AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

11–8–93
Vol. 58 No. 214

federal register

Monday
November 8, 1993

United States
Government
Printing Office
SUPERINTENDENT
OF DOCUMENTS
Washington, DC 20402

OFFICIAL BUSINESS
Penalty for private use, $300

SECOND CLASS NEWSPAPER
Postage and Fees Paid
U.S. Government Printing Office
(ISSN 0097–6326)

11–8–93
Vol. 58 No. 214
Pages 59159–59342

federal register

Monday
November 8, 1993

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

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the **Federal Register** as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper, 24x microfiche format and magnetic tape. The annual subscription price for the **Federal Register** paper edition is $375, or $415 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $353; and magnetic tape is $37,500. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $4.50 for each issue, or $4.50 for each group of pages as actually bound; or $1.50 for each issue in microfiche form; or $175.00 per magnetic tape. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 58 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	512–1530
Problems with public subscriptions	512–2303

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	512–1530
Problems with public single copies	512–2457

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5243
Magnetic tapes	512–1530
Problems with Federal agency subscriptions	523–5243

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW YORK, NY

WHEN: November 23, 9:00 am—12:00 pm

WHERE: National Archives—Northeast Region, 201 Varick Street, 12th Floor, New York, NY

RESERVATIONS: 1–800–347–1997

WASHINGTON, DC
(two briefings)

WHEN: November 30 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

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 58, No. 214

Monday, November 8, 1993

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
Hermiston Generating Project, OR, 59248

Coast Guard
RULES
Ports and waterways safety:
Santa Cruz Island, CA; security zone, 59171
Regattas and marine parades:
Pittsburgh Light-Up Night, 59170
NOTICES
Meetings:
National Offshore Safety Advisory Committee, 59293
Pollution:
Oil record book required for vessels; amendments, 59293

Commerce Department
See Export Administration Bureau
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Dominican Republic, 59240
Singapore, 59241
Thailand, 59241

Consumer Product Safety Commission
NOTICES
Settlement agreements:
Berman Mattress Co., Inc., et al., 59242

Customs Service
RULES
Customs services user fees
Correction, 59298

Education Department
NOTICES
Meetings:
National Assessment Governing Board, 59245

Energy Department
See Bonneville Power Administration
See Federal Energy Regulatory Commission
NOTICES
Floodplain and wetlands protection; environmental review determinations; availability, etc.:
East Fork Poplar Creek pilot treatability study, TN, 59245
Privacy Act:
Systems of records, 59246

Environmental Protection Agency
RULES
Clean Air Act:
Outer Continental Shelf regulations; consistency update, 59172
NOTICES
Agency information collection activities under OMB review, 59260
Air programs:
Ambient air monitoring references and equivalent methods—
Control techniques guideline document: offset lithographic printing, 59261
Hazardous waste:
State program adequacy determinations—
Indiana, 59261

Equal Employment Opportunity Commission
NOTICES
Meetings; Sunshine Act, 59295

Executive Office of the President
See Presidential Documents

Export Administration Bureau
RULES
Export licensing:
Commerce control list—
Weapons delivery systems; commodities, software, and technology; export control commodity numbers, 59163

Farm Credit Administration
RULES
Farm credit system:
Information release by directors, officers, and employees
Effective date, 59161

Farm Credit System Insurance Corporation
PROPOSED RULES
Federal claims collection, 59215
Freedom of Information Act; implementation, 59210

Federal Aviation Administration
RULES
Airworthiness directives:
Canadair, 59161
PROPOSED RULES
Airworthiness directives:
Beech, 59223

Federal Communications Commission
RULES
Radio broadcasting:
Personal communications services establishment, 59174
Radio services, special:
Private land mobile services—
Co-channel protection criteria above 800 MHz; correction, 59298
NOTICES
Agency information collection activities under OMB review, 59265
Rulemaking proceedings; petitions filed, granted, denied, etc., 59265, 59266

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Appalachian Power Co., 59249
Ketchikan Public Utilities, 59250

Meetings; Sunshine Act, 59295
Natural gas companies (Natural Gas Act):
Natural gas gathering services performed by interstate pipelines and affiliates; service rates, terms, and conditions; public conference, 59250
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 59254
Algonquin Gas Transmission Co., 59255
Bonneville Power Administration, 59255
CNG Transmission Corp., 59256
Colorado Interstate Gas Co., 59256
El Paso Natural Gas Co., 59256
Northern Natural Gas Co., 59257
Tennessee Gas Pipeline Co., 59257
Texas Eastern Transmission Corp., 59257, 59258
Texas Gas Transmission Corp., 59259
Valero Interstate Transmission Co., 59259

Federal Highway Administration
RULES
Motor carrier safety standards:
Driver qualifications—
Medical examinations; correction, 59194

Federal Maritime Commission
NOTICES
Agreements filed, etc., 59266
Casualty and nonperformance certificates:
Royal Caribbean Cruises Ltd., 59266

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
First Financial Bancorp, 59266
Hasten Bancshares, 59267
Westbanco, Inc., et al., 59267

Federal Trade Commission
RULES
Appliances, consumer; energy costs and consumption information in labeling and advertising:
Comparability ranges—
Furnaces, 59167
Room air conditioners, 59166
Water heaters, 59168
NOTICES
Premerger notification waiting periods; early terminations, 59268

Federal Transit Administration
NOTICES
Grants: FTA sections 3, 9, 18, and 16 obligations:
Formula grant apportionments and allocations; 1994 FY, 59300

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Formalin solution, 59168
Pichia pastoris dried yeast, 59169
NOTICES
Memorandums of understanding:
Agreements between FDA and State or local government agencies; list availability; correction, 59269

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Illinois—
Chrysler Corp.; automobile plant, 59236
New York, 59236
South Carolina, 59236

General Accounting Office
NOTICES
Meetings:
Federal Accounting Standards Advisory Board, 59269

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review, 59270
Medicare:
Monthly actuarial rates and supplementary medical insurance premium rates (1994 CY), 59271

Immigration and Naturalization Service
PROPOSED RULES
Immigration:
Immigrant petitions—
Adoption of foreign-born orphans by U.S. citizens, 59200

Inter-American Foundation
NOTICES
Meetings; Sunshine Act, 59296

Interior Department
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

International Trade Administration
NOTICES
Antidumping:
Nitromethane from—
China, 59237
Paper clips from—
China, 59239

Interstate Commerce Commission
NOTICES
Rail carriers:
Cost recovery procedures—
Adjustment factor, 59276
Passenger train operation—
Chicago & North Western Transportation Co., 59277
Railroad operation, acquisition, construction, etc.:
Blue Mountain Railroad, Inc., 59277
Wood, Donald R., Jr., et al., 59277
Railroad services abandonment:
St. Louis Southwestern Railway Co., 59278
Upper Merion & Plymouth Railroad, 59279

Justice Department
See Immigration and Naturalization Service

Labor Department
NOTICES
Foreign industries utilizing child labor in industry or mining manufactured product export to U.S.; review and identification; request for information, 59279

Land Management Bureau
NOTICES
Resource management plans, etc.:
Oklahoma Resource Area, OK, 59276
Withdrawal and reservation of lands:
Oregon, 59276

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Federal information processing resources contracts; delivery to all NASA installations, 59188

National Highway Traffic Safety Administration
RULES
Motor vehicle safety standards:
Occupant crash protection—
Hybrid III test dummy; compliance testing, 59189
PROPOSED RULES
Motor vehicle safety standards:
Tires, new pneumatic, 59226

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic surf clam and ocean quahog, 59197
Ocean salmon off coasts of Washington, Oregon, and California, 59197
Summer flounder, 59196
PROPOSED RULES
Endangered and threatened species:
Harbor porpoise; Gulf of Maine population, 59230
Fishery conservation and management:
Gulf of Mexico reef fish, 59230
Northeast multispecies, 59232

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 59280

Nuclear Regulatory Commission
NOTICES
Meetings:
Nuclear Safety Research Review Committee, 59280
Meetings; Sunshine Act, 59296
Applications, hearings, determinations, etc.:
Omaha Public Power District, 59280

Presidential Documents
EXECUTIVE ORDERS
Compact of Free Association with the Marshall Islands, Micronesia, and Palau, management; amendment (EO 12877), 59159

Public Health Service
See Food and Drug Administration

Research and Special Programs Administration
PROPOSED RULES
Hazardous materials:
Poisonous materials labeling requirements, 59224

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 59282
Depository Trust Co., 59283
New York Stock Exchange, Inc., 59285
Philadelphia Stock Exchange, Inc., 59286
Applications, hearings, determinations, etc.:
Keystone Custodian Fund, Series B-1, et al., 59287
PMC Capital, Inc., et al., 59289
Prudential Insurance Co. of America et al., 59290

Small Business Administration
NOTICES
Agency information collection activities under OMB review, 59292

State Justice Institute
NOTICES
Meetings; Sunshine Act, 59297

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Abandoned mine land reclamation:
Grant procedures; miscellaneous amendments, 59334

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Highway Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration

Treasury Department
See Customs Service

Separate Parts In This Issue

Part II
Department of Transportation, Federal Transit Administration, 59300

Part III
Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 59334

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Executive Orders:

12569 (Amended by EO 12877)....59159

12877....59159

8 CFR

Proposed Rules:

204....59200

12 CFR

618....59161

Proposed Rules:

1402....59210

1408....59215

14 CFR

39....59161

Proposed Rules:

39....59223

15 CFR

799....59163

16 CFR

305 (3 documents)....59166, 59167, 59168

19 CFR

24....59298

21 CFR

510....59168

529....59168

573....59169

30 CFR

Proposed Rules:

870....59334

886....59334

887....59334

888....59334

33 CFR

100....59170

165....59171

40 CFR

55....59172

47 CFR

2....59174

15....59174

22....59174

90....59298

99....59174

48 CFR

1805....59188

1839....59188

1852....59188

49 CFR

390....59194

391....59194

571....59189

Proposed Rules:

172....59224

174....59224

175....59224

176....59224

177....59224

571....59226

575....59226

50 CFR

625....59196

652....59197

661....59197

Proposed Rules:

227....59230

641....59230

651....59232

Federal Register
Vol. 58, No. 214
Monday, November 8, 1993

Presidential Documents

Title 3—

The President

Executive Order 12877 of November 3, 1993

Amendment to Executive Order No. 12569

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Compact of Free Association (the Compact) and Public Laws 99–239 and 99–658, I hereby order that Executive Order No. 12569 of October 16, 1986, be amended as follows:

Section 1. Paragraphs (1)–(3) of subsection (e) of section 3 shall read:

"(e)(1) The Secretary of State shall be responsible for the conduct of United States relations with the Freely Associated States, carry out related matters, and provide appropriate support to the Interagency Group, bearing in mind the continued special relationship between the United States and the Freely Associated States.

(2) The Secretaries of Defense and Interior may, to the extent permitted by law, delegate any or all of their respective authorities and responsibilities as described in this Order to the Secretary of State or his or her designee. The Secretary of State or his or her designee shall serve as Executive Secretary of the Interagency Group.

(3) Personnel additional to that provided by the Secretary of State may be detailed to the Department of State by the Executive departments and agencies that are members of the Interagency Group, and by other agencies as appropriate. Executive departments and agencies shall, to the extent permitted by law, provide such information, advice, and administrative services and facilities to the Secretary of State as may be necessary to conduct United States relations with the Freely Associated States."

Sec. 2. Section 5 shall read:

"**Sec. 5.** *Cooperation among Executive Departments and Agencies.* All Executive departments and agencies shall cooperate in the effectuation of the provisions of this Order. The Interagency Group and the Secretary of State shall facilitate such cooperative measures. Nothing in this Order shall be construed to impair the authority and responsibility of the Secretary of Defense for security and defense matters in or relating to the Freely Associated States."

William J. Clinton

THE WHITE HOUSE,
November 3, 1993.

[FR Doc. 93–27621
Filed 11–4–93; 4:08 pm]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 58, No. 214
Monday, November 8, 1993

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.

FARM CREDIT ADMINISTRATION

12 CFR Part 618

RIN 3052-AB39

General Provisions; Releasing Information; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under part 618 on October 6, 1993 (58 FR 51993). The final regulation amends 12 CFR part 618 to allow information concerning borrowers and loan applicants to be given by a Farm Credit institution for the confidential use of authorized representatives of any State certifying and licensing agency, in contemplation of State certification and licensure of a Farm Credit System employee as a real estate appraiser. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is November 8, 1993.

EFFECTIVE DATE: The regulation amending 12 CFR part 618, published on October 6, 1993 (58 FR 51993) is effective November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Dennis K. Carpenter, Senior Policy Analyst. Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: November 3, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–27405 Filed 11–5–93; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–172–AD; Amendment 39–8729; AD 93–22–04]

Airworthiness Directives; Canadair Ltd. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), CL–600–2B16 (CL–601–3A and –3R), and CL–600–2B19 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Canadair Ltd. Model CL–600–1A11, CL–600–2A12, CL–600–2B16, and CL–600–2B19 series airplanes. This action requires an inspection to detect cracking in the rudder control quadrant; replacement of any cracked quadrant with a new assembly; and retorquing of the castellated nut, as necessary. This amendment is prompted by a report of in-flight failure of a rudder control quadrant, resulting from stress corrosion. The actions specified in this AD are intended to prevent loss of rudder control.

DATES: Effective November 23, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 23, 1993.

Comments for inclusion in the Rules Docket must be received on or before January 7, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–172–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Business Aircraft Division, P.O. Box 6087, Station A, Montreal, Quebec H3C 3Q9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Franco Pieri, Aerospace Engineer, Airframe Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York 11581; telephone (516) 791–6220; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: Transport Canada Aviation, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on certain Canadair Ltd. Model CL–600–1A11, CL–600–2A12, CL–600–2B16, and CL–600–2B19 series airplanes. Transport Canada Aviation advises that it has received a recent report of in-flight failure of a rudder control quadrant on a Model CL–601 series airplane caused by stress corrosion, resulting in partial loss of rudder control.

During straight and level flight, the rudder moved left of center. The position of the rudder was centered by using the rudder trim control. The failure had no effect on the normal operation of the rudder trim and yaw damper. The airplane had a normal landing.

The manufacturer has also reported that cracked aft rudder control quadrants have been detected on these airplanes during certain inspections after delivery. The rudder control quadrant for Model CL–601 series airplanes is similar in design to that of Model CL–600–1A11, CL–600–2B16, and CL–600–2B19 series airplanes. Corrosion and subsequent cracking of the rudder control quadrant, if not detected and corrected in a timely manner, could result in loss of rudder control.

Canadair Ltd. has issued Alert Service Bulletin A601R–27–011, Revision "A", dated September 21, 1993 (for Model CL–600–2B19 series airplanes); and Alert Service Bulletins A600–0634 and A601–0421, Revision 1, dated September 16, 1993 (for Model CL–600–1A11, CL–600–2A12 and CL–600–2B16 series airplanes), which are combined into one service document. These service bulletins describe procedures for a one-time ultrasonic or fluorescent

penetration inspection to detect cracking in the rudder control quadrant; replacement of any cracked quadrant with a new assembly; and retorquing of the castellated nut, as necessary. Transport Canada Aviation classified these service bulletins as mandatory and issued Canadian Airworthiness Directive CF–93–23, dated September 10, 1993, in order to assure the continued airworthiness of these airplanes in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent loss of rudder control. This AD requires a one-time ultrasonic or fluorescent penetration inspection to detect cracking in the rudder control quadrant; replacement of any cracked quadrant with a new assembly; and retorquing of the castellated nut, as necessary. Additionally, operators are required to submit a report to Transport Canada Aviation of any findings of cracks. The actions are required to be accomplished in accordance with the service bulletins described previously.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–172–AD." The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–22–04 Canadair Ltd.: Amendment 39–8729. Docket 93–NM–172–AD.

Applicability: Model CL–600–1A11 series airplanes, serial numbers 1004 through 1085 inclusive; Model CL–600–2A12 series airplanes, serial numbers 3001 through 3066 inclusive; Model CL–600–2B16 series airplanes, serial numbers 5001 through 5143 inclusive; and Model CL–600–2B19 series airplanes, serial numbers 7004 through 7019 inclusive, and 7021 through 7023 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of rudder control, accomplish the following:

(a) Within 45 days after the effective date of this AD, perform either an ultrasonic or fluorescent penetration inspection to detect cracking in the rudder control quadrant, part number (P/N) 600–92614–1, in accordance with Canadair Alert Service Bulletin A601R–27–011, Revision 'A', dated September 21, 1993 (for Model CL–600–2B19 series airplanes); or Canadair Alert Service Bulletins A600–0634 and A601–0421, Revision 1, dated September 16, 1993 (for Model CL–600–1A11, CL–600–2A12 and CL–600–2B16 series airplanes); as applicable.

Note 1: This AD does not require inspection of the entire rudder control quadrant assembly,

P/N600–92619–1.

(1) If any crack is detected, prior to further flight, remove the existing rudder control quadrant assembly, P/N 600–92619–1, and install either of the following assemblies in accordance with the applicable service bulletin:

(i) A new rudder control quadrant assembly, P/N 600–92619–5 (preferred); or

(ii) A rudder control quadrant assembly, P/N 600–92619–1, on which an ultrasonic inspection to detect cracks has been accomplished and the part has been found to be crack-free.

(2) If no crack is detected, prior to further flight, loosen and re-torque the castellated nut, P/N 600–90434–5, to the specified value, in accordance with the applicable service bulletin.

(b) Within 5 days after the inspection required by paragraph (a) of this AD, submit a report of any crack findings to Transport Canada Aviation, Director, Airworthiness Branch, Attention: S.R. Didrikson—AARDG, 200 Kent Street, 7th Floor, Ottawa, Ontario K1A 0N8, Canada. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(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, New York Aircraft Certification Office (ACO), ANE–172, FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York 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) The inspection, replacement, re-torquing, and reporting requirement shall be done in accordance with Canadair Alert Service Bulletin A601R–27–011, Revision 'A', dated September 21, 1993 (for Model CL–600–2B19 series airplanes); or Canadair Alert Service Bulletins A600–0634 and A601–0421, Revision 1, dated September 16, 1993 (for Model CL–600–1A11, CL–600–2A12 and CL–600–2B16 series airplanes); as applicable.

(Note: Revision 1 of Canadair Alert Service Bulletins A600–0634 and A601–0421 are combined and issued as a single document.) 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 may be obtained from Bombardier, Inc., Canadair, Business Aircraft Division, P.O. Box 6087, Station A, Montreal, Quebec H3C 3Q9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, Room 202, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(f) This amendment becomes effective on November 23, 1993.

Issued in Renton, Washington, on November 1, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–27230 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 799

[Docket No. 930934–3234]

Commerce Control List; Revisions to ECCNs 1C31B, 9A02A, 9D24B, 9E03A, and 9E21B and Addition of New ECCN 9A24B

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule adds Export Control Commodity Number (ECCN) 9A24B and revises ECCNs 1C31B, 9D24B, and 9E21B, to conform with U.S. foreign policy controls on commodities, software, and technology related to the design, development, production, or use of weapons delivery systems described in the proliferation controls provisions of the Export Administration Regulations (EAR). The items on the CCL that are subject to these foreign policy controls are included in the "Equipment and Technology Annex" maintained by the governments participating in the Missile Technology Control Regime (MTCR).

In addition, this rule revises ECCNs 9A02A and 9E03A to conform with changes in the International Industrial List (IL) maintained by governments participating in the Coordinating Committee for Multilateral Export Controls (COCOM). The IL describes strategic items that are subject to multilateral export controls that restrict the availability of such items to controlled countries (i.e., Country Groups Q, W, Y, and Z and the People's Republic of China).

The addition of ECCN 9A24B and the revisions to ECCNs 1C31B, 9D24B, and 9E21B are expected to result in a slight increase in the number of license applications that will have to be submitted, while the revisions to ECCNs 9A02A and 9E03A are expected to result in a slight decrease in the number of applications. Since this rule will not result in a significant change in the number of license applications that have to be submitted, it will have a limited impact on the paperwork burden on exporters.

EFFECTIVE DATE: This rule is effective November 8, 1993.

FOR FURTHER INFORMATION CONTACT: For questions on ECCN 1C31B, contact Jeff Tripp, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Telephone: (202) 482–1309.

For questions on ECCNs 9A02A and 9E03A, contact Bruce Webb, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Telephone: (202) 482–3806.

SUPPLEMENTARY INFORMATION:

Background

This rule adds ECCN 9A24B and revises ECCNs 1C31B, 9A02A, 9D24B, 9E03A, and 9E21B on the Commerce Control List (CCL).

ECCN 9A24B is added to control non-military unmanned air vehicle systems (UAVs) and remotely piloted vehicles (RPVs) that are capable of a maximum range of at least 300 kilometers. ECCNs 9D24B and 9E21B are revised to control software and technology for these unmanned air vehicle systems and remotely piloted vehicles.

ECCN 1C31.a is revised by adding the following propulsive substances that are included in the "Equipment and Technology Annex" maintained by the governments participating in the Missile Technology Control Regime (MTCR).

(1) Spherical aluminum powder with particles of uniform diameter less than 500×10^{-6} m (500 microns) and an aluminum content of 97 percent or greater, *except* for spherical aluminum powder with particles of uniform diameter 60×10^{-6} (60 microns) or less and an aluminum content of 99 percent or greater. The latter is controlled by the Office of Defense Trade Controls, Department of State.

(2) Metal fuels in particle sizes less than 500×10^{-6} m (500 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent or more of beryllium, boron, magnesium, zirconium, or alloys of boron, magnesium, or zirconium, except for metal fuels in particle sizes less than 60×10^{-6} m (60 microns) and consisting of 99 percent or more of beryllium, boron, magnesium, zirconium, or alloys of boron, magnesium, or zirconium. The latter are controlled by the Office of Defense Trade Controls, Department of State.

(3) Metal fuels in particle sizes less than 500×10^{-6} (500 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent or more of beryllium. Metal fuels consisting of 97 percent or more of misch metal, zinc, or alloys of zinc continue to be controlled under 1C31.a.

ECCN 1C31B is also amended to remove the following substances that are included on the United States

Munitions List (USML), which is administered by the Office of Defense Trade Controls, U.S. Department of State:

(1) Inhibited red fuming nitric acid (IRNFA);

(2) Compounds composed of fluorine and one or more other halogens, oxygen or nitrogen;

(3) Glycidyl azide polymer (GAP);

(4) Triphenyl bismuth (TPB);

(5) Catocene;

(6) N-butyl-ferrocene;

(7) Other ferrocene derivatives;

(8) 1,2,4-butanetriol trinitrate (BTTN);

(9) N-methyl-p-nitroaniline.

In addition, 1C31.b.2 is revised to clarify that ECCN 1C31B controls commercial grade Hydroxy-terminated polybutadiene (HTPB) only. A note is added following 1C31.b.2 to indicate that military grade HTPB is included on the USML.

This rule also adds a note at the end of ECCN 1C31B, describing the metal fuels that are subject to control by the Office of Defense Trade Controls, Department of State.

ECCN 9A02A is revised by increasing the ISO standard continuous power rating at which marine gas turbine engines are controlled from 13,795 kW or more to 24,245 kW or more, and by decreasing the specific fuel consumption at which these engines are controlled from less than 0.243 kg/kW-hr to less than 0.219 kg/kW-hr at any point in the power range from 35 to 100 percent.

ECCN 9E03A is amended to revise the controls on gas turbine blades, vanes or tip shrouds made from certain directionally solidified (DS) or single crystal (CS) alloys.

Finally, Advisory Note 1 to Category 9 is amended to clarify that commercial communication satellites not excepted from control by ECCN 9A04.a are not eligible for administrative exceptions treatment.

The Department has notified the Congress of its intention to implement the changes in foreign policy controls described in this final rule. Additional information concerning these changes will be provided to the Congress in the upcoming annual foreign policy report.

Saving Clause

Shipments of items removed from general license authorizations as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard carrier to a port of export pursuant to actual orders for export before November 22, 1993 may be exported under the previous general license provisions up to and including December 6, 1993. Any such items not actually exported before midnight December 6, 1993 require a validated export license in accordance with this regulation.

Rulemaking Requirements

1. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under control numbers 0694–0005, 0694–0007, and 0694–0010.

2. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in the effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 799

Exports, Reporting and recordkeeping requirements.

Accordingly, part 799 of the Export Administration Regulations (15 CFR parts 730–799) is amended as follows:

PART 799—[AMENDED]

1. The authority citation for 15 CFR part 799 is revised to read as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7430(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990), as continued by Notice of September 25, 1992 (57 FR 44649, September 28, 1992); and E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

2. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 1 (Materials), ECCN 1C31B is revised to read as follows:

1C31B Propellants, constituent chemicals, and polymeric substances for propellants.

Requirements

Validated License Required:
QSTVWYZ
Unit: Kilograms
Reason for Control: MT
GLV: $0
GCT: No
GFW: No

List of Items Controlled

a. Propulsive substances:

a.1. Spherical aluminum powder, as follows:

a.1.a. Spherical aluminum powder with particles of uniform diameter less than 500×10^{-6} m (500 microns), but greater than 60×10^{-6} m (60 microns), and an aluminum content of 97 percent or greater;

a.1.b. Spherical aluminum powder with particles of uniform diameter 60×10^{-6} m (60 microns) or less and an aluminum content of 97 percent or greater, but less than 99 percent;

a.2. Metal fuels containing beryllium, boron, magnesium, zirconium, or alloys of boron, magnesium, or zirconium, as follows:

a.2.a. Metal fuels in particle sizes less than 500×10^{-6} m (500 microns), but equal to or greater than 60×10^{-6} m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent or more of beryllium, boron, magnesium, zirconium, or alloys of boron, magnesium, or zirconium;

a.2.b. Metal fuels in particle sizes less than 60×0^{-6} m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent or more, but less than 99 percent, of beryllium, boron, magnesium,

zirconium, or alloys of boron, magnesium, or zirconium;

a.3. Metal fuels in particle sizes less than 500×10^{-6} m (500 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 97 percent or more of misch metal, zinc, or alloys of beryllium or zinc;

a.4. Liquid oxidizers, as follows:

a.4.a. Dinitrogen trioxide;

a.4.b. Nitrogen dioxide/dinitrogen tetroxide;

a.4.c. Dinitrogen pentoxide.

b. Polymeric substances:

b.1. Carboxy-terminated polybutadiene (CTPB);

b.2. Commercial grade Hydroxy-terminated polybutadiene (HTPB);

Note: Military grade (i.e., Hydroxy terminated polybutadiene (HTPB) with a hydroxyl functionality of 2.28, a hydroxyl value of less than 0.77 meq/g, and a viscosity at 30° C of less than 47 poise) is controlled by the Office of Defense Trade Controls, U.S. Department of State (see Category V of the USML (22 CFR part 121).

b.3. Polybutadiene-acrylic acid (PBAA);

b.4. Polybutadiene-acrylic acid-acrylonitrile (PBAN).

c. Other propellant additives and agents:

c.1. Curing agents and catalysts as follows: Isophorone diisocyanate (IPDI);

c.2. Burning rate modifiers as follows: Butacene;

c.3. Nitrate esters and nitrato plasticizers as follows:

c.3.a. Triethylene glycol dinitrate (TEGDN);

c.3.b. Trimethylolethane trinitrate (TMETN);

c.3.c. Diethylene glycol dinitrate (DEGDN);

c.4. Stabilizers, as follows: 2-nitrodiphenylamine.

Note: The following materials are controlled by the U.S. Department of State, Office of Defense Trade Controls (DTC) (see Category V of the USML):

1. Spherical aluminum powder with particles of uniform diameter 60×10^{-6} m (60 microns) or less and an aluminum content of 99 percent or greater;

2. Metal fuels in particle sizes less than 60×10^{-6} m (60 microns), whether spherical, atomized, spheroidal, flaked or ground, consisting of 99 percent or more of any the following:

a. Boron;

b. Magnesium;

c. Zirconium;

d. Alloys of boron, magnesium, or zirconium;

e. Beryllium; or

f. Iron powder with average particle size of 3×10^{-6} m (3 microns) or less produced by hydrogen reduction of iron oxide.

N.B.: The metals and alloys listed in paragraphs (1) and (2) of the above Note are controlled by DTC whether or not encapsulated in aluminum, beryllium, magnesium, or zirconium.

3. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9A02A is revised to read as follows:

9A02A Marine gas turbine engines with an ISO standard continuous power rating of 24,245 kW or more and a specific fuel consumption of less than 0.219 kg/kW-hr at any point in the power range from 35 to 100 percent, and specially designed assemblies and components therefor.

Note: The term "marine gas turbine engines" includes those industrial, or aero-derivative, gas turbine engines adapted for marine propulsion or shipboard power generation.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number
Reason for Control: NS
GLV: $5,000
GCT: Yes
GFW: Yes (Advisory Note 2 to Category 9 only)

4. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), a new ECCN 9A24B is added immediately following ECCN 9A23B to read as follows:

9A24B Non-military unmanned air vehicle systems (UAVs) and remotely piloted vehicles (RPVs) that are capable of a maximum range of at least 300 kilometers (km), regardless of payload.

Requirements

Validated License Required:
QSTVWYZ
Unit: Number; parts and accessories in $ value
Reason for Control: MT
GLV: $5,000
GCT: No
GFW: No

5. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9D24B is revised to read as follows:

9D24B "Software" specially designed or modified for the "development", "production", or "use" of propulsion systems and equipment controlled by 9A21, 9A22, 9A23, 9A24, 9B21, 9B25, 9B26, or 9B27, and "software", n.e.s., specially designed or modified for the "use" of equipment controlled by 9B01, 9B02, 9B03, 9B04, 9B06, or 9B07.

Requirements

Validated License Required:
QSTVWYZ
Unit: $ value
Reason for Control: MT
GTDR: No
GTDR: No

6. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9E03A is revised to read as follows:

9E03A Other technology, as follows:

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: NS
GTDR: No
GTDU: No

List of Items Controlled

a. Technology "required" for the "development" or "production" of the following gas turbine engine components or systems:

a.1. Gas turbine blades, vanes or tip shrouds made from directionally solidified (DS) or single crystal (CS) alloys having (in the 001 Miller Index Direction) a stress-rupture life exceeding 400 hours at 1,273 K (1,000 °C) at a stress of 200 MPa, based on the average property values;

a.2. Multiple domed combustors operating at average burner outlet temperatures exceeding 1,643 K (1370 °C), or combustors incorporating thermally decoupled combustion liners, non-metallic liners or non-metallic shells;

a.3. Components manufactured from organic "composite" materials designed to operate above 588 K (315 °C), or from metal "matrix" "composite", ceramic "matrix", intermetallic or intermetallic reinforced materials controlled by 1A02 or 1C07;

a.4. Uncooled turbine blades, vanes, tip-shrouds or other components designed to operate at gas path temperatures of 1,323 K (1,050 °C) or more;

a.5. Cooled turbine blades, vanes or tip-shrouds, other than those described in 9E03.a.1, exposed to gas path temperatures of 1,643 K (1,370 °C) or more;

a.6. Airfoil-to-disk blade combinations using solid state joining;

a.7. Gas turbine engine components using "diffusion bonding" technology controlled by 2E03.b;

a.8. Damage tolerant gas turbine engine rotating components using powder metallurgy materials controlled by 1C02.b;

a.9. Full authority digital electronic engine controls (FADEC) for gas turbine and combined cycle engines and their related diagnostic components, sensors and specially designed components;

a.10. Adjustable flow path geometry and associated control systems for:

a.10.a. Gas generator turbines;
a.10.b. Fan or power turbines;
a.10.c. Propelling nozzles;

Note 1: Adjustable flow path geometry and associated control systems do not include inlet guide vanes, variable pitch fans, variable stators or bleed valves for compressors.

Note 2: 9E03.a.10 does not control "development" or "production" technology for adjustable flow path geometry for reverse thrust.

a.11. Rotor blade tip clearance control systems employing active compensating casing technology limited to a design and development data base;
a.12. Gas bearings for gas turbine engine rotor assemblies;
a.13. Wide chord hollow fan blades without part-span support;
b. Technology "required" for the "development" or "production" of:
b.1. Wind tunnel aero-models equipped with non-intrusive sensors capable of transmitting data from the sensors to the data acquisition system;
b.2. "Composite" propeller blades or propfans capable of absorbing more than 2,000 kW at flight speeds exceeding Mach 0.55;
c. Technology "required" for the "development" or "production" of gas turbine engine components using "laser", water jet or ECM/EDM hole drilling processes to produce holes with:
c.1.a. Depths more than four times their diameter;
c.1.b. Diameters less than 0.76 mm; and
c.1.c. Incidence angles equal to or less than 25°; or
c.2.a. Depths more than five times their diameter;
c.2.b. Diameters less than 0.4 mm; and
c.2.c. Incidence angles of more than 25°;

Technical Note: For the purposes of 9E03.c, incidence angle is measured from a plane tangential to the airfoil surface at the point where the hole axis enters the airfoil surface.

d. Technology "required" for the "development" or "production" of helicopter power transfer systems or tilt rotor or tilt wing "aircraft" power transfer systems:
d.1. Capable of loss-of-lubrication operation for 30 minutes or more; or
d.2. Having an input power-to-weight ratio equal to or more than 8.87 kW/kg;
e.1. Technology for the "development" or "production" of reciprocating diesel engine ground vehicle propulsion systems having all of the following:
e.1.a. A box volume of 1.2 m^3 or less;
e.1.b. An overall power output of more than 750 kW based on 80/1269/EEC, ISO 2534 or national equivalents; and
e.1.c. A power density of more than 700 kW/m^3 of box volume;

Technical Note: Box volume: the product of three perpendicular dimensions measured in the following way:
Length: The length of the crankshaft from front flange to flywheel face;
Width: The widest of the following:
a. The outside dimension from valve cover to valve cover;
b. The dimensions of the outside edges of the cylinder heads; or
c. The diameter of the flywheel housing;
Height: The largest of the following:
a. The dimension of the crankshaft centerline to the top plane of the valve cover (or cylinder head) plus twice the stroke; or
b. The diameter of the flywheel housing.

e.2. Technology "required" for the "production" of specially designed components, as follows, for "high output diesel engines":
e.2.a. Technology "required" for the "production" of engine systems having all of the following components employing ceramics materials embargoed by 1C07:
e.2.a.1. Cylinder liners;
e.2.a.2. Pistons;
e.2.a.3. Cylinder heads; and
e.2.a.4. One or more other components (including exhaust ports, turbochargers, valve guides, valve assemblies or insulated fuel injectors);
e.2.b. Technology "required" for the "production" of turbocharger systems, with single-stage compressors having all of the following:
e.2.b.1. Operating at pressure ratios of 4:1 or higher;
e.2.b.2. A mass flow in the range from 30 to 130 kg per minute; and
e.2.b.3. Variable flow area capability within the compressor or turbine sections;
e.2.c. Technology "required" for the "production" of fuel injection systems with a specially designed multifuel (e.g., diesel or jet fuel) capability covering a viscosity range from diesel fuel (2.5 cSt at 310.8 K (37.8 °C)) down to gasoline fuel (0.5 cSt at 310.8 K (37.8 °C)), having both of the following:
e.2.c.1. Injection amount in excess of 230 mm^3 per injection per cylinder; and
e.2.c.2. Specially designed electronic control features for switching governor characteristics automatically depending on fuel property to provide the same torque characteristics by using the appropriate sensors;
e.3. Technology "required" for the "development" or "production" of "high output diesel engines" for solid, gas phase or liquid film (or combinations thereof) cylinder wall lubrication, permitting operation to temperatures exceeding 723 K (450 °C), measured on the cylinder wall at the top limit of travel of the top ring of the piston.

7. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), ECCN 9E21B is revised to read as follows:

9E21B Technology for the "development", "production", or "use" of equipment controlled by 9A21, 9A22, 9A23, 9A24, 9B21, 9B25, 9B26, or 9B27, or "software" controlled by 9D24, and technology for the "use" of equipment controlled by 9B01, 9B02, 9B03, 9B04, 9B06, or 9B07.

Requirements

Validated License Required:
QSTVWYZ
Reason for Control: MT
GTDR: No
GTDU: No

8. In Supplement No. 1 to § 799.1 (the Commerce Control List), Category 9 (Propulsion Systems and Transportation Equipment), Advisory Note 1 is revised to read as follows:

Advisory Notes for Category 9:

Advisory Note 1: Licenses are likely to be approved, as administrative exceptions, for exports to satisfactory end-users in Country Group W of items controlled for national security reasons by Category 9, *except:*
a. Commercial communication satellites not excepted from control by 9A04.a;
b. Test facilities or equipment controlled by 9B01, 9B02, 9B03, 9B05, or 9B08;
c. "Software" specially designed and technology "required" for the equipment described in this Advisory Note 1.a or .b that are controlled by 9D or 9E;
d. Other technology controlled by 9E03.a, and "software" specially designed therefor that is controlled by 9D.

* * * * *

Dated: November 2, 1993.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 93–27385 Filed 11–05–93; 8:45 am]
BILLING CODE 3510–DT–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084–AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Room Air Conditioners

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for room air conditioners will remain in effect until new ranges are published.

Under the Appliance Labeling Rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the ranges change by 15% or more from the previously published ranges. If the Commission does not publish revised ranges, it must publish a notice that the prior ranges will be applicable until new ranges are published. The Commission is today announcing that the ranges published on September 22, 1989, for room air conditioners will remain in effect until new ranges are published.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to section 324 of the Energy Policy and Conservation Act of 1975,[2] covering certain appliance categories, including room air conditioners. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all room air conditioners presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a room air conditioner is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for room air conditioners have been received and analyzed and it has been determined to retain the ranges that were published on September 22, 1989.[4] In consideration of the foregoing, the present ranges for room air conditioners will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–27438 Filed 11–5–93; 8:45 am]

BILLING CODE 6750–01–M

---

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Furnaces

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for furnaces and boilers will remain in effect until new ranges are published.

Under the rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15% or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range will be applicable until new ranges are published. The ranges of efficiencies for furnaces have not changed by as much as 15% since the last publication. Therefore, the ranges published on March 1, 1990 remain in effect until new ranges are published.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule [1] covering seven appliance categories, including furnaces. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all furnaces presently manufactured. Certain point-of-sale promotional material must disclose the availability of energy usage information. If a covered product is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then on each page of the catalog that lists the product shall be included the range of estimated annual energy costs for the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[2] Because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is subject to change.

To keep the required information in line with any changes that may occur, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect until new ranges are published.

The annual reports for furnaces have been received and analyzed and it has been determined that neither the upper

---

[1] 44 FR 66466, 16 CFR part 305.

[2] Public Law 94–163, 89 Stat. 871 (Dec. 22, 1975).

[3] Reports for room air conditioners are due by May 1.

[4] 54 FR 38966.

[1] 44 FR 66466, 16 CFR 305 (Nov. 19, 1979).

[2] Reports for furnaces are due by May 1.

nor lower limits of the ranges for this product category have changed by 15% or more since the last publication of the ranges on March 1, 1990.[3]

In consideration of the foregoing, the present ranges for furnaces will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary

[FR Doc. 93–27437 Filed 11–5–93; 8:45 am]

BILLING CODE 6750–01–M

---

16 CFR Part 305

RIN 3084–AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Water Heaters

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for water heaters will remain in effect until new ranges are published.

Under the Appliance Labeling Rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the ranges change by 15% or more from the previously published ranges. If the Commission does not publish revised ranges, it must publish a notice that the prior range will be applicable until new ranges are published. The Commission is today announcing that the ranges published on September 13, 1991, for water heaters will remain in effect until new ranges are published.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

[3] 55 FR 7302.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to section 324 of the Energy Policy and Conservation Act of 1975,[2] covering certain appliance categories, including water heaters. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all water heaters presently manufactured. Certain point-of-sale promotion materials must disclose the availability of energy usage information. If a water heater is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Section 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for water heaters have been received and analyzed and it has been determined to retain the ranges that were published on September 13, 1991.[4] In consideration of the foregoing, the present ranges for water heaters will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

[1] 44 FR 66466, 16 CFR 305.

[2] Public Law 94–163, 89 Stat. 871 (Dec. 22, 1975).

[3] Reports for water heaters are due by May 1.

[4] 56 FR 46524.

The authority citation for part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–27439 Filed 11–5–93; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 529

Animal Drugs, Feeds, and Related Products; Formalin Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Western Chemical, Inc. The supplement provides for use of formalin solution (aqueous solution of 37 percent formaldehyde) to control certain external protozoa on penaeid shrimp in addition to the currently approved use to control certain external protozoa and monogenetic trematodes on trout, salmon, catfish, largemouth bass, and bluegill and to control certain fungi on trout, salmon, and esocid eggs.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Western Chemical, Inc., 1269 Lattimore Rd., Ferndale, WA 98248, has filed a supplement to NADA 140–989 to provide for use of formalin solution (aqueous solution of 37 percent formaldehyde) in tanks, raceways, and ponds to control the external penaeid shrimp protozoa *Bodo* spp., *Epistylis* spp., and *Zoothamnium* spp. The product is currently approved for use on trout, salmon, catfish, largemouth bass, and bluegill sunfish to control the external protozoa *Ichthyophthirius* spp., *Chilodonella* spp., *Costia* spp., *Epistylis* spp., *Scyphidia* spp., and *Trichodina* spp., and monogenetic trematodes *Cleidodiscus* spp., *Gyrodactylus* spp., and *Dactylogyrus* spp., and in incubation tanks to control fungi of the family Saprolegniaceae on trout, salmon, and esocid eggs. The

supplement is approved as of September 30, 1993, and the regulations are amended in 21 CFR 529.1030(c) by adding new paragraphs (c)(1)(iii) and (c)(2)(iii) to reflect this approval. The basis for approval is discussed in the freedom of information summary.

In addition, Western Chemical, Inc., has not been previously listed in 21 CFR 510.600(c) as sponsor of an approved NADA. That section is amended to insert entries for the firm.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval does not qualify for marketing exclusivity because no new clinical or field investigations (other than bioequivalence or residue studies) and no new human food safety studies (other than bioequivalence or residue studies) essential to approval of the supplement were conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 529

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, parts 510 and 529 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for "Western Chemical, Inc.," and in the table in paragraph (c)(2) by numerically adding a new entry "050378" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Western Chemical, Inc., 1269 Lattimore Rd., Ferndale, WA 98248.	050378
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
050378	Western Chemical, Inc., 1269 Lattimore Rd., Ferndale, WA 98248
* * * * *	

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

4. Section 529.1030 is amended by adding new paragraphs (c)(1)(iii) and (c)(2)(iii) to read as follows:

§ 529.1030 Formalin solution.

* * * * *

(c) * * *

(1) * * *

(iii) For control of external protozoan parasites *Bodo* spp., *Epistylis* spp., and *Zoothamnium* spp. on penaeid shrimp.

(2) * * *

(iii) For control of external protozoan parasites on shrimp:

Shrimp	Concentration of formalin (microliters per liter)	
	Tanks and raceways (up to 4 hours daily)	Earthen ponds (single treatment)
Penaeid Shrimp.	50 to 100[1]	25[2]

[1]Treat for up to 4 hours daily. Treatment may be repeated daily until parasite control is achieved. Use the lower concentration when the tanks and raceways are heavily loaded.

[2]Single treatment. Treatment may be repeated in 5 to 10 days if needed.

* * * * *

Dated: October 29, 1993.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 93–27393 Filed 11–5–93; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 573

[Docket No. 87F–0221]

Food Additives Permitted in Feed and Drinking Water of Animals; Pichia Pastoris Dried Yeast

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of *Pichia pastoris* dried yeast as an additive in animal feeds. This action is in response to a petition filed by Phillips Petroleum Co.

DATES: Effective November 8, 1993; written objections by December 8, 1993.

ADDRESSES: Submit written objections to Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Woodrow M. Knight, Center for Veterinary Medicine (HFV–226), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1731.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 20, 1987 (52 FR 27263), FDA announced that a food additive petition (FAP 2207) had been filed by Phillips Petroleum Co., 15D3 Phillips Bldg., Bartlesville, OK 74004. The petition proposed that the food additive regulations in 21 CFR part 573 be amended by adding new § 573.750

Pichia pastoris dried yeast to provide for the safe use of the product in poultry feed formulations as a source of protein and other nutrients.

FDA received no comments in response to the notice of filing.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of the food additive is safe and that the regulations should be amended as set forth below.

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Veterinary Medicine by appointment with the information contact person listed above. As provided in 21 CFR 571.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before December 8, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver to the right to a hearing on that objection. Each objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to hearing on that objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

1. The authority citation for 21 CFR part 573 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

2. New § 573.750 is added to Subpart B to read as follows:

§ 573.750 Pichia pastoris dried yeast.

(a) *Identity.* The food additive *Pichia pastoris* dried yeast may be used in feed formulations of broiler chickens as a source of protein not to exceed 10 percent by weight of the total formulation.

(b) *Specifications.* The additive shall conform to the following percent-by-weight specifications:

(1) Crude protein, not less than 60 percent.

(2) Crude fat, not less than 2 percent.

(3) Crude fiber, not more than 2 percent.

(4) Ash, not more than 13 percent.

(5) Moisture, not more than 6 percent.

(c) *Use.* To ensure safe use, the labeling of the additive and any feed additive supplement, concentrate, or premix prepared therefrom shall bear, in addition to other required information, the name of the additive, directions for use to provide not more than 10 percent by weight of the total ration, and the statement "Caution: Not to be used in layers or other poultry intended for breeding."

Dated: November 1, 1993.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 93–27392 Filed 11–5–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD02–93–033]

RIN 2115–AE46

Special Local Regulations; the Pittsburgh Light-Up Night (Ohio River Between Mile 0.0–0.7)

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: A special local regulation is being adopted for the Pittsburgh Light-Up Night fireworks show which will be held on the Ohio River near Pittsburgh, Pennsylvania on November 15, 1993. This regulation is needed to control vessel traffic in the immediate vicinity of the event. The regulation will restrict general navigation in the regulated area for the safety of spectators, participants and through traffic.

EFFECTIVE DATE: This regulation is effective from 6:30 p.m. to 7:30 p.m. local time on November 15, 1993.

FOR FURTHER INFORMATION CONTACT: LTJG D.R. Dean, Chief, Boating Affairs Branch, Second Coast Guard District, 1222 Spruce Street, St. Louis, Missouri 63103–2832. The telephone number is (314) 539–3971, fax (314) 539–2685.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are LTJG D.R. Dean, Project Officer, Second Coast Guard District, Boating Safety Division and LCDR A.O. Denny, Project Attorney, Second Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Specifically, the sponsor's late submission of the regatta application left insufficient time to publish a notice of proposed rulemaking in advance of the scheduled event.

Background and Purpose

The Pittsburgh Light-Up Night fireworks show consists of a fireworks display launched over the Ohio River starting at 7 p.m. on Monday, November 15, 1993. It will be completed by 7:30 p.m. local time. In order to provide for the safety of spectators and participants, and for the safe passage of through

traffic, the Coast Guard will restrict vessel movement in the regatta area. The river will be closed during part or all of the effective period to all vessel traffic except participants, official regatta vessels, and patrol craft. These regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35.

Regulatory Evaluation

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements. A full regulatory analysis is unnecessary because the Coast Guard expects the impact of this regulation to be minimal due to its short duration.

Federalism Assessment

Under the principles and criteria of Executive Order 12612, this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

Under section 2.B.2.c of Commandant Instruction M16475.1B, this regulation is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35–T02–33 is added, to read as follows:

§ 100.35–T02–033 Ohio River, Pittsburgh, Pennsylvania.

(a) *Required area:* Ohio River from mile 0.0. to 0.7.

(b) *Special local regulations.* (1) Except for participants in the Pittsburgh Light-Up Night fireworks show, no person or vessel may enter or remain in the regulated area without permission of the Patrol Commander.

(2) The Coast Guard Patrol Commander will be a commissioned or petty officer designated by the Commanding Officer, Marine Safety Office Pittsburgh, Pennsylvania and may be contacted, during the event, on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander." The Patrol Commander may:

(i) Direct the anchoring, mooring, or movement of any vessel within the regulated area;

(ii) Restrict vessel operation within the regulated area to vessels having particular operating characteristics;

(iii) Terminate the marine event or the operation of any vessel when necessary for the protection of life and property; and

(iv) Allow vessels to transit the regulated area whenever an event is not being conducted and the transit can be completed before another event begins.

(3) Coast Guard commissioned or petty officers will patrol the event on board patrol vessels which display the Coast Guard Ensign. If radio or other voice communications are not available to communicate with a vessel, they will use a series of sharp, short blasts by whistle or horn to signal the operator of any vessel in the vicinity of the regulated area to stop. When signaled, the operator of any vessel in the immediate vicinity of the regulated area shall stop the vessel immediately and shall proceed as directed.

(4) Vessels desiring to transit the regulated area may do so only with the prior approval and direction of the Patrol Commander.

(5) The Patrol Commander will terminate enforcement of the regulations at the conclusion of the marine event if earlier than the announced termination time.

(c) *Effective dates.* This section is effective from 6:30 p.m. to 7:30 p.m. local time on November 15, 1993.

Dated: October 26, 1993.

F.M. Chliszczyk,

Captain, U.S. Coast Guard, Acting Commander, Second Coast Guard District.

[FR Doc. 93–27382 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–14–M

---

33 CFR Part 165

[COTP Los Angeles-Long Beach Regulation 93–011]

RIN 2115–AA97

Security Zone Regulations; Pacific Ocean South of Santa Cruz Island, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a Security Zone in the territorial waters south of Santa Cruz Island in the vicinity of Yellow Bluff. The zone is needed to safeguard national defense assets against destruction, loss, or injury from sabotage or other subversive acts, accidents, or causes of a similar nature while undergoing operational testing. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation becomes effective at 12:01 a.m. on October 31, 1993, and terminates at midnight on November 18, 1993.

FOR FURTHER INFORMATION CONTACT: Captain J.B. Morris at 310–980–4429.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent destruction, loss, or injury to national defense assets involved in operational testing.

Drafting Information

The drafters of this regulation are Captain J.B. Morris, Captain of the Port, Los Angeles-Long Beach and Lieutenant Commander C.M. Juckniess, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The operations requiring this regulation will begin on October 31, 1993. This Security Zone is necessary to ensure the security and safety of national defense assets during operational testing. Entry into the zone may be allowed if testing permits and there are no hazards to transiting vessels or test equipment. Requests to enter the zone should be addressed to the representative of the Captain of the Port, Los Angeles-Long Beach, embarked in the M/V McGAW.

Regulatory Evaluation

This regulation is not a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), the Coast Guard must consider whether this regulation 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). Because it expects the impact of this regulation to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation 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 regulation under the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not have sufficient implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.b.2. of Commandant Instruction M16475.1B it will have no significant environmental impact and it is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Records and recordkeeping, Security measures, Waterways.

Regulation

In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 49 CFR 1.46; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. A new § 165.T11–050 is added to read as follows:

§ 165.T11–050 Security Zone: Pacific Ocean, California.

(a) *Location.* The following area is a security zone: The territorial waters south of Santa Cruz Island, California, in the vicinity of Yellow Bluff, bounded on the north by Santa Cruz Island, on the south by latitude 33–56′–00″ N, on the east by longitude 119–34′–00″ W, and on the west by longitude 119–41′–00″ W.

(b) *Effective date.* This section becomes effective at 12:01 a.m. on October 31, 1993, and terminates at midnight on November 18, 1993.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person may swim, skin dive, or scuba dive in the waters within the Security Zone, and no vessel may enter, remain in, or transit the Security Zone without the permission of the Captain of the Port. Section 165.33 also contains other general requirements.

Dated: October 19, 1993.

J.B. Morris,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 93–27380 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–4795–1]

Notice of Final Rule; Outer Continental Shelf Consistency Update #1 for Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule, consistency update.

SUMMARY: The EPA is finalizing the update of the Outer Continental Shelf ("OCS") Air Regulations proposed in the **Federal Register** on September 17, 1993. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area ("COA"), as mandated by section 328(a)(1) of the Clean Air Act ("the Act"), as amended by the Clean Air Act Amendments of 1990, the applicable requirements for certain areas for Air Pollution from OCS Activities. The portion of the OCS air regulation that is being updated pertains to the requirements for OCS sources for which the State of Florida will be the designated COA. This final action incorporates the requirements contained in "State of Florida Requirements Applicable to OCS Sources" (August 20, 1993).

EFFECTIVE DATE: This action is effective December 8, 1993.

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

EPA Air Docket, Attn: Docket No. A–93–31, Environmental Protection Agency, 401 M Street, SW., Washington DC 20460, Room M–1500.

Region IV Library, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: R. Scott Davis, Air, Pesticides, and Toxics Management Division, U.S. EPA Region IV, 345 Courtland Street, NE., Atlanta, GA 30365. Telephone (404) 347–5014.

SUPPLEMENTARY INFORMATION:

Background

On September 17, 1993, in 58 FR 48619, EPA proposed to approve the following requirements into the Outer Continental Shelf Air Regulations: "State of Florida Requirements Applicable to OCS Sources" (August 20, 1993). These requirements represent the first update of part 55 for the State of Florida and are being promulgated in response to the submittal of a Notice of Intent from the Chevron U.S.A. Production Company, Inc., 935 Gravier Street, New Orleans, Louisiana 70112. EPA has evaluated the above requirements to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS, and that they are applicable to OCS sources (40 CFR 55.1). EPA has also evaluated the rules to ensure that they are not arbitrary or capricious (40 CFR 55.12(e)). In addition, EPA has excluded administrative or procedural rules.

A 30-day public comment period was provided in 58 FR 48619 and no comments were received.

EPA Action

In today's notice EPA takes final action to incorporate the proposed changes into 40 CFR part 55. No changes were made to the proposal set forth in the September 17, 1993, notice of proposed rulemaking. EPA is approving the submittal as modified in the proposal under section 328(a)(1) of the Act, 42 U.S.C. 7627. The intended effect of approving these requirements is to regulate emissions from OCS sources in accordance with the requirements onshore. These changes are applicable to sources for which the State of Florida will be the COA and include revisions to existing rules that already apply to OCS sources and are a result of the recodification and renumbering of Florida air regulations (Adopted 9/25/92) and the adoption of amendments to other existing air regulations. Section 328(a) of the Act requires that EPA

establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore.

Administrative Requirements

A. Executive Order 12291 (Regulatory Impact Analysis)

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

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." Small entities include small businesses, organizations, and governmental jurisdictions.

As was stated in the final OCS regulation, the OCS rule does not apply to any small entities, and the structure of the rule averts direct impacts and mitigates indirect impacts on small entities. This consistency update merely incorporates onshore requirements into the OCS rule to maintain consistency with onshore regulations as required by section 328 of the Act and does not alter the structure of the rule.

The EPA certifies that this notice of final rulemaking will not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the final OCS rulemaking dated September 4, 1992, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 35012 *et seq.* and has assigned OMB control number 2060–0249. This consistency update does not add any further requirements.

List of Subjects in 40 CFR Part 55

Administrative practice and procedures, Air pollution control, Outer Continental Shelf, Ozone, Sulfur oxides, Nitrogen dioxide, Particulate matter, Hydrocarbons, Nitrogen oxides, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Permits.

Dated: October 19, 1993.

Winston A. Smith,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, part 55, is amended as follows:

PART 55—[AMENDED]

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

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by revising paragraph (e)(6)(i)(A) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of states seaward boundaries, by state.

* * * * *

(e) * * *

(6) * * *

(i) * * *

(A) State of Florida Requirements Applicable to OCS Sources, August 20, 1993.

* * * * *

3. Appendix A to 40 CFR part 55 is amended by revising paragraph (a)(1) under the heading Florida to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

Florida

(a) * * *

(1) The following requirements are contained in State of Florida Requirements Applicable to OCS Sources, August 20, 1993:

Florida Administrative Code—Department of Environmental Protection. The following sections of Chapter 17:

4.020 Definitions (Adopted 7/11/93)
4.021 Transferability of Definitions (Adopted 8/31/88)
4.030 General Prohibitions (Adopted 8/31/88)
4.040 Exemptions (Adopted 8/31/88)
4.050 Procedure to Obtain Permit; Application, except (4)(b) through (4)(k) and 4(q) (Adopted 7/11/93)
4.070 Standards for Issuing or Denying Permits; Issuance; Denial (Adopted 3/28/91)
4.080 Modification of Permit Conditions (Adopted 3/19/90)
4.090 Renewals (Adopted 7/11/93)
4.100 Suspension and Revocation (Adopted 8/31/88)
4.110 Financial Responsibility (Adopted 8/31/88)
4.120 Transfer of Permits (Adopted 3/19/90)
4.130 Plant Operation—Problems (Adopted 8/31/88)
4.160 Permit Conditions, except (16) and (17) (Adopted 7/11/93)
4.210 Construction Permits (Adopted 8/31/88)
4.220 Operation Permits for New Sources (Adopted 8/31/88)
4.520 Definitions (Adopted 7/11/90)
4.530 Procedures (Adopted 3/19/90)
4.540 General Conditions for all General Permits (Adopted 8/31/88)
210.100 Purpose and Scope (Adopted 2/9/93)
210.200 Definitions (Adopted 2/9/93)
210.300 Permits Required (Adopted 9/25/92)
210.400 Emission Estimates (Adopted 9/25/92)
210.500 Air Quality Models (Adopted 9/25/92)
210.550 Stack Height Policy (Adopted 9/25/92)
210.650 Circumvention (Adopted 9/25/92)
210.700 Excess Emissions (Adopted 9/25/92)
210.980 Severability (Adopted 9/25/92)
212.100 Purpose and Scope (Adopted 2/2/93)
212.200 Definitions (Adopted 2/2/93)
212.300 Sources Not Subject to Prevention of Significant Deterioration or Nonattainment Requirements (Adopted 9/25/92)
212.400 Prevention of Significant Deterioration (Adopted 2/2/93)
212.410 Best Available Control Technology (BACT) (Adopted 9/25/92)
212.500 New Source Review for Nonattainment Areas (Adopted 2/2/93)
212.510 Lowest Achievable Emission Rate (LAER) (Adopted 9/25/92)
212.600 Source Specific New Source Review Requirements (Adopted 9/25/92)
212.700 Source Reclassification (Adopted 9/25/92)
256.100 Declaration and Intent (Adopted 10/20/86)
256.200 Definitions (Adopted 10/20/86)
256.300 Prohibitions (Adopted 8/26/87)
256.450 Open Burning Allowed (Adopted 6/27/91)
256.600 Industrial, Commercial, Municipal and Research Open Burning (Adopted 8/26/87)
256.700 Open Burning Allowed (Adopted 11/23/88)
272.200 Definitions (Adopted 9/25/92)
272.300 Ambient Air Quality Standards (Adopted 9/25/92)
272.500 Maximum Allowable Increases (Prevention of Significant Deterioration) (Adopted 9/25/92)
272.750 DER Ambient Test Methods (Adopted 9/25/92)
273.200 Definitions (Adopted 9/25/92)
273.300 Air Pollution Episodes (Adopted 9/25/92)
273.400 Air Alert (Adopted 9/25/92)
273.500 Air Warning (Adopted 9/25/92)
273.600 Air Emergency (Adopted 9/25/92)
296.200 Definitions (Adopted 6/11/93)
296.310 General Particulate Emission Limiting Standards (Adopted 2/2/93)
296.320 General Pollutant Emission Limiting Standards, except (2) (Adopted 2/2/93)
296.330 Best Available Control Technology (BACT) (Adopted 2/2/93)

296.400 Specific Emission Limiting and Performance Standards (Adopted 2/2/93)
296.500 Reasonably Available Control Technology (RACT)—Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_x) Emitting Facilities (Adopted 2/2/93)
296.700 Reasonably Available Control Technology (RACT)—Particulate Matter, except (2)(f) (Adopted 2/2/93)
296.800 Standards of Performance for New Stationary Sources (NSPS) (Adopted 6/11/93)
296.810 National Emission Standards for Hazardous Air Pollutants (Adopted 6/11/93)
297.100 Purpose and Scope (Adopted 12/2/92)
297.200 Definitions (Adopted 6/11/93)
297.310 General Test Requirements (Adopted 12/2/92)
297.330 Applicable Test Procedures (Adopted 12/2/92)
297.340 Frequency of Compliance Tests (Adopted 12/2/92)
297.345 Stack Sampling Facilities Provided by the Owner of an Air Pollution Point Source (Adopted 12/2/92)
297.350 Determination of Process Variables (Adopted 12/2/92)
297.400 EPA Methods Adopted by Reference (Adopted 12/2/92)
297.401 EPA Test Procedures (Adopted 6/11/93)
297.411 DER Method 1 (Adopted 12/2/92)
297.412 DER Method 2 (Adopted 12/2/92)
297.413 DER Method 3 (Adopted 12/2/92)
297.414 DER Method 4 (Adopted 12/2/92)
297.415 DER Method 5 (Adopted 12/2/92)
297.416 DER Method 5A (Adopted 12/2/92)
297.417 DER Method 6 (Adopted 12/2/92)
297.418 DER Method 7 (Adopted 12/2/92)
297.419 DER Method 8 (Adopted 12/2/92)
297.420 DER Method 9 (Adopted 12/2/92)
297.421 DER Method 10 (Adopted 12/2/92)
297.422 DER Method 11 (Adopted 12/2/92)
297.423 DER Method 12—Determination of Inorganic Lead Emissions from Stationary Sources (Adopted 12/2/92)
297.424 DER Method 13 (Adopted 12/2/92)
297.440 Supplementary Test Procedures (Adopted 6/11/93)
297.450 EPA VOC Capture Efficiency Test Procedures (Adopted 6/11/93)
297.500 Continuous Emission Monitoring Requirements (Adopted 6/11/93)
297.520 EPA Performance Specifications (Adopted 6/11/93)
297.570 Test Report (Adopted 12/2/92)
297.620 Exceptions and Approval of Alternate Procedures and Requirements (Adopted 6/11/93)

* * * * *

[FR Doc. 93–27416 Filed 11–5–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 22, and 99

[GEN Docket No. 90–314; FCC 93–451]

Amendment of the Commission's Rules to Establish New Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Report and Order the Commission establishes regulations for a new Personal Communications Service (PCS). This action provides 2 GHz spectrum for future wireless communications services and facilitates a broad range of new wireless communications services being made available to both businesses and consumers.

