be grandfathered.

For the following reasons the Coast Guard is not proposing to require the wearing of the Type V PFD anti-exposure coverall in order to qualify as an alternative to having the immersion suit onboard:

(1) The immersion suit is not required to be worn.

(2) The Type V PFD anti-exposure coverall carries an approval restriction that requires it to be worn. If not worn, it could not be counted towards meeting the PFD requirement. Therefore, a fisherman, that is operating in "seasonally cold waters" when the water is actually warm (i.e., the water temperature is greater than 59 °F (15 °C)), would be required to either wear the Type V PFD anti-exposure coverall or carry a second approved PFD that carries no restrictions.

(3) There are also times when the wearing of the Type V PFD anti-exposure coverall would be required but would be unbearably uncomfortable for the fisherman (i.e., when the water temperature is cold (59 °F/15 °C) or less, but the air temperature is warm). In these situations, the fisherman is likely to decide not to wear the Type V PFD anti-exposure coverall and thus be in violation of the PFD/immersion suit requirement or be forced to carry an immersion suit in addition to the Type V PFD anti-exposure coverall. This would eliminate the benefits of permitting the use of the Type V PFD anti-exposure coverall as an alternative to the immersion suit.

To assist a fisherman in determining when the coastal waters and the waters beyond the coastal waters are considered to be "cold" and where the cold water demarcation line is during the different months of the year, the Coast Guard is proposing to add table 28.110(c). This table identifies the cold water areas off the U.S. coasts for each month of the year for the Atlantic Ocean, Pacific Ocean, and the Great Lakes respectively.

Regulatory Evaluation

This proposal is considered to be not major under Executive Order 12291 and significant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A regulatory evaluation for the final rule (CGD 88–079) was prepared and placed in the docket. It is applicable to this proposed rule and may be inspected and copied at the address listed under ADDRESSES. This proposal will not change the conclusions of that final regulatory evaluation since it does not introduce any new requirements, but only authorizes some latitude in meting the requirements originally imposed. This proposal does allow an anti-exposure coverall as an alternative for an immersion suit for those individuals on board undocumented commercial fishing industry vessels operating on coastal waters which are only seasonally cold and on board documented commercial fishing industry vessels operating inside the Boundary Line on coastal waters which are only seasonally cold. However, since the expected costs of both items is approximately the same and fishermen will be allowed to choose either an immersion suit or a Type V PFD anti-exposure coverall, the Coast Guard's position is that the final regulatory evaluation remains valid. This proposal will reinstate the requirement for immersion suits on approximately 48,250 small fishing vessels at an estimated total cost of $22.5 million. However, based on the compliance/noncompliance percentages used in the final regulatory evaluation, which regulatory evaluation, which is available in the docket for review, the Coast Guard concludes many of the vessel operators or individual crewmembers have already elected to purchase immersion suits as a voluntary safety measure. Therefore, the actual costs may be closer to $8.5 million. These costs will offset the estimated savings described in the interim rule (CGD 88–079b) published on August 3, 1992 (57 FR 34188) which removed the requirement for certain vessels, in specific waters, to carry the immersion suit. Further, the Coast Guard estimates that the benefits associated with reinstating the requirement for immersion suits or a Type V PFD anti-exposure coverall will approximate $12 to $20 million. The Coast Guard estimates that eight lives will be saved annually with reinstatement of the requirement. Economic research indicate that $2.5 million per statistical life saved is currently a reasonable estimate of people's willingness to pay to avert a fatality. Use of this figure is for ease in calculating costs and benefits of a proposed rule, and should in no way be construed as a value the Coast Guard is willing to place on human life for any other purpose. Previously, the Coast Guard used figure of $1.5 million per statistical life saved. Multiplying the two figures above by the estimated eight lives allows the calculation of an estimated benefit ranging from $12 to $20 million annually.

Regulatory Flexibility Act

This proposal is expected to have a minimal economic impact. Additionally, since this proposal merely reinstates a requirement that was addressed in the final rule, the economic impact to these fishermen has already been accounted for. The temporary minimal negative economic impact that was imposed on the manufacturers and/or suppliers by the interim rule is expected to be eliminated. While the interim rule

resulted in a reduced demand for immersion suits, the demand for immersion suits or the alternative Type V PFD anti-exposure coverall is expected to return to the level experienced prior to the publication of the interim rule. As for the fishermen, the average cost of the immersion suit requirement is expected to be approximately $540 per vessel. This figure was already incorporated into the final regulatory evaluation. Therefore, the Coast Guard certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

The Coast Guard determined that the final rule (CGD 88–079) was categorically excluded from detailed environmental evaluation under section 2.B.2.1 of Commandant Instruction [COMDTINST] M16475.1B as an administrative action which clearly does not have any environmental impacts. Since this proposal reinstates a requirement originally in the final rule, this proposal falls under the original Categorical Exclusion Determination, which is available in the docket for examination.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposal reinstates the requirement for undocumented commercial fishing industry vessels that operate on coastal waters that are only seasonally cold, and documented commercial fishing industry vessels that operate inside the Boundary Line, on coastal waters that are only seasonally cold, to carry an immersion suit, as an item of safety equipment for each person on board. The authority to regulate concerning the carriage requirements of safety equipment aboard commercial fishing vessels operating in U.S. waters is committed to the Coast Guard by statute. Furthermore, since commercial fishing vessels tend to move from port to port in the national marketplace, carriage requirements for safety equipment is a matter for which regulations should be of national scope to avoid unreasonably burdensome variances. Therefore, if this rule becomes final, the Coast guard intends it to preempt State action addressing the same matter.

List of Subjects in 46 CFR Part 28

Fire prevention, Fishing vessels, Lifesaving equipment, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

In consideration of the foregoing, the Coast Guard proposes to amend chapter I, title 46, Code of Federal Regulations, part 28 as follows:

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

1. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4506, 6104, 10603; 49 U.S.C. App. 1804; 49 CFR 1.46.

2. Section 28.50 is amended by adding the following definition, in alphabetical order, to read as follows:

§ 28.50 Definition of terms used in this part.

* * * * *

Coastal waters that are only seasonally cold means the U.S. waters of the Great Lakes, except for Lake Superior; the coastal waters on the entire east coast of the United States; and the coastal waters on the west coast of the United States, south of Point Reyes, CA and the waters of Drakes Bay which is north of Point Reyes, CA.

* * * * *

3. Section 28.110 is amended by revising Table 28.110 and redesignating it as Table 28.110(a) and Table 28.110(b); and adding Table 28.110(c) to read as follows:

§ 28.110 Life preservers or other personal flotation devices.

* * * * *

TABLE 28.110(A).—PERSONAL FLOTATION DEVICES AND IMMERSION SUITS FOR DOCUMENTED VESSELS

Applicable waters	Vessel type	Devices required	Other regulations
Seaward of the boundary line and north of 32° N or south of 32° S; and Lake Superior.	All	Immersion suit or exposure suit [1].	28.135; 25.25–9(a); 25.25–13; 25.25–15.
Coastal waters on the west coast of the United States north of Point Reyes CA, except for Drakes Bay.	All	....do [1]	do.
Beyond coastal waters, cold water; (See Table 28.110(c) and.	....do	....do [1]	do.
Lake Superior	....do	....do [1]	do.
Inside the boundary line on coastal waters that are only seasonally cold—cold water months. (See Table 28.110(c).	All	Immersion suit or Type V anti-exposure coverall [2].	28.135; 25.25–9(a); 25.25–13; 25.25–15.
Inside the boundary line on coastal waters that are only seasonally cold—warm water months. (See Table 28.110(c).	40 feet (12.2 meters) or more in length.	Type I, Type V commercial hybrid, immersion suit, exposure suit, or Type V anti-exposure coverall [2].	28.135; 25.25–5(e); 25.25–5(f); 25.25–9(a); 25.25–13; 25.25–15.
Do	Less than 40 feet (12.2 meters) in length.	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, exposure suit, exposure suit, or Type V anti-exposure coverall [2].	do.
All other waters	40 feet (12.2 meters) or more in length.	Type I, Type V commercial hybrid, immersion suit, or exposure suit [3].	28.135; 25.25–5(e); 25.25–5(f); 25.25–9(a); 25.25–13; 25.25–15.

TABLE 28.110(A).—PERSONAL FLOTATION DEVICES AND IMMERSION SUITS FOR DOCUMENTED VESSELS—Continued

Applicable waters	Vessel type	Devices required	Other regulations
Do	Less than 40 feet (12.2 meters) in length.	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, or exposure suit[3].	do.