EFFECTIVE DATE: December 8, 1993, except that changes to part 15 of the Commission's Rules are effective January 7, 1994.

FOR FURTHER INFORMATION CONTACT: Fred Lee Thomas, Office of Engineering and Technology, (202) 653–6204.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order adopted September 23, 1993, and released October 22, 1993. A summary of the Notice of Proposed Rule Making initiating this proceeding may be found at 57 FR 40672 (September 4, 1992). This action will not add to or decrease the public reporting burden. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Washington, DC 20037.

Summary of Second Report and Order

1. The Second Report and Order (*Order*) adopts rules that include spectrum allocations, licensing and authorization rules, and technical standards for both licensed and unlicensed PCS operation in the 2 GHz portion of the spectrum. PCS is expected to consist of a variety of new mobile services, technologies, and equipment such as small, lightweight telephone handsets; portable facsimile machines; wireless PBXs; and multi-channel digital cordless telephones.

2. Specifically, in the *Order* the Commission allocates 160 MHz in the emerging technology bands at 2 GHz fo PCS. Licensed services are allocated a total of 120 MHz at 1850–1890/1930–1970 and 2130–2150/2180–2200 MHz. This spectrum should foster new mobi services and technologies and foster competition among PCS providers and between PCS providers and cellular operators. This relatively large amount of spectrum also will ensure the rapid development and implementation of service, and provide flexibility for licensees to coordinate with existing microwave licensees.

3. Unlicensed PCS devices are allocated 40 MHz at 1890–1930 MHz. This allocation is equally divided between isochronous (principally voic operations and asynchronous (data) operations, with each receiving 20 MH Unlicensed PCS will foster developme of a wide range of new wireless device for both voice and data uses.

4. The channeling plan for licensed services provides two 30 MHz frequen blocks, one 20 MHz frequency block, and four 10 MHz frequency blocks. Th plan permits up to seven service providers per service area. Competitio among providers will ensure a robust market for PCS; foster a diversity of PC offerings; permit broad participation i the provision of PCS, including participation by existing cellular providers; and facilitate special opportunities to promote the participation in PCS of small businesses, rural telephone companie and businesses owned by minorities a women.

5. The licensed service areas are bas upon those defined by Rand McNally' Major Trading Areas (or MTAs) and Basic Trading Areas or (BTAs). There are 51 MTA-based service areas and 4 BTA-based services areas. The Commission concluded that a combination of BTA and MTA service areas will facilitate the introduction o PCS.

6. Licensees will be permitted to aggregate up to 40 MHz in any one service area, except for licensees with cellular interests. Cellular licensees w be allowed to compete for PCS license in areas where their cellular service ar comprises less than 10 percent of the respective PCS service area populatio or where a party to a cellular license holds an interest of less than 20 perce in a cellular entity. Within their cellu service area, cellular licensees will be permitted to hold only a single PCS license for no more than 10 MHz. Limiting cellular providers to one license of 10 MHz checks any potenti for unfair competition that might exis if cellular operators were allowed to operate larger PCS system in areas

where they also provide cellular service. This approach will allow participation by cellular operators in PCS and provide opportunity for the early development of PCS by taking advantage of cellular providers' expertise, economies of scope between PCS and cellular service, and existing infrastructures.

7. Local exchange carriers (LECs) will be allowed to provide PCS on the same basis as other entities. LEC provision of PCS may produce significant economies of scope between wireline and PCS networks. No new separate subsidiary requirements will be required for LECs that provide PCS. However, in areas where a LEC has attributable cellular interests (whether or not through a separate subsidiary), it will be eligible only for the PCS frequency blocks available to a cellular operator in its service area. Further, there will be no set-aside of spectrum for LECs. A set-aside would not encourage LECs to develop their wireline architectures to better accommodate all PCS services, but rather could lead to architectures optimized solely for use of the set-aside spectrum.

8. Licensees will be able to aggregate service areas without restriction. This approach will ensure that PCS has the potential to compete with existing mobile radio services such as cellular and special mobile radio service operations and that there is competition among PCS providers at both the local and regional levels. It provides the potential for Nationwide PCS if the market for such service develops.

9. The Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, 107 Stat. 312 (Budget Reconciliation Act), at Section 312 authorizes the Commission to employ competitive bidding procedures to choose among mutually exclusive applications for licenses to use the electromagnetic spectrum provided that the service is one in which the licensee receives compensation from subscribers for the use of those frequencies. In addition, the Budget Reconciliation Act directs the Commission to implement competitive bidding procedures by March 8, 1994. Inasmuch as these amendments require a new proceeding, the Commission is deferring resolution of the issues relating to the PCS licensing mechanism and competitive bidding to its competitive bidding rule making proceeding; see Implementation of Section 309(j) of the Communications Act Competitive Bidding, PP Docket No. 93–253, Notice of Proposed Rule Making, 58 FR 53489 (October 15, 1993).

10. The PCS licensing term is 10 years. Provisions regarding renewal expectancy are similar to those that currently apply to the cellular service. This relatively long period and high renewal expectancy will provide a stable environment that is conducive to investment, and thereby will foster the rapid development of PCS.

11. Licensees must serve with a signal level sufficient to provide adequate service to at least one-third of the population in their licensed area within five years of being licensed, two-thirds of the population in their licensed area within seven years of being licensed, and 90 percent of the population in their licensed area within ten years of being licensed. Population is defined as the 1990 census population. Failure by any licensee to meet these requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

12. Technical standards were adopted for protection of incumbent fixed microwave operations and other PCS operations from interference. PCS base stations are authorized to operate at powers up to 100 watts (e.i.r.p.) with antenna heights up to 300 meters HAAT, or at reduced power with antenna heights up to 2000 HAAT. Mobiles are authorized to operate at powers up to 2 watts (e.i.r.p.). PCS coordination distances with fixed microwave operations will vary from 62 to 195 miles, depending on the power and antenna height of the PCS base stations. The standards provide interference protection between PCS operations using a 47 dBuV/m contour at the licensees' service area boundaries. A "spectrum etiquette" plan containing most of the aspects of the plan suggested by WINForum was adopted to govern the technical operation of unlicensed equipment.

13. The Commission left other technical standards to industry and standards-setting bodies and requested that these bodies direct particular attention to offering an emergency 911 capability that would work with enhanced-911 systems (E–911) and, to the extent feasible, permit locating a caller in situations where the caller is unable to state his location. The Commission stated particular concern that unless an E–911 capability is designed into PCS systems, dialing 911 from a PCS telephone will not be equivalent to dialing 911 from a traditional wired telephone. The Commission stated that it will closely monitor developments in standards-setting bodies and elsewhere regarding PCS and E–911 and is contemplating initiating a proceeding in the future to address E–911 and related issues with regard to PCS, cellular, and any other relevant mobile service.

14. Finally, the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management (UTAM) was conditionally designated as coordinator for use of unlicensed PCS devices. UTAM is conditioned upon its submittal and the Commission's acceptance of a funding plan; and a plan for "band clearing" that will permit implementation of noncoordinatable (nomadic) devices, particularly noncoordinatable data PCS devices. All manufacturers of unlicensed equipment will be required to participate in UTAM.

15. On September 13, 1993, Apple submitted an "Emergency Petition" addressing a number of issues related to operation and introduction of unlicensed PCS devices in the 2 GHz band. Apple's petition was filed three days before the Commission's "Sunshine Rules" resulted in cutting off all comment on the proceeding as a whole, including on the Apple petition. Consequently, many parties did not have an opportunity to file comments supporting or opposing the petition. The Commission agrees with Apple that the early introduction of nomadic PCS devices is desirable, and therefore that it is in the public interest to obtain public comment on the petition in order that the Commission may be fully informed by all interested parties on these issues. Accordingly, by Public Notice the Commission solicited comment in response to the Apple petition. Further, the Commission delayed the effective date of rules related to Apple's petition for an additional thirty days to permit full consideration of the issues raised by Apple.

16. *Regulatory Flexibility Analysis.* Pursuant to 5 U.S.C. Section 603, an initial Regulatory Flexibility Analysis was incorporated in the Notice of Proposed Rule Making and Tentative Decision in combined ET Docket No. 92–100 and GEN Docket No. 90–314. Written comments on the proposals in the Notice, including the Regulatory Flexibility Analysis, were requested.

A. *Need for and Objective of Rules:* The Commission's objective is to provide spectrum allocations, licensing and authorization rules, and technical standards for broadband PCS at 2 GHz. Authorizing this new service will make available a broad range of new services and technologies to both business users and consumers. The PCS rules being adopted will provide licensees and developers of unlicensed equipment the flexibility to introduce a wide variety of new and innovative

telecommunications services and equipment.

B. *Issues Raised by the Public in Response to the Initial Analysis:* A number of parties supported regulations that would facilitate participation in PCS by small businesses. Specifically, these parties argue that small frequency blocks, small service areas, and special consideration for small businesses in the licensing of PCS would facilitate small businesses participation in providing PCS services. The FCC empaneled a Small Business Advisory Committee (SBAC) that also assessed the policy implications of this proceeding for small businesses and filed a report with the Commission on September 15, 1993. The SBAC also concludes that small frequency blocks with multiple licensees in each service area and a frequency block designated for qualified small, female, and minority businesses would assist entrepreneurial entry in PCS. The SBAC also suggested that the Commission consider other mechanisms to foster entry opportunities and capital formation for such groups. These issues and the associated comments are considered and addressed in this Second Report and Order, except issues related to licensee selection procedures. Licensing issues are the subject of the Omnibus Budget Reconciliation Act of 1993 and are being addressed in a separate proceeding that proposes rules to implement competitive bidding, PP Docket No. 93–253, Notice of Proposed Rule Making. In accordance with the provisions of the Budget Reconciliation Act, as part of the competitive bidding rule making the Commission will consider whether special conditions should apply to two of the seven frequency blocks available for PCS operation at 2 GHz, including a possible reservation or set aside, to promote participation in PCS by small businesses, rural telephone companies and businesses owned by minorities and women.

C. *Any Significant Alternative Minimizing Impact on Small Entities and Consistent with Stated Objectives:* We have reduced burdens wherever possible. The regulatory burdens we have retained are necessary to ensure that the public receives the benefits of PCS in a prompt and efficient manner. We will continue to examine alternatives in the future with objectives of eliminating unnecessary regulations and minimizing any significant impact on small entities.

17. *Ordering Clauses.* Accordingly, *It Is Ordered,* That UTAM, Inc. is designated to coordinate and manage the transition of the 1890–1930 MHz band from the Private Operational Fixed Microwave Service to unlicensed PCS operations, conditioned upon its submittal and the Commission's acceptance of a funding plan and a plan for "band clearing" that will permit implementation of noncoordinatable (nomadic) devices, particularly noncoordinatable data PCS devices.

18. Further, *It is Ordered,* That the "Emergency Petition" filed by Apple Computer, Inc. is accepted and will be treated as a petition for reconsideration in this proceeding.

19. Further, *It is Ordered,* That parts 2, 22, and 99 of the Commission's Rules *Are Amended* as specified in the Amendatory Text, effective 30 days after publication in the **Federal Register**;[1] and that part 15 of the Commission's Rules *Is Amended* as specified in the Amendatory Text, effective 60 days after publication in the **Federal Register**. This action is taken pursuant to sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects

47 CFR Part 2

Radio.

47 CFR Part 15

Radio.

47 CFR Part 22

Radio.

47 CFR Part 99

Radio.

Note: The table of frequency allocations (47 CFR 2.106) as amended in the Emerging Technology First Report and Order (published October 29, 1992, 57 FR 49020) was inadvertently omitted. All up-to-date changes to the 1670-2290 MHz bands are reflected in this document.

Amendatory Text

I. Part 2 of title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 154(i), 302, 303, 303(r) and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended as follows:

a. Columns (1), (2), and (3) in the 1670–1690 MHz, 1690–1700 MHz, 1700–1710 MHz, and 1710–2290 MHz bands; column (4) in the 2110–2200 MHz band; and columns (5) and (6) in the 1850–1990 MHz are revised and 2110–2150 MHz and 2160–2200 MHz bands are added as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1-allocation MHz	Region 2-allocation MHz	Region 3-allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
1670–1675	Meteorological Aids Fixed	* * * * *				

[1] Part 99 is reorganized to include provisions that govern 2 GHz PCS. The provisions related to 900 MHz PCS are reorganized without substantive change.

International table			United States table		FCC use designators	
Region 1-allocation MHz	Region 2-allocation MHz	Region 3-allocation MHz	Government Allocation MHz	Non-Government Allocation MHz	Rule part(s)	Special-use frequencies
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Meteorological-Satellite (space-to-earth) Mobile 740A 722					
1675–1690 Meteorological Aids Fixed Meteorological-satellite (space-to-Earth) Mobile except aeronautical mobile.	1675–1690 Meteorological Aids Fixed Meteorological-satellite (space-to-Earth) Mobile except aeronautical mobile.	1675–1690 Meteorological Aids Fixed Meteorological-satellite (space-to-Earth) Mobile except aeronautical mobile.				
722 1690–1700 Meteorological Aids Meteorological satellite (space-to-Earth) Fixed. Mobile except aeronautical mobile	722 735A 1690–1700 Meteorological Aids Meteorological satellite (space-to-Earth) Mobile-satellite (Earth-to-space)	722 1690–1700 Meteorological Aids Meteorological satellite (space-to-Earth)				
671 722 741	671 722 735A 740	671 722 740 742				
1700–1710 Fixed Meteorological-Satellite (space-to-Earth) Mobile except aeronautical mobile	1700–1710 Fixed Meteorological-satellite (space-to-Earth) Mobile except aeronautical mobile Mobile-satellite (Earth-to-space)	1700–1710 Fixed Meteorological-Satellite (space-to-Earth) Mobile except aeronautical mobile				
671–722 1710–1930	671–722–735A Fixed. Mobile 740A 722 744 745 746 746A	671–722–743	* * * * *			
1930–1970 Fixed	1930–1970 Fixed	1930–1970 Fixed	1850–1990	1850–1990 Fixed	Personal communications services (99)	Emerging technologies.
Mobile	Mobile Mobile-satellite (Earth-to-space)	Mobile		Mobile	Private operational-fixed microwave (94) Radio frequency devices (15)	
746A 1970–1980 Fixed Mobile	746A 1970–1980 Fixed Mobile Mobile-satellite (Earth-to-space)	746A 1970–1980 Fixed Mobile				
746A	746A 746B 746C	746A				
1980–2010	Fixed Mobile. Mobile-satellite (Earth-to-space) 746A 746B 746C		1990–2110	US331 NG153 1990–2110 Fixed Mobile	Auxiliary broadcast (74) Cable television (78)	

International table			United States table		FCC use designators	
Region 1-allocation MHz	Region 2-allocation MHz	Region 3-allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2010–2025	Fixed Mobile 746A					
2025–2110	Fixed Mobile 747A					
		Space research (Earth-to-space) (space-to-space) Space operation (Earth-to-space) (space-to-space)				
	Earth exploration-satellite (Earth-to-space) (space-to-space) 750A		US90 US111 US219 US 222	US90 US111 US219 US222 NG23 NG118		
2110–2120	Fixed Mobile		2110–2200 Mobile	2110–2150 Fixed Personal communications services (99)	Domestic public fixed (21) Private operational-fixed microwave (94) Public mobile (22)	Emerging technologies.
	Space research (deep space) (Earth-to-space) 746A					
2120–2160 Fixed Mobile	2120–2160 Fixed Mobile Mobile-Satellite (space-to-Earth)	2120–2160 Fixed Mobile		US111 US252 US331 NG23–NG153		
				2150–2160 Fixed	Multipoint distribution (21)	
746A	746A	746A		NG23	Private operational-fixed microwave (94)	
2160–2170 Fixed	2160–2170 Fixed	2160–2170 Fixed		2160–2200 Fixed	Domestic public fixed (21)	Emerging Technologies.
Mobile	Mobile Mobile-satellite (space-to-Earth)	Mobile		Mobile	Personal communications services (99) Private microwave (94) operational-fixed Public mobile (22)	
746A 2170–2200	746A746B746C Fixed Mobile Mobile-Satellite (space-to-Earth)	746A				
	746A 746B 746C	US111 US252 US331	US331 NG23 NG153			
2200–2290	Fixed Space research (space-to-Earth) (space-to-space)	* * * * *				

International table			United States table		FCC use designators	
Region 1-allocation MHz	Region 2-allocation MHz	Region 3-allocation MHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation MHz	Allocation MHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Space operation (space-to-Earth) (space-to-space) Earth exploration-satellite (space-to-Earth) (space-to-space) Mobile 747A 750A					

* * * * *

b. Remove footnotes 747, 748, 749, and 750 from the international footnotes; and add new footnotes 735A, 740A, 746A, 746B, 746C, 747A, and 750A to the international footnotes:

§ 2.106 Table of frequency allocations.

* * * * *

International Footnotes

* * * * *

735A In the band 1675–1710 MHz, stations in the mobile-satellite service shall not cause harmful interference to, nor constrain the development of, the meteorological-satellite and meteorological aids services (see Resolution 213 (WARC–92)) and the use of this band shall be subject to the provisions of Resolution 46 (WARC–92).

* * * * *

740A The bands 1670–1675 MHz and 1800–1805 MHz are intended for use, on a worldwide basis, by administrations wishing to implement aeronautical public correspondence. The use of the band 1670–1675 MHz by stations in the systems for public correspondence with aircraft is limited to transmissions from aeronautical stations and the use of the band 1800–1805 MHz is limited to transmissions from aircraft stations.

* * * * *

746A The frequency bands 1885–2025 MHz and 2110–2200 MHz are intended for use, on a worldwide basis, by administrations wishing to implement the future public land mobile telecommunication systems (FPLMTS). Such use does not preclude the use of these bands by other services to which these bands are allocated. The frequency bands should be made available for FPLMTS in accordance with Resolution 212 (WARC–92).

746B The use of the bands 1970–2010 MHz and 2160–2200 MHz by the mobile-satellite service shall not commerce before 1 January 2005 and is subject to the application of the coordination and notification procedures set forth in Resolution 46 (WARC–92). In the band 2160–2200 MHz coordination of space stations of the mobile-satellite service with respect to terrestrial services is required only if the power flux-density produced at the Earth's surface exceeds the limits in No. 2566. In respect of assignments operating in this band, the provisions of Section II, paragraph 2.2 of Resolution 46 (WARC–92) shall also be applied to geostationary transmitting space stations with respect to terrestrial stations.

746C In the United States of America, the use of the bands 1970–2010 MHz and 2160–2200 MHz by the mobile-satellite service shall not commence before 1 January 1996.

747A In making assignments to the mobile service in the bands 2025–2110 MHz and 2200–2290 MHz, administrations shall take into account Resolution 211 (WARC–92).

750A Administrations are urged to take all practical measures to ensure that space-to-space transmissions between two or more non-geostationary satellites, in the space research, space operations and Earth exploration-satellite services in the bands 2025–2110 MHz and 2200–2290 MHz, shall not impose any constraints on Earth-to-space, space-to-Earth and other space-to-space transmissions of those services and in those bands between geostationary and non-geostationary satellites.

* * * * *

c. Add new footnote US331 to the United States footnotes:

United States (US) Footnotes

* * * * *

US331 In the frequency bands 1850–1970 MHz, 2130–2150 MHz, and 2180–2200 MHz, the only fixed PCS services permitted are ancillary services used in support of mobile personal communications services.

* * * * *

d. Revise the text of footnote NG153 to the Non-Government footnotes to read as follows:

Non-Government (NG) Footnotes

* * * * *

NG153 The 1970–1990 MHz, 2110–2130 MHz, and 2160–2180 MHz bands are reserved for future emerging technologies on a co-primary basis with the fixed and mobile services. Allocations to specific services will be made in future proceedings.

* * * * *

II. Part 15 of Title 47 of the Code of Federal Regulations is amended as follows:

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

Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, 304, and 307.

2. Subpart D is added to read as follows:

PART 156—RADIO FREQUENCY DEVICES

* * * * *

Subpart D—Unlicensed Personal Communications Service Devices

15.301 Scope.
15.303 Definitions.
15.305 Equipment authorization requirement.
15.307 Coordination with fixed microwave service.
15.309 Cross reference.
15.311 Labelling requirements.
15.313 Measurement procedures.
15.315 Conducted limits.
15.317 Antenna requirement.
15.319 General technical requirements.
15.321 Specific requirements for insochronous devices operating in the 1890–1900 and 9290–1930 MHz sub-bands.
15.323 Specific requirements for asynchonous operation in the 1900–1920 MHZ sub-band.

* * * * *

Subpart D—Unlicensed Personal Communications Service Devices

§ 15.301 Scope.

This subpart sets out the regulations for unlicensed personal communications service (PCS) devices operating in the 1890–1930 MHz frequency band.

§ 15.303 Definitions.

(a) *Asynchronous devices.* Devices that transmit RF energy at irregular time intervals, as typified by local area network data systems.

(b) *Coordinatable PCS device.* PCS devices whose geographical area of operation is sufficiently controlled either by necessity of operation with a fixed infrastructure or by disabling mechanisms to allow adequate coordination of their locations relative to incumbent fixed microwave facilities.

(c) *Emission bandwidth.* For purposes of this subpart the emission bandwidth shall be determined by measuring the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, that are 26 dB down relative to the maximum level of the modulated carrier. Compliance with the emissions limits is based on the use of measurement instrumentation employing a peak detector function with an instrument resolutions bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(d) *Isochronous devices.* Devices that transmit at a regular interval, typified by time-division voice systems.

(e) *Noncoordinatable PCS device.* A PCS device that is capable of randomly roaming and operating in geographic areas containing incumbent microwave facilities such that operation of the PCS device will potentially cause harmful interference to the incumbent microwave facilities.

(f) *Peak transmit power.* The peak power output as measured over an interval of time equal to the frame rate or transmission burst of the device under all conditions of modulation. Usually this parameter is measured as a conducted emission by direct connection of a calibrated test instrument to the equipment under test. If the device cannot be connected directly, alternative techniques acceptable to the Commission may be used.

(g) *Personal Communications Service (PCS) Devices [Unlicensed].* Intentional radiators operating in the frequency band 1890–1930 MHz that provide a wide array of mobile and ancillary fixed communication services to individuals and businesses.

(h) *Spectrum window.* An amount of spectrum equal to the intended emission bandwidth in which operation is desired.

(i) *Sub-band.* For purposes of this subpart the term sub-band refers to the spectrum allocated for isochronous or asynchronous transmission.

(j) *Thermal noise power.* The noise power in watts defined by the formula $N=kTf$ where N is the noise power in watts, k is Boltzmann's constant, T is the absolute temperature in degrees Kelvin (e.g., 295 °k) and f is the emission bandwidth of the device in hertz.

(k) *Time window.* An interval of time in which transmission is desired.

§ 15.305 Equipment authorization requirement.

PCS devices operating under this subpart shall be certified by the Commission under the procedures in subpart J of part 2 of this chapter before marketing. The application for certification must contain sufficient information to demonstrate compliance with the requirements of this subpart.

§ 15.307 Coordination with fixed microwave service.

(a) UTAM, Inc., is designated to coordinate and manage the transition of the 1890–1930 MHz band from Private Operational-Fixed Microwave Service (OFS) operating under part 94 of this chapter to unlicensed PCS operations, conditioned upon the submittal and acceptance by the Commission of:

(1) A funding plan that is equitable to all prospective manufacturers of unlicensed PCS devices, and

(2) A plan for "band clearing" that will permit the implementation of noncoordinatable (nomadic) devices and, in particular, noncoordinatable data PCS devices, as promptly as possible. The responsibilities of UTAM, Inc., include, but are not limited to, relocation of existing OFS microwave stations pursuant to requirements established in ET Docket No. 92–9, negotiating costs of relocation, ensuring that comparable facilities are provided, and resolving any disputes of interference to OFS microwave operations from unlicensed PCS operations. These responsibilities shall terminate upon a determination by the Commission that interference to OFS microwave operations from unlicensed PCS operations is no longer a concern.

(b) Each application for certification of equipment operating under the provisions of this subpart must be accompanied by an affidavit from UTAM, Inc. certifying that the applicant is a participating member of UTAM, Inc. In the event a grantee fails to fulfill the obligations attendant to participation in UTAM, Inc., the Commission may invoke administrative sanctions as necessary to preclude continued marketing and installation of devices covered by the grant of certification, including but not limited to revoking certification.

(c) An application for certification of a PCS device that is deemed by UTAM, Inc. to be noncoordinatable will not be accepted until the Commission announces that a need for coordination no longer exists.

(d) A coordinatable PCS device is required to incorporate measures to assure that it cannot be activated until installation at its authorized location is verified by UTAM, Inc.

(e) A coordinatable PCS device shall incorporate an automatic mechanism for disabling operation in the event it is moved outside the geographic area where its operation has been coordinated by UTAM, Inc. The application for certification shall contain a full explanation of the operation of the disabling mechanism and must satisfy the Commission that this mechanism cannot be easily defeated.

(f) At such time as the Commission deems that the need for coordination between unlicensed PCS operations and existing part 94 Private Operational-Fixed Microwave Services ceases to exist, the disabling mechanism required by paragraph (e) of this section will no longer be required.

(g) Operations under the provisions of this subpart are required to protect systems in the Private Operational-Fixed Microwave Service operating within the 1850–1990 MHz band until the dates and conditions specified in § 94.59 of this chapter for termination of primary status. Interference protection is not required for part 94 stations in this band licensed on a secondary basis.

(h) The operator of a PCS device that is relocated from the coordinated area specified by UTAM, Inc., must cease operating the device until coordination for the new location is verified by UTAM, Inc.

§ 15.309 Cross reference.

(a) The provisions of subpart A of this part apply to unlicensed PCS devices, except where specific provisions are contained in subpart D.

(b) The requirements of subpart D apply only to the radio transmitter contained in the PCS device. Other aspects of the operation of a PCS device may be subject to requirements

contained elsewhere in this chapter. In particular, a PCS device that includes digital circuitry not directly associated with the radio transmitter also is subject to the requirements for unintentional radiators in subpart B.

§ 15.311 Labelling requirements.

In addition to the labelling requirements of § 15.19(a)(3), all devices authorized under this subpart must bear a prominently located label with the following statement:

Installation of this equipment is subject to notification and coordination with UTAM, Inc.

§ 15.313 Measurement procedures.

Measurements must be made in accordance with subpart A, except where specific procedures are specified in subpart D. If no guidance is provided, the measurement procedure must be in accordance with good engineering practice.

§ 15.315 Conducted limits.

An unlicensed PCS device that is designed to be connected to the public utility (AC) power line must meet the limits specified in § 15.207.

§ 15.317 Antenna requirement.

An unlicensed PCS device must meet the antenna requirement of § 15.203.

§ 15.319 General technical requirements.

(a) The 1890–1900 and 1920–1930 MHz sub-bands are limited to use by isochronous devices under the requirements of § 15.321. The 1900–1920 MHz sub-band is limited to use by asynchronous devices under the requirements of § 15.323.

(b) All transmissions must use only digital modulation techniques.

(c) Peak transmit power shall not exceed 100 microwatts multiplied by the square root of the emission bandwidth in hertz. Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

(d) Power spectral density shall not exceed 3 milliwatts in any 3 kHz bandwidth as measured with a spectrum analyzer having a resolution bandwidth of 3 kHz.

(e) The peak transmit power shall be reduced by the amount in decibels that the maximum directional gain of the antenna exceeds 3 dBi.

(f) The device shall automatically discontinue transmission in case of either absence of information to transmit or operational failure. The provisions in this section are not intended to preclude transmission of control and signaling information or use of repetitive codes used by certain digital technologies to complete frame or burst intervals.

(g) Notwithstanding other technical requirements specified in this subpart, attenuation of emissions below the general emission limits in § 15.209 is not required.

(h) Where there is a transition between limits, the tighter limit shall apply at the transition point.

(i) The device must comply with IEEE C95.1–1991, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz." Measurement methods are specified in IEEE C95.3–1991, "Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields—RF and Microwave." All equipment shall be considered to operate in an "uncontrolled" environment. The application for certification must contain a statement confirming compliance with IEEE C95.1–1991. Technical information showing the basis for this statement must be submitted to the Commission upon request.

§ 15.321 Specific requirements for isochronous devices operating in the 1890–1900 and 1920–1930 MHz sub-bands.

(a) Operation shall be contained within one of two channels starting with 1890–1895 MHz and ending with 1895–1900 MHz, or within one of eight channels that are 1.25 MHz in width starting with 1920–1921.25 MHz and ending with 1928.75-1930 MHz. Further sub-division of a 1.25 or 5 MHz channel is permitted with a reduced power level, as specified in § 15.319(c), but in no event shall the emission bandwidth be less than 50 kHz.

(b) Intentional radiators with an intended emission bandwidth less than 625 kHz shall start searching for an available time and spectrum window at 1890 or 1920 MHz and search upward from that point. Devices with an intended emission bandwidth greater than 625 kHz shall start searching for an available time and spectrum window at 1930 or 1900 MHz and search downward from that point.

(c) Isochronous devices must incorporate a mechanism for monitoring the time and spectrum windows that its transmission is intended to occupy. The following criteria must be met:

(1) Before initiating transmission, devices must monitor the time and spectrum windows they intend to use for a period of at least 10 milliseconds to determine if the access criteria is met.

(2) The monitoring threshold must not be more than 30 dB above the thermal noise power for a bandwidth equivalent to the emission bandwidth used by the device.

(3) If no signal above the threshold level is detected, transmission may commence and continue with the same emission bandwidth in the monitored time and spectrum windows without further monitoring. However, occupation of the same combined time and spectrum windows by a device or group of cooperating devices continuously over a period of time longer than 8 hours is not permitted without repeating the access criteria.

(4) Once access to specific combined time and spectrum windows is obtained an acknowledgement from a system participant must be received by the initiating transmitter within one second or transmission must cease.

(5) If access to spectrum is not available as determined by the above, and a minimum of 40 duplex system access channels are defined for the system, the time and spectrum windows with the lowest power level below a monitoring threshold of 50 dB above the thermal noise power determined for the emission bandwidth may be accessed. A device utilizing the provisions of this paragraph must have monitored all access channels defined for its system within the last 10 seconds and must verify within the 20 milliseconds immediately preceding actual channel access that the detected power of the selected time and spectrum windows is no higher than the previously detected value. The power measurement resolution for this comparison must be accurate to within 6 dB. No device or group of cooperating devices located within 1 meter of each other shall occupy more than three 1.25 MHz channels, two 1.25 MHz channels and one 5 MHz channel, on two 5 MHz channels during any 10 millisecond period of time.

(6) If the selected combined time and spectrum windows are unavailable, the device may either monitor and select a different window or seek to use the same windows after waiting an amount of time randomly chosen from a uniform random distribution between 10 and 150 milliseconds.

(7) The monitoring system bandwidth must be equal to or greater than the emission bandwidth of the intended

transmission and have a maximum reaction time less than 50xSQRT (1.25/ emission bandwidth in MHz) microseconds for signals at the applicable threshold level but shall not be required to be less than 50 microseconds. If a signal is detected that is 6 dB or more above the applicable threshold level, the maximum reaction time shall be 35xSQRT (1.25/emission bandwidth in MHz) microseconds but shall not be required to be less than 35 microseconds.

(8) The monitoring system shall operate via the transmitting antenna, or an antenna with the same coverage area as the transmitting antenna, and shall be capable of measuring the power level of the monitored signal with an accuracy of ±3 dB.

(9) Devices that have a power output lower than the maximum permitted under this subpart may increase their monitoring detection threshold by one decibel for each one decibel that the transmitter power is below the maximum permitted.

(d) Emissions shall be attenuated below a reference power of 112 milliwatts as follows: 40 dB between the channel edges and 1.25 MHz above or below the channel 50 dB between 1.25 and 2.5 MHz above or below the channel; and 60 dB at 2.5 MHz or greater above or below the channel. For systems which further sub-divide a 1.25 MHz channel into X sub-channels, the following emission mask shall be followed: in the bands between 1B and 2B measured from the center of the emission bandwidth the total power emitted by the device shall be at least 40 dB below the transmit power permitted for that device; in the bands between 2B and 3B measured from the center of the emission bandwidth the total power emitted by an intentional radiator shall be at least 50 dB below the transmit power permitted for that radiator; in the bands between 3B and the 1.25 MHz channel edge the total power emitted by an intentional radiator in the measurement bandwidth shall be at least 60 dB below the transmit power permitted for that radiator. "B" is defined as the emission bandwidth of the device in hertz. Compliance with the emission limits is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(e) The frame period (a set of consecutive time slots in which the position of each time slot can be identified by reference to a synchronizing source) of an intentional radiator operating in these sub-bands shall be 10 milliseconds/X where X is a positive whole number. Each device that implements time division for the purposes of maintaining a duplex connection on a given frequency carrier shall maintain a frame repetition rate with a frequency stability of at least 50 parts per millions (ppm). Each device which further divides access in time in order to support multiple communication links on a given frequency carrier shall maintain a frame repetition rate with a frequency stability of at least 10 ppm. The jitter (time-related, abrupt, spurious variations in the duration of the frame interval) introduced at the two ends of such a communication link shall not exceed 25 microseconds for any two consecutive transmissions. Transmission shall be continuous during the frame period defined for the device.

(f) The frequency stability of the carrier frequency of the international radiator shall be maintained within ±10 ppm over 1 hour or the interval between channel access monitoring, whichever is shorter. The frequency stability shall be maintained over a temperature variation of −30° to +50° degrees C at normal supply voltage, and over a variation in the primary supply voltage of 85 percent to 115 percent of the rated supply voltage at a temperature of 20 °C. For equipment that is only capable of operating from a battery, the frequency stability tests shall be performed using a new battery without any further requirement to vary supply voltage.

§ 15.323 Specific requirements for asynchronous operation in the 1900–1920 MHz sub-band.

(a) Operations hall be contained within on of two 10 MHz channels: 1900–1910 MHz or 1910–1920 MHz. The emission bandwidth of any intentional radiator operating in this sub-band shall be no less than 500 kHz.

(b) All systems of less than 2.5 MHz emission bandwidth shall first occupy spectrum beginning nearest a channel edge, while systems of more than 2.5 MHz emission bandwidth will first occupy the center half of a channel. Devices with an emission bandwidth of less than 1.0 MHz may not occupy the center half of a channel if other spectrum is available.

(c) Asynchronous devices must incorporate a mechanism for monitoring the spectrum that its transmission is intended to occupy. The following criteria must be met:

(1) Before initiating a transmission burst, devices must monitor the spectrum window they intend to use for a period of time that is at least 50 microseconds.

(2) The monitoring threshold must not be more than 32 dB above the thermal noise power for a bandwidth equivalent to the emission bandwidth of the device.

(3) If no signal above the threshold level is detected, a transmission burst may commence in the monitored spectrum window. Once a transmission burst has started, an individual device or a group of cooperative devices is not required to monitor the spectrum window provided the intraburst gap timing requirement specified below is not exceeded.

(4) After completion of a transmission burst, an individual device or cooperating group of devices must cease transmission and wait a deference time randomly chosen from a uniform random distribution ranging from 50 to 750 microseconds after which time an attempt to access the band again may be initiated. For each occasion that an access attempt fails after the initial inter-burst interval, the deference time chosen shall double until an upper limit of 12 milliseconds is reached. The deference time remains at the upper limit until an access attempt is successful. The deference time is re-initialized after each successful access attempt.

(5) The monitoring system bandwidth must be equal to or greater than the emission bandwidth of the intended transmission and shall have a maximum reaction time less than 50×SQRT(1.25/ emission bandwidth in MHz) microseconds for signals at the applicable threshold level but shall not be required to be less than 50 microseconds. If a signal is detected that is 6 dB or more above the threshold level, the maximum reaction time shall be 35×SQRT(1.25/emission bandwidth in MHz) microseconds but shall not be required to be less than 35 microseconds.

(6) The monitoring system shall operate via the transmitting antenna, or an antenna with the same coverage area as the transmitting antenna, and shall be capable of measuring the power level of the monitored signal with an accuracy of ±3 dB.

(7) Devices that have a power output lower than the maximum permitted under the rules may increase their detection threshold by one decibel for each one decibel that the transmitter power is below the maximum permitted.

(d) Emissions shall be attenuated below a reference power of 112 milliwatts as follows: 40 dB between the channel edges and 1.25 MHz above or

below the channel; 50 dB between 1.25 and 2.5 MHz above or below the channel; and 60 dB at 2.5 MHz or greater above or below the channel. Compliance with the emissions limits is based on the use of measurement instrumentation employing a peak detector function with an instrument resolution bandwidth approximately equal to 1.0 percent of the emission bandwidth of the device under measurement.

(e) The frequency stability of the carrier frequency of intentional radiators operating in this sub-band shall be ±10 ppm over 10 milliseconds or the interval between channel access monitoring, whichever is shorter. The frequency stability shall be maintained over a temperature variation of −30° to +50° Celsius at normal supply voltage, and over a variation in the primary supply voltage of 85 percent to 115 percent of the rated supply voltage at a temperature of 20 degrees Celsius. For equipment that is only capable of operating from a battery, the frequency stability tests shall be performed using a new battery without any further requirement to vary supply voltage.

(f) An asynchronous transmission burst is a series of transmissions from one or more transmitters acting cooperatively. The transmission burst duration from one device or group of devices acting cooperatively shall be no greater than 10 milliseconds. Any intraburst gap between cooperating devices shall not exceed 25 microseconds.

(g) Individual unit intraburst transmissions shall be separated by a uniform random-duration interval evenly distributed between 50 and 375 microseconds.

III. Part 22 of title 47 of the Code of Federal Regulations is amended as follows:

PART 22—PUBLIC MOBILE SERVICE

1. The authority citation for part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 22.911(b) is revised to read as follows:

§ 22.911 Permissible communications.

* * * * *

(b) Base stations in this service are authorized to communicate with associated subscribers. Base stations must also render service to authorized roamers, if such roamers are using mobile equipment that is technically compatible with the base stations. Service may be rendered to mobile stations on board vessels.

* * * * *

3. In § 22.930, paragraphs (b), (f), and (g) are removed and reserved. Additionally, the section heading and introductory paragraph are revised to read as follows:

§ 22.930 Alternative technologies and auxiliary services.

Cellular system licensees may employ alternative technologies and may provide auxiliary common carrier services, including personal communications services (as defined in § 99.5 of this chapter) on their assigned cellular spectrum, *provided that* interference to other cellular systems is not caused. The only fixed service permitted under this section is basic exchange telecommunications radio service. The provisions of this section are referred to as the cellular service option.

* * * * *

IV. Part 99 of title 47 of the Code of Federal Regulations is revised to read as follows:

PART 99—PERSONAL COMMUNICATIONS SERVICES

Subpart A—General Information

Sec.

99.1 Basis and purpose.
99.2 Other applicable rule parts.
99.3 Permissible communications.
99.5 Terms and definitions.

Subpart B—Applications and Licenses

General Filing Requirements

99.10 Scope.
99.11 Initial authorization.
99.12 Eligibility.
99.13 MTAs and BTAs.
99.15 License period.
99.16 Criteria for comparative renewal proceedings.

Subpart C—Technical Standards

99.50 Scope.
99.51 Equipment authorization.
99.52 RF hazards.
99.53 Calculation of height above average terrain (HAAT).

Subpart D—Narrowband PCS

99.100 Scope.
99.102 Licensed service areas.
99.103 Construction requirements.
99.130 Frequencies.
99.131 Authorized bandwidth.
99.132 Power and antenna height limits.
99.133 Emission limits.
99.134 Co-channel separation criteria.
99.135 Frequency stability.

Subpart E—Broadband PCS

99.200 Scope.
99.202 Frequencies.
99.204 Cellular eligibility.
99.206 Construction requirements.
99.231 Power and antenna height limits.
99.232 Field strength limits.
99.233 Interference protection.
99.234 Emission limits.
99.235 Frequency stability.

Authority: 47 U.S.C. 154, 303, and 332, unless otherwise noted.

Subpart A—General Information

§ 99.1 Basis and purpose.

This section contains the statutory basis for this part of the rules and provides the purpose for which this part is issued.

(a) *Basis.* The rules for the personal communications services (PCS) in this part are promulgated under the provisions of the Communications Act of 1934, as amended, that vests authority in the Federal Communications Commission to regulate radio transmission and to issue licenses for radio stations.

(b) *Purpose.* This part states the conditions under which portions of the radio spectrum are made available for PCS.

(c) *Scope.* The rules in this part apply only to stations authorized under this part. Rules in subparts D and E apply only to stations authorized under those subparts.

§ 99.2 Other applicable rule parts.

Other FCC rule parts applicable to licensees in the personal communications services include the following:

(a) *Part 0.* This part describes the Commission's organization and delegations of authority. Part 0 of this chapter also lists available Commission publications, standards and procedures for access to Commission records, and location of Commission Field Offices.

(b) *Part 1.* This part includes rules of practice and procedure for license applications, adjudicatory proceedings, procedures for reconsideration and review of the Commission's actions; provisions concerning violation notices and forfeiture proceedings; and the environmental requirements that, if applicable, must be complied with prior to the initiation of construction.

(c) *Part 2.* This part contains the Table of Frequency Allocations and special requirements in international regulations, recommendations, agreements, and treaties. This part also contains standards and procedures concerning the marketing and importation of radio frequency devices, and for obtaining equipment authorization.

(d) *Part 5.* This part contains rules prescribing the manner in which parts

of the radio frequency spectrum may be made available for experimentation.

(e) *Part 15.* This part contains rules setting out the regulations under which an intentional, unintentional, or incidental radiator may be operated without an individual license. It also contains the technical specifications, administrative requirements and other conditions relating to the marketing of part 15 devices. Unlicensed PCS devices operate under subpart D of part 15.

(f) *Part 17.* This part contains requirements for construction, marking and lighting of antenna towers.

(g) *Part 21.* This part contains rules concerning point-to-point microwave service authority relating to communications common carriers.

(h) *Part 68.* This part contains technical standards for connection of terminal equipment to the telephone network.

(i) *Part 94.* This part contains rules concerning the private microwave service relating to point-to-point communication requirements.

§ 99.3 Permissible communications.

PCS licensees may provide any mobile communications service on their assigned spectrum. Fixed services may be provided only on an ancillary basis to mobile operations. Broadcasting as defined in the Communications Act is prohibited.

§ 99.5 Terms and definitions.

Assigned Frequency. The center of the frequency band assigned to a station.

Authorized Bandwidth. The maximum width of the band of frequencies permitted to be used by a station. This is normally considered to be the necessary or occupied bandwidth, whichever is greater.

Average Terrain. The average elevation of terrain between 3 and 16 kilometers from the antenna site.

Base Station. A land station in the land mobile service.

Broadband PCS. PCS services operating in the 1850–1890 MHz, 1930–1970 MHz, 2130–2150 MHz, and 2180–2200 MHz bands.

Effective Radiated Power (e.r.p.) (*in a given direction*). The product of the power supplied to the antenna and its gain relative to a half-wave dipole in a given direction.

Equivalent Isotropically Radiated Power (e.i.r.p.). The product of the power supplied to the antenna and the antenna gain in a given direction relative to an isotropic antenna.

Fixed Service. A radiocommunication service between specified fixed points.

Fixed Station. A station in the fixed service.

Land Mobile Service. A mobile service between base stations and land mobile stations, or between land mobile stations.

Land Mobile Station. A mobile station in the land mobile service capable of surface movement within the geographic limits of a country or continent.

Land Station. A station in the mobile service not intended to be used while in motion.

Mobile Service. A radiocommunication service between mobile and land stations, or between mobile stations.

Mobile Station. A station in the mobile service intended to be used while in motion or during halts at unspecified points.

Narrowband PCS. PCS services operating in the 901–902 MHz, 930–931 MHz, and 940–941 MHz bands.

National Geodetic Reference System (NGRS): The name given to all geodetic control data contained in the National Geodetic Survey (NGS) data base. (Source: National Geodetic Survey, U.S. Department of Commerce)

Personal Communications Services (PCS). Radio communications that encompass mobile and ancillary fixed communication that provide services to individuals and businesses and can be integrated with a variety of competing networks.

Subpart B—Applications and Licenses

General Filing Requirements

§ 99.10 Scope.

This subpart contains the procedures and requirements for filing applications for licenses to operate radio facilities in the personal communications services. Part 1 of the Commission's rules contains additional applicable procedures governing forms, fees, processing procedures, special temporary authority, assignment or transfer of control, and environmental impact.

§ 99.11 Initial authorization.

(a) An applicant will file an application for an initial authorization in each market and frequency block desired.

(b) Blanket licenses are granted for each market and frequency block. Applications for individual sites are not needed and will not be accepted.

§ 99.12 Eligibility.

Any entity, other than those precluded by section 310 of the Communications Act of 1934, as amended, 47 U.S.C. 310, or §§ 99.202(2) or 99.204, is eligible to hold a license under this part.

§ 99.13 MTAs and BTAs.

PCS license areas are based on Major Trading Areas (MTAs) and Basic Trading Areas (BTAs) as defined in the Rand McNally 1992 Commercial Atlas & Marketing Guide, 123rd Edition, pages 36–39. In addition to the MTAs and BTAs, the Commission licenses five insular areas: American Samoa, Guam, Northern Mariana Islands, Puerto Rico and United States Virgin Islands.

(a) There are 51 MTA-based licenses available per frequency block or assigned frequency.

(1) There are 47 MTAs as defined by Rand McNally.

(2) Alaska is separated from the Seattle MTA and is licensed separately.

(3) Guam and the Northern Mariana Islands are licensed as a single MTA-like area.

(4) Puerto Rico and the United States Virgin Islands are licensed as a single MTA-like area.

(5) American Samoa is licensed as a single MTA-like area.

(b) There are 492 BTA-based licenses available per frequency block or assigned frequency.

(1) There are 487 Basic Trading Areas as defined by Rand McNally.

(2) American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the United States Virgin Islands are licensed separately as a BTA-like area.

§ 99.15 License period.

Licenses for service areas will be granted for ten year terms from the date of original issuance or renewal.

§ 99.16 Criteria for comparative renewal proceedings.

A renewal applicant involved in a comparative renewal proceeding shall receive a preference, commonly referred to as a renewal expectancy, which is the most important comparative factor to be considered in the proceeding, if its past record for the relevant license period demonstrates that the renewal applicant:

(a) Has provided "substantial" service during its past license term. "Substantial" service is defined as service which is sound, favorable, and substantially above a level of mediocre service which might just minimally warrant renewal; and

(b) Has substantially complied with applicable Commission rules, policies and the Communications Act.

Subpart C—Technical Standards

§ 99.50 Scope.

This subpart sets forth the technical requirements for use of the spectrum

and equipment in the personal communications services.

§ 99.51 Equipment authorization.

(a) Each transmitter utilized for operation under this part and each transmitter marketed, as set forth in § 2.803 of this chapter, must be of a type that has been authorized by the Commission under its type acceptance procedure for use under this part.

(b) The Commission periodically publishes a list of type accepted equipment, entitled "Radio Equipment List, Equipment Accepted for Licensing." Copies of this list are available for public reference at the Commission's offices in Washington, DC, at each of its field offices, and may be ordered from its copy contractor.

(c) Any manufacturer of radio transmitting equipment to be used in these services may request equipment authorization following the procedures set forth in subpart J of part 2 of this chapter. Equipment authorization for an individual transmitter may be requested by an applicant for a station authorization by following the procedures set forth in part 2 of this chapter. Such equipment if approved or accepted will not normally be included in the Commission's Radio Equipment List but will be individually enumerated on the station authorization.

(d) Applicants for type acceptance of transmitters that operate in these services must determine that the equipment complies with IEEE C95.1–1991, "IEEE Standards for Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz" as measured using methods specified in IEEE C95.3–1991, "Recommended Practice for the Measurement of Potentially Hazardous Electromagnetic Fields—RF and Microwave." The applicant for type acceptance is required to submit a statement affirming that the equipment complies with these standards as measured by an approved method and to maintain a record showing the basis for the statement of compliance with IEEE C.95.1–1991.

§ 99.52 RF hazards.

Manufacturers are required to ensure that their equipment complies with IEEE C95.1–1991. For the purposes of determining compliance with this standard, all equipment shall be considered to operate in an "uncontrolled" environment.

§ 99.53 Calculation of height above average terrain (HAAT).

(a) HAAT is determined by subtracting average terrain elevation from antenna height above mean sea level.

(b) Average terrain elevation shall be calculated using elevation data from a 30 arc second or better Digital Elevation Models (DEMs). DEM data is available from United States Geological Survey (USGS). The data file shall be identified. If 30 arc second data is used, the elevation data must be processed for intermediate points using interpolation techniques; otherwise, the nearest point may be used. If DEM data is not available, elevation data from the Defense Mapping Agency's Digital Chart of the World (DCW) may be used.

(c) Radial average terrain elevation is calculated as the average of the elevation along a straight line path from 3 to 16 kilometers extending radially from the antenna site. At least 50 evenly spaced data points for each radial shall be used in the computation.

(d) Average terrain elevation is the average of the eight radial average terrain elevators (for the eight cardinal radials).

(e) The position location of the antenna site shall be determined to an accuracy of no less than ±5 meters in both the horizontal (latitude and longitude) and vertical (ground elevation) dimensions with respect to the National Geodetic Reference System.

Subpart D—Narrowband PCS

§ 99.100 Scope.

This subpart sets out the regulations governing the licensing and operations of personal communications services authorized in the 901–902, 930–931, and 940–941 MHz bands (900 MHz band).

§ 99.102 Licensed service areas.

PCS in the 900 MHz band is available on a nationwide, Major Trading Area (MTA), and Basic Trading Area (BTA) basis. MTA and BTA-based licenses are defined in § 99.13.

(a) The 11 nationwide licenses are for the 50 states, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and United States Virgin Islands.

(b) In each of the 51 MTA service areas, there are 13 licenses available.

(c) In each of the 492 BTA service areas, there are 10 licenses available. The eight unpaired mobile transmit channels are available only to public mobile service licenses and private land mobile radio service licensees.

§ 99.103 Construction requirements.

(a) Licensees of nationwide service area channels must construct at least 250 base stations within five years of being licensed and at least 500 base stations ten years of being licensed and notify the Commission when each benchmark is met.

(b) MTA licensees must construct base stations to provide coverage to approximately 25 percent of the geographic area of their licensed service area within five years of being licensed and 50 percent of the geographic area of their licensed service area within ten years of being licensed. Alternatively, licensees of MTA service area channels must construct at least 25 base stations within five years of being licensed and 50 base stations within ten years of being licensed. In either case, the MTA licensee must notify the Commission when each benchmark is met.

(c) Licensees of BTA service area channels must construct at least one base station and begin providing service in their licensed service area within one year of being licensed and notify the Commission when the benchmark is met.

(d) In evaluating compliance with the above construction requirements, each base station will be considered to serve a geographic area of 3000 square kilometers. In the case of low power base stations, compliance with the construction requirements will be determined by aggregating the actual service areas of the low power stations divided by 3000 square kilometers to determine an equivalent number of base stations.

(e) Failure by any licensee to meet the above construction requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

§ 99.130 Frequencies.

(a) Narrowband PCS frequencies, listed in the following tables by assigned frequency, are available on a symmetrically paired, asymmetrically paired, and unpaired basis. The licenses are availble on a nationwide, Major Trading Area (MTA), and Basic Trading Area (BTA) basis.

SYMMETRICALLY PAIRED FREQUENCIES (MHz)

Base transmit (50 kHz bandwidth)	Mobile transmit (50 kHz bandwidth)	License area
940.025	901.025	Nationwide.
940.075	901.075	Nationwide.
940.125	901.125	Nationwide.
940.175	901.175	Nationwide.
940.225	901.225	Nationwide.
940.275	901.275	MTA.
940.325	901.325	MTA.
940.375	901.375	MTA.
940.425	901.425	MTA.

ASYMMETRICALLY PAIRED FREQUENCIES (MHz)

Base transmit (50 kHz bandwidth)	Mobile transmit (12.5 kHz bandwidth)	License area
930.425	901.75625	Nationwide.
930.475	901.76875	Nationwide.
930.525	901.78125	Nationwide.
930.575	901.79375	MTA.
930.625	901.80625	MTA.
930.675	901.81875	MTA.
930.725	901.83125	MTA.
930.775	901.84375	MTA.
930.825	901.85625	MTA.
930.875	901.86875	MTA.
930.925	901.88125	BTA.
930.975	901.89375	BTA.

UNPAIRED FREQUENCIES (MHz)

	License area
Mobile transmit[1] (12.5 kHz bandwidth):	
901.90625, 901.94375, 901.98125, 901.91875, 901.95625, 901.99375, 901.93125, 901.96875.	BTA
Base or mobile transmit (50 kHz bandwidth):	
940.775, 940.825, 940.875	Nationwide
940.925, 940.975	MTA

[1] Limited to paging licensees authorized under parts 22 and 90 of this chapter.

(b) A single licensee is permitted to hold licenses for up to three 50 kHz channels, paired or unpaired. This limit is based on the total spectrum in the licensee's nationwide, MTA, and BTA licenses at any geographic point.

§ 99.131 Authorized bandwidth.

The authorized bandwidth of narrowband PCS channels will be 10 kHz for 12.5 kHz channels and 45 kHz for 50 kHz channels. For aggregated adjacent channels, a maximum authorized bandwidth of 5 kHz less than the total aggregated channel width is permitted.

§ 99.132 Power and antenna height limits.

(a) Stations transmitting in the 901–902 MHz ban are limited to 7 watts e.r.p.

(b) Mobile stations transmitting in the 930–931 MHz and 940–941 MHz bands are limited to 7 watts e.r.p.

(c) Base stations transmitting in the 930–931 MHz and 940–941 MHz bands are limited to 3500 watts e.r.p. per authorized channel and are unlimited in antenna height except as provided in paragraph (d) of this section.

(d) MTA and BTA base stations located between 200 kilometers (124 miles) and 80 kilometers (50 miles) from their licensed service area border are limited to the power levels in the following table:

Antenna HAAT in meters (feet) (see § 99.53 for HAAT calculation method)	Effective radiated power (e.r.p.) (watts)
183 (600) and below	3500
183 (600) to 208 (682)	3500 to 2584
208 (682) to 236 (775)	2584 to 1883
236 (775) to 268 (880)	1883 to 1372
268 (880) to 305 (1000)	1372 to 1000
305 (1000) to 346 (1137)	1000 to 729
346 (1137) to 394 (1292)	729 to 531
394 (1292) to 447 (1468)	531 to 387
447 (1468) to 508 (1668)	387 to 282
508 (1668) to 578 (1895)	282 to 206
578 (1895) to 656 (2154)	206 to 150
656 (2154) to 746 (2447)	150 to 109
746 (2447) to 848 (2781)	109 to 80
848 (2781) to 963 (3160)	80 to 58
963 (3160) to 1094 (3590)	58 to 42
1094 (3590) to 1244 (4080)	42 to 31
1244 (4080) to 1413 (4636)	31 to 22
Above 1413 (4636)	16

For heights between the values listed above, linear interpolation shall be used to determine maximum e.r.p.

(e) MTA and BTA base stations located less than 80 kilometers (50 miles) from the licensed service area border must limit their effective radiated power in accordance with the following formula:

$$P_W = 0.0175 \times d_{km}^{6.6666} \times h_m^{-3.1997}$$

P_W is effective radiated power in watts.
d_{km} is distance in kilometers.
h_m is antenna HAAT in meters; see § 99.53 for HAAT calculation method.

(f) All power levels specified in this section are expressed in terms of the maximum power, averaged over a 100 millisecond interval, when measured with instrumentation calibrated in terms of an rms-equivalent voltage with a resolution bandwidth equal to or greater than the authorized bandwidth.

(g) Additionally, PCS stations will be subject to any power limits imposed by international agreements.

§ 99.133 Emission limits.

(a) The power of any emission shall be attenuated below the transmitter power (P), as measured in accordance with § 99.132(f), in accordance with the following schedule:

(1) For transmitters authorized a bandwidth greater than 10 kHz:

(i) On any frequency outside the authorized bandwidth and removed from the edge of the authorized bandwidth by a displacement frequency (f_d in kHz) of up to and including 40 kHz: at least 116 Log_{10} ((f_d+10)/6.1) decibels or 50 plus 10 Log_{10} (P) decibels or 70 decibels, whichever is the lesser attenuation;

(ii) On any frequency outside the authorized bandwidth and removed from the edge of the authorized bandwidth by a displacement frequency (f_d in kHz) of more than 40 kHz: at least 43 Log_{10} (P) decibels or 80 decibels, whichever is the lesser attenuation.

(2) For transmitters authorized a bandwidth of 10 kHz:

(i) On any frequency outside the authorized bandwidth and removed from the edge of the authorized bandwidth by a displacement frequency (f_d in kHz) of up to and including 20 kHz: at least 116 × Log_{10} ((f_d+5)/3.05) decibels or 50+10×Log_{10} (P) decibels or 70 decibels, whichever is the lesser attenuation;

(ii) On any frequency outside the authorized bandwidth and removed from the edge of the authorized bandwidth by a displacement frequency (f_d in kHz) of more than 20 kHz: at least 43+10 Log_{10} (P) decibels or 80 decibels whichever is the lesser attenuation.

(b) The measurements of emission power can be expressed in peak or average values provided they are expressed in the same parameters as the transmitter power.

(c) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

(d) The following minimum spectrum analyzer resolution bandwidth settings will be used: 300 Hz when showing compliance with paragraphs (a)(1)(i) and (a)(2)(i) of this section; and 30 kHz when showing compliance with paragraphs (a)(1)(ii) and (a)(2)(ii) of this section.