[1] Until September 1, 1995, individuals weighing less than 44 pounds (196 Newtons) may substitute an approved personal flotation device of the appropriate size for a required immersion suit or exposure suit.
[2] Anti-exposure coverall, Coast Guard approved as a Type V PFD under approval number 160.053, may be substituted for the immersion suit or the required personal flotation device.
[3] Certain Type V personal flotation devices are approved for substitution for Type I, II, or III personal flotation devices when used in accordance with the conditions stated in the Coast Guard approval label.

TABLE 28.110(b).—PERSONAL FLOTATION DEVICES AND IMMERSION SUITS FOR UNDOCUMENTED VESSELS

Applicable waters	Vessel type	Devices required	Other regulations
Coastal waters on the west coast of the United States north of Point Reyes CA, except for Drakes Bay.	All	Immersion suit or exposure suit.[1].	28.135; 25.25–9(a); 25.25–13; 25.25–15.
Beyond coastal waters, cold water; (See Table 28.110(c)) and.	do	do[1]	do.
Lake Superior	do	do[1]	do.
Coastal waters that are only seasonally cold—cold water months. (See Table 28.110(c)).	All	Immersion suit or Type V anti-exposure coverall.	28.135; 25.25–9(a); 25.25–13; 25.25–15.
Coastal waters that are only seasonally cold—warm water months. (See Table 28.110(c)).	All	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, exposure suits, or Type V anti-exposure coverall.[2].	28.135; 25.25–5(e); 25.25–5(f); 25.25–9(a); 25.25–13; 25.25–15.
All other waters	40 feet (12.2 meters) or more in length.	Type I, Type V commercial hybrid, immersion suite, or exposure suit.[3].	28.135; 25.25–5(e); 25.25–5(f); 25.25–9(a); 25.25–13; 25.25–15
Do	Less than 40 feet (12.2 meters) in length.	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, or exposure suit.[3].	do.

[1] Until September 1, 1995, individuals weighing less than 44 pounds (196 Newtons) may substitute an approved personal flotation device of the appropriate size for a required immersion suit or exposure suit.
[2] Anti-exposure coverall, Coast Guard approved as a Type V PFD under approval number 160.053, may be substituted for the immersion suit or the required personal flotation device.
[3] Certain Type V personal flotation devices are approved for substitution for Type I, II, or III personal flotation devices when used in accordance with the conditions stated in the Coast Guard approval label.

Table 28.110(c).—Cold Water Areas, Coastal Waters and Beyond, Offshore of the United States (Atlantic Ocean, Pacific Ocean and the Great Lakes)

Atlantic Ocean—The cold water areas in the Atlantic Ocean are as follows for the indicated months of the year:

Dec–Apr—North of Cape Hatteras, North Carolina (Cape Hatteras Light, 35°15.3′ N latitude).

May—North of Cape Charles, Virginia (Cape Charles Light, 37°07.4′ N latitude).

Jun—North and east of a line which is drawn bearing 150° True from Watch Hill Light, Rhode Island (41°18.2′ N latitude, 71°51.5′ W longitude); and north of Ambrose Light (40°27.6′ N latitude) 20 or more nautical miles offshore.

Jul–Sep—North of Halifax, Nova Scotia (Chebucto Head Light, 44°30.4 N latitude), not including Bay of Fundy; and north of Cape Cod, Massachusetts (Highland Light, 42°02.4′ N latitude) 20 or more nautical miles offshore.

Oct—North and east of a line which is drawn bearing 150° True from Watch Hill Light, Rhode Island (41°18.2′ N latitude, 71°51.5 W longitude); and north of Ambrose Light (40°27.6′ N latitude) 20 or more nautical miles offshore.

Nov—North of Cape Charles, Virginia (Cape Charles Light, 37°07.4′ N latitude).

Pacific Ocean—The cold water areas in the Pacific Ocean are as follows for the indicated months of the year:

Jan–Feb—All ocean waters off the continental United States and Alaska.

Mar–Apr—North and west of a line which is drawn 255° True from San Mateo Point Light, California (33°23.2′ N latitude, 117°35.7′ W longitude); all other ocean areas more than 20 nautical miles offshore of the continental United States.

May—North and west of a line which is drawn 255° True from San Mateo Point Light, California (33°23.2′ N latitude, 117°35.7′ W longitude).

Jun–Aug—North of San Luis Obispo, California (San Luis Obispo Light, 35°09.6′ N latitude); and north and west of a line which is drawn 255° True from San Mateo Point Light, California (33°23.2′ N latitude, 117°35.7′ W longitude), more than 20 nautical miles offshore of the continental United States.

Sep—North of Point Reyes, California (Point Reyes Light, 37°59.7′ N latitude), not including Drakes Bay.

Oct–Dec—North of San Luis Obispo, California (San Luis Obispo Light, 35°09.6′ N latitude).

Great Lakes—The cold water areas in the Great Lakes are as follows for the indicated months of the year:

Oct–May—All Great Lakes.

Jun—Lakes Superior, Michigan, Ontario, and Huron except for Saginaw Bay.

Jul—Lakes Superior, and Huron, except for Saginaw Bay.

Aug–Sep—Lake Superior.

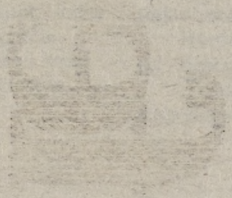
Dated: May 14, 1993.

A.E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Envrionmental Protection.

[FR Doc. 93–11856 Filed 5–19–93; 8:45 aml

BILLING CODE 4910–14–M



federal register

Thursday
May 20, 1993

Part VII

The President

Executive Order 12847—Amending Executive Order No. 11423

Permit of May 17—Permit Authorizing the Canadian National Railway Company, Grand Trunk Corporation and any Subsidiaries To Construct, Operate, and Maintain a Replacement International Railway Tunnel at the International Boundary Line Between the United States of America and Canada

Executive Order 12848—Federal Plan To Break the Cycle of Homelessness

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Part VII

The President

Federal Register
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Thursday, May 20, 1993

Presidential Documents

Title 3—

The President

Executive Order 12847 of May 17, 1993

Amending Executive Order No. 11423

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and in order to amend Executive Order No. 11423 of August 16, 1968, to provide for the issuance of permits for the full range of facilities that may be constructed and maintained on the borders of the United States, it is hereby ordered as follows:

Section 1. Section 1(a) of Executive Order No. 11423 is amended to read: "Except with respect to facilities covered by Executive Order Nos. 10485 and 10530, the Secretary of State is hereby designated and empowered to receive all applications for permits for the construction, connection, operation, or maintenance, at the borders of the United States, of: (i) pipelines, conveyor belts, and similar facilities for the exportation or importation of petroleum, petroleum products, coal, minerals, or other products to or from a foreign country; (ii) facilities for the exportation or importation of water or sewage to or from a foreign country; (iii) facilities for the transportation of persons or things, or both, to or from a foreign country; (iv) bridges, to the extent that congressional authorization is not required; and (v) similar facilities above or below ground."

Sec. 2. Section 1(b) of Executive Order No. 11423 of August 16, 1968, is amended by deleting the text "subsection (a) (iii) or (iv)" and by inserting "subsection (a) (iii), (iv) or (v)" in lieu thereof.

Sec. 3. All permits heretofore issued with respect to matters described in section 1 of Executive Order No. 11423, and in force at the time of issuance of this order, and all permits issued hereunder, shall remain in effect in accordance with their terms unless and until modified, amended, suspended, or revoked by the appropriate authority.

William J. Clinton

THE WHITE HOUSE,
May 17, 1993.

[FR Doc. 93-12206
Filed 5-19-93; 11:48 am]
Billing code 3195-01-P

Presidential Documents

Permit of May 17, 1993

Permit Authorizing the Canadian National Railway Company, Grand Trunk Corporation and any Subsidiaries To Construct, Operate, and Maintain a Replacement International Railway Tunnel at the International Boundary Line Between the United States of America and Canada

By the authority vested in me as President by the Constitution and laws of the United States of America, I hereby grant permission to Permittees, the Canadian National Railway Company, a Canadian Corporation with its principal offices in Montreal, Quebec, and its wholly-owned U.S. subsidiary, the Grand Trunk Corporation, a Delaware corporation with its principal offices in Detroit, Michigan, and any jointly owned subsidiaries, to construct, operate, and maintain an international railway tunnel across the international boundary between the United States and Canada, between Port Huron, Michigan, and Sarnia, Ontario, Canada, under the St. Clair River.