§ 99.134 Co-channel separation criteria.

The minimum co-channel separation distance between base stations in different service areas is 113 kilometers (70 miles). A co-channel separation distance is not required for the base stations of the same licensee or when the affected parties have agreed to other co-channel separation distances.

§ 99.135 Frequency stability.

(a) The frequency stability of the transmitter shall be maintained within 0.0001 percent (± 1 ppm) of the center frequency over a temperature variation of −30° Celsius to +50° Celsius at normal supply voltage, and over a variation in the primary supply voltage of 85 percent to 115 percent of the rated supply voltage at a temperature of 20° Celsius.

(b) For battery operated equipment, the equipment tests shall be performed using a new battery without any further requirement to vary supply voltage.

(c) It is acceptable for a transmitter to meet this frequency stability

requirement over a narrower temperature range provided the transmitter ceases to function before it exceeds these frequency stability limits.

Subpart E—Broadband PCS

§ 99.200 Scope.

This subpart sets out the regulations governing the licensing and operations of personal communications services authorized in the 1850–1890, 1930–1970, 2130–2150, and 2180–2200 MHz bands.

§ 99.202 Frequencies.

The frequencies available in the Broadband PCS service are listed in this section in accordance with the frequency allocations table of § 2.106.

(a) The following frequency blocks are available for assignment on an MTA basis:

Block A: 1850–1865 MHz paired with 1930–1945 MHz; and,

Block B: 1865–1880 MHz paired with 1945–1960 MHz.

(b) The following frequency blocks are available for assignment on a BTA basis:

Block C: 1880–1890 MHz paired with 1960–1970 MHz;

Block D: 2130–2135 MHz paired with 2180–2185 MHz;

Block E: 2135–2140 MHz paired with 2185–2190 MHz;

Block F: 2140–2145 MHz paired with 2190–2195 MHz; and,

Block G: 2145–2150 MHz paired with 2195–2200 MHz.

(c) PCS licensees shall not have an ownership interest in frequency blocks that total more than 40 MHz and serve the same geographic area. For the purpose of this section, PCS licensees are entities having an ownership interest of 5 or more percent in a PCS license.

§ 99.204 Cellular eligibility.

Entities that have attributable ownership interest of 20 percent or more in an entity that is a licensee in the Domestic Public Cellular Radio Telecommunications Service shall not be eligible for assignment of more than one 10 MHz frequency block in any PCS service area where its cellular geographic service area (CGSA) includes 10 or more percent of the population of the PCS service area as determined by the 1990 census, *i.e.*, 10 or more percent of the population of the respective BTA or MTA is within the CGSA.

Note 1: For purposes of the 20 percent cellular attribution limit, all ownership interests in cellular operations that serve 10 or more percent of the population of the PCS service area should be included in determining the extent of a PCS applicant's cellular ownership.

Note 2: When a party owns attributable interest in more than one cellular system that overlaps a PCS service area, the total population in the overlap area will apply on a cumulative basis.

§ 99.206 Construction requirements.

Licensees must serve with a signal level sufficient to provide adequate service to at least one-third of the population in their licensed area within five years of being licensed, two-thirds of the population in their licensed area within seven years of being licensed, and 90 percent of the population in their licensed area within ten years of being licensed. Population is defined as the 1990 census population. Failure by any licensee to meet these requirements will result in forfeiture of the license and the licensee will be ineligible to regain it.

§ 99.231 Power and antenna height limits.

(a) Base stations are limited to 100 watts (e.i.r.p.) peak power with an antenna height up to 300 meters HAAT. See section 99.53 for HAAT calculation method. Base station antenna heights may exceed 300 meters with a corresponding reduction in power; see Table 1 of this section. The service area boundary limit and microwave protection criteria specified in §§ 99.232 and 99.233 apply.

TABLE 1.—REDUCED POWER FOR BASE STATION ANTENNA HEIGHTS OVER 300 METERS

HAAT—meters (feet)	Maximum E.I.R.P. (watts)
≥300 (984)	100
≥500 (1640)	65
≥1000 (3280)	30
≥500 (4920)	15
≥2000 (6560)	10

(b) Mobile/portable stations are limited to 2 watts e.i.r.p. peak power and the equipment must employ means to limit the power to the minimum necessary for successful communications.

(c) Peak transmit power must be measured over any interval of continuous transmission using instrumentation calibrated in terms of an rms-equivalent voltage. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true peak measurement for the emission in question over the full bandwidth of the channel.

§ 99.232 Field strength limits.

The predicted or measured median field strength at any location on the border of the PCS service area shall not exceed 47 dBuV/m unless the parties agree to a higher field strength.

§ 99.233 Interference protection.

(a) Before filing an application for new or modified facilities under this part, the applicant must perform an engineering analysis to assure that the proposed facilities will not cause interference to existing OFS stations within the coordination distance specified in Table 2 of a magnitude greater than that specified in the criteria set forth in paragraphs (b) and (c) of this section, unless there is prior agreement with the affected OFS licensee. See § 99.53 for HAAT calculation method. Interference calculations shall be based on the sum of the power received at the terminals of each microwave receiver from all of the applicant's current and proposed PCS operations.

TABLE 2.—COORDINATION DISTANCES IN KILOMETERS (MILES)—PCS BASE STATION ANTENNA HAAT IN METERS (FEET)

	5 (16)	10 (33)	20 (66)	30 (98)	50 (164)	100 (328)	150 (492)	200 (656)	250 (820)	300 (984)	500 (1640)	1000 (3281)	1500 (4922)	2000 (6562)
EIRP (Watts):														
1	99	103	108	112	119	131	140	148	155	161	182	219	248	272
	(62)	(64)	(67)	(70)	(74)	(82)	(87)	(92)	(96)	(100)	(113)	(136)	(154)	(169)
2	120	123	126	129	134	142	149	154	159	164	185	222	251	275
	(75)	(76)	(78)	(80)	(83)	(88)	(92)	(96)	(99)	(102)	(115)	(138)	(156)	(171)
5	154	157	161	164	168	177	183	189	194	198	214	242	264	283

TABLE 2.—COORDINATION DISTANCES IN KILOMETERS (MILES)—PCS BASE STATION ANTENNA HAAT IN METERS (FEET)—Continued

	5 (16)	10 (33)	20 (66)	30 (98)	50 (164)	100 (328)	150 (492)	200 (656)	250 (820)	300 (984)	500 (1640)	1000 (3281)	1500 (4922)	2000 (6562)
	(96)	(98)	(100)	(102)	(105)	(110)	(114)	(117)	(121)	(123)	(133)	(150)	(164)	(176)
10	181	183	187	190	195	203	210	216	221	225	240	269	291	310
	(112)	(114)	(116)	(118)	(121)	(126)	(130)	(134)	(137)	(140)	(149)	(167)	(181)	(193)
20	207	209	213	216	221	230	236	242	247	252	267	296	.....	.....
	(128)	(130)	(133)	(134)	(137)	(143)	(147)	(150)	(154)	(156)	(166)	(184)	.....	.....
50	241	244	248	251	256	265	271	277	282	287	302	.....	.....	.....
	(150)	(152)	(154)	(156)	(159)	(164)	(169)	(172)	(175)	(178)	(188)	.....	.....	.....
100	267	270	274	277	282	291	298	304	309	313	.....	.....	.....	.....
	(166)	(168)	(170)	(172)	(175)	(181)	(185)	(189)	(192)	(195)	.....	.....	.....	.....

NOTE: If actual value does not match table values, round to the closest higher value on this table.

(b) For microwave paths of 25 kilometers or less, interference determinations shall be based on the C/I criteria set forth in EIA/TIA Telecommunications Systems Bulletin 10–E, "Interference Criteria for Microwave Systems in the Private Radio Services," November 1990, (TSB10–E).

(c) For microwave paths longer than 25 kilometers, the interference protection criterion shall be such that the interfering signal will not produce more than 1.0 dB degradation of the practical threshold of the microwave receiver for analog systems, or such that the interfering signal will not cause an increase in the bit error rate (BER) from 10^{-6} to 10^{-5} for digital systems.

(d) The development of the C/I ratios and interference criteria specified in paragraphs (b) and (c) of the section and the methods employed to compute the interfering power at the microwave receivers shall follow generally acceptable good engineering practices. The procedures described for computing interfering signal levels in Appendix D of the Second Report and Order, GEN Docket No. 90–314, FCC 93–451 shall be applied. Alternatively, procedures for determining interfering signal levels and other criteria as may be developed by the Electronics Industries Association (EIA), the Institute of Electrical and Electronics Engineers, Inc. (IEEE), the American National Standards Institute (ANSI) or any other recognized authority will be acceptable to the Commission.

§ 99.234 Emission limits.

(a) On any frequency outside all PCS spectrum, the power of any emission shall be attenuated below the transmitter power (P) by at least 43 plus 10 $\log_{10}$(P) decibels or 80 decibels, whichever is the lesser attenuation.

Note: The measurements of emission power can be expressed in peak or average values, provided they are expressed in the same parameters as the transmitter power.

(b) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section.

§ 99.235 Frequency stability.

The frequency stability shall be sufficient to ensure that the fundamental emission stays within the authorized frequency block.

Federal Communications Commission

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93–27336 Filed 11–5–93; 8:45 am]

BILLING CODE 6712–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1805, 1839, and 1852

Change to the NASA FAR Supplement Promoting More Efficient Use of Contracts for Federal Information Processing Resources by Allowing Delivery of Such Resources to All NASA Installations

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This notice amends the NASA FAR Supplement to allow broader use of contracts for Federal Information Processing (FIP) resources. Under these changes, options or indefinite delivery/indefinite quantities on contracts for FIP resources that are in excess of the NASA contracting activity's ultimate requirements may be ordered for delivery to other NASA installations.

EFFECTIVE DATE: This rule is effective November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Tom O'Toole, NASA Headquarters, Office of Procurement, Procurement Policy Division (Code HP), Washington, DC 20546. Telephone: (202) 358–0478.

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1993, a proposed rule to amend the NASA FAR Supplement to allow more efficient use of contracts for FIP resources was published in the **Federal Register** for comment (58 FR 43854). No public comments were received. Consequently, NASA is adopting as a final rule the text set out as the proposed rule with no changes.

Impact

NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. *et seq.*). This rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1805, 1839, and 1852

Government procurement.

Deidre A. Lee,

Associate Administrator for Procurement.

1. The authority citation for 48 CFR parts 1805, 1839, and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1805—PUBLICIZING CONTRACT ACTIONS

1805.207 [Amended]

2. Section 1805.207 is amended by adding paragraph (c) to read as follows:

1805.207 Preparation and transmittal of synopses.

* * * * *

(c) Each notice publicizing the procurement of FIP resources under an indefinite delivery/indefinite quantity contract or under a contract that includes options for additional

quantities of such resources shall include the following:

The _____(identifying contracting activity) is the primary delivery point for the items described in this synopsis. However, NASA may order delivery to the following alternate locations: _____(List other NASA installations and their locations).

PART 1839—ACQUISITION OF FEDERAL INFORMATION PROCESSING RESOURCES

1839.7003–4 [Amended]

3. Section 1839.7003–4 is amended by adding paragraph (a)(6) as follows:

1839.7003–4 APR format.

* * * * *

(6) When FIP resources are being acquired under an indefinite delivery/indefinite quantity contract or under a contract that includes options for additional quantities of such resources, include a statement in the APR similar to the following:

The _____(identifying contracting activity) is the primary requiring activity for the items described in this APR. However, to further the most efficient and economical agency-wide acquisition of these resources, the contract will allow delivery to other NASA installations having requirements for the same resources. The _____(identify contracting activity) will have the sole authority to place orders under this contract and authorize delivery to the alternate delivery points.

* * * * *

1839.7008 [Added]

4. Section 1839.7008 is added to read as follows:

1839.7008 NASA contract clause.

(a) The contracting officer shall insert the clause substantially as stated at 1852.239–70, Alternate Delivery Points, in solicitations and contracts for Federal Information Processing Resources when:

(1) An indefinite delivery/indefinite quantity contract will be used or when the contract will include options for additional quantities of such resources; and

(2) Delivery is F.O.B. destination to the contracting activity.

(b) When delivery is F.O.B. origin and Government bills of lading (GBL) are used, the contracting officer shall use the clause with its Alternate I.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 1852.239–70 is added to read as follows:

§ 1852.239–70 Alternate Delivery Points.

As prescribed in 1839.7008(a), insert the following clause:

Alternate Delivery Points (Date)

(a) The first priority of this contract is to satisfy the anticipated requirements of ____ (identify contracting activity). However, should the actual requirements of ____ (contracting activity) be less than the maximum quantities/values specified in section B of this contract, ____(contracting activity) may order the remaining available quantities/values to satisfy the requirements of other installations. The other installations at which delivery may be required are:

(List installations and their locations)

(b) The prices of the deliverables in section B are F.O.B. destination to ____(contracting activity). If delivery to an alternate location is ordered, an equitable adjustment may be negotiated to recognize any variances in transportation costs associated with delivery to that alternate location.

(End of clause)

Alternate I (Date)

As prescribed in 1839.7008(b), delete paragraph (b) and substitute the following:

(b) The prices of the deliverables in section B are F.O.B. origin with delivery to NASA via Government bill of lading (GBL). If delivery to an alternate location is ordered, the same delivery procedures will be used and no equitable adjustment to any price, term, or condition of this contract will be made as a result of such order.

(End of clause)

[FR Doc. 93–27413 Filed 11–5–93; 8:45 am]

BILLING CODE 7510–10–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 83]

RIN 2127–AE19

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule requires the use of the Hybrid III test dummy for all compliance testing under Standard No. 208. At present, each vehicle manufacturer may select either the Hybrid III or the older Hybrid II test dummy for use in its certification. The specification of a single test dummy will result in greater comparability of test results among vehicles produced by different manufacturers, particularly those that now use different dummy types.

NHTSA has chosen to specify the Hybrid III test dummy as the single type of test dummy because the Hybrid III appears to be more representative of human responses in frontal crashes and because the Hybrid III allows the assessment of more types of potential injuries. Specifying the use of the Hybrid III test dummy will help ensure that all new vehicles are designed with the benefit of the most human-like test dummy available.

DATES: The amendments made in this rule are effective September 1, 1997.

Any petitions for reconsideration must be received by NHTSA no later than December 8, 1993.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley H. Backaitis, Office of Vehicle Safety Standards, NRM–10, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Backaitis can be reached by telephone at (202) 366–4912.

SUPPLEMENTARY INFORMATION:

Background

At present, Standard No. 208, *Occupant Crash Protection* (49 CFR 571.208), gives vehicle manufacturers the choice of using either of two dummy types in agency tests for compliance with the standard. One of the types is the older Hybrid II dummy. Specifications for the Hybrid II test dummy have been incorporated in subpart B of 49 CFR part 572 since August 1, 1973. The Hybrid II test dummy represents the state of the art of human simulation of the early 1970's. It has been used in NHTSA compliance testing since then.

For more than a decade, the Hybrid II test dummy was the only test dummy specified in NHTSA's regulations for use in agency compliance testing under Standard No. 208. However, on July 25, 1986 (51 FR 26688), NHTSA published a final rule providing for the use of a second type of test dummy in Standard No. 208 compliance testing. The newer test dummy was the Hybrid III test dummy. The specifications for it appear in subpart E of 49 CFR part 572. The Hybrid III test dummy represents the more advanced state of the art of human simulation of the early 1980's. Among other noteworthy advances, the Hybrid III has a more humanlike seated posture, head, neck, chest, and lumbar spine designs that meet biofidelic impact

response requirements, and the capability of monitoring almost four times as many injury-indicating parameters as compared with the Hybrid II dummy.

On December 10, 1992, NHTSA published a notice of proposed rulemaking (NPRM) proposing to specify the use of the Hybrid III test dummy for all agency compliance testing under Standard No. 208. NHTSA received 18 comments on the NPRM. None of the commenters opposed in principle the exclusive use of the Hybrid III test dummy, and 5 of the commenters unconditionally supported its exclusive use. However, some commenters did raise issues relating to leadtime and biomechanical or technical issues. All of the comments were considered while formulating this final rule. The most significant comments are addressed below.

Leadtime

Two commenters, Advocates for Highway and Auto Safety and Center for Auto Safety (CAS), suggested effective dates that were 1 and 2 years earlier, respectively, than the proposed effective date. These commenters believe that the regulatory history associated with the Hybrid III test dummy, specifically a 1986 final rule specifying the use of the Hybrid III dummy after September 1, 1991, has given manufacturers sufficient time to prepare for use of the Hybrid III. However, the 1986 final rule was withdrawn by the agency in 1988. Thus, NHTSA disagrees that manufacturers should have been preparing since then for exclusive use of the Hybrid III test dummy.

Nissan suggested a phase-in specifying 80 percent use by September 1, 1996 and 100 percent by September 1, 1997. Volvo requested a 4-year leadtime, with continued use of the Hybrid II permitted for vehicles certified using the Hybrid II in the prior model year. Mazda suggested a 4-year phase-in beginning on September 1, 1996 as follows: 40 percent by September 1, 1996; 80 percent by September 1, 1997; 90 percent by September 1, 1998; and 100 percent by September 1, 1999. Ford supported the proposed September 1, 1996 effective date for passenger cars, but suggested a phase-in for light trucks specifying 90 percent compliance by September 1, 1996, and 100 percent compliance by September 1, 1997. Toyota also suggested a phase-in as follows: 80 percent by September 1, 1996; 90 percent by September 1, 1997; and 100 percent by September 1, 1998. Many of these commenters requested these leadtimes so that the use of Hybrid III could correspond with development of vehicles to comply with the requirements for mandatory air bags. Only 2 commenters requested leadtime beyond the date on which are bags will be mandatory for all vehicles.

As noted in the NPRM, NHTSA proposed an effective date of September 1, 1996 so that manufacturers would have leadtime of approximately 4 years. That was intended to allow for an orderly transition into exclusive use of the Hybrid III test dummy. NHTSA believed that this leadtime would allow manufacturers that have developed and certified vehicles with the Hybrid II test dummy to avoid the potential need to recertify using the Hybrid III dummy in advance of normal redesign cycles. NHTSA believed that an earlier date would not lead to the earlier use of new safety equipment (e.g., air bags), and would therefore result in high costs without corresponding safety benefits. Given the delays in the issuance of this final rule, NHTSA has decided that the effective date of this final rule should be September 1, 1997. NHTSA concludes that this date is practicable since it gives manufacturers almost 4 years leadtime and coincides with the dates by which all passenger cars will be required to be equipped with air bags, all light trucks will be required to be equipped with automatic restraint systems, and 80 percent of light trucks will be required to be equipped with air bags. Information available to NHTSA indicates that all manufacturers are developing air bags equipped vehicles using the Hybrid III test dummy. Since NHTSA anticipates that most light trucks will be equipped with air bags by September 1, 1997, the specification of that date as the effective date should cause few changes to manufacturers' plans for vehicle development.

Dummy Design and Biomechanics

CAS and General Motors urged the agency not to link specification of Hybrid III with resolution of chest deflection issues. However, 11 commenters requested that issues associated with dummy design and biomechanics be resolved before the effective date. These issues include non-contact HIC, neck shield, ankle rotation, injury criteria for lower limbs, chest deflection, and ribcage interference with the pelvis.

Four commenters requested changes in dummy design or equipment specification. Chrysler stated that it had found a need to relocate the ribcage deflection limiting bump stops from the sternum onto the thoracic spine box. Ford objected to the revisions of the weights and dimensions of vehicle occupants in the table in S7.1.3 of Standard No. 208.

None of these comments, except Chrysler's comment regarding the chest deflection measuring system, suggest that the Hybrid III fails to meet the statutory criteria because it is insufficiently reliable, repeatable, or humanlike to be permitted for use in NHTSA's compliance testing.

Chrysler's comment referenced recent letters to the agency in which it reported that it had been experiencing problems with inaccurate measurements due to the ball on the end of the slider rod of the chest deflection transducer popping out of its guide track. NHTSA has examined all of the Standard No. 208 compliance and New Car Assessment Program (NCAP) test records to determine the extent of the reported problem. None of the tests conducted by the agency exhibit this problem. In addition, review of available data from other manufacturers shows no indication of this problem. Based on information provided by Chrysler, the problem appears to occur only on the passenger side of vehicles equipped with 2-point automatic belts during a left angle impact.

The agency unsuccessfully attempted in crash tests to replicate the problem with a dummy restrained by 2-point belts. However, by manipulating a static dummy, it appears that interference between the slider rod and the bump stop surface can begin to occur when the sternum is displaced laterally by either 0.25 inches to the right or .47 inches to the left and simultaneously 2.5 inches in the fore-and-aft direction toward the spine. Any lateral displacement less than these amounts will not result in interference, even with greater fore-and-aft displacements.

The agency's analysis of the effects of the bump stops show that they only prevent excessive sternum deflections (more than 3 inches) during very severe impacts of rigid objects. Without the bump stops, these severe impacts could overload the ribs and cause their premature failure. Thus, the bump stops are not contacted if sternum deflection is within the 3 inch limit specified in Standard No. 208 and the sternum experiences less than 0.25 inch lateral displacement. Agency conducted compliance tests do not indicate any mechanical interference with the deflection measurement is occurring. Accordingly, the agency does not believe that the bump stops must be relocated for compliance testing purposes. However, Chrysler's relocation of the bump stops from the sternum onto the spine box for its testing, should not affect the dummy's

functioning, its dynamic integrity, or its impact response characteristics.

Comments related to dimensions and mechanical specifications appear to be minor and aimed at clarifying design details for manufacturing consistency and/or developing clearer and more universal specifications and instrumentation installations. The agency will examine these issues and act upon these comments, if necessary, in later rulemaking.

The agency agrees with Ford's comment that the occupant weights and dimensions given in S7.1.3 are referenced in other portions of S7.1 as human occupants instead of dummy occupants. NHTSA further agrees that specifying the exclusive use of the Hybrid III dummy does not change the weight and height of a 50th percentile human male occupant. Accordingly, the agency has not adopted the proposal to replace the information in the table with the weight and height of the Hybrid III dummy.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 or the Department of Transportation's regulatory policies and procedures. This action has been determined to be not "significant" under either. As explained above, the agency has adopted an effective date of September 1, 1997, so that manufacturers currently using the Hybrid II dummy to develop and certify some of their vehicles can switch to the use of the Hybrid III dummy as part of the change to full frontal air bags. The agency believes this final rule will accelerate the switch to use of the Hybrid III dummy. The mandatory requirement to use the Hybrid III dummy will not impose any financial burdens on those manufacturers who already test with the Hybrid III dummy. This final rule should be only a minor burden on those manufacturers who must begin the certification process with the Hybrid III dummy. The long leadtime permits the vehicle manufacturers to phase-in the use of the Hybrid III dummy on a scheduled Hybrid II replacement basis. The expected cost increase between the two dummies is approximately $10,000. Since the shelf life of the Hybrid III dummy is over 30 crash tests, the increased cost per test is approximately $330 for each dummy, or $660 per vehicle certification test. The agency believes these negligible costs would be the only costs associated with this final rule.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The choice of frontal crash dummy for use in vehicle certification and design affects motor vehicle manufacturers, few of which are small entities. As described above, there will be no significant economic impact on those vehicle manufacturers that are small entities. Further, since no price increases will be associated with this final rule, small organizations and small governmental entities will not be affected in their capacity as purchasers of new vehicles.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the agency notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under section 103(d) of the National Traffic and Motor Vehicle Safety Act (Safety Act; 15 U.S.C. 1392(d)), whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 105 of the Safety Act (15 U.S.C. 1394) sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407, delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. Section 571.208 is amended by removing existing S5.1 through S5.3, inclusive, and substituting a new S5.1 through S5.3; removing existing S6 through S6.2.5, inclusive, and substituting a new S6 through S6.5; revising S7.4.3 through S7.4.5, inclusive; removing S8.1.8.1 through S8.1.12.2, inclusive, and substituting a new S8.1.8.1 through S8.1.8.5; and removing existing S10 through S11.9, inclusive, and adding a new S10 through S10.9, to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection.

* * * * *

S5.1 *Frontal barrier crash test.* Impact a vehicle traveling longitudinally forward at any speed, up to and including 30 mph, into a fixed collision barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30 degrees in either direction from the perpendicular to the line of travel of the vehicle under the applicable conditions of S8. The test dummy specified in S8.1.8 placed in each front outboard designated seating position shall meet the injury criteria of S6.1, S6.2, S6.3, S6.4, and S6.5 of this standard.

S5.2 *Lateral moving barrier crash test.* Impact a vehicle laterally on either side by a barrier moving at 20 mph under the applicable conditions of S8. The test dummy specified in S8.1.8 positioned in the front outboard designated seating position adjacent to the impacted side shall meet the injury criteria of S6.2 and S6.3 of this standard.

S5.3 *Rollover.* Subject a vehicle to a rollover test in either lateral direction at 30 mph under the applicable conditions of S8 of this standard with a test dummy specified in S8.1.8 placed in the front outboard designated seating position on the vehicle's lower side as mounted on the test platform. The test dummy shall meet the injury criteria of S6.1 of this standard.

S6 *Injury Criteria for the Part 572, Subpart E, Hybrid III Test Dummy.*

S6.1 All portions of the test dummy shall be contained within the outer surfaces of the vehicle passenger compartment throughout the test.

S6.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$HIC = \left[\frac{1}{(t_2 - t_1)} \int_{t_1}^{t_2} a\,dt \right]^{2.5} (t_2 - t_1)$$

shall not exceed 1,000 where *a* is the resultant acceleration expressed as a multiple of *g* (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 36 millisecond time interval.

S6.3 The resultant acceleration calculated from the output of the thoracic instrumentation shown in drawing 78051.218, revision R incorporated by reference in Part 572, Subpart E of this chapter shall not exceed 60 g's, except for intervals whose cumulative duration is not more than 3 milliseconds.

S6.4 Compression deflection of the sternum relative to the spine, as determined by instrumentation shown in drawing 78051–317, revision A incorporated by reference in Part 572, Subpart E of this chapter, shall not exceed 3 inches.

S6.5 The force transmitted axially through each upper leg shall not exceed 2250 pounds.

* * * * *

S7.4.3 *Belt contact force.* Except for manual or automatic seat belt assemblies that incorporate a webbing tension-relieving device, the upper torso webbing of any seat belt assembly shall not exert more than 0.7 pounds of contact force when measured normal to and one inch from the chest of an anthropomorphic test dummy, positioned in accordance with S10 of this standard in the seating position for which that seat belt assembly is provided, at the point where the centerline of the torso belt crosses the midsagittal line on the dummy's chest.

S7.4.4 *Latchplate access.* Any seat belt assembly latchplate that is located outboard of a front outboard seating position in accordance with S4.1.2 shall also be located within the outboard reach envelope of either the outboard arm or the inboard arm described in S10.7 and Figure 3 of this standard, when the latchplate is in its normal stowed position and any adjustable anchorages are adjusted to the manufacturer's nominal design position for a 50th percentile adult male occupant. There shall be sufficient clearance between the vehicle seat and the side of the vehicle interior to allow the test block defined in Figure 4 of this standard unhindered transit to the latchplate or buckle.

S7.4.5 *Retraction.* When tested under the conditions of S8.1.2 and S8.1.3, with anthropomorphic dummies whose arms have been removed and which are positioned in accordance with S10 of this standard in the front outboard seating positions and restrained by the belt systems for those positions, the torso and lap belt webbing of any of those seat belt systems shall automatically retract to a stowed position either when the adjacent vehicle door is in the open position and the seat belt latchplate is released, or, at the option of the manufacturer, when the latchplate is released. That stowed position shall prevent any part of the webbing or hardware from being pinched when the adjacent vehicle door is closed. A belt system with a tension-relieving device in an open-bodied vehicle with no doors shall fully retract when the tension-relieving device is deactivated. For the purposes of these retraction requirements, outboard armrests, which are capable of being stowed, on vehicle seats shall be placed in their stowed position.

* * * * *

S8.1.8.1 The anthropomorphic test dummies used for evaluation of occupant protection systems manufactured pursuant to applicable portions of S4.1.2, S4.1.3, and S4.1.4 of this standard shall conform to the requirements of subpart E of part 572 of this chapter.

S8.1.8.2 Each test dummy is clothed in formfitting cotton stretch garments with short sleeves and midcalf length pants specified in drawings 78051–292 and 78051–293 incorporated by reference in part 572, subpart E of this chapter, respectively or their equivalents. A size 11EE shoe specified in drawings 78051–294 (left) and 78051–295 (right) incorporated by reference in part 572, subpart E of this chapter, or its equivalent is placed on each foot of the test dummy.

S8.1.8.3 Limb joints are set at 1g, barely restraining the weight of the limb when extended horizontally. Leg joints are adjusted with the torso in the supine position.

S8.1.8.4 Instrumentation does not affect the motion of the dummies during impact or rollover.

S8.1.8.5 The stabilized test temperature of the test dummy is at any temperature level between 69 degrees F and 72 degrees F, inclusive.

* * * * *

S10. *Test dummy positioning procedures.*

S10.1 *Head.* The transverse instrumentation platform of the head shall be level within ½ degree. To level the head of the test dummy, the following sequences must be followed. First, adjust the position of the H point within the limits set forth in S10.4.2.1 to level the transverse instrumentation platform of the head of the test dummy. If the transverse instrumentation platform of the head is still not level, then adjust the pelvic angle of the test dummy within the limits specified in S10.4.2.2 of this standard. If the transverse instrumentation platform of the head is still not level, then adjust the neck bracket of the dummy the minimum amount necessary from the non-adjusted "0" setting to ensure that the transverse instrumentation platform of the head is horizontal within ½ degree. The test dummy shall remain within the limits specified in S10.4.2.1 and S10.4.2.2. after any adjustment of the neck bracket.

S10.2 *Upper Arms.*

S10.2.1 The driver's upper arms shall be adjacent to the torso with the centerlines as close to a vertical plane as possible.

S10.2.2 The passenger's upper arms shall be in contact with the seat back and the sides of the torso.

S10.3 *Hands.*

S10.3.1 The palms of the drivers test dummy shall be in contact with the outer part of the steering wheel rim at the rim's horizontal centerline. The thumbs shall be over the steering wheel rim and shall be lightly taped to the steering wheel rim so that if the hand of the test dummy is pushed upward by a force of not less than 2 pounds and not more than 5 pounds, the tape shall release the hand from the steering wheel rim.

S10.3.2 The palms of the passenger test dummy shall be in contact with the outside of the thigh. The little finger shall be in contact with the seat cushion.

S10.4 *Torso.*

S10.4.1 *Upper Torso.*

S10.4.1.1 In vehicles equipped with bench seats, the upper torso of the driver and passenger test dummies shall rest against the seat back. The midsagittal plane of the driver dummy shall be vertical and parallel to the vehicle's longitudinal centerline, and pass through the center of the steering wheel rim. The midsagittal plane of the passenger dummy shall be vertical and parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as

parallel to the vehicle's longitudinal centerline and the same distance from the vehicle's longitudinal centerline as the midsagittal plane of the driver dummy.

S10.4.1.2 In vehicles equipped with bucket seats, the upper torso of the driver and passenger test dummies shall rest against the seat back. The midsagittal plane of the driver and the passenger dummy shall be vertical and shall coincide with the longitudinal centerline of the bucket seat.

S10.4.2 *Lower Torso.*

S10.4.2.1 *H-point.* The H-points of the driver and passenger test dummies shall coincide within ½ inch in the vertical dimension and ½ inch in the horizontal dimension of a point ¼ inch below the position of the H-point determined by using the equipment and procedures specified in SAE J826 (APR 1980) except that the length of the lower leg and thigh segments of the H-point machine shall be adjusted to 16.3 and 15.8 inches, respectively, instead of the 50th percentile values specified in Table 1 of SAE J826.

S10.4.2.2 *Pelvic angle.* As determined using the pelvic angle gage (GM drawing 78051–532, incorporated by reference in part 572, subpart E of this chapter) which is inserted into the H-point gaging hole of the dummy, the angle measured from the horizontal on the three inch flat surface of the gage shall be 22½ degrees plus or minus 2½ degrees.

S10.5 *Legs.* The upper legs of the driver and passenger test dummies shall rest against the seat cushion to the extent permitted by placement of the feet. The initial distance between the outboard knee clevis flange surfaces shall be 10.6 inches. To the extent practicable, the left leg of the driver dummy and both legs of the passenger dummy shall be in vertical longitudinal planes. To the extent practicable, the right leg of the driver dummy shall be in a vertical plane. Final adjustment to accommodate the placement of feet in accordance with S10.6 for various passenger compartment configurations is permitted.

S10.6 *Feet.*

S10.6.1 *Driver's position.*

S10.6.1.1 Rest the right foot of the test dummy on the undepressed accelerator pedal with the rearmost point of the heel on the floor pan in the plane of the pedal. If the foot cannot be placed on the accelerator pedal, set it initially perpendicular to the lower leg and place it as far forward as possible in the direction of the pedal centerline with the rearmost point of the heel resting on the floor pan.

S10.6.1.2 Place the left foot on the toeboard with the rearmost point of the heel resting on the floor pan as close as possible to the point of intersection of the planes described by the toeboard and the floor pan and not on the wheelwell projection. If the foot cannot be positioned on the toeboard, set it initially perpendicular to the lower leg and place it as far forward as possible with the heel resting on the floor pan. If necessary to avoid contact with the vehicle's brake or clutch pedal, rotate the test dummy's left foot about the lower leg. If there is still pedal interference, rotate the left leg outboard about the hip the minimum distance necessary to avoid the pedal interference. For vehicles with a foot rest that does not elevate the left foot above the level of the right foot, place the left foot on the foot rest so that the upper and lower leg centerlines fall in a vertical plane.

S10.6.2 *Passenger's position.*

S10.6.2.1 *Vehicles with a flat floor pan/toeboard.* Place the right and left feet on the vehicle's toeboard with the heels resting on the floor pan as close as possible to the intersection point with the toeboard. If the feet cannot be placed flat on the toeboard, set them perpendicular to the lower leg centerlines and place them as far forward as possible with the heels resting on the floor pan.

S10.6.2.2 *Vehicles with wheelhouse projections in passenger compartment.* Place the right and left feet in the well of the floor pan/toeboard and not on the wheelhouse projection. If the feet cannot be placed flat on the toeboard, initially set them perpendicular to the lower leg centerlines and then place them as far forward as possible with the heels resting on the floor pan.

S10.7 *Test dummy positioning for latchplate access.* The reach envelopes specified in S7.4.4 of this standard are obtained by positioning a test dummy in the driver's or passenger's seating position and adjusting that seating position to its forwardmost adjustment position. Attach the lines for the inboard and outboard arms to the test dummy as described in Figure 3 of this standard. Extend each line backward and outboard to generate the compliance arcs of the outboard reach envelope of the test dummy's arms.

S10.8 *Test dummy positioning for belt contact force.* To determine compliance with S7.4.3 of this standard, position the test dummy in the vehicle in accordance with S10.1 through S10.6 of this standard and adjust the seating position in accordance with S8.1.2 and S8.1.3 of this standard. Pull the belt webbing three inches from the test dummy's chest and release until the webbing is within one inch of the test dummy's chest and measure the belt contact force.

S10.9 *Manual belt adjustment for dynamic testing.* With the test dummy positioned in accordance with S10.1 through S10.6 of this standard and the seating position adjusted in accordance with S8.1.2 and S8.1.3 of this standard, place the Type 2 manual belt around the test dummy and fasten the latch. Remove all slack from the lap belt portion. Pull the upper torso webbing out of the retractor and allow it to retract; repeat this four times. Apply a 2 to 4 pound tension load to the lap belt. If the belt system is equipped with a tension-relieving device, introduce the maximum amount of slack into the upper torso belt that is recommended by the vehicle manufacturer in the vehicle's owner's manual. If the belt system is not equipped with a tension-relieving device, allow the excess webbing in the upper torso belt to be retracted by the retractive force of the retractor.

* * * * *

3. Figure 3a for Standard No. 208 is removed and Figure 3b is redesignated Figure 3, to appear as follows:

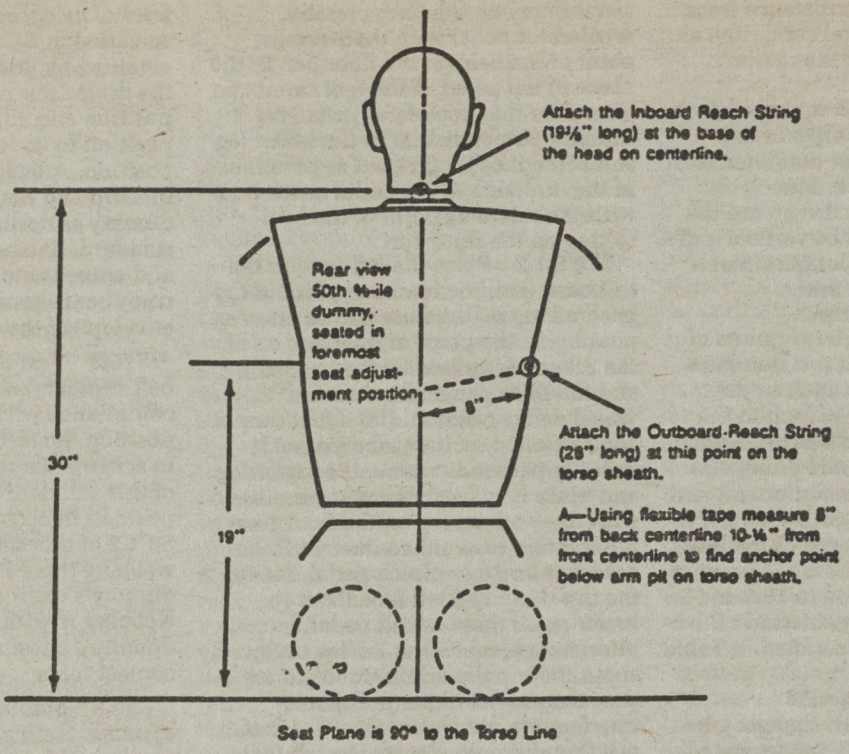


Figure 3. Location of Anchoring Points for Latchplate Reach Limiting Chains or Strings to Test for Latchplate Accessibility Using Subpart E Test Device

Issued on November 3, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–27434 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–59–M

Federal Highway Administration

49 CFR Parts 390 and 391

[FHWA Docket No. MC–90–6]

RIN 2125–AC44

Qualifications of Drivers; Medical Examination

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical amendments.

SUMMARY: This document contains technical amendments to the Federal Motor Carrier Safety Regulations on physical examinations of commercial motor vehicle drivers. These amendments replace the term "health care professional" with the term "medical examiner"; authorize the use of existing medical examination forms and medical examiner's certificates until current printed supplies are depleted or until November 8, 1994, whichever comes first; and also change the current Medical Examiner's (ME) certificate by requiring the ME's telephone number (in lieu of the ME's address) and replacing the entry for "date of examination" with an "expiration date." This action will ensure regulatory uniformity, easy compliance and enforcement, and a monetary savings to the motor carrier industry.

EFFECTIVE DATE: December 8, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Standards, (202) 366–2981, or Mr. Raymond W. Cuprill, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** at 57 FR 33276 on July 28, 1992, amended § 391.43(a) of the Federal Motor Carrier Safety Regulations (FMCSRs) to permit health care professionals other than doctors of medicine (MDs) and of osteopathy (DOs) to perform physical examinations of commercial motor vehicle drivers provided certain conditions are met. The final rule permitted physician assistants (PAs), advanced practice nurses (APNs), doctors of chiropractic (DCs), and others to perform physical examinations and make driver qualification determinations if the State in which they are licensed authorizes such examinations. Shortly after publication, the FHWA realized that the rule created a number of minor problems in the format of the physical examination form and the medical examiner's certificate that should be corrected as soon as possible. About the same time, the American Trucking Associations (ATA) petitioned the FHWA to consider the changes addressed in this document. The FHWA agrees these changes are appropriate and minor in nature. The FHWA has, therefore, incorporated the requested changes into this final rule.

The FMCSRs have always referred to the person performing the required physical examination as a "medical examiner." See §§ 391.41(a), and 391.43(f) and (g). When the term "health care professional" was coined, it introduced a term that had not been used before in the FMCSRs and that was unfamiliar to those persons subject to

the regulation. The FHWA is, therefore, amending § 390.5 by removing the term "health care professional" and replacing it with the term "medical examiner." The actual definition of the term remains the same. Further, the term "health care professional" is being replaced by the term "medical examiner" every place it appears in § 391.43.

The ATA stated that the final rule did not allow for the use of existing forms until current printed supplies have been depleted. Such action, the ATA contends, requires motor carriers, medical examiners, and vendors of forms to discard usable medical examination forms and medical certificates. The ATA estimates that more than $1 million will be saved by the motor carrier industry and its suppliers if the continued use of existing forms is allowed until current printed supplies have been depleted.

Paragraphs (e) and (g) of § 391.43 are, therefore, being amended to allow the use of existing forms until current printed supplies have been depleted or until November 8, 1994, whichever comes first, provided that appropriate pen and ink changes to include the required information are made by the medical examiners using the existing forms. This action will allow those entities, which presently have a supply of printed forms that complied with the rules prior to July 28, 1992, to avert a substantial monetary loss.

The medical examiner's certificate most often used by the motor carrier industry is a wallet-sized form. The wallet-sized form has proven to be convenient and easily carried by all drivers. The FHWA has no desire to force a change in the size of the medical examiner's certificate. The format of the form, however, is being revised to facilitate easy completion of the form by the medical examiner, while ensuring the information will fit on a wallet-sized form.

This final rule will replace the space on the medical examiner's certificate allotted for the medical examiner's address with a space allotted for the medical examiner's telephone number. This change will allow law enforcement personnel to more easily verify the information on a medical examiner's certificate carried by a driver.

Most documents (i.e., licenses or permits) that are issued for a finite period of time indicate their expiration date rather than the date issued. Indicating the expiration date will allow anyone to determine immediately if the document is currently valid. Further, medical examiners who perform physical examinations on drivers of CMVs have long exercised their prerogative of requiring certain drivers to be medically requalified more often than every twenty-four months, if, in their opinion, such action is warranted. The FHWA is, therefore, amending the medical examiner's certificate by replacing the space allotted for "(Date of examination)" with a space allotted for "(Expiration date)."

Rulemaking Analyses and Notices

The amendments included in this document will ensure regulatory uniformity and facilitate easier compliance with and enforcement of the driver qualification requirements of the FMCSRs. Because this document revises the current medical examiner's certificate in minor ways (*i.e.*, (1) to incorporate a term used throughout the FMCSRs that is more familiar to those subject to the regulation and (2) to substitute "expiration date" for "date of examination" and the medical examiner's telephone number for address), while also allowing continued use of existing forms, the FHWA has determined that prior notice and opportunity for public comment on this action are unnecessary. Furthermore, due to the technical nature of these amendments, the FHWA has determined that prior notice and opportunity for comment are not required under the Department of Transportation's regulatory policies and procedures, as it is not anticipated that such action will result in the receipt of useful information.

Executive Order 12866 (Regulatory Planning and Review) DOT Regulatory Policies and Procedures

The FHWA has determined that this document does not contain a "significant regulatory action" under Executive Order 12866 or a "significant" regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking will be minimal. Since use of the existing printed supplies of the forms addressed in this action will be allowed, a cost savings of approximately $1 million will be realized by the motor carrier industry and its suppliers. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rulemaking on small entities. The economic impact on individual small carrier entities, which are being allowed to use the forms they now have on hand until those supplies are depleted, will be minimal. For this reason, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. Nothing in this document preempts any State law or regulation. This final rule does not limit the policy-making discretion of the States. States will not be required as part of the Motor Carrier Safety Assistance Program to adopt this rule for intrastate safety regulations, but they will have to adopt this amendment for the enforcement of interstate operations. Therefore, the FHWA certifies that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

There are no information collection requirements for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

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

Regulation Identification Number

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

List of Subjects in 49 CFR Parts 390 and 391

Definitions, Driver qualifications, Physical examinations, Highway safety, Highways and roads, Motor carriers, Reporting and recordkeeping requirements.

Issued on: October 29, 1993.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, subtitle B, chapter III, parts 390 and 391 as follows:

PART 390—[AMENDED]

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

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

2. Section 390.5 is amended by removing the term "health care professional" and by adding the term "medical examiner" to read as follows:

§ 390.5 Definitions.

* * * * *

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

* * * * *

PART 391—[AMENDED]

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

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

4. In § 391.43, the term "health care professional" is replaced by the term "medical examiner" wherever it is found; the term "physician," found in the last paragraph of the instructional text of the form entitled "Instructions for Performing and Recording Physical Examinations" in paragraph (e) is replaced by the term "medical examiner"; and of paragraph (e) introductory text and paragraph (g) are revised to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(e) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form. Existing forms may be used until current printed supplies are depleted or until November 8, 1994, whichever comes first, provided that the medical examiner writes down in pen and ink any applicable information contained in the following form.

* * * * *

(g) The medical examiner's certificate shall be substantially in accordance with the following form. Existing forms may be used until current printed supplies are depleted or until November 8, 1994, whichever comes first, provided that the medical examiner writes down in pen and ink any applicable information contained in the following form:

Medical Examiner's Certificate

I certify that I have examined

_____

(Driver's Name—Print)

In accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41 through 391.49) and with knowledge of his/her duties, I find him/her qualified under the regulations.

—Qualified only when wearing corrective lenses
—Qualified only when wearing a hearing aid
—Medically unqualified unless accompanied by a _____waiver
—Medically unqualified unless driving within an exempt intracity zone

A completed examination form for this person is on file in my office.

_____

Area Code & Telephone Number

_____

(License or Certificate No.)

_____

(State in Which Licensed)

_____

(Expiration Date)

_____

(Name & Title of Medical Examiner—Print)

_____

(Signature of Medical Examiner)

_____

(Signature of Driver)

_____

(Address of Driver)

[FR Doc. 93–27323 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[Docket No. 930615–3215; I.D. 110293C]

Summer Flounder Fishery

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

ACTION: Notification of commercial quota transfer.

SUMMARY: NMFS issues this notification to announce that 125,000 pounds (56,700 kg) of summer flounder commercial quota available to the State of North Carolina has been transferred to the Commonwealth of Virginia. This transfer allows Federally permitted summer flounder vessels to land in Virginia until the total adjusted state quota is attained. This notification advises the public that a quota adjustment has been made and the adjusted commercial quota for the State of North Carolina is 3,264,565 pounds (1,480,797 kg), and for the Commonwealth of Virginia is 2,757,623 pounds (1,250,850 kg).

DATES: Effective November 3, 1993 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, Fishery Policy Analyst, 508–281–9101.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found at 50 CFR part 625 (December 4, 1992, 57 FR 57358). The regulations require an annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 625.20.

The commercial quota for summer flounder for the 1993 calendar year was set equal to 12.35 million pounds (5.6 million kg) (January 22, 1993, 58 FR 5658). The percent allocated to each state was adjusted by Amendment 4 to the Fishery Management Plan for the Summer Flounder Fishery (September 24, 1993, 58 FR 49937) with 21.31676 percent or 2,632,623 pounds (1,194,150 kg) allocated to Virginia, and 27.44584 percent, or 3,389,565 pounds (1,537,497 kg) allocated to North Carolina.

An emergency interim rule published August 26, 1993, (58 FR 45075) allows two or more states, under mutual agreement and with the concurrence of the Regional Director, to transfer or combine summer flounder commercial quota. The Regional Director is required to consider the criteria set forth in § 625.20(f)(1) to evaluate requests for quota transfers or combinations.

Further, the Regional Director is required to publish a notification in the **Federal Register** advising a state, and notifying Federal vessel and dealer permit holders that, effective upon a specific date, a portion of a state's commercial quota has been transferred to or combined with the commercial quota of another state.

North Carolina and Virginia have agreed to transfer 125,000 pounds (56,700 kg) of North Carolina's commercial quota to Virginia. The

Regional Director has determined that the criteria set forth in § 625.20 have been met, and publishes this notification of quota transfer. The revised quotas for the calendar year 1993 are: North Carolina—3,264,565 pounds (1,480,797 kg); Virginia—2,757,623 pounds (1,250,850 kg).

Classification

This action is authorized by 50 CFR part 625.

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

List of Subjects in 50 CFR Part 625

Fisheries, Reporting and recordkeeping requirements.

Dated: November 3, 1993.

David S. Crestin,

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

[FR Doc. 93–27415 Filed 11–3–93; 4:04 pm]

BILLING CODE 3510–22–M

---

50 CFR Part 652

[Docket No. 900124–0127; ID No. 102093A]

Atlantic Surf Clam and Ocean Quahog Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of suspension of surf clam minimum size limit.

SUMMARY: NMFS issues this notification to inform the public that the minimum size limit of 4.75 inches (12.065 cm) for Atlantic surf clams is suspended for the 1994 fishing year. This action is taken under the authority of § 652.22(a)(1), which allows for the annual suspension of the minimum size limit based upon set criteria. The intended effect is to reduce a regulatory burden and allow for adequate protection of the resource.

EFFECTIVE DATES: January 1, 1994 through December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Resource Policy Analyst, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930, (508–281–9104).

SUPPLEMENTARY INFORMATION: A final rule implementing Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery (FMP) was published on June 14, 1990 (55 FR 24184). Section 652.22(a)(1) allows the Regional Director to suspend annually by publication of a notice in the **Federal Register**, the minimum size limit for Atlantic surf clams. This action may be taken unless discard, catch, and survey data indicate that 30 percent of the Atlantic surf clam resource are smaller than 4.75 inches (12.065 cm) and the overall reduced size is not attributable to beds where growth of the individual clams has been reduced because of density dependent factors.

At its June meeting, the Mid-Atlantic Fishery Management Council (Council) accepted the recommendations of its Statistical and Scientific Committee and Surf Clam/Ocean Quahog Committee and voted to recommend that the Regional Director suspend the minimum size limit. NMFS port agents conducted a random sample of landed surf clams in 1993. Results indicate that only 23.2 percent of the sample was composed of clams that were less than 4.75 inches (12.065 cm). Based on the sampling results, the Regional Director adopts the Council's recommendation and publishes this notice to suspend the minimum size limit for Atlantic surf clams for the period January 1, 1994 through December 31, 1994.

Other Matters

This action is authorized by 50 CFR part 652, and is taken in compliance with E.O. 12291.

Authority: 16 U.S.C. 1081 *et seq.*

List of Subjects in 50 CFR Part 652

Fisheries, Reporting and recordkeeping requirements.

Dated: November 2, 1993.

David S. Crestin,

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

[FR Doc. 93–27378 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–22–M

---

50 CFR Part 661

[Docket No. 931192–3292; I.D. 102593A]

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

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Management measures for remainder of fishing season and request for comments.

SUMMARY: NMFS announces fishery management measures for the recreational ocean salmon fishery in the exclusive economic zone (EEZ) off the coast of California. These measure are designed, as part of the 1993–1994 fishing season's mix of management measures, to apportion the burden of protecting the weak stocks equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs.

DATES: Effective from 0001 hours local time, November 3, 1993, through 2400 hours local time, April 30, 1994. Comments will be accepted through November 17, 1993.

ADDRESSES: Comments may be mailed to J. Gary Smith, Acting Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700–Bldg. 1, Seattle, WA 98115–0070; or Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a framework fishery management plan (FMP) that was approved in 1984 and has been amended four times (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991). Regulations at 50 CFR part 661 provide the mechanism for making annual and inseason adjustments to the management measures, within limits set by the FMP, by notice in the **Federal Register**.

In an emergency interim rule and subsequent amendment (58 FR 26922, May 6, 1993; 58 FR 31664, June 4, 1993), NMFS announced the 1993 management measures for recreational and commercial fisheries off the coasts of Washington, Oregon, and California. The emergency rule was extended through November 2, 1993 (58 FR 42030, August 6, 1993). Upon expiration of the extended emergency rule, the regulations implementing the salmon FMP at 50 CFR 661.5(b) close all ocean salmon fishing in the fishery management area of the EEZ until reopened by a notice issued under 50 CFR 661.20. The 1994–1995 management measures are not expected to be implemented until May 1, 1994. NMFS did not include the measures being implemented by this action in the original emergency rule because the recreational seasons occur after the expiration of the emergency rule (November 2, 1993, as extended) and before implementation of the 1994–1995 season management (May 1, 1994). Thus

this action is necessary to implement the management measures for the remainder of the 1993–1994 season.

The Pacific Fishery Management Council (Council), at its September 14–17, 1993, meeting, recommended management measures for the remainder of the 1993–1994 fishing season (i.e., November 3, 1993, through April 30, 1994). These management measures allow completion of the 1993 regular recreational fishery between Horse Mountain and Point Arena, California, and the normally scheduled opening of the 1994 recreational fishery between Horse Mountain and the U.S.-Mexico border prior to May 1, 1994.

These measures are the same as those adopted by the Council in April 1993 and are discussed and fully analyzed in the Council's Preseason Report III, "Analysis of Council-Adopted Management Measures for 1993 Ocean Salmon Fisheries." (This report is available from the NMFS, NW Region Office, see ADDRESSES). This action does not include the size restriction that went into effect by an amendment to the emergency rule (58 FR 31664, June 4, 1993) on September 1, 1993, in the area between Point Arena and the U.S.-Mexico border. This size restriction was determined by the Council to no longer be needed because it is unnecessary this late in the season as Sacramento River Fall Chinook spawners have already escaped.

Management Measures for Remainder of 1993–1994 Fishing Season

NMFS establishes the following management measures for the period November 3, 1993, through April 30, 1994, that are designed to apportion the burden of protecting the weak stocks equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. NMFS also finds the management measures responsive to the goals of the FMP, the requirements of the resource, and the socioeconomic factors affecting resource users. They are consistent with the requirements of the Magnuson Act and other applicable law.

Seasons, Species, and Bag Limits

(1) Horse Mountain to Point Arena, California

The recreational fishery for all salmon, which is open under the extended emergency rule, will continue through November 14, 1993 (the nearest Sunday to November 15, 1993), with a 2-fish daily bag limit. This fishery will reopen for all salmon in this same area, on February 12, 1994 (the nearest Saturday to February 15, 1994), with a 2-fish daily bag limit.

(2) Point Arena, California, to the U.S.-Mexico Border

The recreational fishery for all salmon will open on February 26, 1994 (the nearest Saturday to March 1, 1994), with a 2-fish daily bag limit. The control zone near the mouth of San Francisco Bay (Control Zone 3) will be closed from the opening of the season on February 26, 1994, through March 31, 1994. Control Zone 3 (Sacramento River Winter-Run Chinook Conservation Closure) is the ocean area bounded by a line commencing at Bolinas Point (Marin County, 37°54′17″ N. latitude, 122°43′35″ W. longitude) southerly to Duxbury Buoy to Channel Buoy 1 to Channel Buoy 2 to Point San Pedro (San Mateo County, 37°35′40″ N. latitude, 122°31′10″ W. longitude). Therefore, Control Zone 3 will be open for the month of April 1994 only.

Minimum Size Limits (Total Length in Inches) Chinook: 20.0; Coho: 20.0; Pink: 20.0.

Gear Definitions and Restrictions

Recreational Fishing Gear

Recreational fishing gear for the Fishery Management Area (FMA) is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended.

Weights directly attached to a line may not exceed 4 pounds (1.8 kg). Single point, single shank barbless hooks are required north of Point Conception, California.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Geographical Landmarks

Geographical landmarks referenced in this notice are at the following locations:

Humbug Mountain	42°40′30″ N. lat.
Horse Mountain	40°05′00″ N. lat.
Point Arena	38°57′30″ N. lat.
Point Conception	34°27′00″ N. lat.

Classification

The management measures described above are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see ADDRESSES) during business hours until the end of the comment period.

These actions are authorized by 50 CFR part 661. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that they are consistent with the Magnuson Act and other applicable law, and are covered by the Regulatory Flexibility Analysis and Final Supplemental Environmental Impact Statement prepared for the framework amendment to the FMP. These actions impose no information collection requirements under the Paperwork Reduction Act.

Section 661.23 of the ocean salmon regulations states that the Secretary will publish a notice establishing management measures each year and will invite public comments prior to the effective date. If the Secretary determines, for good cause, that a notice must be issued without affording a prior opportunity for public comment, comments on the notice will be received by the Secretary for a period of 15 days after the filing of the notice with the **Federal Register**.

The Secretary has determined that time does not permit a comment period prior to the date these management measures must be in effect. Comments will be considered if received within 15 days after the filing of the notice with the Office of the Federal Register.

The public had opportunity to comment on these management measures during the process of their development. The public participated at the Council, Salmon Technical Team, and Salmon Advisory Subpanel's meetings during March, April, and September, as well as at public hearings held in California in late March which generated the management actions recommended by the Council. Written public comments were invited by the Council between the March and April meetings.

On March 31, 1991, NMFS issued a biological opinion that considered the affects of the FMP on Sacramento River winter-run chinook salmon. The opinion concluded that implementation of the plan is not likely to jeopardize the continued existence of the species. This action falls within species. This action falls within the scope of the 1991 opinion, and the resulting seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on Sacramento River winter-run chinook salmon.

On May 28, 1993, NMFS issued a biological opinion that considered the effects of the 1993 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River which concluded the 1993

salmon management measures were not likely to jeopardize the continued existence of the listed stocks. This action falls within the scope of the opinion, and the resulting seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on these stocks.

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

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and Recordkeeping requirements.

Dated: November 2, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 93–27351 Filed 11–2–93; 4:50 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 214
Monday, November 8, 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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1395–92]

RIN 1115–AD28

Petitioning for Foreign-Born Orphans by United States Citizens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses a number of issues that have arisen in the recent past because of the increased interest by United States citizens in the adoption of foreign-born orphans. It proposes to revise existing regulations by clarifying language and procedures for prospective adoptive parents and other interested parties. This proposed rule also enhances the ability of the Immigration and Naturalization Service (Service) to help ensure that children who are eligible for orphan status will receive proper care.

DATES: Written comments must be received on or before December 8, 1993.

ADDRESSES: Please submit written comments in triplicate to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, room 5307, 425 I Street, NW., Washington, DC 20536. To ensure proper and timely handling, please reference INS Number 1395–92 on your correspondence.

FOR FURTHER INFORMATION CONTACT: Jack Tabaka, Senior Immigration Examiner, or Karen Eckert, Supervisory Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: On September 9, 1992, the Service published a final rule in the **Federal Register**, at 57 FR 41053–41068, which revised 8 CFR part 204. In that rule, no substantive changes were made to the orphan regulations which were restructured for clarity at 8 CFR 204.3. The regulation now being proposed totally revises 8 CFR 204.3 and provides a proper balance between protection for the child and appropriate facilitation in the processing of orphan cases.

Background

The word orphan is defined in many dictionaries as a child whose parents have both died. Under the Immigration and Nationality Act (Act), Congress expanded the definition to include not only children who were orphans because of the death of both parents, but also children who were orphans because of the "disappearance of, abandonment or desertion by, or separation or loss from both parents * * *." [8 U.S.C. 1101(b)(1)(F)]. Congress also established additional circumstances under which the child of a sole or surviving parent could be considered an orphan. The term abandonment has been partially defined through appellate decisions and use. To date, the other terms, disappearance, desertion, separation, and loss, have largely been undefined.

A review of the legislative history leading to the statutory definition of orphan, as it appears in section 101(b)(1)(F) of the Act, and a review of the preceding legislation clearly show that Congress intended the orphan statute to apply to "homeless" and parentless children. The original legislation was drafted after World War II when there were many children who had been permanently torn from their parents and homes. In fact, the origin of the legislation can be traced to the Displaced Persons Act of 1948, Public Law No. 80–774, section 2, 62 Stat. 1009.