I have reviewed the application of the Permittees and find that the issuance of a Permit would serve the national interest. The Department of State, Department of Defense, Department of Interior, Department of Justice, Department of Transportation, Department of the Treasury, and the Federal Emergency Management Agency have raised no objection to issuance of the Permit. Pursuant to the Rivers and Harbors Appropriations Act of 1899, 33 U.S.C. § 403, the Corps of Engineers has also determined that the issuance of a Permit is appropriate and consistent with the public interest.

The term "facilities" as used in this permit means the rail tunnel and any land, structures, installations or equipment appurtenant thereto.

The term "United States facilities" as used in this permit means that part of the facilities in the United States.

As stated in Permittees' application of May 8, 1992, for a permit, including their accompanying submission of a feasibility study entitled "St. Clair, Initial Environmental Evaluation/Environmental Study Report," dated February 1992, and subsequent exchange of information, the United States facilities of the rail tunnel will consist of the following major components:

—A new tunnel bored beneath the St. Clair River, and deepening the existing open cuts on the Port Huron, Michigan, approach to develop portals for construction of the tunnel.

—The summit-to-international boundary length of the project within the United States is 5,853 feet (of a total summit-summit length of 12,726 feet). The length of the new tunnel, U.S. portal to international boundary, is approximately 2,749 feet (of a total portal-portal length of 6,136 feet).

—The new tunnel is located approximately on a tangent with an 89 foot offset north of the existing tunnel. A horizontal curve in the Sarnia, Ontario, portal narrows the difference in tunnel centerlines to 55 feet at the exit of the Sarnia, Ontario, portal. The vertical alignment is based on a maximum grade of 2.1 percent. The tunnel will have a downgrade of 1.8 percent from the Sarnia portal and 2.1 percent from the Port Huron portal with 0.35 percent grade under the river. The tunnel will have a minimum of 15 feet of cover over the crown under the river portion of the project. The interior diameter of the finished tunnel will be approximately 27 feet, 6 inches.

—The tunnel will be used for rail transport of freight and passengers. This permit is subject to the following conditions:

Article 1. The United States facilities and operations herein described shall be subject to all the conditions, provisions, and requirements of this permit or any amendment thereof. This permit may be terminated at the will of the President of the United States of America, the Secretary of State of the United States of America or the Secretary's delegate or may be amended by the President, the Secretary of State or the Secretary's delegate at will or upon proper application therefor. Permittees shall make no substantial change in the location of the United States facilities or in the operation authorized by this permit until such changes shall have been approved by the President of the United States of America, or the Secretary of State of the United States of America or the Secretary's delegate.

Article 2. The construction, operation, and maintenance of the facilities shall be in all material respects as described in Permittees' application of May 8, 1992, and documentation submitted in support thereof.

Article 3. The construction, operation, and maintenance of the United States facilities shall be subject to inspection and approval by the representatives of any Federal or State agency concerned. The Permittees shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities as is necessary for the performance of their official duties.

Article 4. Permittees shall comply with all applicable Federal and State laws and regulations regarding the construction, operation, and maintenance of the United States facilities.

Article 5. Upon termination, revocation, or surrender of this permit, and unless otherwise agreed by the President of the United States of America or the Secretary of State of the United States of America or the Secretary's delegate, the United States facilities in the immediate vicinity of the international boundary line shall be filled in by and at the expense of the Permittees within such time as the President or the Secretary of State or the Secretary's delegate may specify, and upon failure of the Permittees to remove this portion of the United States facilities as ordered, the President or Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed at the expense of the Permittees; and the Permittees shall have no claim for damages by reason of such possession or removal.

Article 6. This permit is subject to the limitations, terms, and conditions contained in any order issued by any competent agency of the United States Government or of the State of Michigan with respect to the United States facilities. This permit shall continue in force and effect so long as the Permittees shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 7. When, in the opinion of the President of the United States of America, the national security of the United States demands it, due notice being given by the Secretary of State of the United States of America or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the United States facilities or parts thereof; to retain possession, management, and control thereof for such length of time as may appear to the President to be necessary to accomplish said purposes; and thereafter to restore possession and control to the Permittees. In the event that the United States shall exercise such right, it shall pay to the Permittees just and fair compensation for the use of such United States facilities upon the basis of reasonable profit in normal conditions as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 8. Any transfer of ownership or control of the United States facilities or any part thereof shall be immediately notified to the Department of

State in writing. This permit shall remain in force, subject to all the conditions, provisions, and requirements of this permit or any amendments thereof.