During the following 44 years, the original statute was amended several times. The amendments included raising the age of an eligible orphan, eliminating the two orphans per petitioner limit, allowing an unmarried individual to petition for an orphan, and defining the impact of the Immigration Reform and Control Act of 1986 on section 101(b)(1)(D) of the Act regarding the relationship of an illegitimate child to its father in an orphan case. Additional legislation required that a home study be completed in every case before the prospective adoptive parents are eligible to petition for an orphan, and that each home study be favorably recommended. Throughout these changes, Congress continued to refer to the orphan statute as pertaining to homeless children, thereby distinguishing it from the provisions of the adopted child statute under section 101(b)(1)(E) of the Act.

Proposed Changes

General

8 CFR 204.3(a) sets forth the Service's policy that the adjudication of orphan cases is a priority matter. It also provides prospective adoptive parents and other interested parties with an overview of orphan processing.

Definitions

8 CFR 204.3(b) includes definitions for the terms abandonment, disappearance, desertion, separation, and loss. These definitions emphasize the permanent severance of all ties between an orphan and his or her parents which is not contemporaneous with or synonymous with adoption. Other terms have also been defined.

Supporting Documentation

The documentation needed to support an advanced processing application is listed in 8 CFR 204.3(c). Most significantly, this paragraph addresses the fingerprint card requirement. The Service firmly believes that fingerprint checks discourage individuals with questionable backgrounds from filing petitions. On the basis of contacts with various interested parties, the Service believes that parents who have adopted orphans agree with the use of fingerprint checks as a means of protecting orphans, despite the fact that they may have been personally inconvenienced. Fingerprint checks for other adult members of the prospective adoptive parents' household (except for those who cannot be fingerprinted because of age or medical condition) are also being required as additional protection for the child.

Although the Service handles fingerprint checks for orphan cases as a high priority, FBI processing of fingerprint cards can take anywhere from three weeks to more than two months for completion and return to the Service. In this rule, the Service has included a suggestion made by some adoptive parents that they be given the option of submitting to the Service the

results of certain current FBI fingerprint checks secured pursuant to Freedom of Information Act (FOIA) requests. To ensure the integrity of this optional procedure, the Service has reserved the right to randomly check such fingerprint checks and to verify questionable ones.

8 CFR 204.3(c) requires that if the home study report does not accompany an advanced processing application, the report must be submitted within six months of the filing of the application, or the application will be denied. Current regulations allow for the home study report to be submitted within a year of the filing of the advanced processing application. In most cases, the home study is initiated either before or contemporaneously with the filing of the advanced processing application. Even if the home study begins contemporaneously with the filing, six months should be more than an adequate period of time for completion of a home study.

8 CFR 204.3(c) also increases the validity period for an approved advanced processing application from twelve to eighteen months, during which time the orphan petition must be filed. Most prospective adoptive parents file their petitions and all supporting documents in less than a year. The additional six months is provided because processing in some instances may be unexpectedly delayed.

The six-month increase in the validity period is also provided in conjunction with a requirement in 8 CFR 204.3(d) that all supporting documents be submitted with the orphan petition. Under current regulations, the Service is often the repository of pending proceedings for as long as a year, while the prospective adoptive parents are securing supporting documentation. This requirement will eliminate the present practice of accepting orphan petitions with incomplete supporting documentation. The Service believes that as the prospective adoptive parents gather the documents from various sources, they are the best custodians of documents relating to their prospective adoptive orphan.

8 CFR 204.3(d) also sets forth the documentation necessary to support an orphan petition and requires that the prospective adoptive parents, or the adoption agency working on their behalf, secure custody of the orphan for adoption and emigration in accordance with the laws of the foreign sending country. This requirement will help ensure that the laws of the foreign sending country are not circumvented and that the rights of all interested parties are respected. Most prospective adoptive parents and reputable adoption agencies are careful to abide by the laws of the foreign sending country. However, other less reputable organizations and facilitators attempt to circumvent laws of the foreign sending country for their own profit and/or expediency. This often results in problems and anguish for prospective adoptive parents unfortunate enough to be involved with such parties and can delay the placement of orphans in much-needed homes. Circumvention of foreign laws can also result in anti-international adoption sentiments in the foreign sending countries. Such sentiments may result in adverse actions, including the termination of international adoptions, which would be detrimental to the vast majority of prospective adoptive parents who are trying to comply with applicable foreign laws.

Home Study Requirements

The Service is proposing reasonable requirements for home studies for immigration purposes which are in addition to any State, professional, or agency requirements. 8 CFR 204.3(e) substantially revises the home study requirements in response to the numerous complaints the Service has received from prospective adoptive parents, agencies, and Service officers regarding the quality of home studies. The complaints have generally been directed against "free-lancing" persons whose home studies did not meet professional, ethical, and/or regulatory criteria.

Additionally, the proposed regulation establishes a six-month period during which a home study can be considered valid. Because the current regulation does not include a validity period for home studies, some prospective adoptive parents submitted home studies that were several years old. 8 CFR 204.3(e) establishes that a home study, or its update, must be current, that is, it must not be more than six months old at the time of its submission to the Service. Requiring a current home study, or a current update with an older home study, will help the Service ensure that proper care will be furnished to the orphan in the adoptive home, as required by statute.

The Service has received complaints that some home studies never included home visits and were being based on written autobiographies submitted by the prospective adoptive parents or telephonic interviews with the prospective adoptive parents. As a result, the proposed regulations in 8 CFR 204.3(e)(1) require at least one home visit and an interview in person with the prospective adoptive parents. The proposed rule also requires the home study preparer to interview each additional adult member of the prospective adoptive parents' household and to evaluate his or her mental, physcial, and emotional capabilities and any history of abuse and/or violence.

8 CFR 204.3(e)(2) focuses on the assessment of the prospective adoptive parents as proper parents for the orphan.

The proposed rule includes requirements for evaluating the physcial, mental, and emotional capabilities of the proposective adoptive parents, and requires a more detailed discussion of these areas than does the current regulation. Additionally, it requires a similar evaluation of each adult member of the prospective adoptive parents' household. The proposed rule also requires an evalution of the finances of the prospective adoptive parents. These areas are discussed in 8 CFR 204.3(e)(2) (i) and (ii).

8 CFR 204.3(e)(2)(iii) helps ensure that the orphan will come to a suitable family by requiring that child abuse indices be checked as part of the home study and any history of substance abuse, sexual or child abuse, or domestic violence be discussed in the home study. The current regulations do not require home study preparers to check available child abuse indices and do not require prospective adoptive parents to disclose any history of violence and/or abuse. Some prospective adoptive parents with such histories wait to see if the Service or the home study preparer learns of their histories. Revelation of this adverse information sometimes occurs near the end of the advance processing, after the orphan has already been identified. Both the home study preparer and the Service are then under pressure to make a quick assessment of these newly uncovered adverse factors, since the prospective adoptive parents may have already arranged to travel abroad. In order to help eliminate such situations and to better safeguard the welfare of these children, the proposed rule at 8 CFR 203.3(e)(2)(iii)(A) requires the home study preparer to check available child abuse indices for prospective adoptive parents and any adult members of the prospective adoptive parents' household.

In the past, some home study preparers have failed to include in the home study reports discussions of known histories or criminal records of abuse/or violence. In one case, the Service approved an advanced processing application on the basis of a favorable home study. A State employee

saw an article in a local newspaper about the prospective adoptive parents and the fact that they were approved to pursue the adoption of an orphan. The State employee called and told the Service office that the prospective adoptive parents' foster care license recently had been revoked because their natural child had been abusive to the foster children. When the Service asked the person who conducted the home study about the matter, she replied that she was aware of the situation and the revocation of the foster care license but did not think it was relevant to the home study evaluation. In another case, the home study preparer was aware that a prospective adoptive parent had a record for molesting a minor, but withheld the information from the home study and the Service. In 8 CFR 204.3(e)(2)(iii)(B), the Service is proposing that the home study report include a discussion of any past criminal record, history of abuse and/or violence, or lack thereof for the prospective adoptive parents and any adult member of the prospective adoptive parents' household. Any such findings must be incorporated in the home study report so that the Service can evaluate these facts early in the process.

At 8 CFR 204.3(e)(2)(iii)(C), the proposed rule provides guidelines for a home study preparer who believes that a prospective adoptive parent or any adult member of the prospective adoptive parents' household with a history of abuse and/or violence has been rehabilitated.

8 CFR 204.3(e)(2)(iii)(D) provides for penalties for failure to disclose a history of abuse and/or violence.

8 CFR 204.3(e)(2)(iv) of the proposed rule addresses an issue which is becoming more common: approved home studies for prospective adoptive parents who previously have been rejected as prospective adoptive parents, or who have been the subject of previously unfavorable home studies. The proposed rule requires that this issue be addressed and that copies of earlier findings be submitted. Perhaps the most egregious cases that have come to light are those in which two prospective couples were each the subject of four unfavorable home studies. Finally, each couple received a favorable home study which did not mention the unfavorable ones, nor did the favorable home studies explain why each couple was now considered suitable as prospective adoptive parents. These issues must be addressed for any adult members of the prospective adoptive parent's household.

In 8 CFR 203(e)(3), the proposed rule requires a more detailed description of the living accommodations to which the orphan is destined than is required by the current regulation.

If the prospective adoptive parents are considering adopting a handicapped or special needs orphan, 8 CFR 204.3(e)(4) requires that the home study certify that they are appropriately prepared and are willing and able to provide proper care for a handicapped or special needs orphan.

Some prospective adoptive parents have complained about the lack of post-placement counseling by persons not affiliated with child placement agencies. They have said that some persons conducting home studies were not willing to provide any post-placement counseling even when the adoptive parents requested it. Although the Service is not requiring post-placement counseling, 8 CFR 204.3(e)(5) requires a summary of the pre-placement counseling given to the prospective adoptive parents and of any plans for post-placement counseling.

8 CFR 204.3(e)(6) requires that a specific approval of the prospective parents for adoption be made part of the home study, detailing the number of orphans recommended for placement and identifying any specific restrictions such as nationality, age, or gender. A number of home study preparers have advised the Service that their home studies are not general, but are country specific, taking into account the country in which the prospective adoptive parents indicated interest at the time of the home study. Some home study preparers have complianed that some prospective adoptive parents use the home studies to pursue adoptions in other countries about which the home study preparers cannot make judgements because they do not have sufficient knowledge. In order to help ensure that home studies are used for the specific purposes intended, the proposed rule requires that the home study specify whether it is country-specific.

In 8 CFR 204.3(e)(7), the proposed rule requires that the home study preparer cite the specific law or regulation which allows that party to conduct the home study.

The requirement of a favorable recommendation of the home study in 8 CFR 204.3(e)(8) is a result of careful examination of applicable law and Congressional intent regarding home studies. Congress intended that a home study was needed to help ensure that an orphan coming to an adoptive home would be properly cared for and that parties who conduct the home studies and favorably recommend prospective adoptive parents be authorized to do so. Therefore, the Service clarifies in this proposed rule that any party licensed or otherwise authorized by the State of the orphan's proposed residence to conduct home studies may do the research and preparation for a home study, including the interview. However, a favorable recommendation must come from adoption authorities of the State of the orphan's proposed residence, or an adoption agency licensed or otherwise authorized by that State to place children for adoption. In the case of prospective adoptive parents who are residing abroad and who have finalized the adoption abroad, the home study preparer can be any party licensed or otherwise authorized to conduct home studies under the law of any State of the United States, or any party licensed or otherwise authorized by the adoption authorities of the foreign country to conduct home studies under the laws of the foreign country. The favorable recommendation must be made by an appropriate public or private adoption agency licensed, or otherwise authorized, by any State of the United States. The Service is not requiring an agency adoption or prohibiting prospective adoptive parents from pursuing private adoptions.

In 8 CFR 204.3(e)(9), the proposed rule requires that home studies be updated under certain circumstances.

8 CFR 204.3(e)(10) provides a "grandfather" provision for certain home studies completed prior to the effective date of this rule.

State Preadoption Requirements

In the past, the applicability of State preadoption requirements under immigration law have been unexplained. 8 CFR 204.3(f) clarifies the conditions under which these requirements must be met under the Act.

Where To File

8 CFR 204.3(9) details where, under various circumstances, prospective adoptive parents are to file their advanced processing applications and orphan petitions.

Adjudication and Decision

8 CFR 204.3(h) discusses the decision-making process. When this rule is published as a final rule, 8 CFR 204.3(h) will include a "grandfather" provision for applications and petitions pending as of the rule's effective date. The major change in the decision making area relates to letters of intent to deny and denials. The present Service policy in deniable cases is to return the orphan

petition to the prospective adoptive parents and to advise them of the reasons that the petition is deniable. If the prospective adoptive parents return the petition without overcoming the grounds of denial, the petition is denied. The returning of the petition is unique to orphan cases. In all other petitions, a letter of intent to deny is served when the Service has derogatory or adverse information which may be unknown to the petitioner. If the petitioner fails to overcome the grounds stated in the letter of intent to deny, the Service denies the petition and notifies the petitioner of his or her appeal rights. The Service believes that its standard procedure offers a petitioner sufficient safeguards and therefore will eliminate the additional step which has been unique to orphan cases.

Child Buying as a Ground for Denial

8 CFR 204.3(i) provides that child buying shall be a ground for denial. The authority for this is implicit in the current statute. Section 101(b)(1)(F) of the Act requires a severance between the natural parents and the orphan which is complete and unequivocal. It precludes a finding of orphanhood if the natural parents maintain control over the child and direct his or her destiny to particular prospective adoptive parents. Child selling and its corollary, child buying, involve such control by making the release of the child contingent upon the receipt or promise of money or some other consideration, either directly or indirectly. Child buying caused one country to terminate international adoptions for several months, creating hardships for many prospective adoptive parents who were in the process of adopting orphans from that country. Additionally, child selling and buying is an intolerable practice which cannot be condoned by the Service.

Telegraphic Notification

8 CFR 204.3(j) provides that the adjudicating stateside Service office will telegraphically notify the overseas site (that is, the Department of State immigrant visa-issuing post having jurisdiction over the orphan's residence, or in foreign countries in which the Service has an office or offices, the Service office having jurisdiction) of the approval of the advanced processing application when the petitioner (whether with spouse or alone, if married) is traveling abroad to file the orphan petition. Because of increasing requests for transferring the approval of the advanced processing application from one overseas site to another, this paragraph also establishes a uniform procedure whereby a prospective adoptive parent who is in the United States may request a change in overseas sites. Telegraphic notification of orphan petitions approved in the United States is also provided for in this paragraph.

Other Considerations

Finally, 8 CFR 204.3(k) discusses the authority of consular officers in orphan cases, the I–604 investigation required for each orphan case pursuant to Form I–604 (Request for and Report on Overseas Orphan Investigation), and the processing of orphans paroled into the United States. Additionally, the director is required to develop and maintain liaison with State adoption authorities within his or her jurisdiction and with other parties interested in international adoptions.

Use of Form I–130

This proposed rule anticipates the introduction of a revised Form I–130 (Immigrant Petition for Relative, Fiance(e), or Orphan) which will eliminate Form I–600A (Application for Advance Processing of Orphan Petition) and Form I–600 (Petition To Classify Orphan as Immediate Relative). The I–600A and I–600 will continue to be used until the revised Form I–130 is approved by the Office of Management and Budget (OMB) and subsequently printed and distributed.

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

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5, Display of Control Numbers.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Adoption, Children, Orphans.

Accordingly, part 204 of chapter I of title 8 of the Code of Federal Regulations is proposed to be amended as follows:

PART 204—IMMIGRANT PETITIONS

1. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186A, 1255; 8 CFR part 2.

2. Section 204.3 is revised to read as follows:

§ 204.3 Orphans.

(a) *General.* The processing and adjudication of orphan cases is a Service priority. A child who meets the definition of orphan contained in section 101(b)(1)(F) of the Act is eligible for classification as the immediate relative of a United States citizen. Petitioning for an orphan involves two distinct determinations. The first determination concerns the advanced processing application which focuses on the ability of the prospective adoptive parents to provide a proper home environment and on their suitability as parents. This determination, based primarily on a home study and fingerprint checks, is essential for the protection of the orphan. The second determination concerns the orphan petition which focuses on whether the child is an orphan under section 101(b)(1)(F) of the Act. The prospective adoptive parents may submit the documentation necessary for each of these determinations separately or at one time, depending on when the orphan is identified. An orphan petition cannot be approved unless there is a favorable determination on the advanced processing application. However, a favorable determination on the advanced processing application does not guarantee that the orphan petition will be approved. Prospective adoptive parents may consult with the local Service office on matters relating to an advanced processing application and/or an orphan petition.

(b) *Definitions.* As used in this section:

Abandonment by both parents means that the parents have willfully forsaken all parental rights, obligations, and claims to the child, as well as all control over and possession of the child, without intending to transfer, or without transferring, these rights to any specific person(s). Abandonment must include both the intention to surrender all parental rights, obligations, and claims to the child, and control over and possession of the child, as well as the actual act of surrendering such rights, obligations, claims, control, and possession. A relinquishment or release by the parents to the prospective adoptive parents or for a specific adoption does not constitute abandonment. Similarly, the relinquishment or release of the child by the parents to a third party for custodial care in anticipation of, or preparation for, adoption does not constitute

abandonment unless the third party (such as a governmental agency, a court of competent jurisdiction, an adoption agency, or an orphanage) is authorized under the child welfare laws of the foreign sending country to act in such a capacity. A child shall not be considered to be abandoned if he or she is placed temporarily in an orphanage, if the parents express an intention to retrieve the child, are contributing or attempting to contribute to the support of the child, or otherwise exhibit parental interest in the child. A child who has been given unconditionally to an orphanage shall be considered to be abandoned.

Adult member of the prospective adoptive parents' household means an individual, other than a prospective adoptive parent, over the age of 18 whose principal or only residence is the home of the prospective adoptive parents.

Advanced processing application means Form I–130 (Immigrant Petition for Relative, Fiance(e), or Orphan) with Part 2i checked, completed in accordance with the form's instructions and submitted with the required supporting documentation and the fee as required in 8 CFR 103.7(b)(1). The application must be signed in accordance with the form's instructions by the married petitioner and spouse or by the unmarried petitioner.

Application is synonymous with advanced processing application.

Competent authority means a court or governmental agency of a foreign sending country having jurisdiction and authority to make decisions in matters of child welfare, including adoption.

Desertion by both parents means that the parents have willfully forsaken their child and have refused to carry out their parental rights and obligations and that, as a result, the child has become a ward of a competent authority in accordance with the laws of the foreign sending country.

Disappearance of both parents means that both parents have unaccountably or inexplicably passed out of the child's life, their whereabouts are unknown, there is no reasonable hope of their reappearance, and their has been a reasonable effort to locate them as determined by competent authority in accordance with the laws of the foreign sending country.

Foreign sending country means the country of the orphan's citizenship, or if he or she is not permanently residing in the country of citizenship, the country of the orphan's habitual residence. This excludes a country to which the orphan travels temporarily, or to which he or she travels either as a preclude to, or in conjunction with, his or her adoption and/or immigration to the United States.

Home study preparer means any party licensed or otherwise authorized under the law of the State of the orphan's proposed residence to conduct the research and preparation for a home study, including the required personal interview(s). This term includes a public agency with authority under that State's law in adoption matters, public or private adoption agencies licensed or otherwise authorized by the laws of that State to place children for adoption, and organizations or individuals licensed or otherwise authorized to conduct the research and preparation for a home study, including the required personal interview(s), under the laws of the State of the orphan's proposed residence. In the case of an orphan whose adoption has been finalized abroad and whose adoptive parents reside abroad, the home study preparer includes any party licensed or otherwise authorized to conduct home studies under the law of any State of the United States, or any party licensed or otherwise authorized by the foreign country's adoption authorities to conduct home studies under the laws of the foreign country.

Incapable of providing proper care means that a sole or surviving parent is unable to provide for the child's basic needs, consistent with the local standards of the foreign sending country.

Loss from both parents means the involuntary severance or detachment of the child from the parents in a permanent manner such as that caused by a natural disaster, civil unrest, or other calamitous even beyond the control of the parents, as verified by competent authority in accordance with the laws of the foreign sending country.

Orphan petition means Form I–130 with part 2h checked (if the advanced processing application is being filed concurrently with the orphan petition) or with part 2j checked (if an advanced processing application is approved or pending). The petition must be completed in accordance with the form's instructions and submitted with the required supporting documentation and the fee as required in 8 CFR 103.7(b)(1) if there is not an advanced processing application approved or pending. The petition must be signed in accordance with the form's instructions by the married petitioner and spouse, or the unmarried petitioner.

Overseas site means the Department of State immigrant visa-issuing post having jurisdiction over the orphan's residence, or in foreign countries in which the Service has an office or offices, the Service office having jurisdiction.

Petition is synonymous with orphan petition.

Petitioner means a married United States citizen of any age, or an unmarried United States citizen who is at least 24 years old at the time he or she files the advanced processing application and at least 25 at the time he or she files the orphan petition. In the case of a married couple, both of whom are United States citizens, either party may be the petitioner.

Prospective adoptive parents means a married United States citizen of any age and his or her spouse of any age, or an unmarried United States citizen who is at least 24 years old at the time he or she files the advanced processing application and at least 25 at the time he or she files the orphan petition. The spouse of the United States citizen may be a citizen or an alien. An alien spouse must be in lawful immigration status if residing in the United States.

Separation from both parents means the involuntary severance of the child from his or her parents by action of competent authority for good cause and in accordance with the laws of the foreign sending country. The parents must have been properly notified and granted the opportunity to contest such action. The termination of all parental rights and obligations must be permanent and unconditional.

Sole parent means the mother when it is established that the child is illegitimate and has not acquired a parent within the meaning of section 101(b)(2) of the Act. An illegitimate child shall be considered to have a sole parent if his or her father has severed all parental ties, rights, duties, and obligations to the child, or if his or her father has in writing irrevocably released the child for emigration and adoption. This definition is not applicable to children born in countries which make no distinction between a child born in or out of wedlock, since all such children are considered to be legitimate. In all cases, a sole parent must be incapable of providing proper care as that term is defined in this section.

Surviving parent means the child's living parent when the child's other parent is dead, and the child has not acquired another parent within the meaning of section 101(b)(2) of the Act. In all cases, a surviving parent must be incapable of providing proper care as that term is defined in this section.

(c) *Supporting documentation for an advanced processing application.* The prospective adoptive parents may file an advanced processing application before

an orphan is identified in order to secure the necessary clearance to file the orphan petition. Any document not in the English language must be accompanied by a certified English translation.

(1) *Required supporting documentation that must accompany the advanced processing application.* The following supporting documentation must accompany an advanced processing application at the time of filing:

(i) Evidence of the petitioner's United States citizenship as set forth in § 204.1(g) and, if the petitioner is married and the married couple is residing in the United States, evidence of the spouse's United States citizenship or lawful immigration status;

(ii) A copy of the petitioner's marriage certificate to his or her spouse, if the petitioner is currently married;

(iii) Evidence of legal termination of all previous marriages for the petitioner and/or spouse, if previously married;

(iv) Two sets of completed and fully-classifiable fingerprint cards for each member of the married prospective adoptive couple or the unmarried prospective adoptive parent. The fingerprints must be submitted on Form FD–258 (Applicant Fingerprint Card) with the office code of the INS office having jurisdiction over the petitioner's place of residence preprinted in the box marked "ORI"; and

(v) Evidence of compliance with preadoption requirements, if any, of the State of the orphan's proposed residence in cases where it is known that there will be no adoption abroad, or that both members of the married prospective adoptive couple or the unmarried prospective adoptive parent will not personally see the child prior to, or during, the adoption abroad, and/or that the adoption abroad will not be full and final. Any preadoption requirements which cannot be met at the time the advanced processing application is filed must be noted and explained when the application is filed. Such requirements must be met at the time the petition is filed, except for those which cannot be met until the orphan arrives in the United States; and

(vi) Two sets of fingerprint cards which conform to the requirements in paragraph (c)(1)(iv) of this section for each additional adult member of the prospective adoptive parents' household. The Service shall waive this requirement when it determines that such an adult is physically unable to be fingerprinted because of age or medical condition.

(2) *Home study.* The home study must comply with the requirements contained in paragraph (e) of this section. If the home study is not submitted when the advanced processing application is filed, it must be submitted within six months of the filing date of the advanced processing application, or the application will be denied pursuant to paragraph (h)(5) of this section.

(3) *Optional supporting documentation that may be submitted with the advanced processing application.* The prospective adoptive parents may also submit to the Service an original, completed, and fully-classifiable fingerprint card for each member of the married prospective adoptive couple, or for the unmarried prospective adoptive parent, which has been submitted to FBI Headquarters by the prospective adoptive parents, classified by the FBI, and returned by the FBI with its endorsement regarding the existence of any record of arrest or conviction with that agency. The prospective adoptive parents must submit to the Service all documents which the FBI forwards with such classified fingerprint card(s), including the FBI envelope. When a record received from the FBI in this manner is used to support an advanced processing application, the record must be submitted to the Service within sixty days of receipt. If the prospective adoptive parents submit fingerprints pursuant to this paragraph, each additional adult member of the prospective adoptive parents' household must also submit fingerprints in the same manner unless waived pursuant to paragraph (c)(1)(vi) of this section.

(4) *Acceptability of optional supporting documentation.* The director may accept a fingerprint card described in paragraph (c)(3) of this section as evidence of a completed FBI record check, if all fingerprints thereon were fully classifiable. However, the director shall forward one fingerprint card, submitted in accordance with paragraphs (c)(1) (iv) and (vi) of this section, for each of the prospective adoptive parents and each additional adult member of the prospective adoptive parents' household to the FBI when there is good reason to believe that a card submitted in accordance with paragraph (c)(3) of this section has been altered, is not authentic, is too old, or was not submitted to the Service with all accompanying documents from the FBI. In such an instance, the director shall not adjudicate the advanced processing application until the FBI responds to the Service. Additionally, the director shall submit a random sample of fingerprint cards to the FBI for a fingerprint record check to ensure the integrity of the procedure in paragraph (c)(3) of this section.

(d) *Supporting documents for a petition for an identified orphan.* Any document not in the English language must be accompanied by a certified English translation. If an orphan has been identified for adoption and the advanced processing application is pending, the prospective adoptive parents may file the orphan petition at the Service office where the application is pending. The prospective adoptive parents who have an approved advanced processing application must file an orphan petition and all supporting documents within eighteen months of the date of the approval of the advanced processing application. If the prospective adoptive parents fail to file the orphan petition within the eighteen-month period, the advanced processing application shall be deemed abandoned pursuant to paragraph (h)(7) of this section. If the prospective adoptive parents file the orphan petition after the eighteen-month period, the petition shall be denied pursuant to paragraph (h)(13) of this section. Prospective adoptive parents who do not have an advanced processing application approved or pending may file the application and petition concurrently on one Form I–130 if they have identified an orphan for adoption. The petition must be accompanied by full documentation as follows:

(1) *Filing an orphan petition after the advanced processing application has been approved.* The following supporting documentation must accompany an orphan petition under this provision at the time of filing:

(i) Evidence of approval of the advanced processing application;

(ii) The orphan's birth certificate, or if such a certificate is not available, an explanation together with other proof of identity and age;

(iii) Evidence that the child is an orphan as appropriate to the case:

(A) Evidence that the orphan has been abandoned or deserted by, separated, or lost from both parents, or that both parents have disappeared as those terms are defined in paragraph (b) of this section; or

(B) Death certificate(s) of the orphan's parent(s), if applicable; or

(C) If the orphan has only a sole or surviving parent, as defined in paragraph (b) of this section, evidence of this fact and evidence that the sole or surviving parent is incapable of providing for the orphan's care and has irrevocably released the orphan for emigration and adoption; and

(iv) Evidence of adoption abroad or that the prospective adoptive parents, or

the adoption agency working on their behalf, have custody of the orphan for emigration and adoption in accordance with the laws of the foreign sending country:

(A) A legible, certified copy of the adoption decree, if the orphan has been the subject of a full and final adoption abroad, and evidence that the unmarried petitioner, or married petitioner and spouse, saw the orphan prior to or during the adoption proceeding abroad; or

(B) If the orphan is to be adopted in the United States, because there was no adoption abroad, or the unmarried petitioner, or married petitioner and spouse, did not personally see the orphan prior to or during the adoption proceeding abroad, and/or the adoption abroad was not full and final:

(*1*) Evidence that the prospective adoptive parents, or the adoption agency working on their behalf, have secured custody of the orphan in accordance with the laws of the foreign sending country;

(*2*) An irrevocable release of the orphan for emigration and adoption from the person, organization, or competent authority having legal custody or control over the orphan if the adoption was not full and final under the laws of the foreign sending country;

(*3*) A statement under oath from the prospective adoptive parents of their willingness and intent to adopt the orphan in the United States. Both members of a married couple must sign such a statement;

(*4*) Evidence of compliance with all preadoption requirements, if any, of the State of the orphan's proposed residence. (Any such requirements that cannot be complied with prior to the orphan's arrival in the United States must be noted and explained);

(*5*) Evidence that the State of the orphan's proposed residence allows readoption or provides for judicial recognition of the adoption abroad, if there was an adoption abroad which does not meet statutory requirements pursuant to section 101(b)(1)(F) of the Act; and

(*6*) Evidence that the State of the orphan's proposed residence does not preclude adoption by an unmarried person, if the petitioner is unmarried.

(2) *Filing an orphan petition while the advanced processing application is pending.* An orphan petition filed when an advanced processing application is pending must be filed at the Service office where the application is pending. The following supporting documentation must accompany an orphan petition under this provision at the time of filing:

(1) A photocopy of the fee receipt relating to the advanced processing application, or if not available, other evidence that the advanced processing application has been filed, such as a statement including the date when the application was filed;

(ii) The home study, if not already submitted; and

(iii) The supporting documentation for an orphan petition required in paragraph (d)(1) of this section, except for paragraph (d)(1)(i) of this section.

(3) *Filing an orphan petition concurrently with the advanced processing application.* A petition filed concurrently with the advanced processing application must be submitted on one Form I–130, completed and signed in accordance with the form's instructions. The following supporting documentation must accompany a petition filed concurrently with the application under this provision:

(i) The supporting documentation for an advanced processing application required in paragraph (c) of this section; and

(ii) The supporting documentation for an orphan petition required in paragraph (d)(1) of this section, except for paragraph (d)(1)(i) of this section.

(e) *Home study requirements.* For immigration purposes, a home study is a process for screening and preparing prospective adoptive parents who are interested in adopting an orphan from another country. The process helps to ensure that the prospective adoptive parents will be suitable parents for the prospective adoptive orphan. The process should also help prepare the prospective adoptive parents (and all members of the household) for any unique characteristics or needs which an orphan may have. The home study should be tailored to the particular situation of the prospective adoptive parents: for example, a family which previously has adopted children will require different preparation than a family which has no children. If there is any additional adult member of the prospective adoptive parents' household, the home study must address this fact. The home study preparer must interview any additional adult member of the prospective adoptive parents' household and assess him or her in light of the requirements of paragraphs (e)(1), (e)(2) (i), (iii), and (iv) of this section. A home study must be conducted by a home study preparer, as defined in paragraph (b) of this section. The home study, or the latest update to the home study, must not be more than six months old at the time the home study is submitted to the Service. The home study and any updates must be submitted in duplicate. The Service shall forward one copy with the approved advanced processing application and shall retain the other copy in the relating work folder. In addition to any State, professional, or agency requirements, a home study must include the following:

(1) *Personal interview(s) and home visit(s).* The home study preparer must conduct at least one interview in person, and at least one home visit, with the prospective adoptive couple or the unmarried prospective adoptive parent. Each additional adult member of the prospective adoptive parents' household must also be interviewed in person at least once. The home study report must state the number of such interviews and visits, and must specify any other contacts with the prospective adoptive parents and any adult member of the prospective adoptive parents' household.

(2) *Assessment of the capabilities of the prospective adoptive parents to properly parent the orphan.* The home study must include a discussion of the following areas:

(i) *Assessment of the physical, mental, and emotional capabilities of the prospective adoptive parents to properly parent the orphan.* The home study preparer must make an initial assessment of how the physical, mental, and emotional health of the prospective adoptive parents would affect proper care for the prospective adoptive orphan. If the home study preparer determines that there are areas beyond his or her expertise which need to be addressed, he or she shall refer the prospective adoptive parents to an appropriate licensed professional, such as a physician, psychiatrist, clinical psychologist, or clinical social worker for an evaluation. Some problems may not necessarily disqualify applicants. For example, certain physical limitations may indicate which categories of children may be most appropriately placed with certain prospective adoptive parents. Certain mental and emotional health problems may be successfully treated. The home study must include the home study preparer's assessment of any such potential problem areas and a copy of any outside evaluation(s). Additionally, the home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(ii) *Assessment of the finances of the prospective adoptive parents.* The financial assessment must include a description of the income, financial resources, debts and expenses of the

prospective adoptive parents. A statement concerning the evidence that was considered to verify the source and amount of income and financial resources must be included. Any income designated for the support of one or more children in the care and custody of the prospective adoptive parents, such as funds for foster care, or any income designated for the support of another member of the household must not be counted towards the financial resources available for the support of a prospective adoptive orphan.

(iii) *History of abuse and/or violence.* *(A) Screening for abuse and violence.* The home study preparer must ensure that a check of each prospective adoptive parent has been made with available child abuse registries. The home study preparer must also ask each prospective adoptive parent whether he or she has a history of substance abuse, sexual or child abuse, or domestic violence, even if it did not result in an arrest or conviction. The home study preparer must include in the home study report the results of his or her checks with the child abuse registries and each prospective adoptive parent's response to the questions regarding abuse and violence. Additionally, the home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parent's household.

(B) *Information concerning history of abuse and/or violence.* If the petitioner and/or spouse, if married, disclose(s) any history of abuse and/or violence as set forth in paragraph (e)(2)(iii)(A) of this section, or if, in the absence of such disclosure, the home study preparer becomes aware of any of the foregoing, the home study report must contain an evaluation of the suitability of the home for adoptive placement of an orphan in light of this history. This evaluation must include information concerning all arrests or convictions or history of substance abuse, sexual or child abuse, and/or domestic violence and the date of each occurrence. A certified copy of the documentation showing the final disposition of each incident must accompany the home study. Additionally, the prospective adoptive parent must submit a signed statement giving details, including mitigating circumstances, about each incident. The home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(C) *Evidence of rehabilitation.* If a prospective adoptive parent has a history of substance abuse, sexual or child abuse, and/or domestic violence, the home study preparer may nevertheless make a favorable finding if the prospective adoptive parent has demonstrated appropriate rehabilitation. In such a case, a discussion of such rehabilitation which demonstrates that the prospective adoptive parent is able to provide proper care for the prospective adoptive orphan must be included in the home study. Evidence of rehabilitation may include an evaluation of the seriousness of the arrest(s), conviction(s), or history of abuse, the number of such incidents, the length of time since the last incident, and any type of counseling or rehabilitation programs which have been successfully completed. Evidence of rehabilitation may also be provided by an appropriate licensed professional, such as a psychiatrist, clinical psychologist, or clinical social worker. The home study report must include all facts and circumstances which the home study preparer has considered, as well as the preparer's reasons for a favorable decision regarding the prospective adoptive parent. Additionally, if any adult member of the prospective adoptive parents' household has a history of sexual or child abuse, and/or domestic violence, the home study preparer must apply the requirements of this paragraph to that adult member of the prospective adoptive parents' household.

(D) *Failure to disclose.* Failure to disclose and arrest, conviction, or history of substance abuse, sexual or child abuse, and/or domestic violence by the prospective adoptive parents or an adult member of the prospective adoptive parents' household to the home study preparer and to the Service will result in the denial of the advanced processing application or, if applicable, the application and orphan petition, pursuant to paragraph (h)(4) of this section.

(iv) *Previous rejection for adoption or prior unfavorable home study.* The home study preparer must ask each prospective adoptive parent whether he or she previously has been rejected as a prospective adoptive parent or has been the subject of an unfavorable home study, and must include each prospective adoptive parent's response to this question in the home study report. If a prospective adoptive parent previously has been rejected or found to be unsuitable, the reasons for such a finding must be set forth as well as the reason(s) why the prospective adoptive parent is now being favorably considered as a prospective adoptive parent. A copy of each previous rejection and/or unfavorable home study must be attached to the favorable home study. Additionally, the home study preparer must apply the requirements of this paragraph to each adult member of the prospective adoptive parents' household.

(3) *Living accommodations.* The home study must include a detailed description of the living accommodations where the prospective adoptive parents currently reside. If the prospective adoptive parents are planning to move, the home study must include a description of the living accommodations where the child will reside with the prospective adoptive parents. If the prospective adoptive parents are residing abroad at the time of the home study, the home study must include a description of the living accommodations where the child will reside in the United States with the prospective adoptive parents, if known. Each description must include an assessment of the suitability of accommodations for a prospective adopted orphan and a determination whether such space meets applicable State requirements, if any.

(4) *Handicapped or special needs orphan.* A home study conducted in conjunction with the proposed adoption of a special needs or handicapped orphan must contain a discussion of the prospective adoptive parents' preparation, willingness, and ability to provide proper care for such an orphan.

(5) *Summary of the counseling given and plans for post-placement counseling.* The home study must include a summary of the counseling given to prepare the prospective adoptive parents for an international adoption and any plans for post-placement counseling. Such counseling must include a discussion of the processing, expenses, difficulties, and delays associated with international adoptions.

(6) *Specific approval of the prospective adoptive parents for adoption.* If the home study preparer's findings are favorable, the home study must contain his or her specific approval of the prospective adoptive parents for adoption and a discussion of the reasons for such approval. The home study must include the number of orphans which the prospective adoptive parents may adopt. The home study must state whether there are any specific restrictions to the adoption such as nationality, age, or gender of the orphan. If the home study preparer has approved the prospective adoptive parents for a handicapped or special needs adoption, this fact must be clearly stated.

(7) *Home study preparer's certification and statement of authority*

to conduct home studies. The home study must include a statement in which the home study preparer certifies that he or she is licensed or otherwise authorized by the State of the orphan's proposed residence to research and prepare home studies. In the case of an orphan whose adoption was finalized abroad and whose adoptive parents reside abroad, the home study preparer must certify that he or she is licensed or otherwise authorized to conduct home studies under the law of any State of the United States, or authorized by the adoption authorities of the foreign country to conduct home studies under the laws of the foreign country. This statement must cite the State or country under whose authority the home study preparer is licensed or authorized, the specific law or regulation authorizing the preparer to conduct home studies, the license number, if any, and the expiration date, if any, of this authorization or license.

(8) *Favorable recommendation of the home study.* If the individual who conducted the home study is not employed by a public agency of the State of the orphan's proposed residence with authority under the laws of that State in adoption matters, or a private adoption agency licensed or otherwise authorized by the laws of the State of the orphan's proposed residence to place children for adoption, there must be a favorable recommendation of the home study by such public agency of the State of the orphan's proposed residence with authority under that State's law in adoption matters, or by a private adoption agency licensed or otherwise authorized by the laws of the State of the orphan's proposed residence to place children for adoption. In the case of prospective adoptive parents residing abroad, the favorable recommendation must be made by an appropriate public or private adoption agency licensed, or otherwise authorized, by any State of the United States to place children for adoption.

(9) *Home study updates.* If the home study is more than six months old at the time of submission, the prospective adoptive parents must ensure that it is amended or updated by a home study preparer. Additionally, if there have been any significant changes, such as changes in the residence of the prospective adoptive parents, marital status, criminal history, financial resources, or the addition of one or more children or other dependents to the family, the home study must be amended and updated by a home study preparer. If the orphan's proposed State of residence has changed, the home study must contain a recommendation in accordance with paragraph (e)(8) of this section. Any preadoption requirements of the new State must be complied with in the case of an orphan coming to the United States to be adopted. Each update must include screening in accordance with paragraphs (e)(2)(iii) (A) and (B) of this section.

(10) *"Grandfather" provision for home study.* A home study properly completed in conformance with the regulations in force prior to the effective date of this rule [the effective date will be the date that this rule is published in the **Federal Register** as a final rule] shall be considered acceptable if submitted to the Service within 90 days of the effective date. Any such home study accepted under this "grandfather" provision must include screening in accordance with paragraphs (e)(2)(iii) (A) and (B) of this section. Additionally, any such home study submitted under this "grandfather" provision which is more than six months old at the time of its submission, must be amended or updated pursuant to the requirements of paragraph (e)(9) of this section.

(f) *State preadoption requirements—*(1) *General.* Many States have preadoption requirements which, under the Act, must be complied with in every case in which a child is coming to such a State as an orphan to be adopted in the United States.

(2) *Child coming to be adopted in the United States.* An orphan is coming to be adopted in the United States if he or she will not be or has not been adopted abroad, or if the unmarried petitioner or both the married petitioner and spouse did not or will not personally see the orphan prior to or during the adoption proceeding abroad, and/or if the adoption abroad will not be, or was not, full and final. If the prospective adoptive parents reside in a State with preadoption requirements and they plan to have the child come to the United States for adoption they must submit evidence of compliance with the State's preadoption requirements to the Service. Any preadoption requirements which cannot be met at the advanced processing stage must be noted. Such requirements must be met prior to filing the petition, except for those which cannot be met until the orphan is physically in the United States.

(3) *Special circumstance.* If both members of the prospective adoptive couple or the unmarried prospective adoptive parent intend to travel abroad to see the child prior to or during the adoption, the Act permits the application and/or petition, if otherwise approvable, to be approved without preadoption requirements having been met. However, if plans change and both members of the prospective adoptive couple or the unmarried prospective adoptive parent fail to see the child prior to or during the adoption, then preadoption requirements must be met before the immigrant visa can be issued, except for those preadoption requirements that cannot be met until the child is physically in the United States.

(4) *Evidence of compliance.* In every case where compliance with preadoption requirements is required, the evidence of compliance must conform with applicable State law, regulation, and procedure.

(g) *Where to file—*(1) *Where to file an advanced processing application.* An advanced processing application must be filed with the Service as follows:

(i) *Prospective adoptive parents residing in the United States.* If the prospective adoptive parents reside in the United States, the application must be filed with the Service office having jurisdiction over their place of residence.

(ii) *Prospective adoptive parents residing in Canada.* If the prospective adoptive parents reside in Canada, the application must be filed with the stateside Service office having jurisdiction over the proposed place of residence of the prospective adoptive parents in the United States.

(iii) *Prospective adoptive parents residing in a foreign country other than Canada.* If the prospective adoptive parents reside outside of the United States or Canada, the application may be filed with the overseas Service office having jurisdiction over the current place of residence pursuant to § 100.4(b) of this chapter, or with the stateside Service office having jurisdiction over the proposed place of residence of the prospective adoptive parents in the United States.

(2) *Where to file an orphan petition when the advanced processing application has been approved.* An orphan petition must be filed with the appropriate Service office or immigrant visa-issuing post of the Department of State as follows:

(i) *Prospective adoptive parents residing in the United States who do not travel abroad to locate and/or adopt an orphan.* If the prospective adoptive parents reside in the United States and do not travel abroad to locate and/or adopt an orphan, the petition must be filed with the Service office having jurisdiction over the place of residence of the prospective adoptive parents.

(ii) *Prospective adoptive parents residing in the United States, with one or both members of the prospective*

adoptive couple, or the unmarried prospective adoptive parent, traveling abroad to locate and/or adopt an orphan. If the prospective adoptive parents reside in the United States, and one or both members of the prospective adoptive couple, or the unmarried prospective adoptive parent, travel abroad to locate and/or adopt an orphan, the petition may be filed with the stateside Service office having jurisdiction over the place of residence of the prospective adoptive parents in the United States or at the overseas site. The petitioner may file the orphan petition at the overseas site only while he or she is physically present within the jurisdiction of the overseas site. If only one member of a married couple which includes an alien travels abroad to file the petition, it must be the United States citizen who travels abroad so that the overseas site will have jurisdiction over the petition.

(iii) *Prospective adoptive parents residing outside the United States.* The prospective adoptive parents residing outside of the United States may file the petition with the overseas site, or with the stateside Service office having jurisdiction over the proposed place of residence of the prospective adoptive parents in the United States.

(3) *Where to file an orphan petition when the advanced processing application is pending.* When the advanced processing application is pending, the petition must be filed at the Service office at which the application is pending.

(4) *Where to file an orphan petition concurrently with the advanced processing application.* When the petition is filed concurrently with the advanced processing application, it must be filed in accordance with the instructions for filing an advanced processing application in paragraphs (g)(1)(i) through (g)(1)(iii) of this section.

(h) *Adjudication and decision*—(1) *"Grandfather" provision for advanced processing application and/or orphan petition.* All applications and petitions filed under prior regulations which are pending as of [Insert date of publication as a final rule in the **Federal Register**] shall be processed and adjudicated under the prior regulations. [When this rule is published as a final rule in the **Federal Register**, it will include a "grandfather" provision for applications and petitions pending as of the rule's effective date.]

(2) *Director's responsibility to make an independent decision in an advanced processing application.* No advanced processing application shall be approved unless the director is satisfied that proper care will be provided for the orphan. If the director has reason to believe that a favorable home study, or update, or both are based on an inadequate or erroneous evaluation of all the facts, he or she shall attempt to resolve the issue with the home study preparer, the agency making the recommendation pursuant to paragraph (e)(8) of this section, if any, and the prospective adoptive parents. If such consultations are unsatisfactory, the director may request a review and opinion from the appropriate State Government authorities.

(3) *Advanced processing application approved.* If the advanced processing application is approved, the prospective adoptive parents shall be advised in writing. The application and supporting documents shall be forwarded to the overseas site where the orphans resides. Additionally, if the petitioner advises the director that he or she intends to travel abroad to file the petition, telegraphic notification shall be sent overseas as detailed in paragraph (j)(1) of this section. The approved application shall be valid for eighteen months from its approval date. During this time, the prospective adoptive parents may file an orphan petition for one orphan without fee. If approved in the home study for more than one orphan, the prospective adoptive parents may file a petition for each of the additional children, to the maximum number approved. If the orphans are siblings, no additional fee is required. If the orphans are not siblings, an additional fee is required for each orphan beyond the first orphan. Approval of an advanced processing application does not guarantee that the orphan petition will be approved.

(4) *Advanced processing application deniable for failure to disclose history of abuse and/or violence.* Failure to disclose an arrest, conviction, or history of substance abuse, sexual or child abuse, and/or domestic violence to the home study preparer and to the Service in accordance with paragraphs (e)(2)(iii)(A) and (B) of this section will result in the denial of the advanced processing application, or if applicable, the application and orphan petition filed concurrently. Any new application and/or petition filed within a year of such denial will also be denied.

(5) *Advanced processing deniable for failure to submit home study.* If the home study is not submitted within six months of the filing date of the advanced processing application, the application shall be denied. This action shall be without prejudice to a new filing with fee.

(6) *Advanced processing application otherwise deniable.* If the director finds that the prospective adoptive parents have otherwise failed to establish eligibility, the applicable provisions of 8 CFR part 103 regarding a letter of intent to deny, if appropriate, and denial and notification of appeal rights shall govern.

(7) *Advanced processing application deemed abandoned for failure to file orphan petition within eighteen months of application's approval date.* If an orphan petition is not properly filed within eighteen months of the approval date of the advanced processing application, the application shall be deemed abandoned. Supporting documentation shall be returned to the prospective adoptive parents, except for documentation submitted by a third party which shall be returned to the third party, and documentation relating to the fingerprint checks. The director shall dispose of documentation relating to fingerprint checks in accordance with current policy. Such abandonment shall be without prejudice to a new filing with fee.

(8) *Orphan petition approved by a stateside Service office.* If the orphan petition is approved by a stateside Service office, the prospective adoptive parents shall be advised in writing, telegraphic notification shall be sent to the immigrant visa-issuing post pursuant to paragraph (j)(3) of this section, and the petition and supporting documents shall be forwarded to the Department of State.

(9) *Orphan petition approved by an overseas Service office.* If the orphan petition is approved by an overseas Service office located in the country of the orphan's residence, the prospective adoptive parents shall be advised in writing, and the petition and supporting documents shall be forwarded to the immigrant visa-issuing post having jurisdiction for immigrant visa processing.

(10) *Orphan petition approved at an immigrant visa-issuing post.* If the orphan petition is approved at an immigrant visa-issuing post, the post shall initiate immigrant visa processing.

(11) *Orphan petition found to be "not readily approvable" by a consular officer.* If the consular officer adjudicating the orphan petition finds that it is "not readily approvable," he or she shall notify the prospective adoptive parents in his or her consular district and forward the petition, the supporting documents, the findings of the I–604 investigation conducted pursuant to paragraph (k)(1) of this section, and any other relating documentation to the overseas Service office having jurisdiction pursuant to § 100.4(b) of this chapter.

(12) *Orphan petition deniable: Petitioner fails to establish that the child is an orphan.* If the director finds that the petitioner has failed to establish that the child is an orphan who is eligible for the benefits sought, the applicable provisions of 8 CFR part 103 regarding a letter of intent to deny and notification of appeal rights shall govern.

(13) *Orphan petition deniable: Petitioner files orphan petition more than eighteen months after the approval of the advanced processing application.* If the petitioner files the orphan petition more than eighteen months after the approval date of the advanced processing application, the petition shall be denied. This action shall be without prejudice to a new filing with fee.

(i) *Child buying as a ground for denial.* An orphan petition must be denied under this section if the adoptive parent(s), or a person or entity working in their behalf, have given or will give money or other consideration either directly or indirectly to the child's parent(s), agent(s), other individual(s), or entity(ies) as payment for the child or as an inducement to release the child. Nothing in this paragraph shall be regarded as precluding reasonable payment for necessary administrative, court, legal, translation, and/or medical services related to the adoption proceedings.

(j) *Telegraphic notifications*—(1) *Telegraphic notification of approval of advanced processing application.* Unless conditions preclude normal telegraphic transmissions, whenever an advanced processing application is approved in the United States, the director shall send telegraphic notification of the approval to the overseas site if a prospective adoptive parent advises the director that the petitioner intends to travel abroad and to file the orphan petition abroad.

(2) *Requesting a change in visa-issuing posts.* If a prospective adoptive parent is in the United States, he or she may request the director to transfer notification of the approved advanced processing application to another visa-issuing post. Such a request shall be made on Form I–824 (Application for Action on an Approved Application or Petition) with the appropriate fee. The director shall send a Visas 37 telegram to both the previously and the newly designated posts. The following shall be inserted after the last numbered standard entry.

To: [insert name of previously designated visa-issuing post or overseas INS office]. Pursuant to the petitioner's request, the Visas 37 cable previously sent to your post/office in this matter is hereby invalidated. The approval is being transferred to the other post/office addressed in this telegram. Please forward the approved advanced processing application to that destination.

Prior to sending such a telegram, the director must ensure that the change in posts does not alter any conditions of the approval.

(3) *Telegraphic notification of approval of an orphan petition.* Unless conditions preclude normal telegraphic transmissions, whenever a petition is approved by a stateside Service office, the director shall send telegraphic notification of the approval to the immigrant visa-issuing post.

(k) *Other considerations.*

(1) *I–604 investigations.* An I–604 investigation must be completed in every orphan case. The investigation must be completed by a consular officer except when the petition is properly filed at a Service office overseas, in which case it must be completed by a Service officer. An I–604 investigation shall be completed before a petition is adjudicated abroad. An I–604 investigation may be completed after a petition is adjudicated by a stateside Service office. However, in a case where the director of a stateside Service office adjudicating the petition has articulable concerns that can only be resolved through the I–604 investigation, he or she shall request the investigation prior to adjudication. In any instance where an I–604 investigation reveals negative information sufficient to sustain a denial or revocation, the investigation report, supporting documentation, and petition shall be forwarded to the appropriate Service office for action. Depending on the circumstances surrounding the case, the I–604 investigation shall include, but shall not necessarily be limited to, document checks, telephonic checks, interview(s) with the natural parent(s), and/or a field investigation.

(2) *Authority of consular officers.* An American consular officer is authorized to approve an orphan petition if the Service has made a favorable determination on the related advanced processing application, and the petitioner, who has traveled abroad to a country with no Service office in order to locate or adopt an orphan, has properly filed the petition, and the petition is approvable. A consular officer, however, shall refer any petition which is "not clearly approvable" for a decision by the Service office having jurisdiction pursuant to § 100.4(b) of this chapter. The consular officer's adjudication includes all aspects of eligibility for classification as an orphan under section 101(b)(1)(F) of the Act other than the issue of the ability of the prospective adoptive parents to furnish proper care to the beneficiary orphan. However, if the consular officer has a well-founded and substantive reason to believe that the advanced processing approval was obtained on the basis of fraud or misrepresentation, or has knowledge of a change in material fact subsequent to the approval of the advanced processing application, he or she shall consult with the Service office having jurisdiction pursuant to § 100.4(b) of this chapter.

(3) *Child in the United States.* A child who is in parole status and who has not been adopted in the United States is eligible for the benefits of an orphan petition and adjustment of status to permanent residence when all the requirements of sections 101(b)(1)(F) and 204 (d) and (e) of the Act have been met. A child in the United States either illegally or as a nonimmigrant, however, is ineligible for the benefits of an orphan petition and adjustment of status on that basis.

(4) *Liaison.* Each director shall develop and maintain liaison with state government adoption authorities having jurisdiction within his or her jurisdiction, including the administrator(s) of the Interstate Compact on the Placement of Children, and with other parties with interest in international adoptions. Such parties include, but are not necessarily limited to adoption agencies, organizations representing adoption agencies, organizations representing adoptive parents, and adoption attorneys.

Dated: July 23, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93–27223 Filed 11–5–93; 8:45 am]

BILLING CODE 4410–10–M

FARM CREDIT SYSTEM INSURANCE CORPORATION

12 CFR Part 1402

Releasing Information

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation) issues proposed regulations relating to the public availability of Corporation records. The proposed regulations implement requirements of the Freedom of Information Act relating to receipt and processing of requests for Corporation records, fees to be charged

and procedures to be followed in processing requests for records, and requests for waiver or reduction in fees under the Freedom of Information Act. The regulations, when final, will assist the public in requesting records from the Corporation. The proposed regulations also implement provisions of Executive Order 12600 by providing predisclosure notification procedures for confidential or financial information.

DATES: Comments must be submitted on or before December 8, 1993.

ADDRESSES: Written comments may be mailed (in triplicate) to Mary Creedon, Chief Operating Officer, Farm Credit System Insurance Corporation, in care of Cindy Nicholson, Paralegal Specialist, 1501 Farm Credit Drive, McLean, Virginia 22102–0826. Copies of all communications received will be available for examination by interested parties in the offices of the Farm Credit System Insurance Corporation.

FOR FURTHER INFORMATION CONTACT:

Ronald H. Erickson, Freedom of Information Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102–0826, (703) 883–4113,

or

Jane M. Virga, Senior Attorney, Office of General Counsel, 1501 Farm Credit Drive, McLean, Virginia 22102–0826, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: These proposed regulations set forth procedures to be used in requesting access to and responding to requests for Corporation records. They provide that all requests for access to Corporation records must be in writing, adequately describe the material sought, and be sent to the Corporation in McLean, Virginia. The proposed regulations also delegate to the Freedom of Information Officer authority to make initial determinations concerning requests for access to records, and provide procedures for final Corporation decisions on administrative appeals. The proposed regulations also recite the statutory bases for exemption from disclosure and provide that any reasonably segregable portion of a record shall be produced as provided by the Freedom of Information Act, 5 U.S.C. 552 (FOIA). The proposed regulations also provide a fee structure consistent with the Uniform Freedom of Information Act Fee Schedule and Guidelines published by the Office of Management and Budget on March 27, 1987 (52 FR 10012). The proposed regulations also set forth factors to be considered in determining whether to waive or reduce fees. Consistent with Executive Order 12600 published on June 23, 1987, pertaining to access to certain information submitted to an agency, the proposed regulations also provide that, upon receipt of a request for possibly confidential commercial or financial information which may be protected from disclosure under FOIA exemption (b)(4), the Corporation shall notify the submitter and provide an opportunity to comment on possible disclosure.

List of Subjects in 12 CFR Part 1402

Archives and records, Freedom of Information Act, Information, Records, Bonds, Insurance.

For the reasons set out in the preamble, part 1402 of chapter XIV, title 12 of the Code of Federal Regulations is proposed to be added to read as follows:

PART 1402—RELEASING INFORMATION

Subpart A—[Reserved]

Subpart B—Availability of Records of the Farm Credit System Insurance Corporation

Sec.

1402.10 Official records of the Farm Credit System Insurance Corporation.
1402.11 Current index.
1402.12 Identification of records requested.
1402.13 Request for records.
1402.14 Response to requests for records.
1402.15 Business information.

Subpart C—Fees for Provision of Information

1402.20 Definitions.
1402.21 Categories of requesters—fees.
1402.22 Fees to be charged.
1402.23 Waiver or reduction of fees.
1402.24 Advance payments—notice.
1402.25 Interest.
1402.26 Charges for unsuccessful searches or reviews.
1402.27 Aggregating requests.

Authority: Secs. 5.9, 5.17 of the Farm Credit Act; (12 U.S.C. 2243, 2252); 5 U.S.C. 552; E.O. 12600, 52 FR 23781, CFR, 1987 Comp., p. 235.

Subpart A—[Reserved]

Subpart B—Availability of Records of the Farm Credit System Insurance Corporation

§ 1402.10 Official records of the Farm Credit System Insurance Corporation.

(a) The Farm Credit System Insurance Corporation shall, upon any request for records which reasonably describes them and is made in accordance with the provisions of this subpart, make the records available as promptly as practicable to any person, except exempt records, which include the following:

(1) Records specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order;

(2) Records related solely to the internal personnel rules and practices of the Corporation, including matters which are for the guidance of agency personnel;

(3) Records which are specifically exempted from disclosure by statute;

(4) Trade secrets, commercial, proprietary, or financial information obtained from any person or organization and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a private party in litigation with the Corporation or in litigation in which the United States, as a real party in interest on behalf of the Farm Credit System Insurance Corporation, is a party;

(6) Personnel and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Records of or related to examination, operation, reports of condition and performance, or reports of or related to Farm Credit System institutions and that are prepared by, on

behalf of, or for the use of the Corporation.

(b) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this section.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.

§ 1402.11 Current index.

The Corporation will make available for public inspection and copying a current index to provide identifying information as to any matter required by 5 U.S.C. 552(a)(2)(C) to be made available or published in the **Federal Register**. Because of the anticipated infrequency of requests for material required to be indexed, it is determined that the publication of the index in the **Federal Register** is unnecessary and impracticable. However, the Corporation will provide a copy of such index to a member of the public upon request therefor at a cost not in excess of the direct cost of duplication.

§ 1402.12 Identification of records requested.

A member of the public who requests records from the Corporation shall provide a reasonable description of the records sought including, where possible, specific information as to dates, titles, and subject matter, so that such records may be located without undue search or inquiry. If a record is not identified by a reasonable description, the request therefor may be denied.

§ 1402.13 Request for records.

Requests for records shall be in writing, in an envelope clearly marked "FOIA Request," and addressed to the Freedom of Information Officer, Farm Credit System Insurance Corporation, McLean, Virginia 22102–0826. A request improperly addressed will be deemed not to have been received for purposes of the 10-day time period set forth in § 1402.14(a) until it is received, or would have been received with the exercise of due diligence by the Freedom of Information Officer. Records requested in conformance with this subpart and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection or copying during business hours on a regular business day in the offices of the Farm Credit System Insurance Corporation, McLean, Virginia 22102–0826.

§ 1402.14 Response to requests for records.

(a) Within 10 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of a request, the Freedom of Information Officer shall determine whether to comply with or to deny such request and place a notice thereof in writing in the mail addressed to the requester.

(b) Within 30 days of the receipt of a notice denying, in whole or in part, a request for records, the requester may appeal the denial. The appeal shall be in writing addressed to the Chief Financial Officer, Farm Credit System Insurance Corporation, and both the letter and envelope shall be clearly marked "FOIA Appeal." An appeal improperly addressed shall be deemed not to have been received for purposes of the 20-day time period set forth in paragraph (c) of this section until it is received, or would have been received with the exercise of due diligence by Farm Credit System Insurance Corporation personnel.

(c) Within 20 days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of an appeal, the Corporation shall act upon the appeal and place a notice of the determination thereof in writing in the mail addressed to the requester. If the determination on the appeal upholds in whole or in part the denial of the request for records, or, if a determination on the appeal has not been mailed at the end of the 20-day period or the last extension thereof, the requester is deemed to have exhausted that person's administrative remedies, giving rise to a right of review in a district court of the United States as specified in 5 U.S.C. 552(a)(4). When a determination cannot be mailed within the applicable time limit, the appeal will nevertheless be processed. In such case, upon the expiration of the time limit, the requester will be informed of the reason for the delay, of the date on which a determination may be expected to be mailed, and of that person's right to seek judicial review. The requester may be asked to forego judicial review until determination of the appeal.

(d) In unusual circumstances as specified in this paragraph the 10-day time limit prescribed in paragraph (a) of this section or the 20-day time limit prescribed in paragraph (c) of this section, or both, may be extended provided that the total of all extensions shall not exceed 10 days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be mailed. As used in this paragraph, *unusual circumstances* means, but only to the extent necessary to the proper processing of the request:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the Farm Credit System Insurance Corporation having substantial subject-matter interest therein.

§ 1402.15 Business information.

(a) Business information provided to the Corporation by a business submitter shall not be disclosed pursuant to a Freedom of Information Act request except in accordance with this section. The requirements of this section shall not apply if:

(1) The Corporation determines that the information should not be disclosed;

(2) The information lawfully has been published or otherwise made available to the public; or

(3) Disclosure of the information is required by law (other than 5 U.S.C. 552).

(b) For the purpose of this section, the following definitions shall apply.

(1) *Business information* means trade secrets or other commercial or financial information.

(2) *Business submitter* means any person or entity which provides business information to the government.

(3) *Requester* means the person or entity making the Freedom of Information Act request.

(c)(1) The Freedom of Information Officer shall, to the extent permitted by law, provide a business submitter with prompt written notice of a request encompassing its business information whenever required under paragraph (d) of this section. Such notice shall either describe the exact nature of the business information requested or provide copies of the records or portions thereof containing the business information.

(2) Whenever the Freedom of Information Officer provides a business

submitter with the notice set forth in paragraph (c)(1) of this section, the Freedom of Information Officer shall notify the requester that the request includes information that may arguably be exempt from disclosure under 5 U.S.C. 552(b)(4) and that the person or entity who submitted the information to the Corporation has been given the opportunity to comment on the proposed disclosure of information.

(d)(1) The Corporation shall provide a business submitter with notice of a request whenever:

(i) The business submitter has in good faith designated the information as commercially or financially sensitive information; or

(ii) The Corporation has reason to believe that the disclosure of the information may result in commercial or financial injury to the business submitter.

(2) Notice of a request for business information falling within paragraph (d)(1)(i) of this section shall be required for a period of not more than 10 years after the date of submission unless the business submitter requests and provides acceptable justification for a specific notice period of greater duration.

(3) Whenever possible, the business submitter's claim of confidentiality should be supported by a statement or certification by an officer or authorized representative of the business submitter that the information in question is in fact a trade secret or commercial or financial information that is privileged or confidential.

(e) Through the notice described in paragraph (c) of this section, the Corporation shall, to the extent permitted by law, afford a business submitter a reasonable period within which it can provide the Corporation with a detailed statement of any objection to disclosure. Such statement shall specify all grounds for withholding any of the information under any exemption of the Freedom of Information Act and, in the case of the exemption provided by 5 U.S.C. 552(b)(4), shall demonstrate why the information is contended to be a trade secret or commercial or financial information that is privileged or confidential. Information provided by a business submitter pursuant to this paragraph may itself be subject to disclosure under the Freedom of Information Act.

(f)(1) The Corporation shall consider carefully a business submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose business information. Whenever the Corporation decides to disclose business information over the objection of a business submitter, the Freedom of Information Officer shall forward to the business submitter a written notice which shall include:

(i) A statement of the reasons for which the business submitter's disclosure objections were not sustained;

(ii) A description of the business information to be disclosed; and

(iii) A specified disclosure date.

(2) The notice of intent to disclose required by this paragraph shall be sent, to the extent permitted by law, within a reasonable number of days prior to the specified date upon which disclosure is intended.

(3) The Freedom of Information Officer shall send a copy of such disclosure notice to the requester at the same time the notice is sent to the business submitter.

(g) Whenever a requester brings suit seeking to compel disclosure of business information covered by paragraph (d) of this section, the Corporation shall promptly notify the business submitter of such action.

Subpart C—Fees for Provision of Information

§ 1402.20 Definitions.

For the purpose of this subpart, the following definitions shall apply:

(a) *Commercial use request* means a request for information that is from or on behalf of an individual or entity seeking information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or on whose behalf the request is being made. To determine whether a request is properly classified as a commercial use request, the Corporation shall determine the purpose for which the documents requested will be used. If the Corporation has reasonable cause to doubt the purpose specified in the request, for which a requester will use the records sought, or where the purpose is not clear from the request itself, the Corporation shall seek additional clarification before assigning the request to a specified category.

(b) *Direct costs* means those expenditures the Corporation actually incurs in searching for and reproducing documents to respond to a request for information. In the case of a commercial use request, the term also means those expenditures the Corporation actually incurs in reviewing documents to respond to the request. The direct cost shall include the salary of the employee performing work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating reproduction equipment. Not included in direct costs are overhead expenses such as costs of space, and heating or lighting the facility in which the records are stored.

(c) *Educational institution* means a preschool, a public or private elementary or secondary school, an institution of undergraduate higher education, an institution of graduate higher education, an institution of professional education, and an institution of vocational education that operates a program or programs of scholarly research.

(d) *Non-commercial scientific institution* refers to an institution that is not operated on a commercial, trade, or profit basis and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry.

(e) *Representative of the news media* means any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when the periodicals can qualify as disseminators of "news") who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunication services), such alternative media would be included in this category. "Freelance" journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization even though they are not actually employed by the organization. A publication contract would be the clearest proof that a journalist is working for a news organization, but the Corporation may look to a requester's past publication record to determine whether a journalist is working for a news organization.

(f) *Reproduce* and *reproduction* means the process of making a copy of a document necessary to respond to a request for information. Such copies take the form of paper copy, microfilm, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided shall be in a form that is reasonably usable by requesters.

(g) *Review* means the process of examining documents located in response to a request for information to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure (e.g., doing all that is necessary to prepare the documents for release). The term *review* does not include the time spent resolving general legal or policy issues regarding the application of exemptions. The Corporation shall only charge fees for reviewing documents in response to a commercial use request.

(h) *Search* includes all time spent looking for material that is responsive to a request for information, including page-by-page or line-by-line identification of material within documents. Searching for material shall be done in the most efficient and least expensive manner so as to minimize the costs of the Corporation and the requester. For example, a line-by-line search for responsive material should not be performed when merely reproducing an entire document would be the less expensive and the faster method of complying with a request for information. Searches may be done manually or by computer using existing programming. A "search" for material that is responsive to a request should be distinguished from a "review" of material to determine whether the material is exempt from disclosure.

§ 1402.21 Categories of requesters—fees.

There are four categories of requesters: Commercial use requesters; educational and non-commercial scientific institutions; representatives of the news media; and all other requesters.

(a) The Corporation shall charge fees for records requested by or on behalf of educational institutions and non-commercial scientific institutions in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, requesters must show that the request being made is authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use but are sought in furtherance of scholarly research (if the request is from an educational institution) or scientific research (if the request is from a non-commercial scientific institution).

(b) The Corporation shall charge fees for records requested by representatives of the news media in an amount which equals the cost of reproducing the documents responsive to the request, excluding the costs of reproducing the first 100 pages. For a request to be included in this category, the requester must qualify as a representative of the news media and the request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester shall not be considered to be a request that is for a commercial use.

(c) The Corporation shall charge fees for records requested by persons or entities making a commercial use request in an amount that equals the full direct costs for searching for, reviewing for release, and reproducing the records sought. Commercial use requesters are not entitled to 2 hours of free search time nor 100 free pages of reproduction of documents. In accordance with § 1402.26, commercial use requesters may be charged the costs of searching for and reviewing records even if there is ultimately no disclosure of records.

(d) The Corporation shall charge fees for records requested by persons or entities that are not classified in any of the categories listed in paragraphs (a), (b) or (c) of this section in an amount that equals the full reasonable direct cost of searching for and reproducing records that are responsive to the request, excluding the first 2 hours of search time and the cost of reproducing the first 100 pages of records. In accordance with § 1402.26, requesters in this category may be charged the cost of searching for records even if there is ultimately no disclosure of records, excluding the first 2 hours of search time.

(e) For purposes of the exceptions contained in this section on assessment of fees, the word *pages* refers to paper copies of "8½ x 11" or "11 x 14." Thus, requesters are not entitled to 100 microfiche or 100 computer disks, for example. A microfiche containing the equivalent of 100 pages or a computer disk containing the equivalent of 100 pages of computer printout meets the terms of the exception.

(f) For purposes of paragraph (d) of this section, the term *search time* has as its basis, manual search. To apply this term to searches made by computer, the Corporation will determine the hourly cost of operating the central processing unit and the operator's hourly salary plus 16 percent of that rate. When the cost of search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of 2 hours of the salary of the person performing the search, i.e., the operator, the Corporation will begin assessing charges for computer search.

§ 1402.22 Fees to be charged.

(a) Generally, the fees charged for requests for records shall cover the full allowable direct costs of searching for, reproducing, and reviewing documents that are responsive to a request for information.

(b) Manual searches for records will be charged at the salary rate(s) (i.e., basic pay plus 16 percent of that rate) of the employee(s) making the search.

(c) Computer searches for records will be charged at the actual direct cost of providing the service. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to searching for records and the operator/programmer salary apportionable to the search. A charge shall also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon the prevailing levels of costs to the Corporation for the type and amount of such supplies of materials that are used. Nothing in this paragraph shall be construed to entitle any person or entity, as a right, to any services in connection with computerized records, other than services to which such person or entity may be entitled under the provisions of this subpart.

(d) Only requesters who are seeking documents for commercial use may be charged for time spent reviewing records to determine whether they are exempt from mandatory disclosure. Charges may be assessed only for the initial review; i.e., the review undertaken the first time the Corporation analyzes the applicability of a specific exemption to a particular record or portion of a record. Records or portions of records withheld in full under an exemption that is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review is assessable.

(e) Records will be reproduced at a rate of $.15 per page. For copies prepared by computer, such as tapes or printouts, the requester shall be charged the actual cost, including operator time, of production of the tape or printout. For other methods of reproduction, the actual direct costs of producing the document(s) shall be charged.

(f) The Corporation will recover the full costs of providing services such as those enumerated below when it elects to provide them:

(1) Certifying that records are true copies; or

(2) Sending records by special methods such as express mail.

(g) Remittances shall be in the form either of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the order of the Farm Credit System Insurance Corporation.

(h) A receipt for fees paid will be given upon request.

§ 1402.23 Waiver or reduction of fees.

(a) The Farm Credit System Insurance Corporation may grant a waiver or reduction of fees if the Corporation determines that the disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and the disclosure of the information is not primarily in the commercial interest of the requester.

(b) The Corporation will not charge fees to any requester, including commercial use requesters, if the cost of collecting a fee would be equal to or greater than the fee itself. The elements to be considered in determining the "cost of collecting a fee" are the administrative costs of receiving and recording a requester's remittance and processing the fee.

§ 1402.24 Advance payments—notice.

(a) Where it is anticipated that the fees chargeable will amount to more than $25 and the requester has not indicated in advance a willingness to pay fees as high as are anticipated, the requester shall be promptly notified of the amount of the anticipated fee or such portion thereof that can be readily estimated.

(b) If the anticipated fees exceed $250 and if the requester has a history of promptly paying fees charged in connection with information requests, the Corporation may obtain satisfactory assurances that the requester will fully pay the fees anticipated.

(c) If the anticipated fees exceed $250 and if the requester has no history of paying fees charged in connection with information requests, the Corporation may require an advance payment of fees in an amount up to the full amount anticipated.

(d) If the requester has previously failed to pay a fee charged within 30 days of the date of a billing for fees charged in connection with information requests, the Corporation may require the requester to pay the fees owed, plus interest, or demonstrate that the full amount owed has been paid, and require the requester to make an advance payment of the full amount of the fees anticipated before processing a new request or a pending request from that requester.

(e) The notice of the amount of an anticipated fee or a request for an advance deposit shall include an offer to the requester to confer with identified Farm Credit System Insurance Corporation personnel to attempt to reformulate the request in a manner which will meet the needs of the requester at a lower cost.

§ 1402.25 Interest.

The Corporation may begin charging interest on unpaid fees, starting on the 31st day following the day on which the bill for such fees was sent. Interest will not accrue if payment of the fees has been received by the Corporation, even if said payment has not been processed. Interest will accrue at the rate prescribed in section 3717 of title 31, United States Code, and will accrue from the day on which the bill for such fees was sent.

§ 1402.26 Charges for unsuccessful searches or reviews.

The Farm Credit System Insurance Corporation may assess charges for time spent searching for records on behalf of requesters in the categories provided for in § 1402.21 (c) and (d), even if there are no records that are responsive to the request or there is ultimately no disclosure of records. The Corporation may assess charges for time spent reviewing records for requesters in the category provided for in § 1402.21(c) even if the records located are determined to be exempt from disclosure.

§ 1402.27 Aggregating requests.

A requester may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Corporation reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, the Corporation may aggregate any such requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

Dated: November 2, 1993.

Curtis M. Anderson,

Secretary to the Board, Farm Credit System Insurance Corporation.

[FR Doc. 93–27369 Filed 11–5–93; 8:45 am]

BILLING CODE 6710–01–P

12 CFR Part 1408

Collection of Claims Owed the United States

AGENCY: Farm Credit System Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Farm Credit System Insurance Corporation (Corporation), by the Farm Credit System Insurance Corporation Board, proposes to add regulations implementing the Debt Collection Act of 1982. This action would provide procedures for the Corporation to administer claims owed to the United States arising from activities under Corporation jurisdiction. The Corporation is required by law to issue these regulations.

DATES: Comments should be received on or before December 8, 1993.

ADDRESSES: Written comments may be mailed or delivered (in triplicate) to Mary Creedon, Chief Operating Officer, in care of Cindy Nicholson, Paralegal Specialist, Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, VA 22102–0826. Copies of all communications received will be available for examination by interested parties in the offices of the Farm Credit System Insurance Corporation.

FOR FURTHER INFORMATION CONTACT: Philip J. Shebest, Senior Attorney, Office of General Counsel, Farm Credit System Insurance Corporation, McLean, VA 22102–0826, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The proposed regulations would provide procedures for the Corporation to collect, compromise, suspend, or terminate collection action on claims owed to the United States arising from activities under Corporation jurisdiction. The proposed regulations would implement the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (Pub. L. 97–365, 96 Stat. 1749) (31 U.S.C. 3701–3719 and 5 U.S.C. 5514). In addition, the proposed regulations would supplement the regulations published jointly by the General Accounting Office and the Department of Justice (4 CFR parts 101–105).

This part sets forth procedures by which the Corporation would: (1) Collect claims owed to the United States; (2) determine and collect interest and other charges on those claims; (3) compromise claims; and (4) refer unpaid claims for litigation.

List of Subjects in 12 CFR Part 1408

Government, Claims, Collection.

For the reasons stated in the preamble, part 1408 of chapter XIV, title 12 of the Code of Federal Regulations is proposed to be added to read as follows:

PART 1408—COLLECTION OF CLAIMS OWED THE UNITED STATES

Subpart A—Administrative Collection of Claims

Sec.
1408.1 Authority.
1408.2 Applicability.
1408.3 Definitions.
1408.4 Delegation of authority.
1408.5 Responsibility for collection.
1408.6 Demand for payment.
1408.7 Right to inspect and copy records.
1408.8 Right to offer to repay claim.
1408.9 Right to agency review.
1408.10 Review procedures.
1408.11 Special review.
1408.12 Charges for interest, administrative costs, and penalties.
1408.13 Contracting for collection services.
1408.14 Reporting of credit information.
1408.15 Credit report.

Subpart B—Administrative Offset

1408.20 Applicability.
1408.21 Collection by offset.
1408.22 Notice requirements before offset.
1408.23 Right to review of claim.
1408.24 Waiver of procedural requirements.
1408.25 Coordinating offset with other Federal agencies.
1408.26 Stay of offset.
1408.27 Offset against amounts payable from Civil Service Retirement and Disability Fund.

Subpart C—Offset Against Salary

1408.35 Purpose.
1408.36 Applicability of regulations.
1408.37 Definitions.
1408.38 Waiver requests and claims to the General Accounting Office.
1408.39 Procedures for salary offset.
1408.40 Refunds.
1408.41 Requesting current paying agency to offset salary.
1408.42 Responsibility of the Corporation as the paying agency.
1408.43 Nonwaiver of rights by payments.

Authority: Sec. 5.58 of the Farm Credit Act; (12 U.S.C. 2277a-7); 31 U.S.C. 3701–3719; 5 U.S.C. 5514; 4 CFR parts 101–105; 5 CFR part 550.

Subpart A—Administrative Collection of Claims

§ 1408.1 Authority.

The regulations of this part are issued under the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982, 31 U.S.C. 3701–3719 and 5 U.S.C. 5514, and in conformity with the joint regulations issued under that Act by the General Accounting Office and the Department of Justice (joint regulations) prescribing standards for administrative collection, compromise, suspension, and termination of agency collection actions, and referral to the General Accounting Office and to the Department of Justice for litigation of civil claims for money or property owed to the United States (4 CFR parts 101–105).

§ 1408.2 Applicability.

This part applies to all claims of indebtedness due and owing to the United States and collectible under procedures authorized by the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982. The joint regulations and this part do not apply to conduct in violation of antitrust laws, tax claims, claims between Federal agencies, or to any claim which appears to involve fraud, presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, unless the Justice Department authorizes the Farm Credit System Insurance Corporation, pursuant to 4 CFR 101.3, to handle the claim in accordance with the provisions of 4 CFR parts 101–105. Additionally, this part does not apply to Farm Credit System Insurance Corporation's premiums regulations under part 1410 of this chapter.

§ 1408.3 Definitions.

In this part (except where the term is defined elsewhere in this part), the following definitions shall apply:

(a) *Administrative offset* or *offset*, as defined in 31 U.S.C. 3701(a)(1), means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the Government.

(b) *Agency* means a department, agency, or instrumentality in the executive or legislative branch of the Government.

(c) *Claim* or *debt* means money or property owed by a person or entity to an agency of the Federal Government. A "claim" or "debt" includes amounts due the Government from loans insured by or guaranteed by the United States and all other amounts due from fees, leases, rents, royalties, services, sales of real or personal property, overpayment, penalties, damages, interest, and fines.

(d) *Claim certification* means a creditor agency's written request to a paying agency to effect an administrative offset.

(e) *Corporation* means the Farm Credit System Insurance Corporation.

(f) *Creditor agency* means an agency to which a claim or debt is owed.

(g) *Debtor* means the person or entity owing money to the Federal Government.

(h) *Hearing official* means an individual who is responsible for reviewing a claim under § 1408.10.

(i) *Paying agency* means an agency of the Federal Government owing money to a debtor against which an administrative or salary offset can be effected.

(j) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deductions at one or more officially established pay intervals from the current pay account of a debtor.

§ 1408.4 Delegation of authority.

The Corporation official(s) designated by the Chairman of the Farm Credit System Insurance Corporation are authorized to perform all duties which the Chairman is authorized to perform under these regulations, the Federal Claims Collection Act of 1966, as amended, and the joint regulations issued under that Act.

§ 1408.5 Responsibility for collection.

(a) The collection of claims shall be aggressively pursued in accordance with the provisions of the Federal Claims Collection Act of 1966, as amended, the joint regulations issued under that Act, and these regulations. Debts owed to the United States, together with charges for interest, penalties, and administrative costs, should be collected in one lump sum unless otherwise provided by law. If a debtor requests installment payments, the debtor, as requested by the Corporation, shall provide sufficient information to demonstrate that the debtor is unable to pay the debt in one lump sum. When appropriate, the Corporation shall arrange an installment payment schedule. Claims which cannot be collected directly or by administrative offset shall be either written off as administratively uncollectible or referred to the General Counsel for further consideration.

(b) The Chairman, or designee of the Chairman, may compromise claims for money or property arising out of the activities of the Corporation, where the claim (exclusive of charges for interest, penalties, and administrative costs) does not exceed $100,000. When the claim exceeds $100,000 (exclusive of charges for interest, penalties, and administrative costs), the authority to accept a compromise rests solely with the Department of Justice. The standards governing the compromise of claims are set forth in 4 CFR part 103.

(c) The Chairman, or designee of the Chairman, may suspend or terminate the collection of claims which do not exceed $100,000 (exclusive of charges for interest, penalties, and

administrative costs) after deducting the amount of any partial payments or collections. If, after deducting the amount of any partial payments or collections, a claim exceeds $100,000 (exclusive of charges for interest, penalties, and administrative costs), the authority to suspend or terminate rests solely with the Department of Justice. The standards governing the suspension or termination of claim collections are set forth in 4 CFR part 104.

(d) The Corporation shall refer claims to the Department of Justice for litigation or to the General Accounting Office (GAO) for claims arising from audit exceptions taken by the GAO to payments made by the Corporation in accordance with 4 CFR part 105.

§ 1408.6 Demand for payment.

(a) A total of three progressively stronger written demands at not more than 30-day intervals should normally be made upon a debtor, unless a response or other information indicates that additional written demands would either be unnecessary or futile. When necessary to protect the Government's interest, written demands may be preceded by other appropriate actions under Federal law, including immediate referral for litigation and/or administrative offset.

(b) The initial demand for payment shall be in writing and shall inform the debtor of the following:

(1) The amount of the debt, the date it was incurred, and the facts upon which the determination of indebtedness was made;

(2) The payment due date, which shall be 30 calendar days from the date of mailing or hand delivery of the initial demand for payment;

(3) The right of the debtor to inspect and copy the records of the agency related to the claim or to receive copies if personal inspection is impractical. The debtor shall be informed that the debtor may be assessed for the cost of copying the documents in accordance with § 1408.7 of this part;

(4) The right of the debtor to obtain a review of the Corporation's determination of indebtedness;

(5) The right of the debtor to offer to enter into a written agreement with the agency to repay the amount of the claim. The debtor shall be informed that the acceptance of such an agreement is discretionary with the agency;

(6) That charges for interest, penalties, and administrative costs will be assessed against the debtor, in accordance with 31 U.S.C. 3717, if payment is not received by the payment due date;

(7) That if the debtor has not entered into an agreement with the Corporation to pay the debt, has not requested the Corporation to review the debt, or has not paid the debt by the payment due date, the Corporation intends to collect the debt by all legally available means, which may include initiating legal action against the debtor, referring the debt to a collection agency for collection, collecting the debt by offset, or asking other Federal agencies for assistance in collecting the debt by offset;

(8) The name and address of the Corporation official to whom the debtor shall send all correspondence relating to the debt; and

(9) Other information, as may be appropriate.

(c) If, prior to, during, or after completion of the demand cycle, the Corporation determines to collect the debt by either administrative or salary offset, the Corporation shall follow, as applicable, the requirements for a Notice of Intent to Collect by Administrative Offset or a Notice of Intent to Collect by Salary Offset set forth in § 1408.22.

(d) If no response to the initial demand for payment is received by the payment due date, the Corporation shall take further action under this part, under the Federal Claims Collection Act of 1966, as amended, under the joint regulations (4 CFR parts 101–105), or under any other applicable State or Federal law. These actions may include reports to credit bureaus, referrals to collection agencies, termination of contracts, debarment, and salary or administrative offset.

§ 1408.7 Right to inspect and copy records.

The debtor may inspect and copy the Corporation records related to the claim. The debtor shall give the Corporation reasonable advanced notice that it intends to inspect and copy the records involved. The debtor shall pay copying costs unless they are waived by the Corporation. Copying costs shall be assessed pursuant to § 1402.22 of this chapter.

§ 1408.8 Right to offer to repay claim.

(a) The debtor may offer to enter into a written agreement with the Corporation to repay the amount of the claim. The acceptance of such an offer and the decision to enter into such a written agreement is at the discretion of the Corporation.

(b) If the debtor requests a repayment arrangement because payment of the amount due would create a financial hardship, the Corporation shall analyze the debtor's financial condition. The Corporation may enter into a written agreement with the debtor permitting the debtor to repay the debt in installments if the Corporation determines, in its sole discretion, that payment of the amount due would create an undue financial hardship for the debtor. The written agreement shall set forth the amount and frequency of installment payments and shall, in accordance with § 1408.12, provide for the imposition of charges for interest, penalties, and administrative costs unless waived by the Corporation.

(c) The written agreement may require the debtor to execute a confess-judgment note when the total amount of the deferred installments will exceed $750. The Corporation shall provide the debtor with a written explanation of the consequences of signing a confess-judgment note. The debtor shall sign a statement acknowledging receipt of the written explanation. The statement shall recite that the written explanation was read and understood before execution of the note and that the debtor signed the note knowingly and voluntarily. Documentation of these procedures will be maintained in the Corporation's file on the debtor.

§ 1408.9 Right to agency review.

(a) If the debtor disputes the claim, the debtor may request a review of the Corporation's determination of the existence of the debt or of the amount of the debt. If only part of the claim is disputed, the undisputed portion should be paid by the payment due date.

(b) To obtain a review, the debtor shall submit a written request for review to the Corporation official named in the initial demand letter, within 15 calendar days after receipt of the letter. The debtor's request for review shall state the basis on which the claim is disputed.

(c) The Corporation shall promptly notify the debtor, in writing, that the Corporation has received the request for review. The Corporation shall conduct its review of the claim in accordance with § 1408.10.

(d) Upon completion of its review of the claim, the Corporation shall notify the debtor whether the Corporation's determination of the existence or amount of the debt has been sustained, amended, or canceled. The notification shall include a copy of the written decision issued by the hearing official pursuant to § 1408.10(e). If the Corporation's determination is sustained, this notification shall contain a provision which states that the Corporation intends to collect the debt

by all legally available means, which may include initiating legal action against the debtor, referring the debt to a collection agency for collection, collecting the debt by offset, or asking other Federal agencies for assistance in collecting the debt by offset.

§ 1408.10 Review procedures.

(a) Unless an oral hearing is required by § 1408.23(d), the Corporation's review shall be a review of the written record of the claim.

(b) If an oral hearing is required under § 1408.23(d), the Corporation shall provide the debtor with a reasonable opportunity for such a hearing. The oral hearing, however, shall not be an adversarial adjudication and need not take the form of a formal evidentiary hearing. All significant matters discussed at the hearing, however, will be carefully documented.

(c) Any review required by this part, whether a review of the written record or an oral hearing, shall be conducted by a hearing official. In the case of a salary offset, the hearing official shall not be under the supervision or control of the Chairman of the Farm Credit System Insurance Corporation.

(d) The Corporation may be represented by legal counsel. The debtor may represent himself or herself or may be represented by an individual of the debtor's choice and at the debtor's expense.

(e) The hearing official shall issue a final written decision based on documentary evidence and, if applicable, information developed at an oral hearing. The written decision shall be issued as soon as practicable after the review but not later than 60 days after the date on which the request for review was received by the Corporation, unless the debtor requests a delay in the proceedings. A delay in the proceedings shall be granted if the hearing official determines, in his or her sole discretion, that there is good cause to grant the delay. If a delay is granted, the 60-day decision period shall be extended by the number of days by which the review was postponed.

(f) Upon issuance of the written opinion, the Corporation shall promptly notify the debtor of the hearing official's decision. Said notification shall include a copy of the written decision issued by the hearing official pursuant to paragraph (e) of this section.

§ 1408.11 Special review.

(a) An employee subject to salary offset, under subpart C of this part, or a voluntary repayment agreement, may, at any time, request a special review by the Corporation of the amount of the salary offset or voluntary repayment, based on materially changed circumstances such as, but not limited to, catastrophic illness, divorce, death, or disability.

(b) To determine whether an offset would prevent the employee from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation, and medical care), the employee shall submit a detailed statement and supporting documents for the employee, his or her spouse, and dependents indicating:

(1) Income from all sources;

(2) Assets;

(3) Liabilities;

(4) Number of dependents;

(5) Expenses for food, housing, clothing, and transportation;

(6) Medical expenses; and

(7) Exceptional expenses, if any.

(c) If the employee requests a special review under this section, the employee shall file an alternative proposed offset or payment schedule and a statement, with supporting documents, showing why the current salary offset or payments result in an extreme financial hardship to the employee.

(d) The Corporation shall evaluate the statement and supporting documents, and determine whether the original offset or repayment schedule imposes an undue financial hardship on the employee. The Corporation shall notify the employee in writing of such determination, including, if appropriate, a revised offset or payment schedule.

§ 1408.12 Charges for interest, administrative costs, and penalties.

(a) Except as provided in paragraph (d) of this section, the Corporation shall:

(1) Assess interest on unpaid claims;

(2) Assess administrative costs incurred in processing and handling overdue claims; and

(3) Assess penalty charges not to exceed 6 percent a year on any part of a debt more than 90 days past due. The imposition of charges for interest, administrative costs, and penalties shall be made in accordance with 31 U.S.C. 3717.

(b)(1) Interest shall accrue from the date of mailing or hand delivery of the initial demand for payment or the Notice of Intent to Collect by either Administrative or Salary Offset if the amount of the claim is not paid within 30 days from the date of mailing or hand delivery of the initial demand or notice.

(2) The 30-day period may be extended on a case-by-case basis if the Corporation reasonably determines that such action is appropriate. Interest shall only accrue on the principal of the claim and the interest rate shall remain fixed for the duration of the indebtedness, except, as provided in paragraph (c) of this section, in cases where a debtor has defaulted on a repayment agreement and seeks to enter into a new agreement, or if the Corporation reasonably determines that a higher rate is necessary to protect the interests of the United States.

(c) If a debtor defaults on a repayment agreement and seeks to enter into a new agreement, the Corporation may assess a new interest rate on the unpaid claim. In addition, charges for interest, administrative costs, and penalties which accrued but were not collected under the original repayment agreement shall be added to the principal of the claim to be paid under the new repayment agreement. Interest shall accrue on the entire principal balance of the claim, as adjusted to reflect any increase resulting from the addition of these charges.

(d) The Corporation may waive charges for interest, administrative costs, and/or penalties if it determines that:

(1) The debtor is unable to pay any significant sum toward the claim within a reasonable period of time;

(2) Collection of charges for interest, administrative costs, and/or penalties would jeopardize collection of the principal of the claim;

(3) Collection of charges for interest, administrative costs, or penalties would be against equity and good conscience; or

(4) It is otherwise in the best interest of the United States, including the situation where an installment payment agreement or offset is in effect.

§ 1408.13 Contracting for collection services.

The Chairman, or designee of the Chairman, may contract for collection services in accordance with 31 U.S.C. 3718 and 4 CFR 102.6 to recover debts.

§ 1408.14 Reporting of credit information.

The Chairman, or designee of the Chairman, may disclose to a consumer reporting agency information that an individual is responsible for a debt owed to the United States. Information will be disclosed to reporting agencies in accordance with the terms and conditions of agreements entered into between the Corporation and the reporting agencies. The terms and conditions of such agreements shall specify that all of the rights and protection afforded to the debtor under 31 U.S.C. 3711(f) have been fulfilled. The Corporation shall notify each consumer reporting agency, to which a

claim was disclosed, when the debt has been satisfied.

§ 1408.15 Credit report.

In order to aid the Corporation in making appropriate determinations regarding the collection and compromise of claims; the collection of charges for interest, administrative costs, and penalties; the use of administrative offset; the use of other collection methods; and the likelihood of collecting the claim, the Corporation may institute, consistent with the provisions of the Fair Credit Reporting Act (15 U.S.C. 1681, *et seq.*), a credit investigation of the debtor immediately following a determination that the claim exists.

Subpart B—Administrative Offset

§ 1408.20 Applicability.

(a) The provisions of this subpart shall apply to the collection of debts by administrative [or salary] offset under 31 U.S.C. 3716, 5 U.S.C. 5514, or other statutory or common law.

(b) Offset shall not be used to collect a debt more than 10 years after the Government's right to collect the debt first accrued, unless facts material to the Government's right to collect the debt were not known and could not reasonably have been known by the official or officials of the Government who were charged with the responsibility of discovering and collecting such debt.

(c) Offset shall not be used with respect to:

(1) Debts owed by other agencies of the United States or by any State or local government;

(2) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1986, as amended, or tariff laws of the United States; or

(3) Any case in which collection by offset of the type of debt involved is explicitly provided for or prohibited by another statute.

(d) Unless otherwise provided by contract or law, debts or payments which are not subject to offset under 31 U.S.C. 3716 or 5 U.S.C. 5514 may be collected by offset if such collection is authorized under common law or other applicable statutory authority.

§ 1408.21 Collection by offset.

(a) Collection of a debt by administrative [or salary] offset shall be accomplished in accordance with the provisions of these regulations, 4 CFR 102.3, and 5 CFR part 550, subpart K. It is not necessary for the debt to be reduced to judgment or to be undisputed for offset to be used.

(b) The Chairman, or designee of the Chairman, may determine that it is feasible to collect a debt to the United States by offset against funds payable to the debtor.

(c) The feasibility of collecting a debt by offset will be determined on a case-by-case basis. This determination shall be made by considering all relevant factors, including the following:

(1) The degree to which the offset can be accomplished in accordance with law. This determination should take into consideration relevant statutory, regulatory, and contractual requirements;

(2) The degree to which the Corporation is certain that its determination of the existence and amount of the debt is correct;

(3) The practicality of collecting the debt by offset. The cost, in time and money, of collecting the debt by offset and the amount of money which can reasonably be expected to be recovered through offset will be relevant to this determination; and

(4) Whether the use of offset will substantially interfere with or defeat the purpose of a program authorizing payments against which the offset is contemplated. For example, under a grant program in which payments are made in advance of the grantee's performance, the imposition of offset against such a payment may be inappropriate.

(d) The collection of a debt by offset may not be feasible when there are circumstances which would indicate that the likelihood of collection by offset is less than probable.

(e) The offset will be effected 31 days after the debtor receives a Notice of Intent to Collect by Administrative Offset (or Notice of Intent to Collect by Salary Offset if the offset is a salary offset), or upon the expiration of a stay of offset, unless the Corporation determines under § 1408.24 that immediate action is necessary.

(f) If the debtor owes more than one debt, amounts recovered through offset may be applied to them in any order. Applicable statutes of limitation would be considered before applying the amounts recovered to any debts owed.

§ 1408.22 Notice requirements before offset.

(a) Except as provided in § 1408.24, the Corporation will provide the debtor with 30 calendar days' written notice that unpaid debt amounts shall be collected by administrative [or salary] offset (Notice of Intent to Collect by Administrative [or Salary] Offset) before the Corporation imposes offset against any money that is to be paid to the debtor.

(b) The Notice of Intent to Collect by Administrative [or Salary] Offset shall be delivered to the debtor by hand or by mail and shall provide the following information:

(1) The amount of the debt, the date it was incurred, and the facts upon which the determination of indebtedness was made;

(2) In the case of an administrative offset, the payment due date, which shall be 30 calendar days from the date of mailing or hand delivery of the Notice;

(3) In the case of a salary offset:

(i) The Corporation's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full; and

(ii) The amount, frequency, proposed beginning date, and duration of the intended deductions;

(4) The right of the debtor to inspect and copy the records of the Corporation related to the claim or to receive copies if personal inspection is impractical. The debtor shall be informed that the debtor shall be assessed for the cost of copying the documents in accordance with § 1408.7 of this part;

(5) The right of the debtor to obtain a review of, and to request a hearing, on the Corporation's determination of indebtedness, the propriety of collecting the debt by offset, and, in the case of salary offset, the propriety of the proposed repayment schedule (i.e., the percentage of disposable pay to be deducted each pay period). The debtor shall be informed that to obtain a review, the debtor shall deliver a written request for a review to the Corporation official named in the Notice, within 15 calendar days after the debtor's receipt of the Notice. In the case of a salary offset, the debtor shall also be informed that the review shall be conducted by an official arranged for by the Corporation who shall be a hearing official not under the control of the Chairman of the Farm Credit System Insurance Corporation, or an administrative law judge;

(6) That the filing of a petition for hearing within 15 calendar days after receipt of the Notice will stay the commencement of collection proceedings;

(7) That a final decision on the hearing (if one is requested) will be issued at the earliest practical date, but not later than 60 days after the filing of the written request for review unless the employee requests, and the hearing official grants, a delay in the proceedings;

(8) The right of the debtor to offer to enter into a written agreement with the Corporation to repay the amount of the claim. The debtor shall be informed that the acceptance of such an agreement is discretionary with the Corporation;

(9) That charges for interest, penalties, and administrative costs shall be assessed against the debtor, in accordance with 31 U.S.C. 3717, if payment is not received by the payment due date. The debtor shall be informed that such assessments must be made unless excused in accordance with the Federal Claims Collection Standards (4 CFR parts 103 and 104);

(10) The amount of accrued interest and the amount of any other penalties or administrative costs which may have been added to the principal debt;

(11) That if the debtor has not entered into an agreement with the Corporation to pay the debt, has not requested the Corporation to review the debt, or has not paid the debt prior to the date on which the offset is to be imposed, the Corporation intends to collect the debt by administrative [or salary] offset or by requesting other Federal agencies for assistance in collecting the debt by offset. The debtor shall be informed that the offset shall be imposed against any funds that might become available to the debtor, until the principal debt and all accumulated interest and other charges are paid in full;

(12) The date on which the offset will be imposed, which shall be 31 calendar days from the date of mailing or hand delivery of the Notice. The debtor shall be informed that the Corporation reserves the right to impose an offset prior to this date if the Corporation determines that immediate action is necessary;

(13) That any knowingly false or frivolous statements, representations, or evidence may subject the debtor to:

(i) Penalties under the False Claims Act, 31 U.S.C. 3729 through 3731, or any other applicable statutory authority;

(ii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority; and, with regard to employees,

(iii) Disciplinary procedures appropriate under 5 U.S.C. chapter 75; 5 CFR part 752, or any other applicable statute or regulation;

(14) The name and address of the Corporation official to whom the debtor shall send all correspondence relating to the debt or the offset;

(15) Any other rights and remedies available to the debtor under statutes or regulations governing the program for which the collection is being made;

(16) That unless there are applicable contractual or statutory provisions to the contrary, amounts paid on or deducted for the debt, which are later waived or found not owed to the United States, will be promptly refunded to the employee; and

(17) Other information, as may be appropriate.

(c) When the procedural requirements of this section have been provided to the debtor in connection with the same debt or under some other statutory or regulatory authority, the Corporation is not required to duplicate those requirements before effecting offset.

§ 1408.23 Right to review of claim.

(a) If the debtor disputes the claim, the debtor may request a review of the Corporation's determination of the existence of the debt, the amount of the debt, the propriety of collecting the debt by offset, and in the case of salary offset, the propriety of the proposed repayment schedule. If only part of the claim is disputed, the undisputed portion should be paid by the payment due date.

(b) To obtain a review, the debtor shall submit a written request for review to the Corporation official named in the Notice of Intent to Collect by Administrative [or Salary] Offset within 15 calendar days after receipt of the notice. The debtor's written request for review shall state the basis on which the claim is disputed and shall specify whether the debtor requests an oral hearing or a review of the written record of the claim. If an oral hearing is requested, the debtor shall explain in the request why the matter cannot be resolved by a review of the documentary evidence alone.

(c) The Corporation shall promptly notify the debtor, in writing, that the Corporation has received the request for review. The Corporation shall conduct its review of the claim in accordance with § 1408.10.

(d) The Corporation's review of the claim, under this section, shall include providing the debtor with a reasonable opportunity for an oral hearing if:

(1) An applicable statute authorizes or requires the Corporation to consider waiver of the indebtedness, the debtor requests waiver of the indebtedness, and the waiver determination turns on an issue of credibility or veracity; or

(2) The debtor requests reconsideration of the debt and the Corporation determines that the question of the indebtedness cannot be resolved by reviewing the documentary evidence; for example, when the validity of the debt turns on an issue of credibility or veracity.

(e) A debtor waives the right to a hearing and will have his or her debt offset in accordance with the proposed offset schedule if the debtor:

(1) Fails to file a written request for review within the timeframe set forth in paragraph (b) of this section, unless the Corporation determines that the delay was the result of circumstances beyond his or her control; or

(2) Fails to appear at an oral hearing of which he or she was notified unless the hearing official determines that the failure to appear was due to circumstances beyond the employee's control.

(f) Upon completion of its review of the claim, the Corporation shall notify the debtor whether the Corporation's determination of the existence or amount of the debt has been sustained, amended, or canceled. The notification shall include a copy of the written decision issued by the hearing official, pursuant to § 1408.10(e). If the Corporation's determination is sustained, this notification shall contain a provision which states that the Corporation intends to collect the debt by offset or by requesting other Federal agencies for assistance in collecting the debt.

(g) When the procedural requirements of this section have been provided to the debtor in connection with the same debt or under some other statutory or regulatory authority, the Corporation is not required to duplicate those requirements before effecting offset.

§ 1408.24 Waiver of procedural requirements.

(a) The Corporation may impose offset against a payment to be made to a debtor prior to the completion of the procedures required by this part, if:

(1) Failure to impose the offset would substantially prejudice the Government's ability to collect the debt; and

(2) The timing of the payment against which the offset will be imposed does not reasonably permit the completion of those procedures.

(b) The procedures required by this part shall be complied with promptly after the offset is imposed. Amounts recovered by offset, which are later found not to be owed to the Government, shall be promptly refunded to the debtor.

§ 1408.25 Coordinating offset with other Federal agencies.

(a)(1) Any creditor agency which requests the Corporation to impose an offset against amounts owed to the debtor shall submit to the Corporation a claim certification which meets the requirements of this paragraph. The Corporation shall submit the same

certification to any agency that the Corporation requests to effect an offset.

(2) The claim certification shall be in writing. It shall certify the debtor owes the debt and that all of the applicable requirements of 31 U.S.C. 3716 and 4 CFR part 102 have been met. If the intended offset is to be a salary offset, a claim certification shall instead certify that the debtor owes the debt and that the applicable requirements of 5 U.S.C. 5514 and 5 CFR part 550, subpart K, have been met.

(3) A certification that the debtor owes the debt shall state the amount of the debt, the factual basis supporting the determination of indebtedness, and the date on which payment of the debt was due. A certification that the requirements of 31 U.S.C. 3716 and 4 CFR part 102 have been met shall include a statement that the debtor has been sent a Notice of Intent to Collect by Administrative Offset at least 31 calendar days prior to the date of the intended offset or a statement that pursuant to 4 CFR 102.3(b)(5) said Notice was not required to be sent. A certification that the requirements of 5 U.S.C. 5514 and 5 CFR part 550, subpart K, have been met shall include a statement that the debtor has been sent a Notice of Intent to Collect by Salary Offset at least 31 calendar days prior to the date of the intended offset or a statement that pursuant to 4 CFR 102.3(b)(5) said Notice was not required to be sent.

(b)(1) The Corporation shall not effect an offset requested by another Federal agency without first obtaining the claim certification required by paragraph (a) of this section. If the Corporation receives an incomplete claim certification, the Corporation shall return the claim certification with notice that a claim certification which complies with the requirements of paragraph (a) of this section must be submitted to the Corporation before the Corporation will consider effecting an offset.

(2) The Corporation may rely on the information contained in the claim certification provided by a requesting creditor agency. The Corporation is not authorized to review a creditor agency's determination of indebtedness.

(c) Only the creditor agency may agree to enter into an agreement with the debtor for the repayment of the claim. Only the creditor agency may agree to compromise, suspend, or terminate collection of the claim.

(d) The Corporation may decline, for good cause, a request by another agency to effect an offset. Good cause includes that the offset might disrupt, directly or indirectly, essential Corporation operations. The refusal and the reasons shall be sent in writing to the creditor agency.

§ 1408.26 Stay of offset.

(a)(1) When a creditor agency receives a debtor's request for inspection of agency records, the offset is stayed for 10 calendar days beyond the date set for the record inspection.

(2) When a creditor agency receives a debtor's offer to enter into a repayment agreement, the offset is stayed until the debtor is notified as to whether the proposed agreement is acceptable.

(3) When a review is conducted, the offset is stayed until the creditor agency issues a final written decision.

(b) When offset is stayed, the amount of the debt and the amount of any accrued interest or other charges will be withheld from payments to the debtor. The withheld amounts shall not be applied against the debt until the stay expires. If withheld funds are later determined not to be subject to offset, they will be promptly refunded to the debtor.

(c) If the Corporation is the creditor agency and the offset is stayed, the Corporation will immediately notify an offsetting agency to withhold the payment pending termination of the stay.

§ 1408.27 Offset against amounts payable from Civil Service Retirement and Disability Fund.

The Corporation may request that monies payable to a debtor from the Civil Service Retirement and Disability Fund be administratively offset to collect debts owed to the Corporation by the debtor. The Corporation must certify that the debtor owes the debt, the amount of the debt, and that the Corporation has complied with the requirements set forth in this part, 4 CFR 102.3, and the Office of Personnel Management regulations. The request shall be submitted to the official designated in the Office of Personnel Management regulations to receive the request.

Subpart C—Offset Against Salary

§ 1408.35 Purpose.

The purpose of this subpart is to implement section 5 of the Debt Collection Act of 1982 (Pub. L. 97–365 (5 U.S.C. 5514)), which authorizes the collection of debts owed by Federal employees to the Federal Government by means of salary offsets. These regulations provide procedures for the collection of a debt owed to the Government by the imposition of a salary offset against amounts payable to a Federal employee as salary. These regulations are consistent with the regulations on salary offset published by the Office of Personnel Management, codified in 5 CFR part 550, subpart K. Since salary offset is a type of administrative offset, this subpart supplements subpart B of this part.

§ 1408.36 Applicability of regulations.

(a) These regulations apply to the following cases:

(1) Where the Corporation is owed a debt by an individual currently employed by another agency;

(2) Where the Corporation is owed a debt by an individual who is currently employed by the Corporation; or

(3) Where the Corporation currently employs an individual who owes a debt to another Federal agency. Upon receipt of proper certification from the creditor agency, the Corporation will offset the debtor-employee's salary in accordance with these regulations.

(b) These regulations do not apply to the following:

(1) Debts or claims rising under the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108).

(2) Any adjustment to pay arising from an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(3) A claim which has been outstanding for more than 10 years after the creditor agency's right to collect the debt first accrued, unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials charged with the responsibility for discovery and collection of such debts.

§ 1408.37 Definitions.

In this subpart, the following definitions shall apply:

(a) *Agency* means:

(1) An executive agency as defined by 5 U.S.C. 105, including the United States Postal Service and the United States Postal Rate Commission;

(2) A military department as defined in 5 U.S.C. 102;

(3) An agency or court of the judicial branch, including a court as defined in 28 U.S.C. 610, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multi-district Litigation;

(4) An agency of the legislative branch, including the United States Senate and the United States House of Representatives; or

(5) Other independent establishments that are entities of the Federal Government.

(b) *Disposable pay* means, for an officially established pay interval, that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. The Corporation shall allow the deductions described in 5 CFR 581.105 (b) through (f).

(c) *Employee* means a current employee of the Corporation or other agency, including a current member of the Armed Forces or Reserve of the Armed Forces of the United States.

(d) *Waiver* means the cancellation, remission, forgiveness, or nonrecovery of a debt allegedly owed by an employee to the Corporation or another agency as permitted or required by 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or any other law.

§ 1408.38 Waiver requests and claims to the General Accounting Office.

(a) The regulations contained in this subpart do not preclude an employee from requesting a waiver of an overpayment under 5 U.S.C. 5584 or 8346(b), 10 U.S.C. 2774, 32 U.S.C. 716, or in any way questioning the amount or validity of a debt by submitting a subsequent claim to the General Accounting Office in accordance with the procedures prescribed by the General Accounting Office.

(b) These regulations also do not preclude an employee from requesting a waiver pursuant to other statutory provisions pertaining to the particular debts being collected.

§ 1408.39 Procedures for salary offset.

(a) The Chairman, or designee of the Chairman, shall determine the amount of an employee's disposable pay and the amount to be deducted from the employee's disposable pay at regular pay intervals.

(b) Deductions shall begin within three official pay periods following the date of mailing or delivery of the Notice of Intent to Collect by Salary Offset.

(c)(1) If the amount of the debt is equal to or is less than 15 percent of the employee's disposable pay, such debt should be collected in one lump-sum deduction.

(2) If the amount of the debt is not collected in one lump-sum deduction, the debt shall be collected in installment deductions over a period of time not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted from any pay period will not exceed 15 percent of the employee's disposable pay for that period, unless the employee has agreed in writing to the deduction of a greater amount.

(3) A deduction exceeding the 15-percent disposable pay limitation may be made from any final salary payment pursuant to 31 U.S.C. 3716 in order to liquidate the debt, whether the employee is being separated voluntarily or involuntarily.

(4) Whenever an employee subject to salary offset is separated from the Corporation and the balance of the debt cannot be liquidated by offset of the final salary check pursuant to 31 U.S.C. 3716, the Corporation may offset any later payments of any kind against the balance of the debt.

(d) In instances where two or more creditor agencies are seeking salary offsets against current employees of the Corporation or where two or more debts are owed to a single creditor agency, the Corporation, at its discretion, may determine whether one or more debts should be offset simultaneously within the 15-percent limitation. Debts owed to the Corporation should generally take precedence over debts owed to other agencies.

§ 1408.40 Refunds.

(a) In instances where the Corporation is the creditor agency, it shall promptly refund any amounts deducted under the authority of 5 U.S.C. 5514 when:

(1) The debt is waived or otherwise found not to be owed to the United States (unless expressly prohibited by statute or regulations); or

(2) An administrative or judicial order directs the Corporation to make a refund.

(b) Unless required or permitted by law or contract, refunds under this section shall not bear interest.

§ 1408.41 Requesting current paying agency to offset salary.

(a) To request a paying agency to impose a salary offset against amounts owed to the debtor, the Corporation shall provide the paying agency with a claim certification which meets the requirements set forth in § 1408.25(a) of this part. The Corporation shall also provide the paying agency with a repayment schedule determined under the provisions of § 1408.39 or in accordance with a repayment agreement entered into with the debtor.

(b) If the employee separates from the paying agency before the debt is paid in full, the paying agency shall certify the total amount collected on the debt. A copy of this certification shall be sent to the employee and a copy shall be sent to the Corporation. If the paying agency is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, it must provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount) and that the provisions of this section have been fully complied with. However, the Corporation must submit a properly certified claim to the agency responsible for making such payments before the collection can be made.

(c) When an employee transfers to another paying agency, the Corporation is not required to repeat the due process procedures set forth in 5 U.S.C. 5514 and this part to resume the collection. The Corporation shall, however, review the debt upon receiving the former paying agency's notice of the employee's transfer to make sure the collection is resumed by the new paying agency.

(d) If a special review is conducted pursuant to § 1408.11 and results in a revised offset or repayment schedule, the Corporation shall provide a new claim certification to the paying agency.

§ 1408.42 Responsibility of the Corporation as the paying agency.

(a) When the Corporation receives a claim certification from a creditor agency, deductions should be scheduled to begin at the next officially established pay interval. The Corporation shall send the debtor written notice which provides:

(1) That the Corporation has received a valid claim certification from the creditor agency;

(2) The date on which salary offset will begin;

(3) The amount of the debt; and

(4) The amount of such deductions.

(b) If, after the creditor agency has submitted the claim certification to the Corporation, the employee transfers to a different agency before the debt is collected in full, the Corporation must certify the total amount collected on the

debt. The Corporation shall send a copy of this certification to the creditor agency and a copy to the employee. If the Corporation is aware that the employee is entitled to payments from the Civil Service Retirement Fund and Disability Fund, or other similar payments, it shall provide written notification to the agency responsible for making such payments that the debtor owes a debt (including the amount).

§ 1408.43 Nonwaiver of rights by payments.

An employee's involuntary payment of all or any portion of a debt being collected under this subpart shall not be construed as a waiver of any rights the employee may have under 5 U.S.C. 5514 or any other provisions of a written contract or law unless there are statutory or contractual provisions to the contrary.

Dated: November 2, 1993.

Curtis M. Anderson,

Secretary to the Board, Farm Credit System Insurance Corporation.

[FR Doc. 93–27370 Filed 11–5–93; 8:45 am]

BILLING CODE 6710–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–145–AD]

Airworthiness Directives; Beech Model 400A Airplanes Equipped With Certain Tosington Cabin Seat Frames

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Beech Model 400A airplanes. This proposal would require an inspection to detect fatigue-related cracking in certain cabin seat frames; measurement to determine gap size between the bearing shafts and certain seat frames; and repair, if necessary. This proposal is prompted by in-service inspection reports of fatigue-related cracking radiating outward from the bushings welded into the cabin seat frames. The actions specified by the proposed AD are intended to prevent separation of the cabin seat frames from their bases during an emergency landing.

DATES: Comments must be received by January 11, 1994

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Tosington Enterprises, Inc., 2261 Madera Road, Simi Valley, California 93065. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Laurence Engler, Aerospace Engineer, Airframe Branch, ACE–120W, FAA, Small Airplane Directorate, Wichita ACO, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4122; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–145–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–145–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has recently received in-service inspection reports of fatigue-related cracking radiating outward from the bushings welded into the cabin seat frames on several Beech Model B300, B300C, and 2000 airplanes. The origin of the fatigue-related cracking has been traced to three sources:

1. Insufficient penetration of the weld at the bushing that occurred during production;
2. The impact loads from the chair against the stop; and
3. Excessive gap size between the seat frame and the bearing shafts, resulting from a design tolerance problem. Excessive gap size may result in bending movement in the seat frame.

The combination of insufficient weld penetration, impact loads, and bending movement contribute to eventual fatigue-related cracking. Complete fatigue-related cracking extending radially outward from the bushing welds, if not detected and corrected in a timely manner, could result in separation of the cabin seat frames from their bases during an emergency landing.

The cabin seat frames installed on the Model B300, B300C, and 2000 airplanes are similar in design to the cabin seat frames installed on Model 400A airplanes; therefore, the Model 400A airplane is subject to the same unsafe condition identified in the other models. (The cabin seat frames installed on the Model B300, B300C and 2000 airplanes are the subject of a separate AD.)

The FAA has reviewed and approved Tosington Enterprises, Inc., Service Bulletin 001, dated July 1993, that describes procedures for a one-time visual inspection to detect fatigue-related cracking extending radially outward from the bushings welded into certain cabin seat frames; measurement to determine whether a certain gap size exists between the bearing shafts and certain seat frames; and repair, if necessary. (Tosington Enterprises, Inc., is the manufacturer of the seat frames.)

Repair by welding and/or reinforcing the cabin seat frames will prevent the development of fatigue-related cracking. Damage to these seat frames due to

fatigue-related cracking, if not detected and corrected, could lead to separation of the cabin seat frames from their bases during an emergency landing.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time visual inspection to detect fatigue-related cracking extending radially outward from the bushings welded into certain cabin seat frames; measurement to determine gap size between the bearing shaft and the lower aft and forward seat frames; and repair, if necessary. Cabin seat frames that are cracked, would be required to be repaired by welding prior to further flight. Cabin seat frames that are not cracked, having gaps exceeding a certain measurement between the bearing shaft and the lower and/or forward seat frames, would be required to be repaired by reinforcing the seat frames prior to further flight. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Modification Kit No. 303–307, which entails repair by welding and/or reinforcing the seat frames, was installed during production on Beech Model 400A airplanes equipped with Tosington cabin seat frames having serial numbers 5606 and subsequent. The applicability of this proposed AD would exclude those modified airplanes, since they are not subject to the unsafe condition addressed by this AD.

There are approximately 41 Beech Model 400A airplanes of the affected design in the worldwide fleet. The FAA estimates that 29 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspections, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,595, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Beech Aircraft Corporation: Docket 93–NM–145–AD.

Applicability: Beech Model 400A airplanes; serial numbers RK–1 through RK–40 inclusive, and RK–45; equipped with Tosington Cabin Seat Frames, serial numbers prior to 5606, on which Modification Kit Number 303–307 has not been installed; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the cabin seat frames from their bases during an emergency landing, accomplish the following:

(a) Within 200 hours time-in-service after the effective date of this AD, perform a visual inspection to detect fatigue-related cracking extending radially outward from the bushings welded into the cabin seat frames, in accordance with Tosington Enterprises, Inc., Service Bulletin 001, dated July 1993. If any cracking is found, prior to further flight, repair by welding in accordance with the service bulletin.

(b) Within 200 hours time-in-service after the effective date of this AD, measure the gap size between the bearing shaft and the lower aft and/or forward seat frames in accordance with Tosington Enterprises, Inc., Service Bulletin 001, dated July 1993.

(1) If the gap size is 0.32 inch or greater, prior to further flight, repair by reinforcing the cabin seat frame in accordance with the service bulletin.

(2) If the gap size is less than 0.32 inch, no further action is required.

(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, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

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

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

Issued in Renton, Washington, on November 2, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–27374 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–13–P

Research and Special Programs Administration

49 CFR Parts 172, 174, 175, 176, and 177

[Docket No. HM–217; Notice No. 93–21]

RIN 2137–AC47

Labeling Requirements for Poisonous Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: RSPA is considering changes to certain labeling provisions of the Hazardous Materials Regulations (HMR) to require the use of a POISON label on packagings containing materials meeting the toxicity criteria for poisonous materials in Division 6.1, Packing Group III. These materials presently are required to bear a KEEP AWAY FROM FOOD label. The purpose of this notice is to solicit public comments on this issue.

DATES: Comments must be received on or before January 10, 1994.

ADDRESSES: Address comments to the Dockets Unit (DHM–30), Research and Special Programs Administration, U.S. Department of Transportation,

Washington, DC 20590–0001. Comments should identify the docket (HM–217) and notice number and be submitted in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard showing the docket number. The Dockets Unit is located in room 8421 of the Nassif Building, 400 Seventh Street, SW., Washington, DC 20590–0001. Public dockets may be reviewed between the hours of 8:30 a.m. and 5 p.m. Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bob Richard, Assistant International Standards Coordinator, telephone (202) 366–0586, or Beth Romo, Office of Hazardous Materials Standards, telephone (202) 366–4488, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION: RSPA is considering revisions to the labeling requirements for Division 6.1 Packing Group III materials. A petition for rulemaking from the Conference on the Safe Transportation of Hazardous Articles Inc. (COSTHA) requested that RSPA issue an ANPRM addressing changes to Division 6.1 Packing Group III labeling requirements consistent with an amendment to the United Nations Recommendations on the Transport of Dangerous Goods.

I. Background

On December 21, 1990, RSPA issued a final rule under Docket HM–181 which substantially revised the HMR consistent with the UN Recommendations. The sixth objective of that rulemaking was to harmonize the HMR with the international requirements for the transportation of dangerous goods, as provided in the International Maritime Organization (IMO) International Maritime Dangerous Goods (IMDG) Code and the International Civil Aviation Organization (ICAO) Technical Instructions on the Safe Transport of Dangerous Goods by Air. These two codes, which govern most of the hazardous materials shipments imported to, or exported from, the United States, are based on the UN Recommendations.

The seventeenth session of the United Nations Committee of Experts on the Transport of Dangerous Goods (UN Committee of Experts) held in Geneva, Switzerland from December 7–16, 1992 adopted amendments to be incorporated in the eighth revised edition of the UN Recommendations. It is expected that these amendments will be incorporated in the IMDG Code and the ICAO Technical Instructions as early as January 1, 1995.