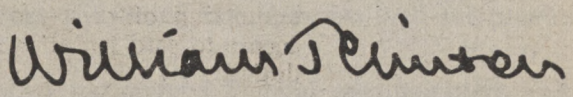
Article 9. (1) The Permittees shall maintain the United States facilities and every part thereof in a condition of good repair for their safe operations.

(2) The Permittees shall save harmless the United States from any claimed or adjudged liability arising out of the construction, operation, or maintenance of the facilities.

Article 10. The Permittees shall acquire such right-of-way grants, easements, permits and other authorizations as may become necessary and appropriate.

Article 11. The Permittees shall file with the appropriate agencies of the United States Government such statements or reports under oath with respect to the United States facilities, and/or Permittees' activities and operations in connection therewith, as are now, or as may hereafter be required under any laws or regulations of the Government of the United States or its agencies.

In Witness Whereof, I, William J. Clinton, President of the United States of America, have hereunto set my hand this seventeenth day of May, 1993 in the City of Washington, District of Columbia.



THE WHITE HOUSE,
Washington, May 17, 1993.

[FR Doc. 93–12219
Filed 5–19–93; 12:02 pm]
Billing code 4710–10–M

Presidential Documents

Executive Order 12848 of May 19, 1993

Federal Plan To Break the Cycle of Homelessness

By the authority vested in me as President by the Constitution and the laws of the United States of America, including title II of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11311–11320), and section 301 of title 3, United States Code, and in order to provide for the streamlining and strengthening of the Nation's efforts to break the cycle of homelessness, it is hereby ordered as follows:

Section 1. Federal member agencies acting through the Interagency Council on the Homeless, established under title II of the Stewart B. McKinney Homeless Assistance Act, shall develop a single coordinated Federal plan for breaking the cycle of existing homelessness and for preventing future homelessness.

Sec. 2. The plan shall recommend Federal administrative and legislative initiatives necessary to carry out the plan and shall include a proposed schedule for implementing administrative initiatives and transmitting any necessary legislative proposals to the Congress. These initiatives and legislative proposals shall identify ways to streamline and consolidate, when appropriate, existing programs designed to assist homeless individuals and families.

Sec. 3. The plan shall make recommendations on how current funding programs can be redirected, if necessary, to provide links between housing, support, and education services and to promote coordination and cooperation among grantees, local housing and support service providers, school districts, and advocates for homeless individuals and families. The plan shall also provide recommendations on ways to encourage and support creative approaches and cost-effective, local efforts to break the cycle of existing homelessness and prevent future homelessness, including tying current homeless assistance programs to permanent housing assistance, local housing affordability strategies, or employment opportunities.

Sec. 4. To the extent practicable, the Council shall consult with representatives of State and local governments (including education agencies), nonprofit providers of services and housing for homeless individuals and families, advocates for homeless individuals and families, currently and formerly homeless individuals and families, and other interested parties.

Sec. 5. The Council shall submit the plan to the President no later than 9 months after the date of this order.

William J. Clinton

THE WHITE HOUSE,
May 19, 1993.

[FR Doc. 93–12224
Filed 5–19–93; 12:22 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6562 of May 19, 1993

National Defense Transportation Day and National Transportation Week, 1993

By the President of the United States of America

A Proclamation

As Americans, we take great pride in our fine transportation system. This system links our vast Nation in an intricate network of highways, waterways, bridges, and mass transit systems. Our transportation infrastructure strengthens America by bringing people and communities closer together, spurring trade and commerce, and strengthening our manufacturing and military power.

Our Nation's transportation system plays a vital role in our national defense, both in times of crisis and in peace. It has carried U.S. Armed Forces to many regions of the world; it has quickly and safely moved the materiels needed to protect our interests; and it has accelerated the delivery of supplies and personnel to thousands of hurricane victims in Florida and Louisiana.