To the present time, the UN Recommendations have specified two different labels to identify materials that meet the toxicity criteria for Division 6.1. A label incorporating a skull and crossbones symbol is used for any material which poses a high (Packing Group I) or medium (Packing Group II) danger. This label, which is referred to as the POISON label, is described in 49 CFR 172.430. For any material with a minor toxicity danger (Packing Group III), a label incorporating an ear of wheat with an "X" through it is prescribed. This label, which is referred to as the KEEP AWAY FROM FOOD label, is described in § 172.431. Based on a decision of the seventeenth session of the UN Committee of Experts, the KEEP AWAY FROM FOOD label was revoked and will not be included in the eighth revised edition of the UN Recommendations. Instead, packagings containing Division 6.1 Packing Group III materials will be required to bear the POISON label. In addition, in a separate decision, the UN Committee of Experts agreed that a subsidiary POISON label is required on packagings containing a material with a subsidiary hazard of Division 6.1 Packing Group III if a material is described using a generic "n.o.s." (not otherwise specified) shipping description.

RSPA first solicited public comment on the substitution of the POISON label for the KEEP AWAY FROM FOOD label on September 2, 1992, in Notice 92–8; International Standards on the Transport of Dangerous Goods; Request for Comments (57 FR 40247). This notice was issued to assist in developing the United States position at the seventeenth session of the UN Committee of Experts held on December 7–16, 1992, in Geneva, Switzerland. The primary concern expressed in the Request for Comments was that the KEEP AWAY FROM FOOD label and the text which may be placed on the label are misleading. The label inaccurately implies that materials meeting Division 6.1 Packing Group III toxicity criteria pose a risk only of food contamination, and the label does not communicate other hazards such as dermal and inhalation effects. In addition, the label would best be characterized as a handling label rather than a hazard alerting or warning label.

An in-depth explanation of the issues leading up to the question of whether to amend the UN Recommendations by requiring the POISON in lieu of the KEEP AWAY FROM FOOD label was provided in the Notice 92–8 Request for Comments. Four commenters, the Hazardous Materials Advisory Council (HMAC), the Association of American Railroads, the Chemical Specialties Manufacturers Association (CSMA), and a multi-national chemical company, submitted comments in response to Notice 92–8. All four commenters opposed the removal of the KEEP AWAY FROM FOOD label, citing the negative perception and operational constraints placed on packages bearing the POISON label or placard. HMAC and CSMA suggested adoption of a more appropriate pictogram to distinguish Division 6.1 Packing Group III materials from those Division 6.1 Packing Group I and II materials posing a greater danger.

II. Request for Comments

If the HMR are amended to remove the KEEP AWAY FROM FOOD label, a POISON label would be required on packagings containing Division 6.1 Packing Group III materials. In addition, a subsidiary POISON label would be required on packages containing materials having a subsidiary hazard of Division 6.1, Packing Group III when these materials are transported under an n.o.s. shipping description. Consistent with these changes, bulk packagings containing Division 6.1 Packing Group III materials that are required to be placarded would be required to bear the POISON placard.

If such a change is adopted, RSPA does not contemplate more severe operational requirements on Division 6.1 Packing Group III materials. Therefore, amendments to certain modal requirements would be necessary; for example, §§ 174.680, 175.630, 176.600 and 177.841 contain differing operational requirements for packages bearing a POISON label or a KEEP AWAY FROM FOOD label. The current requirements for packages bearing a POISON label would be revised to refer to poisonous materials in Division 6.1 Packing Group I and Packing Group II. Similarly, requirements for packages currently labeled KEEP AWAY FROM FOOD would apply to Division 6.1 Packing Group III materials.

RSPA recognizes that the use of the POISON label for Division 6.1 Packing Group I and Packing Group II materials and the KEEP AWAY FROM FOOD label for Packing Group III materials facilitates compliance with operational requirements as well as certain handling requirements in Subpart D of Part 174. In a paper submitted to the UN Committee of Experts, RSPA recommended that if the POISON label was used to identify Division 6.1

Packing Group III materials, the symbol "III" should be placed on the lower part of the label to denote the level of hazard in the case of Division 6.1 Packing Group III materials.

RSPA is requesting comments in response to the following questions:

1. The STOW AWAY FROM FOODSTUFFS instruction on the Division 6.1 Packing Group III label is also an appropriate instruction for Division 6.1 Packing Group I and Packing Group II materials. Should this label be retained and required as an additional label for all Division 6.1 materials, independent of packing group?

2. Other than the current labeling provisions, which distinguish Division 6.1 Packing Group I and Packing Group II materials from Packing Group III materials, are there other effective means (e.g., a package marking or shipping paper notation) that may be used to facilitate compliance with the applicable operating and handling requirements?

3. If the KEEP AWAY FROM FOOD label is removed and the POISON label is required for Packing Groups I, II and III, should the Packing Group III label be altered in some manner so that packagings containing Division 6.1 Packing Group III materials can be distinguished from Packing Group I and II materials? If so, please provide examples. Should the use of such an altered label be required or optional?

4. What costs would be incurred by industry (e.g., operational and handling costs) if a POISON label and placard are required for packages containing Division 6.1, Packing Group III materials?

III. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

This advance notice of proposed rulemaking does not meet the criteria specified in section 3(f) of Executive Order 12866 and, therefore, is not a significant rule. The proposed rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034).

Executive Order 12612

RSPA will evaluate any proposed rule in accordance with the principles and criteria in Executive Order 12612 ("Federalism").

Regulatory Flexibility Act

This proposed rule would apply to shippers and carriers of Division 6.1 Packing Group III materials and would not have any direct or indirect adverse economic impacts on small units of government, businesses, or other organizations. Therefore, I certify that this proposal will not, if promulgated, have a significant economic impact on a substantial number of small entities. This certification is subject to modification as a result of a review of comments received in response to this proposal.

Paperwork Reduction Act

There are no new information collection requirements in this proposed rule.

Issued in Washington, DC, on November 3, 1993 under authority delegated in 49 CFR part 106, appendix A.

Robert A. McGuire,

Acting Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–27436 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Parts 571 and 575

[Docket No. 93–81, Notice 1]

RIN 2127–AE70

Federal Motor Vehicle Safety Standards; New Pneumatic Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice follows the agency's granting of a petition filed by the Rubber Manufacturers Association to amend Federal Motor Vehicle Safety Standard No. 109, New Pneumatic Tires, and the Uniform Tire Quality Grading Standards, to include a maximum inflation pressure of 350 kiloPascals (51 pounds per square inch), thus permitting the manufacture, testing, and sale of tires with that inflation pressure. The agency proposes to amend these rules to include the requested maximum inflation pressure. The agency proposes to limit the 350 kPa maximum tire pressure only to tires for use on energy efficient vehicles, including electric vehicles. This limitation is intended to address potential problems that could occur if these high-pressure tires were intermixed with conventional lower-pressure tires.

DATES: Comment closing date: Comments on this notice must be received on or before January 7, 1994.

Proposed effective date: If adopted, the amendment proposed in this notice would become effective 30 days after publication of the final notice.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., room 5109, Washington, DC 20590. Docket room hours are from 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Cook, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Room 5307, Washington. DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard (FMVSS or Standard) No. 109, New Pneumatic Tires (49 CFR 571.109), specifies requirements applicable to passenger car tires for strength, endurance, high speed performance, and bead unseating resistance. The standard also defines tire load ratings and specifies dimensions, maximum tire inflation pressures, and labeling requirements for passenger car tires.

Pertinent to this notice, the standard limits the choice of tire manufacturers in selecting the maximum inflation pressures for their tires. Under paragraph S4.2.1(b), tires other than CT tires must have one of the following maximum inflation pressures: 240, 280, 290, 300, 330, or 340 kiloPascals (kPa) or 32, 36, 40 or 60 pounds per square inch (psi). For CT tires, the maximum permissible pressures are 290, 300, 350, or 390 kPa or 32, 36, 40, or 60 psi. CT tires are pneumatic tires with an inverted flange tire and rim system in which the rim flanges point radially inward and the tire fits on the underside of the rim such that the rim flanges are inside the air cavity of the tire.

A manufacturer's selection of a maximum inflation pressure for a tire has the effect under the standard of determining the pressures at which that tire is tested for compliance. For each permissible maximum pressure, Table II, Appendix A, Standard 109 specifies pressures at which the standard's tests are conducted. Limiting the permissible maximum inflation pressures to the ones listed in the table reduces the likelihood of there being tires of the same size on the same vehicle with one maximum load value, but with two different maximum permissible inflation pressures.

The Uniform Tire Quality Grading Standards (UTQGS) requires motor vehicle and tire manufacturers and tire brand name owners to mold into or onto

the sidewalls of passenger car tires sold in the United States the relative performance of those tires in the areas of treadwear, traction, and temperature resistance. Table 1 of the UTQGS specifies maximum permissible inflation pressure for treadwear and temperature resistance testing, and Table 2 sets forth the multipliers corresponding to the tire's maximum inflation pressure for treadwear and tracting testing. Both Tables provide for a maximum inflation pressure of 350 kPa, but the CT tires only.

The Petition

The Rubber Manufacturers Association (RMA) submitted a petition to NHTSA to amend Standard 109 and the UTQGS to include a maximum tire inflation pressure of 350 kPa (51 psi). RMA stated that the load-carrying capacity would correspond to the 240 kPa (35 psi) inflation. The state intent of the requested additional pressure is to permit the production of tires that would improve fuel economy of electric or other energy efficient vehicles by virtue of the reduced rolling resistance of those tires. Despite this state intent, RMA did not suggest that the new pressure be limited to tires for those vehicles. RMA stated that domestic evaluations of the 350 kPa inflation pressure, and experiences in Europe where this level of pressure is current practices, having indicated no area of concern with regard to the potential intermixing of 350 kPa (51 psi) tires. RMA further said that this inflation level is analogous to that of extra-load (345 kPa) (50 psi) tires which have been used in the United States for several years with no intermixing problems.

Agency Consideration of Petition

The agency began its consideration of the RMA petition with a review of an earlier similar petition from Goodyear Tire and Rubber Company (Goodyear). In that petition Goodyear suggested that Standard 109 be amended to include a maximum tire inflation pressure of 450 kPa (65 psi). Goodyear, working with General Motors (GM) and the Tire and Rim Association, was developing an "E-metric" tire designed specifically for use on energy efficient alternative fuel vehicles, called "E-system vehicles." Goodyear asserted that the increased tire inflation pressure was necessary to enable E-system vehicles to achieve maximum fuel efficiency by lowering tire rolling resistance.

In October 1991, NHTSA suspended consideration of the Goodyear petition after Goodyear stated that test data showed vehicle handling and stability problems when E-metric and conventional tires were intermixed, especially on conventional vehicles. In April 1992, Goodyear requested withdrawal of its petition, stating that it saw no need for such increased tire inflation pressure with the proposed energy efficient vehicles.

In reviewing the RMA petition, NHTSA noted with concern that RMA did not address a variety of issues that had been addressed in the Goodyear petition. Among these issues were tire sizes, construction types or designs, tire load ratings, tire labeling showing that the tire was designed for use on electric vehicles, and potential mismatch problems when tires designed for use with energy efficient vehicles were intermixed with conventional tires. The agency considered those issues relevant to the RMA petition as well as to the Goodyear petition. The agency also noted that, again unlike the Goodyear petition, RMA made no mention of having coordinated its tire development efforts with either manufacturers or other trade associations. Further, RMA did not explain why it chose the 350 kPa figure for the petition.

NHTSA representatives met with RMA representatives on May 18, 1992 to discuss these issues and suggested, among other things, that additional testing may be necessary. On September 9, 1992, NHTSA received test data from RMA which still did not adequately address NHTSA's concerns regarding tire intermixing problems. Further, RMA still made no mention of any attempts to coordinate the 350 kPa inflation pressure figure with the manufacturers of electric vehicles, nor did RMA indicate that 350 kPa is the pressure needed by manufacturers of energy efficient vehicles for use with their electric vehicles.

In response, RMA submitted further information on November 19, 1992, showing that:

(1) The Japan Automobile Manufacturers Association has selected the 350 kPa (51 psi) tire for energy efficient vehicles;

(2) Ford Motor Company (Ford) has petitioned for an exemption under 49 CFR part 555 for the Ecostar and included the 350 kPa (51 psi) tire in its petition. Further, Ford notified RMA that it intends to comment favorably when this notice is published in the Federal Register; and

(3) Both General Motors and Chrysler have indicated that they would not be opposed to adding 350 kPa (51 psi) to Standard 109.

RMA further indicated that it would oppose labeling 350 kPa (51 psi) tires for use only on energy efficient vehicles, arguing that there is no safety basis for such a limitation.

Agency Proposal

Based on RMA's petition and the additional data and information subsequently submitted by RMA, NHTSA has decided to grant the petition to add 350 kPa (51 psi) maximum tire pressure to Standard 109 and the UTQGS for tires intended for use on energy efficient vehicles, including electric vehicles. The agency proposes such limitation because, as suggested by RMA, 350 kPa tires will be designed to fit the unique requirements of energy efficient vehicles, which include different vehicle weights, suspension systems, and handling characteristics.

Although the industry is still in the experimental and developmental stages for both energy-efficient vehicles and the tires intended for use on them, it is known that such vehicles will require tires of different design characteristics than conventional tires currently in use. Specifically, energy-efficient vehicle tire designs, in order to obtain maximum performance, will have ultra-low rolling resistance achieved by higher inflation pressures and narrower rim widths, higher load carrying capacity, low tire/wheel system mass, reduced tire deflection, and high treadwear and traction values. In developing such tires, design modifications have been made in such areas as materials and compounds used in the carcass and tread areas; construction, such as placement of the cord and bead material in the lower sidewall area; tread design, such as tread lug pattern, groove pattern and spacing, and tread depth; and tread configuration, such as rounding the edges of the tread.

The Goodyear tests, as discussed above, showed that such specially-designed energy efficient vehicle tires are incompatible with conventional tires when both are intermixed, particularly on conventional vehicles, resulting in significant vehicle handling and stability problems. The agency is concerned that this problem would be primarily manifested in consumer purchases of replacement tires for either vehicles. Accordingly, to forestall such potential safety hazards, NHTSA would add the 350 kPa tire inflation pressure to Standard 109, but limit it for use only on electric or other energy efficient vehicles.

Although proposing the above limitation, the agency seeks public comment as to whether such a limitation is necessary, especially since 340 kPa (49 psi) tire inflation pressures

are currently allowed without restriction.

This proposed rule would not have any retroactive effect. Under Section 103(d), National Traffic and Motor Vehicle Safety Act (Safety Act), 15 U.S.C. 1392(d), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 105 of the Safety Act, 15 U.S.C. 1394, sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This action has been determined to be not "significant" under either. As explained above, the amendment proposed in this notice would merely add one additional tire inflation pressure to those already permitted by FMVSS No. 109. This inflation pressure would be limited to tires used on electric and other energy efficient vehicles. Accordingly, this proposal would not impose any mandatory costs on manufacturers. Rather, it would permit, but not require, tire manufacturers to design, build, and test tires with a maximum inflation pressure of 350 kPa (51 psi) for use on, and to assist in the development of, electric and other energy efficient vehicles. NHTSA has concluded, therefore, that the effect of this action would be so minimal as not to warrant preparation of a full regulatory evaluation.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a preliminary regulatory flexibility analysis.

The agency believes that few, if any, tire manufacturers qualify as small businesses. Small businesses, small organizations, and small governmental units would be affected by the proposed amendment only to the extent that they would purchase electric or other energy-efficient vehicles and the tires that would be appropriate for use on such vehicles.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act and has determined that implementation of this action would have no significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal 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 preparation of a Federalism Assessment.

Request for Comments

Interested persons are invited to submit comments on this proposal. It is requested but not required that any comments be submitted in 10 copies each.

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 concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address shown 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 49 CFR Part 512, the agency's confidential business information regulation.

All comments received on or before close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after that date. To the extent possible, comments received after the closing date will 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 public inspection in the docket. NHTSA will continue to file relevant information in the docket after the closing date, and it is recommended that interested persons continue to monitor 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

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

49 CFR Part 575

Consumer protection, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR parts 571 and 575 would be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority at 49 CFR 1.50.

2. Section 571.109 would be amended by revising S4.2.1(b) and revising S4.2.2.2(b) to read as follows:

§ 571.109 Standard 109, New Pneumatic Tires.

* * * * *

S4.2.1 * * *

(b) Its maximum permissible inflation pressure shall be either 240, 280, 300, 340, or 350 kPa, or 32, 36, 40, 51, or 60 psi. For a CT tire, the maximum permissible inflation pressure shall be either 290, 330, 350 or 390 kPa.

* * * * *

S4.2.2.2 * * *

(b) (For tires with a maximum permissible inflation pressure of 240, 280, 290, 300, 330, 340, 350 or 390 kPa, or 60 psi) 7 percent or 10 mm (0.4 inches), whichever is larger.

* * * * *

3. Table I–C and Table II of Appendix A to § 571.109 would be revised to read as follows:

§ 571.109 Standard 109, New Pneumatic Tires.

* * * * *

Appendix A—Federal Motor Vehicle Safety Standard No. 109

* * * * *

TABLE I–C.—FOR RADIAL PLY TIRES

Size designation	Maximum permissible inflation										
	32 lb/in²	36 lb/in²	40 lb/in²	240 kPa	280 kPa	300 kPa	340 kPa	(1) 290 kPa	(1) 330 kPa	(2) 350 kPa	(1) 390 kPa
Below 160mm (in-lbs)	1,950	2,925	3,900	1,950	3,900	1,950	3,900	1,950	3,900	1,950	3,900
160mm or above (in-lbs)	2,600	3,900	5,200	2,600	5,200	2,600	5,200	2,600	5,200	2,600	5,200

(1) For CT tires only.
(2) Use only for CT tires, electric vehicle tires and tires on other energy efficient vehicles.

(h) * * *

TABLE II.—TEST INFLATION PRESSURES

Test Type	Maximum permissible inflation pressure to be used for the following test:											
	lbs/in²				kPa				kPa (1)			
	32	36	40	60	240	280	300	340	290	330	350 (2)	390
Physical dimensions, bead unseating, tire strength, and tire endurance	24	28	32	52	180	220	180	220	230	270	230	270
High speed performance	30	34	38	58	220	260	220	260	270	310	270	310

(1) For CT tires only.
(2) Use only for CT tires, electric vehicle tires and tires on other energy efficient vehicles.

PART 575—CONSUMER INFORMATION REGULATIONS

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

Authority: 15 U.S.C. 1392, 1401, 1407, 1421, 1423; delegation of authority at 49 CFR 1.50.

2. Section 575.104 would be amended in paragraph (g) by revising Table 1 and in paragraph (h) by revising Table 2 as follows:

§ 575.104 Uniform Tire Quality Grading Standards.

* * * * *

(g) * * *

TABLE 1.—TEST INFLATION PRESSURES

Test type	Maximum permissible inflation pressure for the following test:											
	lbs/in²				kPa				kPa (1)			
	32	36	40	60	240	280	300	340	290	330	350 (2)	390
Treadwear test	24	28	32	52	180	220	180	220	230	270	230	270
Temperature resistant test	30	34	38	58	220	260	220	260	270	310	270	310

[1] For CT tires only.
[2] Use only for CT tires, electric vehicle tires and tires on other energy efficient vehicles.

(h) * * *

TABLE 2

Maximum inflation pressure	Multiplier to be used for treadwear testing	Multiplier to be used for traction testing
32 lbs/in²	.851	.851
36 lbs/in²	.870	.797
40 lbs/in²	.883	.753
240 kPa	.866	.866
280 kPa	.887	.804
300 kPa	.866	.866
340 kPa	.887	.804

TABLE 2—Continued

Maximum inflation pressure	Multiplier to be used for treadwear testing	Multiplier to be used for traction testing
290 kPa [1]	.866	.866
330 kPa [1]	.887	.804
350 kPa [2]	.866	.866
390 kPa [1]	.887	.804

[1] for CT tires only.
[2] Use only for CT tires, electric vehicle tires and tires on other energy efficient vehicles.

* * * * *

Issued on November 3, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–27435 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

Threatened Fish and Wildlife; Listing of the Gulf of Maine Population of Harbor Porpoise as Threatened Under the Endangered Species Act

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

ACTION: Notice to delay final determination on the proposed rule to list Gulf of Maine harbor porpoise.

SUMMARY: On January 7, 1993, NMFS proposed to designate the Gulf of Maine (GME) population of harbor porpoise as threatened under the Endangered Species Act (ESA), with a 90-day comment period (58 FR 3108). NMFS announces that, due to request for an extension of the decision-making period to list harbor porpoise, the final determination publication deadline will be extended for a period not to exceed six months, to allow for additional data compilation and examination of the 1991–1993 bycatch data.

FOR FURTHER INFORMATION CONTACT: Michael Payne or Margot Bohan, NOAA/NMFS, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910 (301/713–2322).

SUPPLEMENTARY INFORMATION: On January 7, 1993, NMFS proposed to designate the GME population of harbor porpoise as threatened under the ESA (58 FR 3108). This proposed ESA listing was based, largely, on the level of bycatch in the demersal gillnet fishery, and the lack of a regulatory mechanism to reduce this mortality. The best available information indicated that the bycatch of harbor porpoise in the GME gillnet fishery must be reduced by more than 50 percent to be sustained by the present population (58 FR 3108, Jan. 7, 1993). The widespread occurrence of harbor porpoise strandings in 1993 (Haley and Read, 1993), and in previous years (58 FR 3108, Jan. 7, 1993) suggest that fisheries interactions also occur outside the GME, along the mid-Atlantic coast and in the Bay of Fundy, Canada. The extent of bycatch in these gillnet fisheries is considered a threat to the GME harbor porpoise

On April 5, 1993, NMFS, due to numerous requests for public hearings in response to the proposed listing, extended the comment period on the proposed rule (58 FR 17569) until August 7, 1993. During this comment period, the New England Fishery Management Council (NEFMC) forwarded a letter to NMFS requesting that the agency delay making a determination on the ESA listing of harbor porpoise for six months because notable disparities exist between the 1990–1991 and 1992 estimates of harbor porpoise bycatch in the gillnet fishery and because of questions regarding whether the GME population is distinct from other western North Atlantic populations.

Under section 4(b)(6) of the ESA, if the Secretary of Commerce finds, with respect to a proposed regulation, that there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned, the Secretary may extend the one-year final determination publication deadline for not more than six months, for purposes of soliciting additional data. In accordance with the ESA, NMFS extends, until July 7, 1994, the period required to make a final determination on whether or not to list harbor porpoise as threatened under the ESA.

The extension will allow for analysis of 1993 bycatch data prior to final determination. Also, as the GME population of harbor porpoise is taken by gillnetters in the Bay of Fundy at a level of serious concern, the extension will allow the United States to address this bycatch problem with Canada.

NMFS will reopen the comment period when new data and information on the 1993 bycatch rate has been analyzed. NMFS will solicit comments regarding this analysis, comments or data concerning the 1991–1993 bycatch rates, and comments concerning the population structure of harbor porpoise.

References

Haley, N.J. and A.J. Read. 1993. Workshop on harbor porpoise mortalities and human interactions. Final Report. 33 pp. (Report available at NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930.)

Dated: October 28, 1993.

William W. Ford, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–27372 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 641

[Docket No. 931088–3288; ID 102193A]

Reef Fish Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), NMFS proposes to restrict the commercial landings of red snapper to one trip limit per vessel per day; to prohibit the sale or purchase of red snapper exceeding one trip limit per vessel per day; and to delay the opening of the commercial fishery for red snapper until February 10, 1994. The intended effects of this rule are to lengthen the commercial season for red snapper, to facilitate enforcement of the trip limits, to minimize fishing during hazardous winter weather, and to

ensure that the commercial red snapper fishery is open during Lent, when there is increased demand for seafood.

DATES: Written comments must be received on or before November 23, 1993.

ADDRESSES: Comments on the proposed rule should be sent to Robert Sadler, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of the regulatory amendment, which includes an environmental assessment and a regulatory impact review, should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The management regime for the commercial fishery for red snapper during 1993 and 1994 includes vessel trip limits of 2,000 pounds (907 kg) for vessels that have red snapper endorsements on their permits and 200 pounds (91 kg) for other permitted vessels. Under that regime, the 1993 commercial red snapper quota was met on May 21, 1993, and the fishery was closed for the remainder of the year.

The Council has received reports that during the 1993 season some permitted vessels were circumventing the red snapper trip limits by catching more than the trip limit and landing the excess under the guise of one or more additional trips in a day. In addition, logbook records from the 1993 season indicate that some vessels did, in fact, catch their trip limit on each of several trips in a single day. The Council determined that these practices should be discontinued because they cause an unacceptably high rate of harvest of the limited quota, thus subverting the desired lengthening of the commercial season. Accordingly, the Council proposes to limit the commercial landings of red snapper to one trip limit per vessel per day. To enhance enforceability of the trip limits and the daily vessel landing limit, the Council proposes to prohibit sale or purchase, and attempted sale or purchase, of red snapper exceeding the trip and landing limits.

The Council also proposes to delay the opening of the 1994 commercial red snapper season to February 10. The proposed February 10 opening date was requested by fishermen to ensure that the fishery would remain open during the entire Lenten season, which begins on February 16, 1994, when there is a higher demand for fresh fish.

Under the red snapper quota system, fishermen may believe they are compelled to fish when the season opens, despite occasional hazardous weather conditions that reportedly occur more frequently in January. Accordingly, the Council considers that the proposed commercial fishery opening of February 10 will contribute to vessel safety.

The Council's recommended changes are proposed for implementation under the framework procedure for adjusting certain management measures referred to at 50 CFR 641.28 and specified in the FMP. The Director, Southeast Region, NMFS, initially concurs that the Council's recommended changes are consistent with the objectives of the FMP, the national standards, and other applicable law. Accordingly, the Council's recommended changes are published for comment.

Classification

The Council prepared a regulatory impact review (RIR) on this action, the conclusions of which are summarized as follows. The proposed limit of one trip limit per vessel per day would adversely affect approximately 66 red snapper fishermen who reported making two or more trips per pay during the 1993 season. Other fishermen will benefit through a redistribution of profits and the extra trips would lengthen the commercial season by about one week. Enforcement of the trip limits would be enhanced. Delay in the opening of the commercial season would be expected to reduce the risk of fishing in adverse January weather and increase revenues by postponing the harvest season to correspond to the Lenten season when consumer demand is higher. Additional analysis and discussion are contained in the RIR, a copy of which is available (see **ADDRESSES**).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the number of vessels (small entities) affected is not substantial and those changes in costs/revenues that are determinable are not expected to exceed the threshold level of 5 percent. Accordingly, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 2, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

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

2. In § 641.4, paragraph (n)(1) is revised, effective from January 1, 1994, through December 31, 1994; and new paragraph (n)(3) is added, effective from January 1, 1994, through February 9, 1994; to read as follows:

§ 641.4 Permits and fees.

* * * * *

(n) * * *

(1) May not exceed the appropriate vessel trip or landing limits for red snapper, as specified in § 641.21 (d)(1), (d)(2), and (d)(4).

* * * * *

(3) Must abide by the red snapper closure provisions of § 641.30.

3. In § 641.7, paragraph (u) is revised and new paragraph (w) is added, effective from January 1, 1994, through December 31, 1994, to read as follows:

§ 641.7 Prohibitions.

* * * * *

(u) Exceed the vessel trip or landing limits for red snapper, as specified in § 641.21 (d)(1), (d)(2), and (d)(4).

* * * * *

(w) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a red snapper possessed or landed in excess of a trip limit contained in § 641.21 (d)(1) or (d)(2) or the landing limit contained in § 641.21(d)(4), as specified in § 641.21(d)(5).

4. In § 641.21, the heading of paragraph (d) is revised and new paragraphs (d)(4) and (d)(5) are added, effective from January 1, 1994, through December 31, 1994, to read as follows:

§ 641.21 Harvest limitations.

* * * * *

(d) *Red snapper limitations.*

* * * * *

(4) A vessel for which a reef fish permit has been issued under § 641.4 may not land in any day red snapper in excess of 200 pounds (91 kg) or 2,000 pounds (907 kg), as appropriate under paragraph (d)(1) or (d)(2) of this section.

(5) No person may purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a red snapper possessed or landed in excess of the trip or landing limits specified in paragraphs (d)(1), (d)(2), and (d)(4) of this section.

5. A new § 641.30 is added, effective from January 1, 1994, through February 9, 1994, to read as follows:

§ 641.30 Closure of the commercial fishery for red snapper.

Other provisions of this part 641 notwithstanding, the commercial fishery for red snapper is closed from January 1, 1994, through February 9, 1994. During this closure of the commercial fishery, the bag and possession limits, as specified in § 641.24(b)(1) and (c), and the prohibition of purchase, barter, trade, or sale of red snapper taken under the bag limit, as specified in § 641.24(g), apply to red snapper harvested from or possessed in the EEZ and to each vessel for which a currently valid reef fish permit has been issued under § 641.4.

[FR Doc. 93–27368 Filed 11–5–93; 8:45 am]
BILLING CODE 3510–22–M

---

50 CFR Part 651

[Docket No. 931066–3266; I.D. No. 082793E]

Northeast Multispecies Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement the New England Fishery Management Council's (Council) recommendation that vessels fishing for northern shrimp in the Northeast multispecies fishery be required to have properly configured and installed finfish excluder devices in their nets throughout the fishing season. The intent of this recommendation is to reduce the bycatch of groundfish in the small mesh northern shrimp fishery. Comments are requested on this recommendation and proposed implementing regulations.

DATES: Comments on this notice must be received on or before December 3, 1993.

ADDRESSES: Comments may be mailed to Richard B. Roe, Regional Director, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Finfish Excluder Device Requirements for Shrimp Gear."

Copies of the draft Environmental Assessment/Economic Analysis prepared for this action and copies of the referenced documents may be obtained from the Regional Director at the address above.

FOR FURTHER INFORMATION CONTACT: Jack Terrill (Fishery Policy Analyst, Northeast Region, NMFS), 508–281–9252.

SUPPLEMENTARY INFORMATION: Amendment 4 to the Fishery Management Plan for the Northeast Multispecies Fishery (FMP) and its implementing regulations (56 FR 24724, May 31, 1991) include a provision codified at 50 CFR 651.20(b)(3) that allows the Council to recommend to the Director, Northeast Region, NMFS (Regional Director), gear requirements for vessels fishing for northern shrimp. The purpose of the provision is to reduce the bycatch and subsequent discard of regulated species of groundfish in the northern shrimp fishery through gear improvements. The northern shrimp fishery is fished with nets containing small mesh capable of taking groundfish. The Council has determined that several of the groundfish species are overfished and is trying to reduce fishing mortality on these species.

Section 651.20(b)(3) requires the Council, in consultation with the Atlantic State Marine Fisheries Commission (Commission), to review annually information on shrimp gear technology and make gear requirement recommendations, if appropriate, by July 15 to the Regional Director. The recommendation must be accompanied by an economic analysis of the impacts that would be imposed by implementation of the recommendation. The Regional Director is then required to publish a proposed rule that would implement the recommendation in the **Federal Register** and allow for comments before making a decision on the recommendation, and issuing a final rule, if appropriate.

The Commission develops regulations for the northern shrimp fishery in the coastal waters of its member states and annually specifies the fishing season and gear requirements to be implemented by those states The Council's involvement with the northern shrimp fishery is through the management of groundfish bycatch through the Exempted Fishery Program (§ 651.22), which allows the use of mesh of less than the regulated size in a portion of the Regulated Mesh Area (§ 651.20). The Exempted Fishery Program was developed to manage the bycatch of regulated groundfish that can occur with the use of small mesh nets and utilizes permitting requirements, area and bycatch restrictions, and target species and periods.

At the Council's urging, the Commission, through its member states, has implemented gear requirements such as large mesh panels in the net (separator trawls) in an attempt to reduce the bycatch and resultant discard mortality from the shrimp fishery. Further examination of gear used in other countries led to testing of a finfish excluder device called the Nordmore grate, which is in use in Norway and Canada. Information on the Norwegian experiments with the grate is available from the Regional Director (see **ADDRESSES**) in a report entitled "Description of the manufacture, mounting, and practical use of the "Nordmörsrista" sorting grate in shrimp trawls" (Larsen, Karlsen, Isaksen and Valdemarsen 1991).

The Nordmore grate is a device that typically has a rectangular frame with parallel bars of fixed spacing. It is usually installed in the nets as follows (see figure 6): (1) A funnel of net material is installed in the lengthening piece of the net; (2) the grate is attached to the net and is located in back of the funnel with a backwards slope of approximately 48 degrees; (3) an opening is cut in the top of the net above the grate; and (4) when floats are used they are attached along the grate to neutralize the weight. The catch in the net is directed to the lower portion of the grate through the funnel in the lengthening piece. The funnel is an optional component, but its ability to channel water increases the retention of shrimp. Fish that are able to pass through the grate are retained in the codend. Larger fish are directed up and out of the net by the combination of the grate and the opening in the top of the net.

Testing of the grate occurred over two seasons (1990/91 and 1991/92) with the results being reported in two studies (Kenny, Blott and DeAlteris 1991) (Kenny, Blott and Nulk 1992). The field tests were conducted on commercial vessels in various locations and times during the fishing season. The tests incorporated grates with different bar spacings (3/4 inch (1.91 cm) and 1 inch (2.54 cm)) as well as grates of different material (aluminum and ultrahigh molecular weight polyethylene). The tests included control nets and evaluated the retention of shrimp, the retention of other species, the fishing characteristics of the system and the handling of the catch and finfish excluder device system on deck.

Over the two seasons, 55 tows were made with the grate. In the studies conducted during May 1991, the average

rate of shrimp caught with the control net with 79 pounds/hour (35.8 kg/hour), while the rate for a net with a grate with ¾-inch (1.91 cm) bar spacing was 102 pounds/hour (46.3 kg/hour). The percentage of regulated species of groundfish caught in the control net was 69 percent, while the net with the grate caught 28 percent regulated species. For tows conducted during January 1992, the control net caught 136 pounds of shrimp/hour (61.7 kg/hour), while nets with a finfish excluder device with a ¾-inch (1.91 cm) spacing caught 150 pounds of shrimp/hour (68.kg/hour), and a net with a 1-inch (2.54 cm) spacing grate caught 158 pounds/hour (71.7 kg/hour). The percentage of regulated species of groundfish caught by the control net was 39 percent, while the ¾-inch (1.91 cm) spacing device yielded 10.2 percent regulated species of groundfish and the 1-inch (2.54 cm) spacing grate yielded 11.2 percent regulated species of groundfish. Copies of these results are available through the Regional Director (see **ADDRESSES**).

The outcome of the tests was favorable regarding the retention of shrimp, the quality of the shrimp landed and the reduction of groundfish bycatch. There were some handling difficulties with the aluminum grate that resulted in the grate being damaged or warped after several tows. With a polyethylene grate, this type of damage did not occur.

Economic Analysis

The analysis considered several of the possible costs and benefits based upon the Nordmore grate's use in the northern shrimp fishery. The benefits include a potential increase in landings as a result of a reduction in mortality of finfish that have not reached a marketable size. The costs include an estimate of the loss of landings of selected species of legal-size finfish and the cost of purchasing the finfish excluder device.

Sea sampling data from shrimp trips were combined with catch data from the Nordmore grate field tests to estimate the potential benefits from requiring a Nordmore grate with 1-inch bar spacing to be used in the northern shrimp fishery. The analysis concluded that the potential benefits from reducing discard mortality are significant enough that the use of the finfish excluder device clearly would have positive economic benefits for fishermen, processors and consumers.

Short-term annual costs include a reduction of landings of finfish of marketable size (monkfish, cod, winter flounder, American plaice, silver hake) by shrimpers estimated to be worth about $622,000. This amount represents 13 percent of the total ex-vessel revenues from the shrimp fishery in 1991.

The purchase and installation cost for one grate is estimated to be $1,000 per vessel and has already occurred in 1992 to comply with State regulations. There were 373 vessels that participated in the shrimp fishery based upon the issuance of permits for the Exempted Fishery Program. The expected life of the grate is two years, but several fishermen have stated that two grates are needed in case one is damaged. Because only a few fishermen have indicated a need for two grates, it is assumed that they are exceptions to the general practice of one grate per vessel. The annualized cost of a grate having a two-year life would be $500. Thus the 373-vessel fleet would have a total annual cost of $186,500.

The most important benefit to the harvesting sector from requiring a finfish excluder device would be the reduction in mortality of regulated species of groundfish that have not reached a marketable size. Many of the fish that are currently caught in shrimp trawls are discarded at sea at a very small size. If these fish were not taken by shrimp trawl gear, many would grow to a marketable size. Although a 1-inch bar spacing in the finfish excluder device would not exclude the smallest groundfish, it would enable a significant number to escape the shrimp trawl gear and contribute to commercial landings at a later time. The analysis estimates that a grate with 1-inch bar spacing would increase potential landings in the groundfish fishery of several selected species (cod, winter flounder, American plaice, silver hake, and red hake) by about 3.2 million pounds with an annual dockside value of about $2.5 million. Reducing the discard reduces the fishing mortality on these species, which will increase the spawning biomass and contribute to a healthier groundfish fishery.

It was reported and observed in the field tests that there was an improvement in the quality of shrimp from using the finfish excluder device. This coupled with a decrease in the amount of culling time required to separate the shrimp catch from the catch of finfish argued for requiring the use of the device.

A finfish excluder device requirement would cause a distribution of benefits away from vessels in the shrimp fishery towards vessels that are in the groundfish fishery. The redistribution of benefits would be more severe for those relatively few vessels that do not switch to groundfishing after the shrimp season has ended.

Council Recommendation

After having reviewed the results of the economic analysis and the comments received, the Council approved the following motion:

> Any vessel catching, harvesting or landing northern shrimp be required to use a finfish excluder device, particularly the Nordmore grate, with a rigid or semi-rigid bar spacing of not more that one inch (2.54 cm) throughout the shrimp season except in those state waters determined to be subject to little or no bycatch.

The motion was forwarded to the Regional Director as the Council's recommendation for the 1992/1993 northern shrimp fishery. This recommendation was published in the **Federal Register** (57 FR 58173, December 9, 1992) with comments requested. Final regulations implementing the recommendation could not be issued in time for the 1992/1993 fishery. State regulations requiring the use of the grate were implemented, with the majority of vessels fishing for northern shrimp being subject to the requirement. The only exception was for those vessels fishing in Maine's waters during the months of January through March.

At the June 1993 meeting of the Council, the Council approved the recommendation for inclusion as a measure in draft proposed Amendment 5 to the FMP. Submission of the amendment for Secretarial approval occurred in September. Even if Amendment 5 is approved, implementation of that Amendment would not occur in time for the beginning of the 1993/1994 shrimp fishery. Therefore, the Regional Director asked for and received Council approval on reinitiating its recommendation from the previous year under Amendment 4.

Comments are requested on the Council's recommendation for proposed specification of gear and will be accepted until December 3, 1993.

References

Kenny, J., A. Blott, and V. Nulk. 1992. Experiments with a Nordmore Grate in the Gulf of Maine Shrimp Fishery, NMFS, Fisheries Analysis Division, Fisheries Engineering Group, Narragansett, Rhode Island. Kenny, J., A. Blott and J. DeAlteris. 1991. Shrimp Separator Trawl Experiments, USDOC/NOAA/NMFS, Fisheries Analysis Division, Fisheries Engineering Group, Narragansett, RI. 1991. Larsen, R., L. Karlsen, B. Isaken and J. Valdemarsen. 1991. Description of the manufacture, mounting, and practical use of the "Nordmörsrista" sorting grate in shrimp trawls. Translated. NEFMC. 1992.

Environmental Assessment of Requiring a Finfish Excluder Device in the Northern Shrimp Fishery, New England Fishery Management Council, Saugus, MA.

Classification

This action is authorized by 50 CFR part 651 and is consistent with the Magnuson Act and other applicable law.

The economic analysis prepared by the Council for this action determined that estimated benefits resulting from increased potential landings of groundfish would have an annual dockside value of $2.5 million. The benefits are derived from allowing finfish to reach marketable size rather than being caught and discarded. The costs associated with this action result from the short-term reduction of landings worth an estimated $622,000.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The vessels already have the Nordmore grates because of state regulations requiring their use in the Northern shrimp fishery. Consequently, there is no equipment purchase cost associated with this Federal requirement that the grate also be used when fishing for Northern shrimp in the United States Exclusive Economic Zone. Many of the shrimp fishermen also fish for groundfish at other times of the year and will therefore benefit from the long-run increase in groundfish landings. The estimated annual cost of $622,000 for the fleet amounts to less than 5 percent of each vessel's gross revenue. Depending upon the specific assumptions used, the per-vessel cost as a percent of per-vessel gross revenue is as low as 1.9 percent or as high as 4.7 percent. Thus, even the worst case result shows the magnitude of costs to be an average of less than 5 percent of an individual vessel's gross revenue.

List of Subjects in 50 CFR Part 651

Fishing, Fisheries, Vessel permits and fees.

Dated: November 2, 1993.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 651 is proposed to be amended as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

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

2. Section 651.20 is amended by adding paragraph (b)(3)(vi) to read as follows:

§ 651.20 Regulated mesh area and gear limitations.

* * * * *

(b) * * *

(3) * * *

(vi) Pursuant to § 651.20(b)(3)(iv), the following is required to be used on vessels participating in the northern shrimp fishery:

(A) Any vessel issued a permit under § 651.4 that is fishing for, catching, harvesting, possessing or landing northern shrimp, and any vessel fishing for, catching, harvesting or possessing northern shrimp in the EEZ, is required to have a properly configured and installed finfish excluder device, commonly known as the Nordmore grate, in any net used to fish for, catch or harvest northern shrimp, throughout the northern shrimp season as established or modified by the Atlantic States Marine Fisheries Commission. The finfish excluder device must be configured and installed consistent with the specifications in paragraph (b)(3)(vi)(B) of this section. See Figure 6 for an example of a properly configured and installed finfish excluder device.

(B) To comply with the requirements in paragraph (b)(3)(vi)(A) of this section, finfish excluder devices must meet the following specifications:

(*1*) The finfish excluder device must be a rigid or semi-rigid grate consisting of parallel bars of not more than 1-inch (2.54 cm) spacing, which excludes all fish and other objects, except those that are small enough to pass between its bars into the codend of the trawl.

(*2*) The finfish excluder device must be secured in the trawl, forward of the codend, in such a manner that it precludes the passage of fish or other objects into the codend without said fish or objects having first passed between the bars of the grate.

(*3*) A fish outlet or hole must be provided to allow fish or other objects that are too large to pass between the bars of the grate to pass out of the net. The aftermost edge of this outlet must be at least as wide as the grate at the point of attachment. Said fish outlet must extend forward from the grate toward the mouth of the net.

(*4*) A funnel of net material is allowed in the lengthening piece of the net forward of the grate to direct catch towards the grate.

3. Figure 6 is added at the end of part 651 as follows:

BILLING CODE 3510-22-M

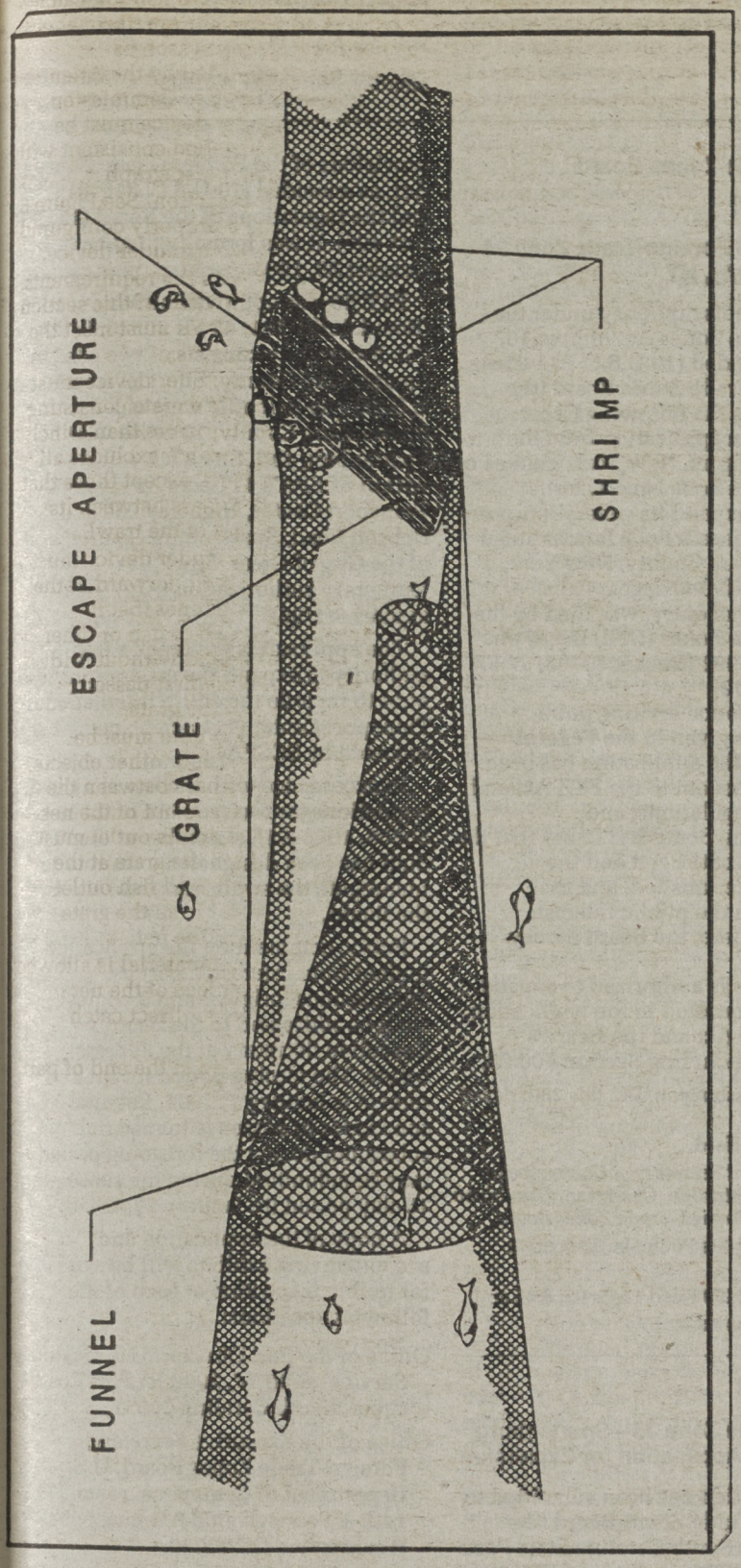


Figure 6. Nordmore grate.

[FR Doc. 93-27377 Filed 11-3-93; 11:57 am]
BILLING CODE 3510-22-C

Notices

Federal Register
Vol. 58, No. 214
Monday, November 8, 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 COMMERCE

Foreigh-Trade Zones Board

[Order No. 663]

Reissuance of Grant of Authority Foreign-Trade Subzone 114B Chrysler Corporation Automobile Plant Belvidere, IL; Resolution and Order

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

After consideration of the request with supporting documents (Docket 25–93, filed June 9, 1993) from the Economic Development Council for the Peoria Area, Inc., grantee of Foreign-Trade Zone 114, Peoria, Illinois, for reissuance of the grant of authority for Subzone 114B at the automobile manufacturing plant of Chrysler Corporation in Belvidere, Illinois, to the Greater Rockford Airport Authority, grantee of Foreign-Trade Zone 176, which has concurred in the request, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the request and recognizes the Greater Rockford Airport Authority as the new grantee of the Chrysler Subzone. The Chrysler plant is redesignated as Subzone 176C.

The approval is subject to the FTZ Act and the FTZ Board's regulations, including Section 400.28.

Signed at Washington, DC, this 28th day of October, 1993.

Barbara R. Stafford,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 93–27429 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DS–P

Foreign-Trade Zones Board

[Order No. 662]

Expansion of Foreign-Trade Zone 34 Niagara County, NY

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the County of Niagara, New York, grantee of Foreign-Trade Zone No. 34, for authority to expand its general-purpose zone at the Niagara Falls International Airport, Niagara County, New York, within the Buffalo-Niagara Falls Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on October 28, 1992 (Docket 33–92, 57 FR 52613, 11/4/92);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that approval is in the public interest;

Now, therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 28th day of October, 1993.

Barbara R. Stafford,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest: John J. Da Ponte, Jr., Executive Secretary.

[FR Doc. 93–27430 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DS–P

[Docket 53–93]

Foreign-Trade Zone 38—Spartanburg County, SC; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority (SCSPA), grantee of FTZ 38, requesting authority to expand its zone in Spartanburg County, South Carolina, within the Greenville/Spartanburg Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 29, 1993.

FTZ 38 was approved on May 4, 1978 (Board Order 131, 43 FR 20526, 5/12/78). It currently consists of two sites in Spartanburg County: Site 1 (3 acres)—on U.S. 29 one-half mile west of I–85, Spartanburg County, 10 miles west of Spartanburg and, Site 2 (17 acres)—within SCSPA's 111-acre International Transport Center, Highway 290 and Dobson Road, Spartanburg County, east of the City of Greer. Site 2 has temporary authorization (A(27f)–11–93, expires 8/1/95).

The applicant is now requesting authority to expand the general-purpose zone to include the entire International Transport Center (111 acres), owned and operated by SCSPA.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 7, 1994. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 22, 1994).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, suite 'S', 2000 Jet Port Road, Greer, South Carolina 29651.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 29, 1993.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 93–27431 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A-570-823]

Preliminary Determination of Sales at Less Than Fair Value: Nitromethane From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0922.

PRELIMINARY DETERMINATION: We preliminarily determine that nitromethane from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margin is shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation on June 14, 1993, (58 FR 33617, June 18, 1993), the following events have occurred.

On July 7, 1993, the International Trade Commission (ITC) notified us of its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of nitromethane from the PRC that are allegedly sold at less than fair value in the United States.

Following our regular procedures, on July 26, 1993, the Department of Commerce (the Department) sent the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) the antidumping questionnaire (which was received by MOFTEC on July 31, 1993). (The antidumping questionnaire was divided into three sections. Section A requested general information on each company. Section C requested information on, and a listing of, U.S. sales made during the period of investigation (POI). Section D requested information on the production process, including specific amounts of each input used in manufacturing nitromethane.) We informed MOFTEC that it was responsible for forwarding the questionnaire to all exporters and producers of nitromethane and submitting complete questionnaire responses on their behalf.

On August 30, 1993, MOFTEC identified 11 companies involved in the manufacture or export of nitromethane, and we received responses to Section A of the questionnaire from seven of the 11 companies.

On September 17, 1993, responses were submitted to Sections C and D of the questionnaire. These responses provided information on the seven companies who had responded to Section A, as well as on an eighth company, Sinochem Liaoning (which was represented by the same legal representative as MOFTEC and the other seven companies). Also on that day, the eight companies who had retained counsel and MOFTEC (all of whom had retained the same legal representative) requested that the Department consider in the investigation: (a) The use of actual home market prices from the PRC, rather than surrogate prices; and (b) the calculation of separate margins for each of the respondents.

On September 20, 1993, responses to the Department's September 7, 1993, Section A deficiency letter for seven of the nine identified companies, as well as an initial section A response for Sinochem Liaoning, were received by the Department. Besides Sinochem Liaoning (which was an exporter), the following companies had been identified at this point as having produced and/or exported nitromethane sold to the United States: *Exporters*—Shanghai Native Product Import and Export Company, Sinochem Hebei, and Sinochem Jiangsu Suzhou Export and Import Corporation; *Manufacturers*—Kunshan Synthetic Chemical Factory, Kunshan Second Solvent Factory, Shanghai Zhuang Hang Chemical Factory, Suzhou Wu Xian No. 2 Perfumery Factory, and Wujin Hongda Chemicals Factory. (A tenth company, Dan Dong No. 2 Chemical Factory, was identified as a manufacturer only on October 21, 1993.)

On September 27, 1993, the Department requested clarification of the ownership structures of the eight companies who had responded to Section A of the questionnaire. The eight companies submitted the information on October 12, 1993.

An additional request for clarification of the questionnaire responses was made on October 6, 1993, and responded to on October 21, 1993. Although time constraints precluded full consideration of this information for the preliminary determination, we note that this submission: (a) Did not include complete information on Sinochem Hebei and (b) revealed for the first time that Dan Dong No. 2 Chemical Factory had also manufactured subject merchandise sold to the United States during the POI.

Scope of Investigation

The product covered by this investigation is nitromethane, a chemical compound with the formula CH_3NO_2. Nitromethane is a nitroparaffin in which the nitro group is attached to the single carbon atom of that member of the alkane family known as methane. Nitroparaffins are any of a homologous series of compounds whose generic formula is $C_nH_{2n+1}NO_2$, the nitro groups being attached to a carbon atom through the nitrogen.

Nitromethane has numerous industrial uses, including as a solvent in polymers for coatings, as a component of special fuels for internal combustion engines, as a stabilizer for chlorinated hydrocarbons, and as an extraction solvent. Nitromethane is a raw material used in the synthesis of other useful chemicals including chloropicrin, a primary soil nematocide; tris (hydroxymethyl)-aminomethane, a pharmaceutical and diagnostic buffer; and bronopol, a preservative for nonwoven moist towelettes.

Nitromethane is currently classifiable under subheading 2904.20.50.00 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading, a basket provision, is defined to include sulfonated, nitrated, or nitrosated derivatives of hydrocarbons, whether or not halogenated. Although HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The POI is December 1, 1992, through May 31, 1993.

Best Information Available

Despite repeated requests, MOFTEC did not provide information on PRC manufacturers and/or exporters of nitromethane until August 30, 1993, when 11 PRC companies were identified. Even that list, however, was subject to several later modifications (most recently on October 21, 1993—just 11 days before the scheduled date for the preliminary determination). The companies that were identified did not provide complete information in response to the Department's requests (which were made both through MOFTEC and through the legal representative that had formally entered its appearance on behalf of MOFTEC and nine of the ten companies). In particular, no information was provided about Sinochem Hebei except the fact that that company had sold nitromethane to the United States during the POI.

The Department's policy, as set forth in the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China* (*HSLW*) (58 FR 48833, September 20, 1993), is that all potential respondents owned by a given governmental jurisdiction must cooperate in our investigation in order for the response to be considered complete.

The business licenses of the three participating exporters (*i.e.*, Sinochem Jiangsu Suzhou Export and Import Corporation, Shanghai Native Product Import and Export Company, and Sinochem Liaoning) state on their face that these companies are "state-owned." In Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from the People's Republic of China (58 FR 37908, July 14, 1993) (*CDIW*) the Department determined that entities owned by the central government are one entity because they are subject to central control. As such, these entities, because they are not independent of one another, are not entitled to separate rates and must all respond to our questionnaire. In spite of repeated requests made by the Department, we have received no information on Sinochem Hebei, the fourth exporter (except that Sinochem Hebei sold nitromethane to the United States during the POI). In our October 6, 1993, deficiency letter, which we sent both to MOFTEC and MOFTEC's legal representative, we explicitly stated that Sinochem Hebei's participation was required. There is not evidence on the record sufficient to convince us that Sinochem Hebei is not state-owned. Therefore, in accordance with our practice, Sinochem Hebei must by default be considered state-owned absent credible evidence to the contrary. Without Sinochem Hebei's response we cannot consider the response of the three remaining state-owned exporters to be complete. Thus, Sinochem Hebei's failure to respond despite being identified as an exporter constitutes an overall failure of state-owned exporters to participate fully. In addition, the information that was received from the three participating exporters contained other major deficiencies, such as an incorrect date of sale methodology and insufficient information to link individual U.S. sales to the appropriate manufacturer. (*See* November 1, 1993, Concurrence Memorandum for detailed discussion.)

Because of the above-described deficiencies, the Department must resort to best information available (BIA), in accordance with 19 CFR 353.37, to calculate the margins for all exporters from the PRC.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents who cooperated in an investigation and margins based on more adverse assumptions for those respondents who did not cooperate in an investigation.

According to the Department's two-tiered BIA methodology outlined in the Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Belgium, 58 FR 37083, (July 9, 1993), when a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the higher of: (a) The highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. As stated above, because we view all state-owned companies in the PRC as having the same owner (the central government), all such companies must respond to our requests for information. Here, because not all of the state-owned exporters responded to our requests for information, we are using 233.70 percent (the sole margin calculated in the petition) as BIA.

Fair Value Comparisons

To determine whether sales of nitromethane from the PRC to the United States were made at less than fair value, we compared, using BIA, the United States Price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" as contained in the petition. See our notice of initiation of this proceeding for a complete description of the methodology used.

Verification

As provided in section 776(b) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of the subject merchandise from the PRC. Section 733(e)(1) of the Act provides that the Department will determine that critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

We normally consider margins of 15 percent or more sufficient to impute knowledge of dumping under section 733(e)(1)(A)(ii) for exporter's sales price sales, and margins of 25 percent or more for purchase price sales. (See, *e.g.*, Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy, 52 FR 24198, June 29, 1987). Since the preliminary margin for nitromethane from the PRC is above 25 percent, we determine in accordance with section 733(e)(1)(A)(ii) of the Act that there is a reasonable basis to believe or suspect that knowledge of dumping existed for nitromethane from the PRC. Since we determined that importers knew, or should have known, that imports of nitromethane from the PRC were being sold at LTFV prices, we do not need to consider whether there is a history of dumping.

Under 19 CFR 353.16(f), we normally consider the following factors in determining whether imports have been massive over a short period of time: (1) The volume and value of the imports; (2) Seasonal trends (if applicable); and (3) The share of domestic consumption accounted for by imports.

Because the Department did not receive responses to its questionnaire from the PRC government on behalf of all companies, for purposes of the preliminary determination, we have relied upon BIA for determining whether there have been massive imports of nitromethane from the PRC. As BIA we are making the adverse assumption that imports were massive over a relatively short period of time in accordance with section 733(e)(1)(B) of the Act. Additionally, Port Import Export Reporting Service (PIERS) data submitted by petitioner shows an increase of at least 100 percent in the three-month post-petition period over the pre-petition period of comparable length. (*See* November 1, 1993, Concurrence Memorandum for detailed discussion.)

Accordingly, based on our analysis, we preliminarily determine that critical

circumstances exist for imports of nitromethane from the PRC.

Suspension of Liquidation

In accordance with sections 733(d)(1) and 733(e)(2) of the Act, we are directing the Customs Service to suspend liquidation of all entries of nitromethane from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to 233.70 percent *ad valorem* on all entries of certain nitromethane from the PRC. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than December 8, 1993, and rebuttal briefs, no later than December 15, 1993. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on December 22, 1993, at 10 a.m. at the U.S. Department of Commerce, room 3606, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B–099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination by January 8, 1994.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: November 1, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–27432 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–826]

Initiation of Antidumping Duty Investigation: Certain Paper Clips From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Mark Wells or Erik Warga, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone (202) 482–3003 or 482–0922.

INITIATION OF INVESTIGATION:

The Petition

On October 13, 1993, we received a petition filed in proper form by ACCO USA Inc. and Noesting, Incorporated (petitioners). Petitioners submitted an amendment to the petition on October 25, 1993. In accordance with 19 CFR 353.12, petitioners allege that imports of certain paper clips ("paper clips") from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that such imports are materially injuring, or threatening material injury to, a U.S. industry.

Petitioners stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and the petition is filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraph (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Scope of Investigation

The products covered by this investigation are certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to this investigation may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as "No. 1" clips, "No. 3" clips, "Jumbo" or "Giant" clips, "Gem" clips, "Frictioned" clips, "Perfect Gems," "Marcel Gems," "Universal" clips, "Nifty" clips, "Peerless" clips, "Ring" clips, and "Glide-On" clips.