The Dwight D. Eisenhower System of Interstate and Defense Highways, begun in the 1950's, has served America's defense, business, and social needs extremely well in the last 50 years. As we enter the 21st century, we must find new, more cost-effective and efficient ways to travel and to transport goods in order to compete in the global economy. Our Nation must continue its commitment to technological and engineering excellence in order to ensure long-term military and industrial strength. At the same time, we recognize that a key challenge of our era is to harness technology to protect the health of our environment and our people. Technological breakthroughs can improve our quality of life, for example, by limiting airplane noise, increasing the speed of mass transit systems, or improving the reliability of tankers for oil transport. Transportation safety can improve dramatically with new technology and with concerted education efforts. American transportation, from airplanes to boats to school buses, already has a fine safety record, and we are making great progress. In 1992 the rate of alcohol involvement in fatal crashes declined to an all-time low, and safety belt use reached a high of 62 percent.

As we survey our infrastructure in the 1990's, it is clear that we face another crucial challenge: we must shift from the construction of basic transportation systems to the adaptation and modernization of existing ones. Rebuilding America's infrastructure is not just necessary for the health of our transportation system, it is also essential to the long-term vitality of our economy. The condition of our infrastructure directly affects the speed of our commerce, the exuberance of our cities, and the mobility of our rural citizens and industries. Rebuilding our infrastructure can create jobs, improve our quality of life, spur technological development, and fuel long-term economic growth. A strong partnership between the public and private sector and the continued support of our research institutions are vital in this effort.

This week we honor the men and women who build, maintain, and ensure the safety of our transportation system—from the person who designs the high-speed train to the one who drives it. We salute all American workers in the transportation industry for their contributions to our Nation. We also pause to thank Americans who are working to increase transportation

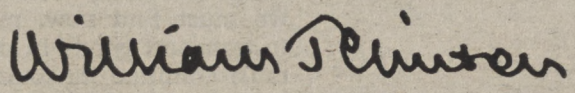
safety through educational programs, through efforts to promote the use of safety belts and child safety seats, and through endeavors to stop the tragedy of drunk driving accidents.

We must provide future generations with a transportation system that is safer, more environmentally sound, and more efficient. We must apply America's tremendous reserves of energy and ingenuity to this important task in order to ensure that America's transportation system will continue to serve our country's goals and enhance the quality of life of our people in the years to come.

In recognition of the importance of transportation and the millions of Americans who work to meet our transportation needs, the Congress, by joint resolution approved May 16, 1957 (36 U.S.C. 160), has requested that the third Friday in May of each year be designated as "National Defense Transportation Day" and, by joint resolution approved May 14, 1962 (36 U.S.C. 166), that the week in which that Friday falls be proclaimed "National Transportation Week."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby designate Friday, May 21, as National Defense Transportation Day and the week of May 16 through May 22, 1993, as National Transportation Week. I urge all Americans to observe these occasions with appropriate ceremonies and activities that will give due recognition to the individuals and organizations that build, operate, safeguard, and maintain this country's modern transportation system.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, 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.



[FR Doc. 93–12225
Filed 5–19–93; 12:23 pm]
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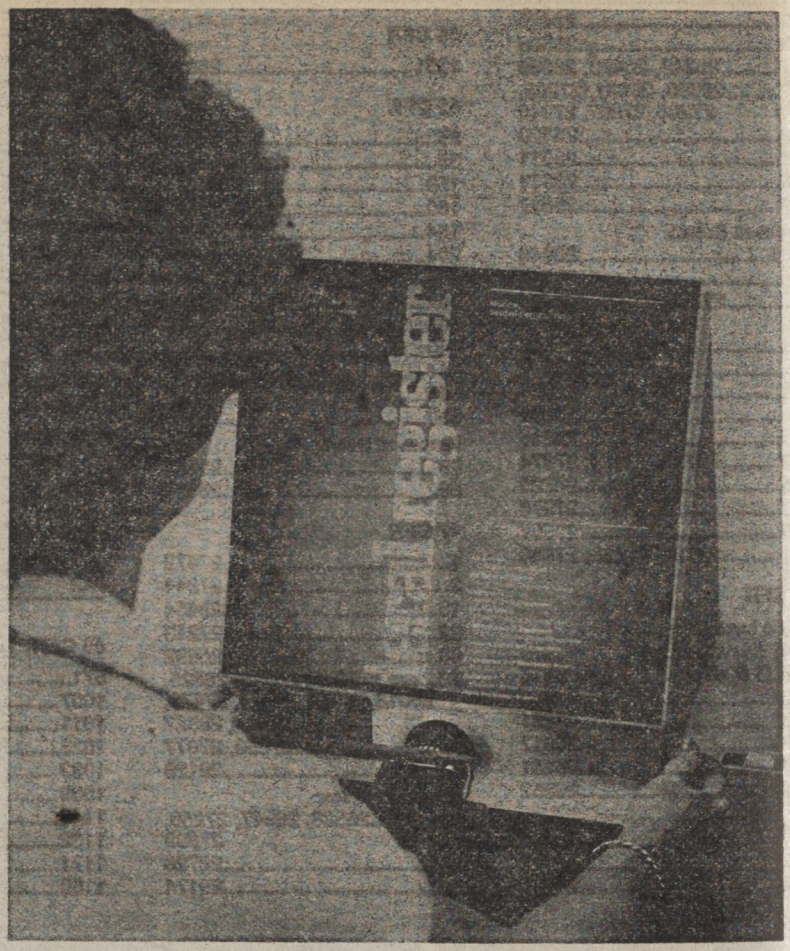