Specifically excluded from the scope of this investigation are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that: (a) Are not made wholly of wire of base metal and (b) are covered under a subheading of the Harmonized Tariff Schedule of the United States (HTSUS) separate from that described below.

The products subject to this investigation are classified under subheading 8305.90.3010 of the HTSUS. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioners based United States prices (USP) on one 1993 sales confirmation and two 1993 invoices, all for PRC paper clips.

Petitioners contend that the foreign market value (FMV) of PRC-produced imports subject to this investigation must be determined in accordance with section 773(c) of the Act, which concerns non-market economy (NME) countries. The PRC is presumed to be an NME within the meaning of section 771(18)(C) of the Act, and the Department has treated it as such in previous investigations (see, e.g., Final Determination of Sales at Less Than Fair Value: Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof from the PRC, 58 FR 37908 (July 14, 1993)) (*CDIW Fittings*). In the course of this investigation, parties will have the opportunity to address this NME determination and provide relevant information and argument on this issue. In addition, parties will have the opportunity in this investigation to submit comments on whether FMV should be based on prices or costs in the NME (see Amendment to Final Determination of Sales at Less Than Fair Value and Amendment to Antidumping Duty Order: Chrome-Plated Lug Nuts from the People's Republic of China, 57 FR 15052 (April 24, 1992)).

Because of the extent of central control in the NME, the Department further considers that a single antidumping margin, should there be one, is appropriate for all exporters from the NME. Only if individual NME exporters are free of central government ownership and can demonstrate an absence of central governmental control with respect to the pricing of exports, both in law and in fact, will they be considered eligible for separate, owner-specific deposit rates. (See Final Determination of Sales at Less Than Fair Value: Helical Spring Lock Washers from the People's Republic of China, September 20, 1993, (58 FR 48833) for a discussion of the information the Department considers appropriate to warrant calculation of separate rates.)

In accordance with section 773(c) of the Act, FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the PRC government determines which factories shall produce for export to the United States, we intend, for purposes of this investigation, to base FMV only on those factories in the PRC which are known to produce paper clips for export to the United States.

Petitioners calculated FMV on the basis of the valuation of the factors of production. The factors of production used by petitioners were based on information available about production processes in the PRC, as well as on petitioners' experience at a manufacturing facility in Mexico.

In valuing the factors of production, petitioners used India, Pakistan, and Mexico as surrogate countries. For purposes of this initiation, we have, pursuant to section 773(c)(4) of the Act, accepted India and Pakistan as appropriate surrogate countries because their economies are comparable to the PRC's. We have not accepted factor values based on prices in Mexico because petitioners did not support the choice of Mexico as surrogate country.

Petitioners' FMV consisted of the sum of materials, labor, general expenses, profit, and packing. Petitioners conservatively omitted any amount for overhead from their calculations.

In accordance with the hierarchy preferred for valuing factors (set forth in the notice of Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings From the People's Republic of China, 57 FR 21058 (May 18, 1992) (Comment 4)), petitioners relied where possible on publicly available information. Where such information was unavailable, petitioners resorted to proprietary information from ACCO Mexicana, a subsidiary of one of the petitioners located in Mexico. As noted above, Mexican factor values were rejected and the calculations revised accordingly.

Pursuant to section 773(c)(1) of the Act, petitioners added to the labor and material costs the statutory minima of 10 percent for general expenses and eight percent for profit, as well as an amount for packing based on import statistics from India.

Fair Value Comparisons

Based on the comparison of USP and FMV, petitioners allege dumping margins ranging from 122.22 percent to 148.94 percent. We recalculated the margins in petition, disallowing petitioners' factors valued in Mexico and additional costs required to draw the steel wire for No. 1 paper clips. The revised margins range from 102.94 to 126.94 percent.

Initiation of Investigation

We have examined the petition on paper clips and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of paper clips from the PRC are being, or are likely to be, sold in the United States at less than fair value.

ITC Notification

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of this action, and we have done so.

Preliminary Determination by the ITC

The ITC will determine by November 29, 1993, whether there is a reasonable indication that imports of paper clips from the PRC are materially injuring, or threaten material injury to, a U.S. industry. Any ITC determination which is negative will result in this investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 2, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary, for Import Administration.

[FR Doc. 93-27433 Filed 11-5-93; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

November 2, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 351/651 is being increased by application of swing, reducing the limit for Categories 342/642 to account for the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53882, published on November 13, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 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 November 6, 1992, by the Chairman, Committee for the Implementation

of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on November 8, 1993, you are directed to adjust the current limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Dominican Republic:

Category	Adjusted twelve-month limit [1]
342/642	268,426 dozen.
351/651	845,107 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

The guaranteed access levels for Categories 342/642 and 351/651 remain unchanged.

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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–27425 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

November 2, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, 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) 927–6716. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 54051, published on November 16, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 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 November 9, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1993 and extending through December 31, 1993.

Effective on November 8, 1993, you are directed to amend the directive dated November 9, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Republic of Singapore:

Category	Adjusted twelve-month limit [1]
331	438,206 dozen pairs.
604	934,752 kilograms.
634	227,946 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–27426 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DR–F

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

November 2, 1993.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 8, 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) 927–6717. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 57 FR 54976, published on November 23, 1992). Also see 57 FR 53475, published on November 10, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 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 November 4, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products,

produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on November 8, 1993, you are directed to amend further the November 4, 1992 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Thailand:

Category	Twelve-month limit[1]
Levels in Group I	
200	881,129 kilogams.
219	2,830,469 square meters.
313/314/315	71,865,456 square meters of which not more than 15,730,400 square meters shall be in Category 313, not more than 36,059,312 square meters shall be in Category 314 and not more than 22,472,000 square meters shall be in Category 315.
369–D[2]	171,922 kilograms.
369–S[3]	213,473 kilograms.
607	2,296,876 kilograms.
Sublevels in Group II	
338/339	1,707,014 dozen.
341/641	494,244 dozen.
347/348/847	570,582 dozen.
351/651	174,439 dozen.
638/639	1,454,544 dozen.
640	411,185 dozen.
647/648	751,601 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[3] Category 369–S: only HTS number 6307.10.2005.

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,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–27427 Filed 11–5–93; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 94–C0003]

Berman Mattress Co., Inc., a Domestic Corporation, and Sheldon Haber, Individually and as an Officer of the Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a settlement agreement under the Flammable Fabrics Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Flammable Fabrics Act in the **Federal Register** in accordance with the terms of 16 CFR 1605.13. Published below is a provisionally-accepted Settlement Agreement with Berman Mattress Co., Inc., a domestic corporation, and Sheldon Haber, individually and as an officer of the corporation.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by November 13, 1993.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 94–C0003, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626.

SUPPLEMENTARY INFORMATION: (attached)

Dated: November 1, 1993.

Sheldon D. Butts,

Deputy Secretary.

In the matter of Berman Mattress Co., Inc., a domestic corporation, and Sheldon Haber, individually and as an officer of the corporation, CPSC Docket No. 94–C0003.

Consent Order Agreement

Berman Mattress Co., Inc., and Sheldon Haber, the principal officer of that corporation (hereinafter "Respondents"), enter into this Consent Order Agreement (hereinafter, "Agreement") with the staff (hereinafter, the "staff") of the Consumer Product Safety Commission (Commission) pursuant to the procedure for Consent Order Agreements contained in § 1605.13 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Flammable Fabrics Act (FFA), 16 CFR part 1605.

This Agreement and Order are for the sole purpose of settling allegations of the staff that Respondents sold mattresses that are subject to the Flammable Fabrics Act and the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72), (as amended) (hereinafter, the "Mattress Standard"); and that those mattresses sold by respondents failed to comply with that Act and the Mattress Standard issued thereunder, as more fully set forth in the complaint accompanying this agreement.

Respondents and the Staff Agree

1. The Consumer Product Safety Commission has jurisdiction in this matter under the following acts: Consumer Product Safety Act (15 U.S.C. 2501 *et seq.*), Flammable Fabrics Act (15 U.S.C. 1191 *et seq.*), and Federal Trade Commission Act (15 U.S.C. 41 *et seq.*).

2. Respondent Berman Mattress Co., Inc. is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 286 Meserole Street, Brooklyn, NY 11206.

3. Respondent Sheldon Haber is the principal officer of Respondent Berman Mattress Co., Inc. In that capacity, he is responsible for the acts, practices, and policies of the respondent corporation.

4. Respondents are now and have been engaged in one or more of the following: The manufacture for sale, the sale, or the offering for sale, in commerce, or the importation, delivery for introduction, transportation in commerce, or the sale or delivery after sale or shipment in commerce, of a product, fabric, or related material which is subject to the requirements of the Flammable Fabrics Act, 15 U.S.C. 1191 *et seq.*, and the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632.

5. This Agreement is for settlement purposes only, it does not constitute an admission by Respondents that either of them have knowingly violated the law, and becomes effective only upon its final acceptance by the Commission and service of the incorporated Order upon Respondents.

6. Respondents waive (a) all requirements for findings of fact and conclusions of law in the disposition of this matter, and (b) administrative and judicial review of the facts and proceedings.

7. Respondents agree to pay the Commission a civil penalty in the amount of seven-thousand five hundred and 00/100 dollars ($7,500.00), in three

(3) installment payments of two-thousand five hundred and 00/100 dollars ($2,500.00) each, over a twelve (12) month period commencing within twenty (20) days after service of the Final Order of the Commission accepting this Consent Order Agreement. The date of service of the Final Order shall determine the anniversary date for all future installment payments. The second installment payment of two-thousand five hundred and 00/100 dollars ($2,500.00) is due and payable within 200 days after service of the Final Order; and the third and final installment of two-thousand five hundred dollars ($2,500.00) is due and payable 385 days after service of the Final Order. For any payment that is overdue less than thirty (30) days, Respondents shall be charged interest, payable to the Commission, in accordance with the rate and method of calculation set forth in 28 U.S.C. 1961 (a) and (b), during the period that payment is overdue. Any payment that is thirty (30) days or more overdue shall cause the entire outstanding balance to become due immediately and payable with interest in accordance with 28 U.S.C. 1961 (a) and (b) as set forth above, during the period that the outstanding balance is overdue.

8. Violation of the provisions of the Order may subject Respondents to a civil and/or criminal penalty for each such violation, as prescribed by law.

9. The Commission may disclose the terms of this Consent Order Agreement. This Agreement and the Complaint accompanying the Agreement may be used in interpreting the Order. No agreement, understanding, representation or interpretation not contained in this Agreement or Order may be used to vary or contradict the terms of this Order.

Upon acceptance of this Agreement, the Commission shall issue the following Order:

Order

The Commission having determined to issue a complaint charging Respondents Berman Mattress Co., Inc., and Sheldon Haber, the principal officer of that corporation, with violations of the Flammable Fabrics Act, as amended, 15 U.S.C. 1191 *et seq.*, and of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*; and Respondents having been served with notice of that determination and with a copy of the complaint the Commission intends to issue, together with a proposed form of order; and

Respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the Respondents of all jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by Respondents that either of them have violated the law as alleged in the complaint, and all other requirements for consent order agreements set forth in § 1605.13 of the Commission's Rules for Investigations, Inspections and Inquiries having been satisfied; and

The Commission having considered the agreement containing a consent order submitted by Respondents and the Commission staff, the Commission hereby issues its complaint in the form contemplated by that agreement, makes the following jurisdictional findings, and enters the following order:

Jurisdictional Findings

1. Respondent Berman Mattress Co., Inc., is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 286 Meserole Street, Brooklyn, NY 11206.

2. Respondent Sheldon Haber is the principal officer of Respondent Berman Mattress Co., Inc.; and in that capacity, is responsible for the acts, practices, and policies of the respondent corporation.

3. The Consumer Product Safety Commission has jurisdiction of the subject matter of this proceeding and of the Respondents, and the proceeding is in the public interest.

I

It is hereby ordered that Respondents, and their successors and assigns, agents, representatives, and employees of the Respondents, directly or through any corporation, subsidiary, division, or other business entity, or through any agency, device or instrumentality, do forthwith cease and desist from selling or offering for sale, in commerce, or manufacturing for sale, in commerce, or importing into the United States or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric or related material which is subject to and fails to conform to the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72), as amended), 16 CFR part 1632.

II

It is further ordered that Respondents conduct prototype testing for each mattress design, prior to production, in accordance with applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632.

III

It is further ordered that Respondents prepare and maintain written records of the prototype testing specified in paragraph II of this Order for each mattress design, including photographs of the tested mattresses, in accordance with applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72), as amended), 16 CFR part 1632.

IV

It is further ordered that Respondents prepare and maintain a written record of the manufacturing specifications of each mattress prototype in accordance with applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632.

V

It is further ordered that Respondents conduct prototype testing or, if appropriate, obtain supplier certification to support any substitution of materials after prototype testing, in accordance with all applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632.

VI

It is further ordered that Respondents prepare and maintain a written record of the manufacturing specifications of any new ticking or tape edge material substituted for those used in the original prototype testing, in accordance with applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632.

VII

It is further ordered that Respondents prepare and maintain a written record of the manufacturing specifications of any new foam core material substituted for those used in the original prototype testing, in accordance with applicable provisions of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632.

VIII

It is further ordered that Respondent prepare and maintain all other records required by the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, as amended), 16 CFR part 1632, including:

(a) Records to support any determination that a particular material other than ticking or tape edge did not influence ignition resistance;

(b) Ticking certification test results or a certification from the ticking supplier;

(c) Tape edge substitution test results.

(d) Photographs of any mattresses tested for purposes of making a tape edge substitution; and

(e) Records describing the disposition of all failing and rejected prototype mattresses.

IX

It is further ordered that upon final acceptance of the Consent Order Agreement, Berman Mattress Co., Inc., shall pay to the Commission a civil penalty of seven-thousand five hundred and 00/100 dollars ($7,500.00), in three (3) installment payments of two-thousand five hundred and 00/100 dollars ($2,500.00) each, over a twelve (12) month period commencing with twenty (20) days after service of the Final Order of the Commission accepting this Settlement Agreement. The date of service of the Final Order shall determine the anniversary date for all future installment payments. The second installment payment of two thousand five hundred and 00/100 dollars ($2,500.00) is due and payable within 200 days after service of the Final Order; and the third and final installment payment of two-thousand five hundred and 00/100 dollars ($2,500.00) is due and payable within 385 days after service of the Final Order. For any payment that is overdue less than thirty (30) days, Respondents shall be charged interest, payable to the Commission, in accordance with the rate and method of calculation set forth in 28 U.S.C. 1961 (a) and (b), during the period that the payment is overdue. Any payment that is thirty (30) days or more overdue shall cause the entire outstanding balance to be due and payable with interest in accordance with 28 U.S.C. 1961 (a) and (b) as set forth above, during the period that the outstanding balance is overdue.

X

It is further ordered that Respondents shall forthwith distribute a copy of this Order to each of its employees.

XI

It is further ordered that Respondents shall within ninety (90) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

XII

It is further ordered that for a period of ten (10) years from the date this Order becomes final pursuant to 16 CFR 1605.13(e), Respondents notify the commission at least thirty (30) days prior to any proposed change in the way Respondents do business which may affect their compliance obligations arising out of this Order.

XIII

It is further ordered that the Consent Order Agreement is provisionally accepted pursuant to 16 CFR 1605.13, and shall be placed on the public record, and the Commission shall announce provisional acceptance of the Consent Order Agreement in the Commission's Public Calendar and in the **Federal Register.**

Any agreement, understanding, representation, or interpretation that is not contained in this Agreement and in the incorporated Order may not be used to vary or contradict the terms of the Order subsequently issued by the Commission.

Signed this 26th day of July 1993.

By:

Sheldon Haber,

President Berman Mattress Co., Inc., 286 Meserole Street, Brooklyn, NY 11206.

By:

Sheldon Haber,

Individually, 286 Meserole Street, Brooklyn, NY 11206.

Alan H. Schoem,

Director, Office of Compliance & Enforcement Division of Administrative Litigation.

By:

Dennis C. Kacoyanis,

Trial Attorney, Office of Compliance & Enforcement, Division of Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207.

By direction of the Commission, this Consent Order Agreement is provisionally accepted pursuant to 16 CFR 1605.13, and shall be placed on the public record, and the Commission shall announce provisional acceptance of the Consent Order Agreement in the Commission's Public Calendar and in the **Federal Register.**

So ordered by the Commission, this 29th day of October 1993.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

In the matter of Berman Mattress Co., Inc., a domestic corporation, and Sheldon Haber, individually and as an officer of the corporation, CPSC Docket No. 94–C0003.

Complaint

Nature of Proceedings

Pursuant to the provisions of the Flammable Fabrics Act, as amended, (15 U.S.C. 1191 *et seq.*; hereinafter, the "FFA"); the Federal Trade Commission Act, as amended, (15 U.S.C. 41 *et seq.*; hereinafter, the "FTCA"); and the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR part 1632 (hereinafter, the "Mattress Standard"), the Consumer Product Safety Commission having reason to believe that Berman Mattress Co., a corporation, and Sheldon Haber, individually and as an officer of that corporation (hereinafter "Respondents"), 286 Meserole Street, Brooklyn, NY 11206, have violated the provisions of said Acts; and further, it appearing to the Commission that a proceeding by it in respect to those violations would be in the public interest, therefore, it hereby issues its Complaint stating its charges as follows:

1. Respondent Berman Mattress Co., Inc., is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 286 Meserole Street, Brooklyn, NY 11206.

2. Respondent Sheldon Haber is the principal officer of Respondent Berman Mattress Co., Inc.; and in that capacity, is responsible for the acts, practices, and policies of the respondent corporation.

3. Respondents are now and have been engaged in the manufacturing for sale, sale, and offering for sale, in commerce, and have introduced, delivered for introduction, transported and caused to be transported in commerce, and have sold or delivered after sale or shipment in commerce, as the term "commerce" is defined in section 2(b) of the FFA, 15 U.S.C. 1191(b), futon mattresses.

4. Each futon mattress identified in paragraph 3 of the complaint is comprised of "ticking" that is made with 60 percent polyester, and 40 percent cotton, and a "batting" that is made of 50 percent cotton/polyester fiber over a 100 percent cotton felt core; and is intended or promoted for sleeping upon.

5. Each futon mattress identified in paragraph 3 of the complaint is, therefore:

(a) a "mattress" within the meaning of section 1632.1(a) of the Standard for the Flammability of Mattresses and Mattress Pads (FF 4–72, amended), 16 CFR 1632.1(a); and

(b) an "interior furnishing" and a "product" as these terms are defined in sections 2(e) and (h) of the Flammable

Fabrics Act, as amended, 15 U.S.C. 1191(e) and (h).

6. Respondents are subject to, and have failed to comply with, the Mattress Standard in that:

a. Respondents failed to do the prototype testing required by section 1632.3 of the Mattress Standard, 16 CFR 1632.3.

B. Respondents failed to maintain the manufacturing or test specifications or test records or other records required by section 1632.31(c) of the Mattress Standard, 16 CFR 1632.31(c).

7. The acts by Respondents set forth in paragraph 6 of the complaint are unlawful and constitute an unfair method of competition and an unfair and deceptive practice in commerce under the FTCA, in violation of section 3(a) of the FFA, 15 U.S.C. 1192(a), for which a cease and desist order may be issued against Respondents pursuant to section 5(b) of the FFA, 15 U.S.C. 1194(b), and section 45 of the FTCA, 15 U.S.C. 45.

Relief Sought

8. The staff seeks the issuance of a cease and desist order against Respondents pursuant to section 5(b) of the FFA, 15 U.S.C. 1194(b), and section 45 of the FTCA, 15 U.S.C. 45.

Wherefore, the premises considered, the Commission hereby issues this Complaint on the 29th day of October 1993.

By direction of the Commission.

Carlos L. Perez,

Deputy Assistant Executive Director, Office of Compliance and Enforcement.

[FR Doc. 93–27367 Filed 11–5–93; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Notice

AGENCY: National Assessment Governing Board.

ACTION: Recommendations for candidates to fill board vacancy.

SUMMARY: The National Assessment Governing Board is seeking recommendations for candidates to fill a position in its membership for an unexpired term beginning immediately and ending September 30, 1995. The Nominations Committee of the National Assessment Governing Board is accepting nominations for an individual representing the category of Local School Superintendent. There will be one vacancy in this category. Anyone wishing to nominate a candidate should submit a letter outlining the nominees' qualifications, along with a complete and current resume (including telephone number and address). The nomination period begins with the publication of this notice and closes December 15, 1993. Nominations should be mailed to Christine Johnson, Chair, Nominations Committee, National Assessment Governing Board, 800 North Capitol Street NW., suite 825, Washington, DC 20002–4233, Attention: Dr. Daniel B. Taylor. Telephone inquiries should be made to Dr. Taylor at (202) 357–6938.

BACKGROUND INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy for the National Assessment of Educational Progress. Among other duties, it is responsible for developing specifications for test design and methodology, developing guidelines and standards for analysis plans, and reporting and disseminating results. The Board also has responsibility for selecting subject areas to be assessed, and for identifying achievement goals for each age and grade tested.

Dated: November 3, 1993.

Roy Truby,

Executive Director.

[FR Doc. 93–27390 Filed 11–5–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Floodplain Statement of Findings for East Fork Poplar Creek Pilot Treatability Study, Oak Ridge, TN

AGENCY: Department of Energy (DOE).

ACTION: Floodplain statement of findings.

SUMMARY: This Floodplain Statement of Findings for the East Fork Poplar Creek Pilot Treatability Study has been prepared in accordance with 10 CFR part 1022. DOE proposes to excavate approximately 10,000 kg (22,000 lbs) of soil, with a volume of about 230 m^3 (300 yd^3), from a site located in the floodplain of East Fork Poplar Creek in Anderson County, Tennessee. The soil will be used for testing the feasibility of removing mercury, arsenic, cadmium, and other hazardous constituents from the floodplain soils in a pilot study and then shipped to an approved repository for disposal. DOE prepared a floodplain assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. DOE will endeavor to allow 15 days of public review after publication of the statement of findings before implementing the proposed action.

FOR FURTHER INFORMATION CONTACT: Information on the proposed action is available from: Mr. R. Sleeman, Director, Environmental Restoration Divison, Oak Ridge Operations Office, U.S. Department of Energy, Post Office Box 2001, Oak Ridge, Tennessee 37831–8541, Fax comments to: (615) 576–6074.

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: This is a Floodplain Statement of Findings for the East Fork Poplar Creek Pilot Treatability Study prepared in accordance with 10 CFR part 1022. A Notice of Intent (NOI) to prepare an Environmental Impact Statement was published in the **Federal Register** (53 FR 46648 (November 18, 1988)). This NOI included a notice of floodplain involvement and a floodplain assessment was prepared. This action is part of the treatability study to identify suitable technologies to remediate contaminated soils in the East Fork Poplar Creek Floodplain.

DOE is proposing to excavate approximately 10,000 kg (22,000 lbs) of contaminated soil, with a volume of about 230 m^3 (300 yd^3), from the floodplain of East Fork Poplar Creek, transport the soil to a selected vendor, perform the treatability study, and then ship the soil to an approved repository for disposal. The soil would be used in a pilot project to evaluate potential treatment technologies that could be used in the remediation of East Fork Poplar Creek floodplain soils that contain mercury, arsenic, cadmium, and other hazardous constituents. The action is proposed to take place in the floodplain because the soils from this area are the soils requiring remediation. Three alternatives were considered in addition to the proposed action. The first was the no-action alternative. This alternative would not allow determination of whether the treatment would be a desired technology for use

in remediation of East Fork Poplar Creek soils. The second alternative would use soils obtained from another contaminated site in the East Fork Poplar Creek floodplain for the treatment study. Although highly contaminated, the second site is too close to the creek to adequately protect the excavated site from erosion, and excavation activity would also be a nuisance to adjacent property owners. The third alternative was to use contaminated soils obtained within the Y–12 plant. These soils, however, would not have the specific chemical and physical properties matching those of the floodplain soils. The proposed action conforms to applicable State and local floodplain protection standards.

Measures to be taken to minimize potential harm to or within the affected floodplain would include placing clean borrow soil placed in the excavated pit immediately after the floodplain soil was removed, regrading the surface to original elevations, and reseeding the disturbed surfaces. No physical aspect of the floodplain would be altered or lost.

The floodplain assessment demonstrated that excavating 230 m^3 (300 yd^3) of soil from the floodplain of East Fork Poplar Creek would have no adverse impact on the 100-year floodplain. DOE will endeavor to allow 15 days of public review after publication of the statement of findings prior to implementing the proposed action.

Clyde W. Frank,

Acting Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–27411 Filed 11–5–93; 8:45 am]

BILLING CODE 6450–01–M

Privacy Act of 1974; Addition of a New Routine Use

AGENCY: Department of Energy.

ACTION: Proposed revision to the routine use of a Privacy Act system of records.

SUMMARY: In accordance with the requirement of the Privacy Act of 1974, 5 U.S.C. 552a, the Department is publishing a proposed revision to an existing system of records. This revision establishes a new routine use for system of records DOE–35, "Personnel Radiation Exposure Records." The new routine use permits the disclosure of records to the Defense Nuclear Facilities Safety Board pertaining to Board members, employees, and consultants that are maintained in this system of records.

DATES: This new routine use will become effective without further notice December 20, 1993, unless comments are received within 40 days of the date of publication that would result in a contrary determination and a notice is published to that effect.

ADDRESSES: Comments should be addressed to Denise Diggin, Chief, Freedom of Information and Privacy Acts Branch, HR–831, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Denise Diggin, Chief, Freedom of Information and Privacy Acts Branch, HR–831, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5955; Abel Lopez, Office of General Counsel, GC–43, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–8618; or Steven Zobel, Health Physics Programs Division, EH–411 (270 CC), U.S. Department of Energy, Washington, DC 20585, (301) 903–2305.

SUPPLEMENTARY INFORMATION: The Department's current dosimetry data system was initiated in 1968 and primarily included employer summaries of workers' radiation exposures. This information was used to generate annual reports describing radiation exposure trends relative to the Department's (and its predecessor's) activities. Although contractors were required to submit summary radiation exposure information to the Department for inclusion in the Department's central radiation records data base, in 1987 the Department began to require contractors to submit detailed dose information for each individual monitored. This detailed data allowed more accurate analysis of radiation exposures across the Department of Energy complex and enabled the central data base to provide summarized radiation exposure histories of individuals upon request of those authorized to receive this information. (An individual's official dose record, however, resides at the site that provided the dosimetry service.) The Department is using this additional data base capability to provide quarterly and annual radiation dose reports and employment termination dose histories to Headquarters employees who evaluate radiological operations at Department of Energy facilities.

The Defense Nuclear Facilities Safety Board was created by Congress to provide advice and formal recommendations to the Secretary of Energy on public health and safety issues at the Department's defense nuclear facilities. By statute, the Board is required to review and evaluate the content and implementation of health and safety standards, as well as other requirements, related to the design, construction, operation, and decommissioning of defense-related Department of Energy sites. In carrying out its responsibilities, Board personnel and consultants routinely visit the Department's facilities and often enter radiologically controlled areas to conduct business. Radiation dosimetry results related to these visits are sent to the Department's Radiation Records Repository maintained at the System Safety Development Center by EG&G Idaho, Inc. The Defense Nuclear Facilities Safety Board will use information maintained in DOE–35 to monitor and manage radiation exposures of its personnel.

All system locations will be affected by this new routine use.

The Privacy Act provides that a record may be disclosed, without the prior written consent of the individual to whom the records pertain, pursuant to a routine use. A routine use is a use that is compatible with the purpose for which the record was collected. It has been determined that the proposed routine use is compatible with the reason for collection of radiation exposure data because the Board will be performing radiation dose management of its personnel and consultants like the Department performs for its employees.

The Department of Energy is submitting reports required by Office of Management and Budget Circular A–130 concurrent with the publication of this notice.

The text of the system notice is set forth below.

Issued in Washington, DC, on October 29, 1993.

Archer L. Durham,

Assistant Secretary for Human Resources and Administration.

DOE–35

SYSTEM NAME:

Personnel Radiation Exposure Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The locations listed in appendix A of the **Federal Register**, volume 47, page 14284, dated April 2, 1982, and the following additional locations:

U.S. Department of Energy, Amarillo Area Office, Pantex Plant, PO Box 30030, Amarillo, TX 79129–0030.

U.S. Department of Energy, Brookhaven Area Office, Upton, NY 11973.

U.S. Department of Energy, Dayton Area Office, PO Box 66, Miamisburg, OH 45342.
U.S. Department of Energy, Environmental Measurements Laboratory, 376 Hudson Street, New York, NY 10014.
U.S. Department of Energy, Radiological and Environmental Sciences Laboratory, CF–690, 785 DOE Place, Idaho Falls, ID 83402.
U.S. Department of Energy, Kansas City Area Office, Box 410202, Kansas City, MO 64141.
U.S. Department of Energy, Knolls Atomic Power Laboratory, PO Box 1072, Schenectady, NY 12301.
U.S. Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544.
U.S. Department of Energy, Naval Reactors Representative Office, General Delivery, Naval Base Branch, Post Office, Charleston Naval Shipyard, Charleston, SC 29408.
U.S. Department of Energy, Naval Reactors Representative Office, PO Box 21, Groton, CT 06340
U.S. Department of Energy, Naval Reactors Representative Office, Mare Island Naval Shipyard, PO Box 2053, Vallejo, CA 94592.
U.S. Department of Energy, Naval Reactors Representative Office, Newport News Shipbuilding & Dry Dock Company, PO Box 973, Newport News, VA 23607.
U.S. Department of Energy, Naval Reactors Representative Office, Norfolk Naval Shipyard, PO Box 848, Portsmouth, VA 23705–0848.
U.S. Department of Energy, Naval Reactors Representative Office, Pearl Harbor Naval Shipyard, PO Box 128, Pearl Harbor, HI 96860.
U.S. Department of Energy, Naval Reactors Representative Office, Portsmouth Naval Shipyard, PO Box 2008, Portsmouth, NH 03801.
Naval Shipyard, PO Box 1A, Bremerton, WA 98314.
U.S. Department of Energy, New Brunswick Laboratory, 9800 South Cass Avenue, Argonne, IL 60439.
U.S. Department of Energy, Pinellas Area Office, PO Box 2900, Largo, FL 34294.
U.S. Department of Energy, Rocky Flats Office, PO Box 928, Golden, CO 80402–0982.
U.S. Department of Energy, Sandia National Laboratories, PO Box 5800, Albuquerque, NM 87115.
U.S. Department of Energy, Shippingport Nuclear Power Station, General Electric Co., PO Box 335, Shippingport, PA 15077.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Department of Energy employees and contractor employees and any other persons having access to certain Department of Energy facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

U.S. Department of Energy and contractor personnel and other individuals' radiation exposure records and other records in connection with registries of uranium, transuranics, or other elements encountered in the nuclear industry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Department of Energy Organization Act, including authorities incorporated by reference in Title III of the Department of Energy Organization Act; Executive Order 12009.

PURPOSE:

These records are used by the Department of Energy to monitor the radiation exposures of Department and Department contractor personnel and visitors to certain Department of Energy facilities, for the development of annual radiation exposure reports, and to respond to inquiries for radiation dose histories.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

U.S. Navy uses these records to monitor radiation exposures of Naval and other personnel.

U.S. Nuclear Regulatory Commission uses these records to monitor radiation exposures of Department of Energy contractor personnel.

Department of Energy and Department contractors and consultants, other contractors, and various States' departments of labor and industry groups use these records to monitor radiation exposures.

U.S. Department of Defense uses these records to identify Department of Defense and contractor personnel exposed to ionizing radiation during nuclear testing and to conduct epidemiological studies of radiation effects on individuals so identified.

National Academy of Sciences and Centers for Disease Control and Prevention (and appropriate management personnel of the U.S. Department of Health and Human Services) use these records to conduct epidemiologic studies of the effects of radiation on individuals exposed to ionizing radiation.

The Department of Energy may disclose a record from this system of records to officials of the National Institute for Occupational Safety and Health to conduct a health hazard evaluation of workers.

A record from this system of records may be disclosed to researchers for the purpose of conducting an epidemiologic study of workers at a Department of Energy facility if their proposed studies have been reviewed by the National Academy of Sciences and deemed appropriate for such access. A researcher granted access to these records shall be required to sign an agreement to protect the confidentiality of the data and be subject to the same restrictions applicable to Department of Energy officers and employees under the Privacy Act.

A record from this system of records may be disclosed to members of an advisory committee for purposes of conducting a review of the Department of Energy epidemiologic program. Members of an advisory committee who obtain access to the records shall be subject to the same restrictions applicable to the Department's officers and employees under the Privacy Act.

A record from this system of record may be disclosed as a routine use to a Federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

A record from this system of records may be disclosed as a routine use to Department of Energy contractors in performance of their contracts and their officers and employees having a need for the record in the performance of their duties subject to the same limitations applicable to the Department's officers and employees under the Privacy Act.

A record from this system of records may be disclosed as a routine use to a member of Congress submitting a request involving the individual when the individual is a constituent of the member and has requested assistance from the member with respect to the subject matter of the record.

A record from this system of records may be disclosed as a routine use to the Defense Nuclear Facilities Safety Board to monitor radiation exposures of its members, employees, and consultants.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer printouts, paper records, index cards, magnetic tape, punched cards, microfilm, and disc.

RETRIEVABILITY:

By name, alphanumeric code, and social security number.

SAFEGUARDS:

Records are maintained in locked file cabinets, locked safes, guarded areas, and secured buildings with access on a need-to-know basis.

RETENTION AND DISPOSAL:

Records retention and disposal authorities are contained in Department of Energy Order 1324.2, "Records Disposition." Records within the Department are rendered illegible and destroyed by shredding, maceration, or burning, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters: U.S. Department of Energy, Deputy Assistant Secretary for Health, EH–40 (270 CC), Washington, DC 20585.

Field Offices: The managers and directors of field locations 3, 4, and 6 through 18 in appendix A of the **Federal Register**, volume 47, page 14284, dated April 2, 1982, and the additional locations listed above under System Location are the system managers for their respective portions of this system.

NOTIFICATION PROCEDURES:

a. Requests by an individual to determine if a system of records contains information about him/her should be directed to the Chief, Freedom of Information and Privacy Acts Branch, Department of Energy (Headquarters), or the Privacy Act Officer at the appropriate address identified as items 1, 3, 4, and 6 through 18 in appendix A of the **Federal Register**, volume 47, page 14284, dated April 2, 1982, in accordance with the Department's Privacy Act regulations (title 10, Code of Federal Regulations, part 1008 (**Federal Register**, volume 45, page 61576, dated September 16, 1980)).

b. Required identifying information: Complete name and geographic location(s) and organization(s) where requester believes such record may be located, date of birth, and time period for which information is requested.

RECORDS ACCESS PROCEDURES:

Same as Notification Procedures above.

CONTESTING RECORD PROCEDURES:

Same as Notification Procedures above.

RECORD SOURCE CATEGORIES:

The subject individual, accident-incident investigations, film badges, dosimetry records, and previous employee records.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–27412 Filed 11–5–93; 8:45 am]

BILLING CODE 6450–01–P

Bonneville Power Administration

Notice of Intent To Prepare an Environmental Impact Statement for the Hermiston Generating Project

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) under section 102(2)(c) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321).

SUMMARY: BPA intends to prepare an EIS on transmission services requested by PacifiCorp to integrate and transmit its purchase of electrical power from the Hermiston Generating Project. PacifiCorp has asked BPA to integrate PacifiCorp's power purchase from the Hermiston Generating Project with the Federal transmission grid. BPA then would wheel the power purchased by PacifiCorp to BPA's Alvey Substation near Eugene, Oregon, where PacifiCorp would take delivery of the power. The EIS will consider BPA's proposed action of entering into a wheeling (transmission) agreement with PacifiCorp, along with any accompanying modifications to the transmission system needed to perform this wheeling service.

DATES: BPA has established a 30-day scoping period November 8, 1993 during which affected landowners, concerned citizens, special interest groups, local governments, and any other interested parties are invited to comment on the scope of the proposed EIS. Scoping will help BPA ensure that a full range of issues related to this proposal is addressed in the EIS, and also will identify significant or potentially significant impacts that may result from the proposed project. Written comments should be sent to the address below.

Comments may also be made at an EIS scoping meeting to be held at Hermiston High School in Hermiston, Oregon, on November 22, 1993, from 7–9 p.m. At the informal meeting, the developer will make a presentation on the project. Written information also will be available, and BPA staff will answer questions and accept oral and written comments.

The draft EIS (DEIS) will be circulated for review and comment, and BPA will hold a public comment meeting for the DEIS. BPA will consider and respond to comments received on the DEIS in the final EIS.

ADDRESSES: BPA invites comments and suggestions on the proposed scope of the DEIS. Send comment letters, requests to be placed on the project mailing list, and/or requests for more information to the Public Involvement Manager, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION ON THIS PROJECT CONTACT: Ms. Dawn Boorse at (503) 230–5678, or BPA's Public Involvement Office at (503) 230–3478 in Portland; toll-free (800) 622–4519 outside of Portland for questions and (800) 622–4520 for documents. Information may also be obtained from Mr. Robert A. (Joe) Rogers, Snake River Area Power Manager, 1520 Kelly Place, Walla Walla, WA 99362, (509) 522–6211.

FOR FURTHER INFORMATION ON GENERAL DOE 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 project that is the subject of the EIS consists of several components, including the proposed cogeneration plant, a transmission line upgrade, and a natural gas pipeline. The Hermiston Generating Project, an electric power generating plant, is proposed by Hermiston Generating Company, an independent power producer.

The Hermiston Generating Company would develop, construct, and operate the power plant and would build the new transmission line and interconnection required. Umatilla Electric Cooperative Association would own and operate the transmission line and interconnection. Cascade Natural Gas Company would build a natural gas pipeline spur to the plant site. The purchaser, PacifiCorp, is an investor-owned utility based in Portland, Oregon.

A. Proposed Action

The Hermiston Generating Company proposes to build the Hermiston

Generating Project on a site adjacent to the Lamb-Weston potato processing plant. The Hermiston Generating Project would have two combined-cycle combustion turbines with a total electrical output of approximately 464 megawatts. The plant would also supply approximately 23,000 kilograms (50,000 pounds) of steam per hour to the nearby Lamb-Weston Potato Processing Plant. A natural gas pipeline spur less than 8 km (5 miles) in length would be built by Cascade Natural Gas Company from a point on the existing Pacific Gas Transmission Company (PGT) pipeline, north to the plant site.

To interconnect the plant with the nearby BPA McNary-Slatt transmission line, an existing 19 kilometer (12-mile) transmission line would be upgraded to 230 kilovolts (kV), .4 kilometer (1/4 mile) of new 230 kV transmission line would be built, and modifications would be made to the McNary Substation. The transmission line and interconnection would be built by Hermiston Generating Company, and owned and operated by Umatilla Electric Cooperative Association. Associated facilities that would also be installed at the plant site include an electrical substation, cooling towers, and administrative offices.

When the project is complete, the integration of the Hermiston Generating Project into the BPA system would occur at the McNary Substation. From this substation, power would be transmitted over the BPA transmission system to the Alvey Substation. BPA proposes to enter into a long-term firm transmission services agreement with PacifiCorp to provide transmission integration services for the output of the Hermiston Generating Project from McNary Substation to Alvey Substation. McNary Substation would be modified to accept a new point of interconnection with Umatilla Electric Cooperative Association. BPA also would install communication facilities to connect the Hermiston Generating Project with BPA's existing operations network.

All proposed facilities are located within Umatilla County, Oregon.

B. Process to Date

BPA has assumed the role of lead agency for the project EIS. The State of Oregon Energy Facility Siting Council (EFSC) is currently evaluating Hermiston Generating Company's "Application for a Site Certificate for the Hermiston Generating Project." Oregon's site evaluation process, like NEPA, provides opportunity for public participation, and the Oregon Department of Energy (ODOE), acting as EFSC's staff, held two public information meetings for the Hermiston Generating Project on June 25,1992, and August 25, 1993. At the time of those meetings, PacifiCorp had not yet decided to purchase the electrical output from the power plant and had not requested a wheeling agreement with BPA. Therefore, BPA was not yet involved and no Federal public involvement process was necessary. Now BPA would include the ODOE public testimony in its scoping process.

On September 15, 1993, ODOE issued the final Staff Report on the project, including findings of fact and proposed conditions of certification. The Staff Report recommends that EFSC issue a site certificate for the project, as it complies with all economic, environmental, and socioeconomic standards under the EFSC's jurisdiction. The recommendation follows an intensive review by numerous State and local agencies, as well as the Confederated Tribes of the Umatilla Indian Reservation.

In addition to the State's siting review, the Oregon Department of Environmental Quality (DEQ) is reviewing Air Contaminant Discharge Permit and Prevention of Significant Deterioration applications for the power plant. DEQ is currently preparing findings for the draft permit, with permit issuance targeted for early 1994.

C. Alternatives Proposed for Consideration

Alternatives thus far identified for evaluation in the EIS are: (1) the proposed action; and (2) no action (the consequences of not providing transfer services to PacifiCorp). Other alternatives may be identified through the scoping process.

D. Identification of Environmental Issues

BPA plans to prepare an EIS addressing both Hermiston Generating Company's generating plant and the associated transmission facilities. This decision is the result of two factors: (1) PacifiCorp would depend on BPA's transmission grid to deliver electricity from the Hermiston Generating Project to PacifiCorp's system; and (2) no other Federal or State agency is currently preparing an EIS on the Hermiston Generating Project. In the absence of another EIS, BPA intends to scope its EIS so that the impacts both of transmission elements and the Hermiston Generating Project are addressed.

The principal issues identified thus far for consideration in the DEIS fall within two categories as follows: *Hermiston Generating Project's cogeneration plant:* (1) Air quality impacts; (2) noise impacts from plant operation; (3) aesthetic impacts; (4) socioeconomic impacts created by an influx of construction workers in a sparsely populated area; and (5) impacts to nearby wildlife areas. *Transmission Facilities:* (1) potential effects of transmission line tower construction on wetlands; (2) potential effects of transmission line tower construction on wildlife; (3) concern over possible health effects from exposure to electromagnetic fields, such as those produced by high-voltage transmission lines, and what those effects might be; (4) aesthetic effects of an upgraded transmission line as viewed from Interstate Highway 84; and (5) potential impacts on cultural resources.

These, together with any additional issues identified through the scoping process, would be examined in the EIS.

Issued in Portland, Oregon, on November 2, 1993.

Randall W. Hardy,

Administrator.

[FR Doc. 93–27594 Filed 11–5–93; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Project No. 2376–001 Virginia]

Appalachian Power Co.; Availability of Draft Environmental Assessment

November 2, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new major license for the existing Reusens Project, located on the James River in Amherst and Bedford Counties, Virginia, near the city of Lynchburg, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate mitigation or enhancement measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Any comments should be filed within 30 days from the date of this notice and

should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Please affix Project No. 2376–001 to all comments. For further information, please contact Kim A. Nguyen, Environmental Coordinator, at (202) 219–2841.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27349 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1922–008]

Ketchikan Public Utilities; Intent To Prepare an Environmental Assessment and Conduct Public Scoping Meetings and Site Visit

November 2, 1993.

The Federal Energy Regulatory Commission (FERC) has received an application for relicense of the existing Beaver Falls Hydroproject, Project No. 1922–008. The Beaver Falls Hydroproject is located on the Beaver Falls Creek about 12 miles northeast of Ketchikan, Alaska in the Ketchikan Gateway Borough, First Judicial District of Alaska.

The FERC staff, in joint coordination with the U.S. Forest Service—Tongass National Forest, intends to prepare an Environmental Assessment (EA) on this hydroelectric project in accordance with the National Environmental Policy Act.

The EA will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include an economic, financial and engineering analysis.

A draft EA will be issued and circulated for review by all interested parties. All comments filed on the draft EA will be analyzed by the staff and considered in a final EA. The staff's conclusions and recommendations will then be presented for the consideration of the Commission in reaching its final licensing decision.

Scoping Meetings

Two scoping meetings will be conducted: Thursday, November 18, 1993, 10 a.m. to 5 p.m., Downstairs Conference Room, Ketchikan Public Utilities, 2931 Tongass Highway, Ketchikan, Alaska 99901.

Interested individuals, organizations, and agencies are invited to attend either or both meetings and assist the staff in identifying the scope of environmental issues that should be analyzed in the EA.

To help focus discussions at the meetings, a scoping document outlining subject areas to be addressed in the EA will be mailed to agencies and interested individuals on the FERC mailing list. Copies of the scoping document will also be available at the scoping meetings.

Objectives

At the scoping meetings the FERC staff will: (1) Identify preliminary environmental issues related to the proposed project; (2) identify preliminary resource issues that are not important and do not require detailed analysis; (3) identify reasonable alternatives to be addressed in the EA; (4) solicit from the meeting participants all available information, especially quantified data, on the resource issues; and (5) encourage statements from experts and the public on issues that should be analyzed in the EA, including points of view in opposition to, or in support of, the staff's preliminary views.

Procedures

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and assist the staff in defining and clarifying the issues to be addressed in the EA.

Persons choosing not to speak at the meetings, but who have views on the issues or information relevant to the issues, may submit written statements for inclusion in the public record at the meeting. In addition, written scoping comments may be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, until December 17, 1993.

All written correspondence should clearly show the following caption on the first page: Beaver Falls Hydroelectric Project, FERC Project No. 1922–008.

Intervenors—those on the Commission's service list for this proceeding (parties)—are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents with the Commission, to serve a copy of the document on each person whose name appears on the official service list. Further, if a party or interceder files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Site Visit

A site visit to the Beaver Falls Hydroproject is planned for November 17, 1993. Those who wish to attend should plan to meet at the Beaver Falls Powerhouse at 10:30 a.m. or contact Ms. Marlene Finley at the Tongass National Forest, (907) 225–2148 for details.

Any questions regarding this notice may be directed to Mr. Carl Keller at FERC, (202) 219–2831.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27408 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RM94–4–000]

Natural Gas Gathering Services Performed by Interstate Pipelines and Interstate Pipeline Affiliates—Issues Related to Rates and Terms and Conditions of Service; Public Conference

October 28, 1993.

Take notice that on February 24, 1994, the Commission will convene a public conference in the above-captioned proceeding. The major issue the Commission wishes to explore at this conference is the extent to which the Commission should exercise its Natural Gas Act (NGA) rate and tariff jurisdiction, pursuant to sections 4 and 5 of the NGA, over the rates, terms and conditions for gathering services performed by interstate pipelines and their affiliates. Other issues to be explored at the conference include production-area transportation rates and rate design and the proper treatment of interstate pipeline profits from the sale of gathering systems to an affiliate or non-related entity.

I. The Statutory Context

In *Northern Natural Gas Co.*[1] the Commission, in reviewing an Order No. 436 open access tariff, decided that "[e]ven assuming that Northern's service is gathering, the Commission has the jurisdiction to determine the justness and reasonableness of the rates, terms, and conditions under which gathering service is performed"[2] in connection with interstate transportation under sections 4 and 5 of the NGA. Accordingly, the Commission required that the interstate pipeline file a statement of its gathering rates. In affirming the Commission's decision, the United States Court of Appeals for the Eighth Circuit ruled that "[j]urisdiction over rates for gathering, when performed by an interstate pipeline over its own facilities in connection with jurisdictional interstate transportation, is necessary to preserve the Commission's section 4 and 5 responsibility to prevent discrimination

[1] 43 FERC ¶61,473 (1988), *reh'q denied*, 44 FERC ¶61,384 (1988).

[2] 43 FERC at 62,160–161.

against shippers who must depend upon monopolistic pipelines for transportation."[3]

In affirming the Commission's decision in *Northern Natural*, the Court held that the Commission has "[j]urisdiction over rates for gathering, when performed by an interstate pipeline over *its own facilities* in connection with jurisdictional interstate transportation, . . ."[4] Significantly, the Court in *Northern Natural* clearly recognized that its analysis does not change simply because a pipeline's gathering system is owned or operated by an affiliate.[5] As the Commission has previously noted, the Court in *Northern Natural* explicitly stated that it intends the expression "gathering facilities owned by a pipeline" and all substantially similar expressions to include such facilities owned or operated directly or indirectly by a pipeline or its affiliate.[6] Moreover, as the Commission has held, it has authority to treat an interstate pipeline and its affiliate[s] as a single entity "if the statutory purposes would be frustrated by the corporate form."[7]

II. The Commission's Current Policy

A. Interstate Pipelines

Under the Commission's current policy, an interstate pipeline which directly performs gathering services is not required to include a gathering rate schedule in its tariff. Rather, the Commission has required that the pipeline file its separately stated gathering rates. In addition, the Commission has required pipelines to file a statement when it files its Order No. 636 tariff that its gathering service is nondiscriminatory, not unduly preferential, and not inconsistent with the terms and conditions which are applicable to its Part 284 transportation.[8] In other words, the Commission has exercised its jurisdiction to regulate interstate pipeline gathering rates and the pipeline must be able to demonstrate when it files its gathering rates that they are just and reasonable and not unduly discriminatory. However, the Commission has not further exercised its authority over the terms and conditions of pipeline gathering services by requiring pipelines to include gathering rate schedules in their tariffs that would specify the terms and conditions of the gathering services to be provided and which would also be subject to the General Terms and Conditions of the pipeline's Part 284 tariff and the requirements of Order No. 636.

B. Interstate Pipeline Affiliates

The pipeline affiliate gathering issue was addressed by the Commission in *Northern Pipeline Company (Northwest Pipeline)*.[9] In *Northwest Pipeline*, the Commission ruled that the gathering rates of affiliates of interstate pipelines are subject to NGA regulation when such services are performed in connection with a jurisdictional transportation service. However, the Commission, in *Northwest Pipeline*, declined to exercise its jurisdiction in a traditional or pro-active manner. Rather, the Commission set out a general standard and indicated that it would entertain complaints and take appropriate action in regard to the pipeline affiliate's gathering rates and conditions of service or both, if necessary to assure statutory goals are attained.[10]

The Commission expressed the view that the traditional form of regulation was not needed to address the mere potential for affiliate abuse, and that it would only regulate gathering rates of pipeline affiliates if shown by a complainant that more extensive Commission regulation is necessary to invalidate an unjust and unreasonable rate or to correct an unduly discriminatory practice in order to preserve its primary grant of authority over interstate transportation or sales.[11] Accordingly, interstate pipeline affiliates are not required to file with the Commission their gathering rates, conditions of service, or any other statement.

C. Unbundling and Production-area Rates

The Commission has required gathering rates to be separately stated and unbundled from mainline transportation rates in a number of restructuring cases.[12] Among other things, unbundling allows shippers to purchase services that they desire without having to purchase other services that they do not want.

Several proposals for production-area services and rates may affect the degree of unbundling of gathering and the broader protection area. Firm-to-the-wellhead rate design is one proposal.[13] Under firm-to-the-wellhead rates, shippers who pay two-part (currently SFV) rates for firm service receive firm transportation rights from their market area delivery points all the way back to the wellhead. Some have criticized firm-to-the-wellhead rates on the grounds that they bundle production-area transportation with market area transportation. They have also been criticized for inhibiting the development of market centers. Once the reservation rate is paid, firm service is then provided at a low SFV usage rate. By effectively bundling production and market area transportation, the critics argue, it is difficult for producers connected to other pipelines to compete. Supporters argue that such rates are a logical extension of the Commission's requirement for SFV rates. They argue that firm-to-the-wellhead removes fixed costs from usage rates in the production area, and thus remove distortions in the choice among production connected to different pipelines.

IT feeder systems have also been criticized as another form of bundling. Under IT feeder systems, IT service that "feeds" downstream FT service has scheduling priority over other IT service.[14] Under one variant of the IT feeder system proposed by Transco, shippers would pay a lower rate (*i.e.*, the SFV usage rate) for IT feeder service than for other IT service. Supporters of IT feeder service argue that it provides downstream shippers with greater and more flexible access to supply options.

Transco, as well as other parties in various restructuring proceedings, have urged the Commission to develop a consistent, generic policy regarding

---

[3] Northern Natural Gas Company, 929 F. 2d. 1261, 1273 (8th Cir. 1991), *cert. denied*, 112 S. Ct. 169 (1991).

[4] *Id.*

[5] *Id.* at 1274.

[6] *Id.* at 1263 n. 2.

[7] *See, e.g.*, 59 FERC ¶ 61,115 at 61,435. *See also* Schenely Distillers Corp. v. United States, 326 U.S. 432, 437 (1946); Capital Telephone Co. v. FCC, 498 F.2d 734,738 (D.C. Cir. 1974); General Telephone Co. v. United States, 449 F.2d 846, 855 (5th Cir. 1971).

[8] *See, e.g.*, Williams Natural Gas Company, 64 FERC ¶ 61,165 at 62,432.

[9] Northwest Pipeline Corp., 59 FERC ¶ 61,115 (1992), *reh'g denied*, 60 FERC ¶ 61,213 (1992); *appeal pending, sub. nom.*, Williams Gas Processing Co. v. FERC, Case No. 92–9553, *et. al.*, (10th Cir. September 8, 1992).

[10] *See* 59 FERC ¶ 61,115 at 61,436–37. The Commission's present policy on regulating interstate pipeline affiliate gathering services is currently under review by the United States Court of Appeals for the Tenth Circuit in Williams Gas Processing Co. v. FERC, No. 92–95530, *supra* n. 8.

[11] *See* 60 FERC ¶ 61,213 at 61,729. ("[W]e have not disclaimed our rate jurisdiction over these rates and services. Instead, we have determined that it appears unnecessary to establish rates for Williams [Gas Processing] at this time".) *See also* 60 FERC ¶ 61,213 at 61,731.

[12] *See, e.g.*, Columbia Gas Transmission Corporation, RS92–5–000, *et al.*, (July 14, 1993), p. 53; and National Fuel Gas Supply Corporation, RS92–21–000, *et al.*, (March 2, 1993), p. 31.

[13] Texas Eastern Transmission Corp., 62 FERC ¶ 61,015 (1993).

[14] *See, e.g.*, Transcontinental Gas Pipe Line, Docket No. RS92–86–004, 65 FERC ¶ 61,023 (October 4, 1993).

production-area rate design for all pipelines.[15] They argue that fair and efficient competition requires a consistent policy; choices will be distorted and competition will be inhibited if different pipelines have different production-area rate designs.

The Commission believes these issues should be explored in the public conference.

III. The Public Conference

Pipeline and pipeline affiliate-owned gathering services, production-area rates and rate design, and pipeline "spin-down" and "spin-off" filings raise numerous issues. The Commission has determined that it should undertake a review of these issues, the significance of which have been heightened by the interstate pipeline industry's restructuring under Order No. 636. Among the reasons we believe that such a review is required is that since the time that the Commission initially established its present policy, many interstate pipeline companies have filed applications with the Commission in which they seek authorization to "spin-down" their gathering facilities and operations to corporate affiliates.[16] In addition, several interstate pipelines have filed applications with the Commission to refunctionalize portions of their pipeline facilities from transmission to gathering and therefore represent additional potential "spin-down" cases. Finally, one interstate pipeline company has sought stranded cost treatment under the Order No. 636 transition cost provisions for its investment in gathering facilities.[17] These are in addition to the production-area rate issues noted in the previous section.

The Commission is convening this public conference to examine the structure and operation of natural gas gathering markets, the effects of the current policy, the policy issues to be considered in either maintaining or departing from the present policy, and the operational considerations pertaining to pipeline and affiliate-owned gathering systems that the Commission should take into account in its review of its current policy. To this end, the Commission has compiled a list of questions, set forth below, that persons seeking to make formal statements at the public conference should be prepared to address. Other questions may arise during the course of the proceedings.

A. General

1. How much gathering is there in the United States? Who owns it? Where is it located? Which states regulate gathering, and how do they regulate gathering?

2. How are gathering facilities physically and operationally different from transmission facilities?

3. On what basis do gathering systems compete? For example:

a. Do they compete for the same new production? Do they compete for the same existing production?

b. Do they compete at the point where gas enters a processing plant or some other hub?

c. Do they compete at the point of access to interstate transmission?

4. Are there regions where gathering is especially competitive? Are there regions where gathering is especially non-competitive?

5. Are there regional differences in the way that gathering systems are configured and operated? If such regional differences exist, should they affect the Commission's regulatory policies on the rate regulation of gathering?

6. Generally, how easy is it to construct and operate a gathering system, *i.e.*, what are the barriers to entry? Does this vary by region? By state?

7. From the perspective of a producer that does not own the gathering facilities needed for access to an interstate pipeline, is dealing with a pipeline-owned or a pipeline-affiliate owned gathering system any more of a problem than dealing with a gathering system owned by another producer?

a. What is there to discipline producers from using their gathering as a means to acquire a competitive advantage over other producers that must use the same gathering facilities?

b. What, if anything, does the answer to the preceding question mean for purposes of deciding the extent to which pipeline-owned and pipeline affiliate-owned gathering should be regulated by the Commission?

8. Other than the potential for favoring pipeline merchant gas or pipeline marketing affiliate gas, what other potential abuses exist with respect to pipeline-owned and pipeline-affiliate owned gathering?

a. In terms of the nature and extent of Commission regulation of pipeline-owned and pipeline affiliate-owned gathering, should it make a difference if a pipeline no longer sells merchant gas or does not have a marketing affiliate?

b. Can the potential for abuse in connection with pipeline merchant gas or marketing affiliate gas be mitigated sufficiently to allow pipeline-owned and pipeline affiliate-owned gathering to be regulated on an otherwise market-based or light-handed manner?

c. How does the Order No. 497 marketing affiliate rule[18] relate to this issue? Should the provisions of Order No. 497 be applied to affiliated gathering?

9. For purposes of exercising "in connection with" jurisdiction, should it make a difference whether a pipeline-owned or pipeline affiliate-owned gathering system is contiguous with the transmission facilities owned by the pipeline?

a. Does the lack of contiguous facilities break the "in connection with" nexus?

b. If not, could it be argued that any gathering facilities connected with an interstate pipeline (whether or not owned by an interstate pipeline or affiliate) would be jurisdictional because they were "in connection with" interstate transportation?

c. Should the overall size of a gathering system have any bearing on whether the Commission exercises its "in connection with" jurisdiction?

10. What support is there for the position that the Commission may decline to exercise any jurisdiction over pipeline-owned and pipeline affiliate-owned gathering?

11. If the Commission may not decline to exercise its jurisdiction over pipeline and pipeline affiliate gathering, what support is there for the position that the Commission may delegate its gathering jurisdiction to the states?

12. What indicia should the Commission use to determine whether gathering is sufficiently competitive to permit market-based rates?

a. How should the markets for gathering services be defined? At what point should the Commission be looking

---

[15] *See, e.g.*, Tennessee Gas Pipeline Co., 64 FERC ¶61,020 (1993).

[16] For the purpose of this discussion, the term "spin-down" is used to refer to instances where an interstate pipeline transfers ownership of a facility to a corporate affiliate. The term "spin-off" is reserved for the transfer of a facility to a non-related corporate entity.

[17] Equitrans, Inc., 64 FERC ¶61,375 (1993).

[18] Inquiry into Alleged Anti-Competitive Practices Related to Marketing Affiliates of Interstate Pipelines, Order No. 497, 53 Fed. Reg. 22,139 (June 14, 1988), III FERC Stats. & Regs. ¶30,820 (1988), Order No. 497–A, 54 Fed. Reg. 52,781 (December 22, 1989), III FERC Stats. & Regs. ¶30,868 (1989); Order No. 497–B (order extending sunset date), 55 Fed. Reg. 63,291 (December 28, 1990), III FERC Stats. & Regs. ¶30,908 (1990); Order No. 497–C (order extending sunset date), 57 Fed. Reg. 9 (January 12, 1992), III FERC Stats. & Regs. ¶30,934 (1991), rehearing denied, 57 Fed. Reg. 5,815 (February 18, 1992), 58 FERC ¶61,139 (1992); *aff'd in part and remanded in part*, Tenneco Gas v. FERC, 969 F.2d 1187 (D.C. Cir. 1992), Order No. 497–D (order on remand and extending sunset date), issued December 4, 1992, 57 Fed. Reg. 58,978 (1992).

for competition? At the wellhead? At the processing plant, hub or pooling point? At the interstate pipeline?

b. To what extent can the Commission make a generic finding of competitiveness? Can it make a regional finding, or a finding for a particular producing field?