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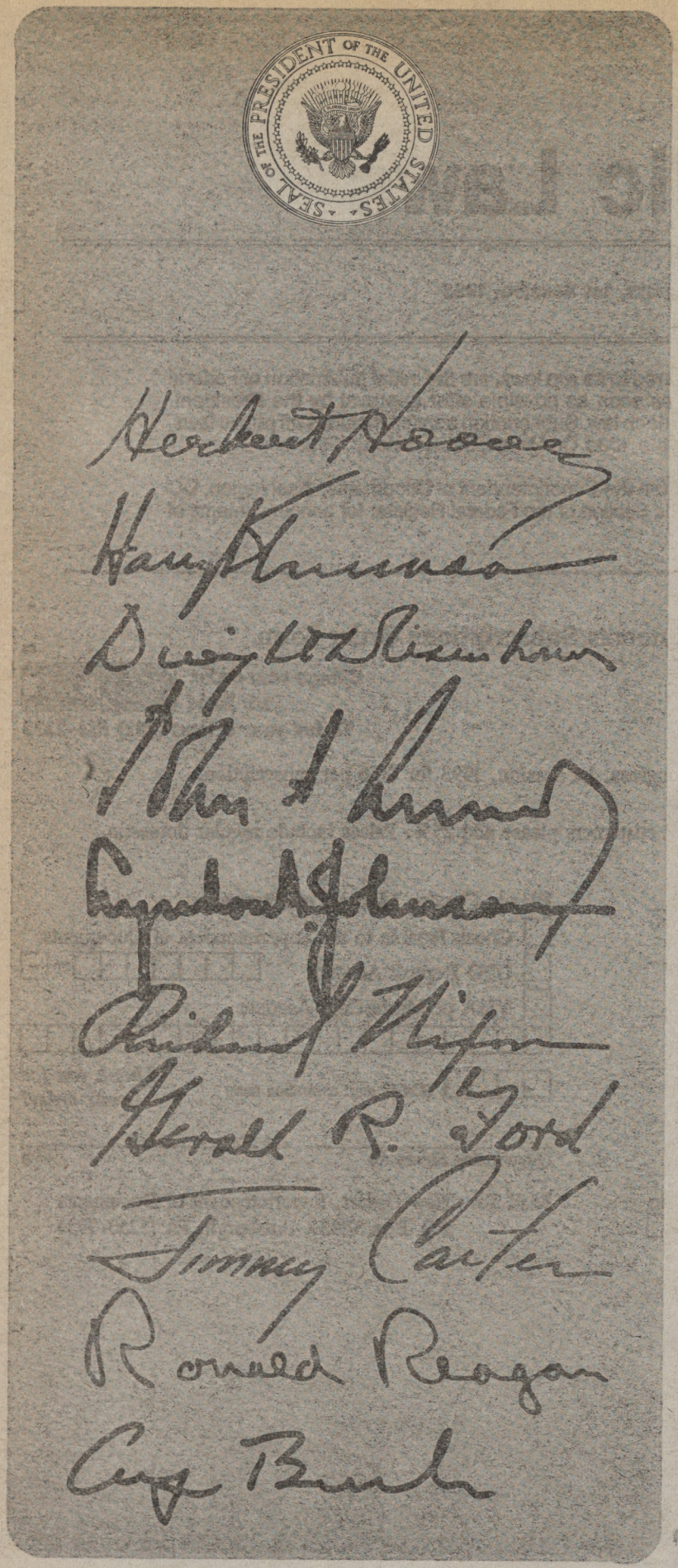

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