13. Can the Commission make a finding that gathering is sufficiently competitive to protect the interests of gas consumers without having to ensure that individual producers connected to pipeline-owned or pipeline affiliate-owned gathering systems have access to services on terms comparable to those available to shippers on interstate pipelines?

14. Are there any specific instances or reliable data indicating that interstate pipelines or their affiliates will limit access to gathering facilities or discriminate unduly? What has been the operating experience with Williams Gas Processing since the Commission's order in *Northwest Pipeline*?

15. Does sufficient competition exist in some or all of the markets for natural gas gathering services to assure that, absent Commission regulation, interstate pipeline gatherers will be unable to act in an unduly discriminatory or anti-competitive fashion? For example, are many gas fields served by more than one gatherer? Does this mean that gatherers in the same field compete? Are the answers to the preceding questions the same for pipeline-affiliated gatherers?

16. Will shippers that own or purchase gas from wells which are connected to a pipeline-owned gathering system be subjected to anti-competitive bargaining power when the system is "spun-down" to the pipeline's affiliate? Will other gatherers in the area be able to compete effectively for such shippers business? That is, once a well is connected to a gathering system does competition between gatherers effectively cease to exist for that well? If such *ex post* competition does not exist, why not? Are there any specific instances demonstrating this? Are the answers to the preceding questions the same for affiliated gatherers?

17. Under the present policy, will injured parties have sufficient information to detect undue discrimination to file a complaint? Should the Commission augment the present policy with some type of transactional reporting requirement on interstate pipelines and/or their affiliated gatherers? For example, should the Commission require reports of pipeline affiliates' negotiated gathering contract rates and character and/or types of negotiated gathering services? Would the imposition of such a reporting requirement with its concomitant inability to keep contract terms confidential place pipeline-affiliate gatherers at a competitive disadvantage? To what extent does Order No. 497, the marketer affiliate rule, cover this situation?

18. Is current state regulation of gathering sufficient to protect interstate shippers from undue discrimination and anti-competitive practices and offer assurance that the goals of Order No. 636 would not be frustrated?

19. Will the present method of regulation allow interstate pipeline gatherers sufficient flexibility to match competing offers of services from non-regulated independent gatherers? If not, explain in light of the pipeline's ability to discount. Is the answer the same for pipeline-affiliate gatherers? If not, explain in light of the Commission's not setting rates for this service.

20. Is a producer adequately protected by its ability to negotiate an agreement with a gatherer at the time that production is connected?

21. How do producers connected to non-pipeline owned gathering systems protect their interests?

22. In terms of exercising its "in connection with" jurisdiction, what distinction should the Commission draw between the rates, terms, and conditions filed for gathering and those filed for interstate transmission service?

B. The Regulation of Gathering Rates and Services Performed by Affiliates of Interstate Pipelines

1. Should the Commission continue the present policy of not requiring interstate pipeline affiliates to file their gathering rates and conditions while standing ready to hear shipper complaints respecting pipeline-affiliate gathering services?

a. What are the effects of the present policy on the markets for gathering services in which interstate pipeline affiliates compete?

b. How do rates, terms and conditions for gathering services offered by interstate pipeline affiliates differ from other gatherers in markets where both operate?

c. Is the threat of Commission action arising from a complaint proceeding an effective mechanism for ensuring that interstate pipeline affiliates not act in an unduly discriminatory manner?

d. What would be an appropriate remedy if in a complaint proceeding the Commission found that a gathering affiliate engaged in unduly discriminatory or otherwise unlawful practices? What options would be available to the Commission is such a proceeding?

e. Does the possibility of a complaint proceeding inject such an uncertainty into business dealings with interstate affiliate gatherers that it places them at a competitive disadvantage?

2. Should the Commission require interstate pipeline affiliates to file their gathering rates and a statement that their gathering services will be performed in a non-discriminatory manner and under conditions which will not be inconsistent with their parent interstate pipeline's Part 284 tariff provisions? Would this approach reduce pipeline affiliate gatherer flexibility in tailoring service contracts and rates to specific customer needs, thereby reducing the affiliate gatherer's ability to compete effectively with independent gatherers?

C. Interstate Pipeline Gathering Through Facilities Owned Directly By The Interstate Pipeline

1. To what extent should the Commission regulate interstate pipeline gathering through facilities owned directly by the interstate pipeline? What are the effects of the present policy on the markets for gathering services in which interstate pipelines compete?

2. Should gathering through pipeline-owned and affiliate-owned facilities be subject to the same form of regulatory treatment?

a. What policy and/or legal distinctions between direct pipeline gathering and affiliate gathering that justify regulating them differently? For example, if the Commission decides to continue the present complaint-driven mode of regulation of affiliate gathering, should the Commission conform its regulation of direct pipeline gathering to that same approach? If not, why not?

Conversely, if the Commission maintains the existing form of regulating direct pipeline gathering, what is the justification for applying a lesser form of regulation to affiliate gathering?

b. Are there physical and operational differences between pipeline-owned or affiliate-owned gathering systems and mainline transmission systems that justify regulating them differently?

c. Are there basic differences between the gathering business and the mainline transmission business that justify disparate regulation of interstate pipeline and affiliate gathering?

D. Related "Spin-Down"/"Spin-Off" Rate and Valuation Issues

1. How should the Commission treat the profits derived by a pipeline from transferring or selling gathering systems?

a. Should the Commission's policy result in profit from such sales going to the pipeline's stockholders but losses, which are essentially stranded costs, being recovered from ratepayers?

b. Are there preferable policies that would eliminate the asymmetry, *i.e.*, profits to stockholders? Should all profits be credited to the shippers by a mechanism such as crediting the profits to the pipeline's transition costs?

c. Should the profits be split between the shareholders and shippers? If so, by what methodology?

2. When the pipeline seeks to "spin-down" gathering systems to an affiliate, should the pipeline be required to offer the system to all bidders? If not, how should the present market price be determined?

a. Should the Commission retain the current policy of utilizing the depreciated net book value as the transfer price?

b. Should the Commission require the transfer price to be the fair market value of the facilities as determined in an auction open to all bidders?

3. If the gathering affiliate subsequently transfers the facilities to a third party at a price in excess of the depreciated net book value should such profit be "recaptured" by the pipeline? How should the Commission treat the profit?

E. Unbundling and Production-area Rates

1. How does an interstate pipeline's classification for rate purposes of its facilities are either transmission or gathering effect the competitive parity between pipeline-owned and pipeline affiliate-owned gathering and non-pipeline gathering?

2. Do firm-to-the-wellhead rates effectively bundle market area and production-area transportation? Do they inhibit competition and development of market centers? Does their effect depend on whether reservation rates are distance sensitive and whether shippers can choose the pipeline segments over which it wishes to reserve firm service?

3. Should shippers in the production area be allowed to choose between an unbundled two-part SFV rate for firm service and an unbundled one-part volumetric rate for interruptible service?

4. Does IT feeder service (where IT feeding FT has scheduling priority over other IT) effectively bundle market and production-area transportation?

5. Should the Commission develop a generic policy on production-area rate design? Are there important case-specific differences among pipelines that would warrant different production-area rate designs on a case-by-case basis? Should there be separate policies developed for the production areas involved, *e.g.*, the Gulf Coast area?

6. How do firm-to-the-wellhead rates impact the attachment of new gas supplies to a pipeline's existing system?

IV. Procedural Matters

The public conference convened by this notice will be held on February 24, 1994, in Hearing Room 1, 810 First Street NE., Washington, D.C. 20426. All interested persons are invited to attend. Any person may file a written presentation addressing the questions set out in the notice no later than January 14, 1994. In addition, those persons wishing to make an oral presentation to the Commission must submit a written request to the Secretary of the Commission, along with a written statement of views on the questions set out in this notice no later than January 14, 1994. Every effort will be made to accommodate such requests. However, it may be necessary to limit the number of persons making presentations and/or the length of the presentations. Accordingly, the Commission encourages those with similar views to join in designating a single representative for purposes of the public conference.

Members of the Commission intend to participate in the public conference and will reserve time for questions and answers.

By direction of the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27409 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–198–001]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with a proposed effective date of October 1, 1993:

Sub. Third Revised Sheet No. 4

According to Alabama-Tennessee, this filing is being made to comply with the Commission's order issued October 21, 1993 in the above-referenced proceeding, Alabama-Tennessee Natural Gas Co., 65 FERC ¶ 61,097 (1993), and relates to Alabama-Tennessee's proposed recovery of stranded upstream capacity costs through a Transportation Cost Rate Adjustment (TCRA) as set forth in Section 33.4 of the General Terms and Conditions of its tariff. In particular, Alabama-Tennessee states that this tariff sheet reflects the corrected underlying rates billed by Tennessee Gas Pipeline Company (Tennessee) based on Tennessee's September 1993 invoice to Alabama-Tennessee on which Alabama-Tennessee's proposed TCRA is based.

Alabama-Tennessee has requested any waiver of the Commission's regulations as may be necessary to permit the tariff sheet to become effective as proposed.

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 November 9, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27353 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–37–000]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 4B
Original Sheet No. 4C
Second Revised Sheet No. 141A

Alabama-Tennessee proposes that these tariff sheets be made effective November 1, 1993, and, in this regard, is seeking a waiver of § 154.22 of the Commission's regulations.

According to Alabama-Tennessee, this filing reflects a proposed limited adjustment to Alabama-Tennessee's rates to reflect a flowthrough recovery of $5,489,232, which Alabama-Tennessee states represents its allocated portion of the Account No. 191 balance that Tennessee Gas Pipeline Company (Tennessee) has proposed to bill directly to its former bundled sales customers in its July 1, 1993 filing in Docket No. RP93–147. According to Alabama-Tennessee, it proposes to allocate a

portion of this total amount to each of its former bundled jurisdictional sales and direct sales customers that were purchasing firm gas from it on August 31, 1993, in accordance with the mechanism set forth in Section 33.3 of the General Terms and Conditions of its tariff. Each customer's respective share of these costs is shown as a lump sum amount and as a monthly installment to be paid over a 12-month period, consistent with the recovery time-frame proposed by Tennessee.

Related to this aspect of Alabama-Tennessee's filing, Alabama-Tennessee is also proposing to make certain other revisions to its FERC Gas Tariff. Alabama-Tennessee states that it is clarifying Section 33.3 of the General Terms and Conditions of its tariff which expressly provides that bills rendered by Alabama-Tennessee for the recovery of the Tennessee Account No. 191 costs will be subject to Commission authorization. Alabama-Tennessee has also provided for the recovery of carrying charges associated with any delays that may result between the time Alabama-Tennessee makes payments to Tennessee for these costs and the time Alabama-Tennessee, in turn, recovers each customer's allocated portion of these costs. Finally, Alabama-Tennessee states that it has also corrected this tariff provision for certain typographical errors.

Also as part of its filing, Alabama-Tennessee is proposing to credit all of its jurisdictional resale customers the outstanding balance in Alabama-Tennessee's Account No. 191 in accordance with section 33.2 of the General Terms and Conditions of its tariff. Alabama-Tennessee states that because each customer's respective credit is relatively small, it should be permitted to reflect the entire credit due each customer in the bills to be rendered in December for services provided in November. Alabama-Tennessee further states that because its filing results in a reduction in each customer's bill, good cause exists for accepting and approving this tariff and crediting procedure as proposed.

In addition to the waiver of § 154.22, Alabama-Tennessee has requested such other waivers of the Commission's regulations as may be necessary in order to permit the tariff sheets to become effective as proposed.

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 Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1993)). All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding 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. 93–27354 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–34–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 28, 1993, Algonquin Gas Transmission Company (Algonquin) tendered for filing revised tariff sheets to its FERC Gas Tariff, Fourth Revised Volume No. 1. These tariff sheets are proposed to be effective November 1, 1993:

Third Revised Sheet No. 21
Third Revised Sheet No. 22

Pursuant to § 284.242 of the Commission's Rules and Regulations, Granite State Gas Transmission Company (Granite State) must assign its AFT–2 capacity on Algonquin to its shippers, and that capacity must be assigned under Algonquin's part 284 service, AFT–1. Algonquin states that the tariff sheets attached to the filing reflect the incremental rate to be charged for the AFT–2 service assigned by Granite State and converted to AFT–1. The rates are proposed to be effective November 1, 1993.

Algonquin also requests that the Commission grant any waiver that may be necessary to place these rates into effect on November 1, 1993, including a waiver of § 154.22 of the Commission's regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules And Regulations. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27355 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EF94–2081–000]

Department of Energy—Bonneville Power Administration; Filing

November 2, 1993.

Take notice that on October 29, 1993, the Bonneville Power Administration (BPA) tendered for filing proposed rate schedule PS–93, Power Shortage rate, pursuant to section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839e(a)(2). BPA requests waiver of the Commission's 60 day notice requirement contained in 18 CFR 300.20 so that the PS–93 rate schedule receives interim approval by December 1, 1993. Pursuant to Commission regulations at 18 CFR 300.21, BPA seeks final confirmation of the proposed PS–93 rate for the period beginning December 1, 1993, through September 30, 1995.

BPA further states that the PS–93 rate is a regional rate for emergency or shortage conditions. The PS–93 rate is designed to mitigate the revenue risk associated with possible utility power shortages with the region. BPA states that the PS–93 rate is only available for sales inside the region and not for out-of-region sales and that the PS–93 rate is basically a risk mitigation strategy that protects BPA's ability to recover any extraordinary costs associated with emergency situations and thereby protects BPA's ability to make its Treasury payment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before November 12, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27407 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–31–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 58, with a proposed effective date of November 30, 1993.

CNG states that the proposed tariff sheet reflects the initial direct bill for collection of Account Nos. 191 and 186 transition costs.

CNG states that the direct bill mechanism was approved as part of the Stipulation and Agreement filed March 15, 1993, as supplemented on June 15, 1993, and approved by the Commission in CNG's restructuring proceeding in Docket No. RS92–14. CNG states that its filing includes a schedule showing the activity in Account Nos. 191 and 186 for the period not yet reported as part of CNG's annual PGA filings, i.e. May 1992 through September 1993, as adjusted.

CNG also states that the balances in the unrecovered PGA and transportation cost deferred account have been reduced for supplier refunds in accordance with section 18.1.F of the General Terms.

CNG states that copies of the filing were served upon affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27356 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–35–000]

Colorado Interstate Gas Co.; Filing of Account No. 191 Direct Billing

November 2, 1993.

Take notice that on October 29, 1993, Colorado Interstate Gas Company (CIG) submitted a limited filing under section 4 of the Natural Gas Act ("NGA") for authority to direct bill its jurisdictional sales customers on November 10, 1993, for the balance in CIG's Account No. 191 remaining as of September 30, 1993, the day that CIG terminated its Purchased Gas Adjustment Clause ("PGA"). CIG notes that the filing is made pursuant to Article 21.2 of the General Terms and Conditions of First Revised Volume No. 1 of its FERC Gas Tariff, which was approved by the Federal Energy Regulatory Commission, as a part of CIG's overall restructuring, to become effective October 1, 1993. 64 FERC (CCH) ¶ 61,277 (1993).

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies, and the filing is available for public inspection at CIG's offices in Colorado Springs, Colorado.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27357 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–32–000]

El Paso Natural Gas Co.; Rate Tariff Filing

November 2, 1993.

Take notice that on October 29, 1993, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance, pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act (NGA), tariff sheets to its First Revised Volume No. 1–A Tariff and Third Revised Volume No. 2 Tariff.

El Paso stated that it tendered Statement of Rates tariff sheets applicable to Rate Schedules T–3, FTS–S and T–1 contained in its Volume No. 1–A Tariff which reflect an adjustment to El Paso's transportation rates to include the costs associated with the construction of the West-End Flexibility Project, to become effective December 1, 1993.

El Paso states that on May 22, 1992, it filed an application at Docket No. CP92–511–000, pursuant to section 7(c) of the NGA, for authorization to construct and operate new compression and pipeline facilities on the west end of its system, in order to provide increased operational flexibility.

El Paso states that on January 29, 1993 at Docket Nos. RP91–188–000, RP92–214–000 on RS92–60–000, et al., it filed an Offer of Settlement in Restructuring, Rate and Related Proceedings (Settlement). El Paso states that Article IX, Certificate Proceedings, provides that the order accepting and approving Settlement shall be deemed to grant a certificate of public convenience and necessity authorizing the construction and operation of the facilities proposed at Docket No. CP92–511–000. Further, Article 9.2 specifically provides that upon the in-service date of such project, EL Paso shall be entitled, without filing a new general system-wide rate case, to adjust the settlement reservation charge by $0.0029 per dth on a daily basis ($0.08821 per dth on a monthly basis) to reflect the additional costs of such facility and to make a corresponding change of $0.0029 per dth in rates under Rate Schedules T–1 and FTS–S.

El Paso states that on April 30, 1993, the Commission issued an "Order Accepting Settlement and Compliance Filing Subject to Modifications," at Docket No. RS92–60–000, et al. El Paso states that ordering paragraph (F) of the order granted El Paso a certificate of public convenience and necessity authorizing the construction and operation of the West-End Flexibility Project. El Paso further states that the order permitted El Paso to roll in the

costs of the project in the context of the Settlement proceeding. El Paso states that on August 31, 1993, the Commission issued an "Order Denying Rehearing, Granting and Denying Clarification, Terminating Technical Conference in Part, Accepting Revised Compliance Filings, and Granting Limited Waiver," at Docket No. RS92–60–011, et al. El Paso states that by letter dated September 27, 1993, the Director, Office of Pipeline and Producer Regulation, advised El Paso that its restructuring proposal, as modified by the Commission's orders, would be effective on October 1, 1993.

El Paso requested that the Commission accept the tendered tariff sheets for filing and permit them to become effective on December 1, 1993.

El Paso states that copies of the filing were served upon all interstate pipeline system transportation customers of El Paso and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be take, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27358 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–2–59–000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, Northern Natural Gas Company (Northern), tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2.

Northern states that the filing establishes the revised Gas Research Institute (GRI) rates effective January 1, 1994, for Northern's transportation rates. The GRI rates have been structured in accordance with Opinion No. 384 issued by the Commission in Docket No. RP93–140 on October 5, 1993.

Northern states that copies of this filing were served upon the company's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.44 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate proceeding, but will not serve to make protestant a party to the proceedings. 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27359 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–39–000]

Tennessee Gas Pipeline Co.; Proposed Changes in FERC Tariff

November 2, 1993.

Take notice that on October 29, 1993, Tennessee Gas Pipeline Company (Tennessee) filed a limited application pursuant to section 4 of the Natural Gas Act, 15 U.S.C. 717c (1993), and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission) promulgated thereunder to recover gas supply realignment costs (GSR Costs) incurred as a consequence of Tennessee's implementation of Order No. 636 and to modify the surcharge mechanism for the recovery of GSR costs.

Tennessee states that the purposes of the filing in this docket are to set forth the GSR Costs and the related rates that will be charged by Tennessee pursuant to Order No. 636 for the quarter commencing December 1, 1993 and to modify the GSR collection mechanism embodied in Tennessee's tariff. The GSR Costs sought to be recovered include costs associated with the reformation or termination of certain supply contracts as well as pricing differential costs associated with continuing to perform under certain gas supply contracts, including the Great Plains Associates contract and pricing differential costs incurred in connection with Tennessee's Bastian Bay Field gas supplies.

Tennessee requests an effective date of December 1, 1993.

Tennessee stated that copies of this tariff filing were posted in conformance with § 154.16 of the Commission's Regulations and in conformity therewith were mailed to all affected customers of Tennessee and interested state commissions.

Any person desiring to be heard or to protest such 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. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27360 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–33–000]

Texas Eastern Transmission Corp; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993 Texas Eastern Transmission Corporation (Texas Eastern), tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 28, 1993:

Third Revised Sheet No. 625
Second Revised Sheet No. 628

Texas Eastern states that on October 1, 1993, it filed tariff sheets in Docket No. CP92–184 pursuant to and in compliance with the Commission's July 16, 1993 "Order Granting Rehearing in Part, Denying Rehearing in Part, and Issuing Certificate" in Docket Nos. CP92–184 and CP92–185 ("July 16 Order"). Such tariff sheets reflected the implementation as of November 1, 1993 of new firm transportation service to certain ITP Customers [1] which is

[1] The ITP Customers as of November 1, 1993 are Public Service Electric and Gas Company and UGI Corporation.

rendered by means of new facilities authorized by the July 16 Order.

Texas Eastern states that by letter order dated October 28, 1993, in Docket Nos. CP92–184–003 and CP92–459–004, the Commission accepted such tariff sheets, subject to the condition that Texas Eastern remove proposed revisions to sections 15.2(C) and 15.2(D) of Texas Eastern's General Terms and Conditions which would have established a method of allocating Gas Supply Realignment (GSR) costs and stranded costs between system wide customers and incremental customers. In the October 28, 1993 letter order, the Commission indicated that it was inappropriate for Texas Eastern to propose a new transition cost allocation method in a certificate compliance filing. The Commission further indicated that, if Texas Eastern wished to propose a new mechanism, it could do so in a separate section 4 filing.

Texas Eastern states that the above referenced tariff sheets reflect proposed revisions to its currently effective sections 15.2(C) and 15.2(D) of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1. As revised, Sections 15.2(C) and 15.2(D) provide for the allocation of Gas Supply Realignment Costs and stranded costs to applicable firm services rendered pursuant to system facilities and new incremental facility expansions implemented on or after June 1, 1993 (the effective date of Texas Eastern's restructuring Docket No. RS92–11).

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27361 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–36–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993 Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, with a proposed effective date of December 1, 1993:

Original Sheet No. 171
Original Sheet No. 172
Original Sheet No. 173
Sheet Nos. 174–199

Texas Eastern states that the above tariff sheets are filed pursuant to Section 15.2(B) of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1, and as a limited application pursuant to section 4 of the Natural Gas Act, 15 U.S.C. 717c (1988), Order Nos. 636, *et seq.* issued in Docket No. RM91–11, the orders accepting Texas Eastern's Order No. 636 compliance filing, subject to conditions, issued January 13, 1993, and April 22, 1993 (April 22 Order), and September 17, 1993, in Texas Eastern Transmission Corp., Docket Nos. RS92–11–000, RS92–11–003, RS92–11–004, RP88–67–000, et al. (Phase I/Rates), and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission).

Texas Eastern states that the purpose of this filing is to recover its Account 191 Costs, attributable to gas purchases made prior to June 1, 1993, the date of implementation of Order No. 636 on Texas Eastern's system. Texas Eastern states that the total amount to be direct billed by this filing is $14,672,225, which includes actual costs of gas purchased through May 31, 1993, plus all adjustments currently known and booked to Account No. 191, plus interest of $581,933 through the projected payment date of December 20, 1993 calculated in accordance with § 154.305 of the Commission's Regulations. Texas Eastern states that these costs were incurred as a consequence of providing a bundled merchant function.

Texas Eastern states that copies of its filing have been served on all Authorized Purchasers of Natural Gas from Texas Eastern and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27362 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–125–002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas tariff

November 2, 1993.

Take notice that on October 8, 1993, Texas Eastern Transmission Corporation (Texas Eastern), tendered for filing as part of the FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A of the filing.

Texas Eastern states that on September 30, 1993, it filed certain tariff sheets with the Commission which reflected the modifications, clarifications and explanations required by the Commission's "Third Order on Compliance Filing and Second Order on Rehearing" issued September 17, 1993 (September 17 order). These tariff sheets reflected an effective date of June 1, 1993 as required by the September 17 Order.

Texas Eastern states that as a result of the modifications to tariff sheets required by the September 17 order, Texas Eastern herewith submits substitute tariff sheets to incorporate the identical modifications into certain affected tariff sheets previously filed with the Commission between May 14, 1993 and September 30, 1993 in Docket Nos. RP93–125, TM93–6–17, GT93–61, TM94–1–17, RP93–181 and CP92–459–002. Appendix A to this filing specifically delineates the tariff sheets filed herewith by the appropriate Docket Number.

Texas Eastern requests that the Commission waive all necessary rules and regulations to permit the tariff sheets listed on Appendix A to become effective on the various dates listed on Appendix A, the same effective date as originally proposed for the prior tariff sheets filed in the appropriate Docket Number.

Texas Eastern states that copies of the filing were served on Texas Eastern's

jurisdictional customers 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 Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before November 9, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27364 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–106–005]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, Texas Gas Transmission Corporation (Texas Gas) tendered for filing changes to its FERC Gas Tariff, First Revised Volume No. 1, and Original Volume No. 2. Texas Gas states that this filing is being made to move the tariff sheets listed below into effect on November 1, 1993, in compliance with the Commission's Order issued May 28, 1993, in Docket No. RP93–106 at 63 FERC Para. 61,240 (1993).

First Revised Volume No. 1

Second Revised Sheet No. 10
Second Revised Sheet No. 11
Second Revised Sheet No. 12
First Revised Sheet No. 12A
First Revised Sheet No. 13
First Revised Sheet No. 14
First Revised Sheet No. 15
First Revised Sheet No. 16
First Revised Sheet No. 17
First Revised Sheet No. 18

Original Volume No. 2

Second Substitute Fifteenth Revised Sheet No. 82
Second Substitute Sixteenth Revised Sheet No. 547
Second Substitute Eighteenth Revised Sheet No. 982
Second Substitute Sixteenth Revised Sheet No. 1005
Second Substitute Tenth Revised Sheet No. 1085

Texas Gas further states that it has served copies of this filing upon the company's jurisdictional customers 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 § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 9, 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.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27363 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–38–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, Texas Gas Transmission Corporation (Texas Gas) tendered for filing changes to its FERC Gas Tariff First Revised Volume No. 1 and its FPC Gas Tariff Original Volume No. 2. Texas Gas states that the proposed tariff sheets listed below are being filed in order to incorporate tariff sheets that became effective October 3, 1993, into Texas Gas's new tariff which becomes effective November 1, 1993. The tariff sheets restate the provisions to recover previously filed for take-or-pay Settlement Payments which were accepted by Commission Order issued October 1, 1993 in Docket No. RP93–189–000.

FERC Gas Tariff, First Revised Volume No. 1

First Revised Sheet No. 1
First Revised Sheet No. 2
First Revised Sheet No. 10
First Revised Sheet No. 11
First Revised Sheet No. 12
First Revised Sheet No. 19
Original Sheet No. 20
Original Sheet No. 21
Original Sheet No. 22
Original Sheet No. 23
First Revised Sheet No. 204A
First Revised Sheet No. 205
First Revised Sheet No. 206
First Revised Sheet No. 207

FPC Gas Tariff, Original Volume No. 2

Third Revised Fourteenth Revised Sheet No. 82
Third Revised Fifteenth Revised Sheet No. 547
Third Revised Seventeenth Revised Sheet No. 982
Third Revised Fifteenth Revised Sheet No. 1005
Third Revised Ninth Revised Sheet No. 1085

Texas Gas requests a November 1, 1993 effective date for the tariff sheets.

Texas Gas states that copies of the revised tariff sheets are being to Texas Gas customers affected by the filing and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 9, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–27365 Filed 11–5–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ94–1–56–000]

Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

November 2, 1993.

Take notice that on October 29, 1993, Valero Interstate Transmission Company (Vitco), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 2, the following tariff sheet as required by Orders 483 and 483–A containing changes in Purchased Gas Cost Rates pursuant to such provisions:

12th Revised Sheet No. 6

Vitco states that this filing reflects changes in its purchased gas cost rates pursuant to the requirements of Orders 483 and 483–A. The change in rates to Rate Schedule S–3 includes an increase in purchased gas cost of $0.0745 per MMBtu as compared to the previously scheduled annual PGA filing in Docket No. TQ93–3–56.

The proposed effective date of the above filing is December 1, 1993. Vitco requests a waiver of any Commission order or regulations which would prohibit implementation by December 1, 1993.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rule and Regulations. All such motions or protests should be filed

on or before November 9, 1993, Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-27366 Filed 11-5-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4795-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260-2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 1055.04; NSPS for Kraft Pulp Mills—Subpart BB; was approved 09/09/93; OMB No. 2060-0021; expires 09/30/96.

EPA ICR No. 1052.04; NSPS for New Stationary Sources, Fossil Fueled Fired Steam Generating Units—Subpart D; was approved 09/09/93; expires 09/30/93.

EPA ICR No. 1331.05; Accidental Release Information Program (ARIP); was approved 09/13/93; OMB No. 2050-0065; expires 09/30/95.

EPA ICR 1432.12; Recordkeeping and Periodic Reporting of the Productions and Consumption of Controlled Ozone-Depleting Substances; was approved 09/20/93; OMB No. 2060-0170; expires 09/30/96.

EPA ICR No. 0261.10; Notification of Hazardous Waste Activity; was approved 09/24/93; OMB No. 2050-0028; expires 09/30/96.

EPA ICR No. 1564.03; NSPS for Small Industrial-Commercial-Institutional Steam Generating Units—Subpart DC; was approved 09/21/93; expires 09/30/93.

EPA ICR No. 0262.06; RCRA Hazardous Waste Permit Application and Modification, Part A; was approved 09/24/93; OMB No. 2050-0034; expires 09/30/93.

EPA ICR No. 1427.04; National Pollutant Discharge Elimination System (NPDES) Compliance Assessment Information; was approved 09/29/93; OMB No. 2040-0110; expires 09/30/96.

EPA ICR No. 0916.06; Annual Updates of Emissions Data to Aerometric Information Retrieval System (AIRS); was approved 09/30/93; OMB No. 2060-0088; expires 09/30/96.

EPA ICR No. 1014.04; Certification for Exemption from Monitoring and Notification of Process Changes in Effluent Regulations; was approved 10/08/93; OMB No. 2040-0033; expires 10/31/96.

OMB Extension of Expiration Date

EPA ICR No. 0973; Procurement under Assistance Agreements; OMB No. 2030-0013; expiration date was extended to 02/28/94.

Dated: October 29, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93-27419 Filed 11-5-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4798-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before December 8, 1993.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of this ICR, contact Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: Interim Sewage Sludge Permit Application Form (EPA No. 0226.10).

Abstract: This is an amendment to an existing ICR that collects information to be used in support of the interim sewage sludge permit application requirements under the National Pollutant Discharge Elimination System (NPDES) program at 40 CFR parts 122 and 501. In accordance with the Water Quality Act of 1987, the EPA has issued final standards for sewage sludge use or disposal at 40 CFR part 503. In addition, EPA has amended the sewage sludge permit program regulations at parts 122 and 501 to phase-in the application and requirements of facilities over time. Facilities that are required to have (or that are requesting) site-specific pollutant limits in sewage sludge permits were required to submit permit applications by August 18, 1993. So-called "sludge-only" facilities without NPDES permits must submit limited screening information by February 19, 1994. Other treatment works treating domestic sewage must submit sewage sludge permit application information upon renewal of their NPDES permits. To facilitate the ease of collection and avoid confusion by permit applicants, the EPA has developed an interim permit application form until new permit application regulations and the associated form are promulgated. The interim form enables permit applicants to identify appropriate information requirements, and permitting authorities to tailor permit conditions to an applicant's sewage sludge use or disposal practices, during this interim period.

Following approval of this ICR, permitting authorities in EPA Regions and approved State sewage sludge management programs (no State programs have yet been approved) will be encouraged to use the interim application form to collect application information from treatment works treating domestic sewage. The interim application form is in a modular format, enabling information collection to be tailored as precisely as possible to the applicant's sewage sludge generation, treatment, use, or disposal practices. Part 1 of the form collects limited screening information from "sludge-only" (non-NPDES) facilities that are not applying for site-specific pollutant limits and are not otherwise required to submit a full permit application. Part 2 pertains only to facilities that are submitting full permit applications, and is divided into six sections. Sections A and F request general information from all applicants; Section B pertains to facilities that generate or derive a material from sewage sludge; Section C pertains to facilities whose sewage sludge is applied to the land; and Sections D and E pertain to owners and operators of surface disposal sites and sewage sludge incinerators, respectively. An applicant need only

submit the sections of the form that pertain to the sewage sludge management practices actually employed.

Permitting authorities will use this information to identify facilities using or disposing of sewage sludge, issue sewage sludge permits with appropriate terms and conditions, and assist the Agency in program management and other activities that ensure national consistency in permitting.

Burden statement: Public reporting burden for this collection of information is estimated to average 8.4 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the interim sewage sludge permit application form.

Respondents: Treatment works treating domestic sewage.

Estimated number of respondents: 4726 hours.

Estimated number of responses per respondent: 1.

Frequency of collection: Once every five years.

Estimated total annual burden on respondents: 39,794 hours.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to: Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460 and Matt Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: November 2, 1993.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 93–27418 Filed 11–5–93; 8:45 am]

BILLING CODE 6560–50–M

[AD–FRL–4798–1]

Control Techniques Guideline Document; Offset Lithographic Printing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Release of draft control techniques guideline (CTG) document for public review.

SUMMARY: A draft CTG document for control of volatile organic compound (VOC) emissions from the offset lithographic printing industry is available for public review and comment. This information document has been prepared to assist States in analyzing and determining reasonably available control technology (RACT) for stationary sources of VOC emissions located within ozone national ambient air quality standard nonattainment areas.

DATES: *Comments.* Comments must be received on or before January 7, 1994.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Mr. David Salman, ATTN: Offset Lithography Comments, U.S. Environmental Protection Agency, Emission Standards Division (MD–13), Research Triangle Park, North Carolina 27711.

Control techniques guideline. Copies of the draft CTG may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777.

FOR FURTHER INFORMATION CONTACT: Mr. David Salman, (919) 541–0859, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Under the Clean Air Act (CAA), as amended in 1990, State implementation plans (SIP's) for ozone nonattainment areas must be revised to require RACT for control of VOC emissions from sources for which the EPA has already published a CTG or for which it will publish a CTG between the date the Amendments were enacted and the date an area achieves attainment status. (CAA 182(b)(2).) The EPA has defined RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering the technological and economic feasibility." (44 FR 53761, September 17, 1979.)

The CTG's review current knowledge and data concerning the technology and costs of various emissions control techniques. The CTG's are intended to provide State and local air pollution authorities with an information base for proceeding with their own analyses of RACT to meet statutory requirements.

Each CTG contains a "presumptive norm" for RACT for a specific source category, based on the EPA's evaluation of the capabilities and problems general to the category. Where applicable, the EPA recommends that States adopt requirements consistent with the presumptive norm. However, the presumptive norm is only a recommendation. States may choose to develop their own RACT requirements on a case-by-case basis, considering the economic and technical circumstances of the individual source.

This CTG addresses RACT for control of VOC emissions from offset lithographic printing operations. Offset lithographic printing is one type of printing in the "graphic arts" industry. This CTG addresses VOC emissions from raw materials used in the offset lithographic printing process. For the purposes of the CTG, the offset lithographic industry was divided into four segments: heatset web, non-heatset web newspaper, non-heatset web (non-newspaper) and non-heatset sheet, based on the type of printing process (heatset or non-heatset) and type of substrate (web or roll; and individual sheets).

The EPA estimates that State and local regulations developed pursuant to this draft CTG would affect about 34,500 facilities and reduce volatile organic compound emissions by about 468,000 tons per year at a cost of about $110,000,000 per year (assuming no credit for reduction of alcohol used in fountain solution). Further information on costs and controls is presented in the draft CTG document. The EPA requests comments from the public on all aspects of the draft CTG including the recommendations for RACT and the estimated cost of control.

Under Executive Order (E.O.) 12291, the EPA must judge whether a rule is "major" and therefore subject to the requirement of a regulatory impact analysis. This CTG document is not a "rulemaking," rather it provides information to States to aid them in developing rules. This **Federal Register** notice and copies of the draft CTG were submitted to the Office of Management and Budget (OMB) for review. Any comments from OMB to the EPA and any EPA responses to those comments will be included in the docket. This docket is available for public inspection at the Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, which is listed in the **ADDRESSES** section of this notice.

Dated: October 15, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–27421 Filed 11–5–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4798–4]

Indiana: Final Partial Program Determination of Adequacy of State Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency (Region 5).

ACTION: Notice of final partial program determination of adequacy on Indiana's application

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive household hazardous waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the United States Environmental Protection Agency (U.S. EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule governing such determinations. The U.S. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which the U.S. EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility.

Indiana applied for a partial program determination of adequacy under section 4005 of RCRA. The U.S. EPA reviewed Indiana's application and made a tentative determination of adequacy for those portions of the MSWLF permit program that are adequate to ensure compliance with the revised Federal MSWLF Criteria. After reviewing all comments received, the U.S. EPA today is granting final partial approval to Indiana's program.

EFFECTIVE DATE: The determination of adequacy for Indiana is effective on November 8, 1993.

FOR FURTHER INFORMATION CONTACT: U.S. EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604 Attn: Mr. Andrew Tschampa, mailcode HRP–8J, telephone (312) 886–0976.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, the U.S. EPA promulgated revised Federal MSWLF Criteria (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the revised Federal Criteria. Subtitle D also requires in section 4005 that the U.S. EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal MSWLF Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

The U.S. EPA intends to propose in the STIR to allow partial approval if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2) changes to a limited 32 narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of 40 CFR part 258. As provided in the recent extension to the revised Federal MSWLF Criteria (58 FR 51536, October 1, 1993), the U.S. EPA's national subtitle D standards will take effect in October 1993 for facilities that accept more than 100 tons per day and April 1994 for smaller facilities. Consequently, any portions of the revised Federal MSWLF Criteria which are not included in an approved State/Tribal program by October 1993, would apply directly to owners/operators of large MSWLFs and portions not included by April 1994 would apply directly to owners and operators of small MSWLFs. The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR. Consequently, the U.S. EPA reviewed the program approved today and concluded that the State and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the revised Federal MSWLF Criteria's flexibility for those portions of the program which have been approved.

The U.S. EPA will review the State/Tribe's requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. The U.S. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to the revised Federal MSWLF Criteria. Second, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe must also provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Third, the U.S. EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator who fails to comply with an approved MSWLF program.

The U.S. EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. The U.S. EPA plans to provide more specific criteria for this evaluation when it proposes the STIR. The U.S. EPA is also requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. The U.S. EPA notes that it intends to propose to make submissions of a schedule mandatory in the STIR.

B. State of Indiana

On June 3, 1993, Indiana submitted an application to obtain a partial program adequacy determination for the State's municipal solid waste landfill permit program. On July 23, 1993, the U.S. EPA published a tentative determination of adequacy for Indiana's program. Further background on the tentative partial program determination of adequacy appears at 58 FR 39546, July 23, 1993.

Along with the tentative determination, the U.S. EPA announced the availability of the application for public comment and the date of a public hearing on the application. The public hearing was held on September 15, 1993.

The U.S. EPA has reviewed Indiana's application and has determined that the State's subtitle D program will ensure compliance with the following portions of the revised Federal Criteria.

1. Location restrictions for airport safety, except the requirement to notify the Federal Aviation Administration found in 40 CFR 258.10(b), floodplains for new units and lateral expansion only, and wetlands (U.S. EPA approval is for Indiana requirements that are comparable to 40 CFR 258.10(a), 258.11 (new units and lateral expansions only), and 258.12);

2. Operating criteria for cover materials, disease vector control, air criteria, access restrictions, run-on/run-off control systems, surface water, liquids restrictions, and explosive gas control, except the requirements for quarterly gas monitoring and development of a remediation plan found in 40 CFR 258.23(b)(2) and 258.23(c)(2) and (3) (U.S. EPA approval is for Indiana requirements that are comparable to 40 CFR 258.21, 258.22, 258.24, 258.25, 258.26, 258.27, 258.28, and 258.23(a), 258.23(b)(1), 258.23(c)(1));

3. Groundwater monitoring systems, groundwater sampling and analysis requirements (U.S. EPA approval is for Indiana requirements that are comparable to 40 CFR 258.50, 258.51, 258.53);

4. Closure requirements, except the final cover requirements found in 40 CFR 258.60(a) and (b), and the requirement to include an estimate of the maximum inventory of wastes in the closure plan found in 40 CFR 258.60(c)(3) (U.S. EPA approval is for Indiana requirements that are comparable to 40 CFR 258.60(c)(1),(2),(4) and 258.60 (d)-(i));

5. Post-closure care requirements, except the requirement to include in the post-closure plan a description of planned uses for the site found in 40 CFR 258.61(c) (U.S. EPA approval is for Indiana requirements that are comparable to 40 CFR 258.61(a) and (b), 258.61(c)(1) and (2), 258.61(d) and (e)); and

6. Financial assurance requirements and allowable mechanisms for closure and post-closure care (U.S. EPA approval is for Indiana requirements that are comparable to 40 CFR 258.71, 258.72, and 258.74).

Indiana MSWLF permit program has the authority to issue permits that incorporate the requirements in the revised Federal MSWLF Criteria to all MSWLFs in the State. In addition, the U.S. EPA has determined that Indiana's permit program contains provisions for public participation, compliance monitoring, and enforcement. When a permit application is deemed administratively complete by Indiana, a public notice is published to solicit public comment and requests for a public hearing. All information submitted to Indiana for the application is available for public review. All comments are addressed in a Responsiveness Summary that is prepared along with the Notice of Decision. The Responsiveness Summary and the Notice of Decision are mailed to anyone who lives within 1 mile of the proposed facility, anyone submitting comment, and anyone who requests notification.

The Indiana compliance monitoring program has the authority to obtain information from a MSWLF facility, as well as the authority to enter and inspect any MSWLF site or record pertaining to solid waste management, to determine compliance. Indiana has mechanisms to verify the accuracy of information submitted by a MSWLF facility to verify the sampling methods used by a MSWLF facility, and to produce evidence admissible in an enforcement proceeding. Indiana has the authority to conduct monitoring or testing to ensure compliance. Indiana inspects MSWLFs to verify and document compliance with solid waste regulations, deter violations, and provide opportunities to inform and educate the regulated community.

Indiana has the authority to implement the following remedies for violation of program requirements:

1. Authority to restrain a person from conducting an activity that may endanger or cause damage of human health or the environment;

2. Authority to sue an individual who is violating provisions of any statutes, regulations, orders, or permits that have been issued by the State; and

3. Authority to administratively assess penalties for violating statutes, regulations, orders, or permits.

To ensure compliance with all of the revised Federal MSWLF Criteria, Indiana intends to revise the following aspects of its permit program.

1. Indiana will revise its regulations to incorporate the Federal location restrictions for airports (notification of FAA only), floodplains for existing MSWLF units, fault areas, seismic impact zones, unstable areas and closure of existing MSWLF units in 40 CFR 258.10(b), 258.11, 258.13, 258.14, 258.15, and 258.16.

2. Indiana will revise its regulations to incorporate the Federal operating requirements for the exclusion of hazardous waste, quarterly monitoring of explosive gases, implementation of remediation plan for explosive gas control, and recordkeeping in 40 CFR 258.20, 258.23(b)(2), 258.23(c)(2) and (3), and 258.29.

3. Indiana will revise its regulations to incorporate Federal design requirements in 40 CFR 258.40. Indiana has committed to developing a design requirement that, at a minimum, meets the requirements of 40 CFR 258.40.

4. The Federal Criteria require unfiltered groundwater samples to be used in laboratory analysis. Currently, Indiana allows samples to be filtered and preserved in the field in accordance with standard published procedures. The Agency intends to revisit this issue during a proposed rulemaking. If the proposed rulemaking upholds the ban on field filtering, the State will be required to come into compliance with the provisions in 40 CFR 258.53(b). In the meantime, the State will not be given approval of this requirement.

5. Indiana will revise its regulations to incorporate detection and assessment groundwater monitoring programs and parameters that are consistent with the revised Federal Criteria in 40 CFR 258.54 and 258.55.

6. Indiana will revise its regulations to incorporate the Federal requirements for corrective action, as described in 40 CFR 258.56, 258.57, and 258.58.

7. Indiana will revise its regulations to incorporate the Federal Criteria for the final cover (40 CFR 258.60(a) and (b)), the maximum inventory of waste ever on-site in the closure plan (40 CFR 258.60(c)(3)), and the requirement to include a description of planned uses of the MSWLF in the post-closure care plan (40 CFR 258.61(c)(3)).

8. Indiana will revise its regulations to incorporate the Federal Criteria for financial assurance for corrective action (40 CFR 258.73).

The U.S. EPA received the following written public comments on its tentative determination of partial program adequacy for Indiana's MSWLF permit program.

One commenter requested clarification of the effect of Indiana's generic permit modification conditions. The commenter believed that by meeting the conditions of the generic permit modification, an owner/operator would also ensure compliance with all of 40 CFR part 258. The commenter

requested confirmation that this understanding was correct. In the spring of 1993, IDEM provided a copy of a draft generic permit modification to all owners/operators in the State and requested comment. IDEM intended to finalize this generic permit modification to allow a streamlined method to modify operating and construction permits so that facilities could continue to operate in accordance with the State permit while also complying with certain components of the new Federal Criteria. The draft generic permit modification was also provided to the U.S. EPA for review. The draft modification applied only to new and existing units (not lateral expansions) and did not address groundwater monitoring, corrective action, or financial assurance requirements. Therefore, it could not be used by an owner/operator to ensure complete compliance with 40 CFR part 258. The U.S. EPA believes that the draft generic permit modification adequately addressed the Federal location restrictions, operating requirements, design requirements, and closure and post-closure care requirements for new and existing units. It is the U.S. EPA's understanding that IDEM does not plan to finalize the draft generic permit modification and will instead address permit modifications on a site-by-site basis. The U.S. EPA recommends that owners/operators work closely with the State to determine how to comply with the Federal criteria and State permit conditions. Indiana has indicated in its application that it is committed to having all landfills in the State comply with subtitle D requirements.

One commenter maintained that use of the draft STIR as guidance is a violation of the Administrative Procedure Act ("APA") requirements that a rule must go through notice and opportunity for comment. The U.S. EPA does not believe that it is violating any requirements of the APA. The Agency is not utilizing the draft STIR as a regulation which binds either the Agency or the States/Tribes. Instead, the U.S. EPA is using the draft STIR as guidance for evaluating State/Tribal permit programs utilizing the draft STIR and/or other criteria which assures compliance with 40 CFR part 258.

In addition, members of the public have an opportunity to comment on the criteria by which the U.S. EPA assures the adequacy of State/Tribal MSWLF permit programs because the Agency discusses the criteria for approval of a permit program when it publishes each tentative determination notice in the **Federal Register**. In the tentative determination notice for partial approval of the State of Indiana's permit program, the Agency sets forth for public comment the requirements for an adequate permit program. 58 FR 39546 (July 23, 1993).

Indiana submitted a schedule indicating that it will be able to complete these revisions and amendments by October 9, 1995. As explained in the notice of tentative determination, the U.S. EPA reviewed the schedule and concluded that it was reasonable.

After publication of the tentative determination, the Indiana Department of Environmental Management experienced a severe budget reduction. In a letter dated September 14, 1993, the U.S. EPA requested clarification from IDEM on how the budget reductions would affect implementation of subtitle D requirements. In a response dated October 4, 1993, IDEM indicated it was working to correct the budget shortfall in the next legislative session, which is expected to be concluded by March 1, 1994. IDEM committed to pursuing full approval for implementation of subtitle D requirements once the budget situation is resolved. The U.S. EPA's decision to move forward with this final partial approval is based on the assumption that IDEM will successfully resolve the budget situation and will fulfill the commitments made in the June 3, 1993, application. Failure to fulfill these commitments could provide grounds for withdrawal of today's partial determination of adequacy.

The U.S. EPA cautions Indiana that it currently plans to propose in the STIR that all partial approvals will expire in October 1995, for States/Tribes that have not received final approval for all provisions of 40 CFR part 258. Expiration of a partial approval would mean that the less flexible revised Federal Criteria would once again be effective in that State/Tribe. The U.S. EPA urges Indiana to work diligently to make all of the necessary revisions to those portions of its permit program that are not receiving approval today.

C. Decision

After reviewing the public comments submitted since the tentative decision, I conclude that Indiana's application for partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Indiana is granted a partial program determination of adequacy for the following areas of its municipal solid waste program.

1. Location restrictions for airport safety, except the requirement to notify the Federal Aviation Administration found in 40 CFR 258.10(b), floodplains for new units and lateral expansion only, and wetlands (40 CFR 258.10(a), 258.11 (new units and lateral expansions only, and 258.12);

2. Operating criteria for cover materials, disease vector control, air criteria, access restrictions, run-on/run-off control systems, surface water, liquids restrictions, and explosive gas control, except the requirements for quarterly gas monitoring and development of a remediation plan found in 40 CFR 258.23(b)(2) and 258.23(c)(2) and (3) (40 CFR 258.21, 258.22, 258.24, 258.25, 258.26, 258.27, 258.28, and 258.23(a), 258.23(b)(1), 258.23(c)(1));

3. Groundwater monitoring systems, groundwater sampling and analysis requirements (40 CFR 258.50, 258.51, 258.53);

4. Closure requirements, except the final cover requirements found in 40 CFR 258.60(a) and (b), and the requirement to include an estimate of the maximum inventory of wastes in the closure plan found in 40 CFR 258.60(c)(3) (40 CFR 258.60(c)(1),(2),(4) and 258.60(d)-(i));

5. Post-closure care requirements, except the requirement to include in the post-closure plan a description of planned uses for the site found in 40 CFR 258.61(c) (40 CFR 258.61(a) and (b), 258.61(c)(1) and (2), 258.61(d) and (e)); and

6. Financial assurance requirements and allowable mechanisms for closure and post-closure care (40 CFR 258.71, 258.72, and 258.74).

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the revised Federal MSWLF criteria in 40 CFR part 258 independent of any State enforcement program. As the U.S. EPA explained in the preamble to the revised Federal MSWLF Criteria, the U.S. EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by the U.S. EPA should be considered to be in compliance with the revised Federal MSWLF Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on the date of publication. The U.S. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C., to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's program are already in effect as a matter of State law. The U.S. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become

enforceable by the U.S. EPA as Federal law. Consequently, the U.S. EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this notice from the requirements of section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: October 29, 1993.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 93–27420 Filed 11–5–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857–3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632–0276. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395–3561.

OMB Number: 3060–0168.

Title: Section 43.43, Reports of Proposed Changes in Depreciation Rates.

Action: Revision of a currently approved collection.

Respondents: Businesses or other for-profit.

Frequency of Response: On occasion reporting requirement and Other: Triennially, but carriers may report more often.

Estimated Annual Burden: 12 responses; 10,000 hours average burden per response; 120,000 hours total annual burden.

Needs and Uses: In the attached *Report and Order*, CC Docket No. 92–296, the Commission streamlined its depreciation prescription process for local exchange carriers (LECs) regulated under its price cap regulatory scheme and for AT&T. However, at this time, the Commission will not adopt any of the simplification proposals for Alascom or the LECs currently regulated under a rate of return regulatory scheme. We find that because of the direct relationship between depreciation expenses and rates to consumers and the general competitive position of LECs currently regulated under a rate of return regulatory scheme we must maintain our current process for these LECs. Depreciation simplification for Alascom is being deferred because the Alaska interexchange market is in transition. The Commission has adopted a modified form of the proposed basic factor range option for the LECs regulated under our price cap regulatory scheme and a modified form of the price cap carrier option for AT&T. Under the basic factor range approach, the FCC will: (1) Over time, establish ranges for all accounts, to the extent feasible and as soon as possible; (2) establish ranges for two of the basic factors comprising the depreciation rate formula: the projection life and future net salvage estimates; (3) allow price cap LECs a certain degree of flexibility to select basic factors from within the established ranges; and (4) require price cap LECs to continue to submit the same analyses as now required for accounts for which no ranges have been set (non-range accounts) and accounts for which the carrier's basic factors do not fall within the ranges. Pursuant to the price cap carrier option adopted for AT&T, AT&T will provide: (1) Generation data; (2) a summary of basic factors underlying proposed rates by account; and (3) a short narrative supporting those basic factors, including forecasted retirements and additions, and recent annual retirements, salvage, and cost of removal. The R&O changes the depreciation prescription filing requirements price cap LECs and AT&T are subject to under the Commission's Rules. The rule change is intended to lessen the depreciation prescription burden on price cap LECs and AT&T in light of regulatory and market changes without sacrificing protection for consumers. As mentioned above, rate of return carriers and Alascom will remain subject to the requirements currently in place.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93–27389 Filed 11–5–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1983]

Petitions for Partial Reconsideration and Clarification of Actions in Rulemaking Proceedings

November 3, 1993.

Petitions for partial reconsideration and clarification have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc., (202) 857–3800. Opposition to these petitions must be filed November 23, 1993. See section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies (ET Docket No. 92–9 RM No. 7981 and 8004).

Petition for Partial Reconsideration

Number of Petitions Filed: 2

Petition for Clarification or Partial Reconsideration

Number of Petitions Filed: 1

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93–27335 Filed 11–5–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1980]

Petitions for Reconsideration, Limited Reconsideration and Review of Actions in Rulemaking Proceedings

November 3, 1993.

Petitions for reconsideration, consideration and review have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy

contractor ITS, Inc. (202) 857–3800. Opposition to these petitions must be filed November 23, 1993. See § 1.4(b) (1) of the Commission's rules (47 CFR 1.4 (b) (1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act (CC Docket No. 93–22, RM No. 7990).

Petition for Reconsideration

Number of Petitions Filed: 3

Petition for Limited Reconsideration

Number of Petitions Filed: 1

Subject: Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations (Rocky Mount, North Carolina) (MM Docket No. 90–316 RM No. 7059).

Application for Review

Number of Petitions Filed: 1

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93–27338 Filed 11–5–93; 8:45 am]

BILLING CODE 6712–01–M

[Report No. 1981]

Petitions for Reconsideration, Partial Reconsideration and Clarification of Actions in Rulemaking Proceedings

November 2, 1993.

Petitions for reconsideration, partial reconsideration and clarification have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc., (202) 857–3800. Opposition to these petitions must be filed November 23, 1993. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Expanded Interconnection with Local Telephone Company Facilities (CC Docket No. 91–141).

Petition for Reconsideration

Number of Petitions Filed: 11

Petition for Partial Reconsideration

Number of Petitions Filed: 3

Petition for Reconsideration and Clarification

Number of Petitions Filed: 2

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 93–27339 Filed 11–5–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Blue Star/ Columbus/Serpac Cooperative Working Agreement et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011433.

Title: Blue Star/Columbus/Serpac Cooperative Working Agreement

Parties:

Blue Star (North America) Limited
Hamburg-Sudamerikanische Dampfschifffahrts-Gesellschaft Eggert & Amsinck
Flota Mercante Grancolombiana S.A.
Naviera Interamericana Navicana S.A. Compania Sud Americana De Vapores.

Synopsis: The proposed Agreement would authorize the parties to utilize common terminals and stevedores on the U.S. Pacific Coast, negotiate with them jointly or in parallel, and coordinate port calls.

Agreement No.: 224–200312–003.

Title: Suspension Agreement between Port of Oakland/Hapag-Lloyd (America) Inc., as successor to Hapag Lloyd A.G.

Parties:

Port of Oakland
Hapag-Lloyd (America) Inc.

Synopsis: The proposed amendment suspends the operation and term of Agreement No. 224–200312 until December 31, 1994.

By order of the Federal Maritime Commission.

Dated: November 2, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–27341 Filed 11–5–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Royal Caribbean Cruises Ltd., 1050 Caribbean Way, Miami, Florida 33132.
Vessels: Project Vision One and Project Vision Two.

Dated: November 2, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–27333 Filed 11–5–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Financial Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased

competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 2, 1993.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First Financial Bancorp, Hamilton, Ohio; to acquire Highland Federal Savings Bank, Cincinnati, Ohio, and thereby engage in operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-27386 Filed 11-5-93; 8:45 am]

BILLING CODE 6210-01-F

Hasten Bancshares; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 2, 1993.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Hasten Bancshares, Indianapolis, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Hasten Bancorp, Indianapolis, Indiana, and thereby indirectly acquire First National Bank, Kokomo, Indiana; Sullivan-Peoples State Bank, Sullivan, Indiana, and First Bank & Trust Co. of Clay County, Brazil, Indiana.

In connection with this application, Applicant also proposes to acquire Hasten Financial Services, Inc., Indianapolis, Indiana, and thereby engage in securities brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 2, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-27388 Filed 11-5-93; 8:45 am]

BILLING CODE 6210-01-F

Wesbanco, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 2, 1993.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Wesbanco, Inc., Wheeling, West Virginia; to merge with First Fidelity Bancorp, Inc., Fairmont, West Virginia; and thereby indirectly acquire First National Bank in Fairmont, Fairmont, West Virginia; FirstBank Shinnston, Shinnston, West Virginia; Bridgeport Bank, Bridgeport, West Virginia; and Central National Bank, Morgantown, Morgantown, West Virginia.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. One Valley Bancorp of West Virginia, Inc., Charleston, West Virginia; to merge with Mountaineer Bankshares of West Virginia, Inc., Martinsburg, West Virginia, and thereby indirectly acquire The Empire National Bank of Clarksburg, Clarksburg, West Virginia; City National Bank of Fairmont, Fairmont, West Virginia; The Bank of Wadestown, Fairview, West Virginia; Old National Bank, Martinsburg, West Virginia; Mercantile Banking and Trust Company, Moundsville, West Virginia; and The First National Bank of Cameron, Cameron, West Virginia; and Sunrise Bancorp, Inc., Wheeling, West Virginia, and thereby indirectly acquire The Sunrise Bank of Wheeling, Wheeling, West Virginia.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. LeRoy C. Darby, Inc., Employee Stock Ownership Plan, Monona, Iowa; to become a bank holding company by acquiring 30 percent of the voting shares of LeRoy C. Darby, Inc., Monona, Iowa, and thereby indirectly acquire Union State Bank, Monona, Iowa, and Peoples State Bank, Elkader, Iowa.

Board of Governors of the Federal Reserve System, November 2, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-27387 Filed 11-5-93; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 101893 AND 102993

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Cultus Petroleum N.L., an Australian Company, Exxon Corporation, Esso Timor Sea Ltd., a Delaware corp	93-1727	10/18/93
Stichting Administratiekantoor Vitol Holding II, Michael R. Kutsch, Catex Energy, Inc	93-1739	10/18/93
Silgan Holdings Inc., Del Monte Foods Company, Del Monte Corporation and DM Can Corporation	93-1777	10/18/93
General Signal Corporation, United Dominion Industries, Ltd., The Marley Company (Layne & Bowler Division)	93-1817	10/18/93
Hollandsche Beton Groep NV, Misener Marine, Inc., Misener Marine, Inc	93-1821	10/18/93
UniHealth America, James R. Lindsey and Patricia A. Lindsey, California Dental Health Plan	93-1838	10/18/93
Ampolex Limited, Phillips Petroleum Company, Phillips Australian Oil Company	93-1842	10/18/93
AGIV Aktiengesellschaft fur Industrie und Verkehrswesen, Flatiron Structures Company LLC, Flatiron Structures Company LLC	94-0028	10/18/93
Orion Capital Corporation, Intercargo Corporation, Intercargo Corporation	94-0030	10/18/93
Heidelberger Zement AG, Cimenteries C.B.R. S.A., Cimenteries C.B.R. S.A	94-0039	10/18/93
Jacques Gaston Murray, Doral Beach Holding Corporation, Doral Beach Holding Corporation	94-0042	10/18/93
Steward A. Resnick and Lynda Rae Resnick, Schmid, Inc., Schmid, Inc	94-0043	10/18/93
Madison Dearborn Capital Partners, L.P., PowerFone Holdings, Inc., PowerFone Holdings, Inc	94-0044	10/18/93
Welsh, Carson, Anderson & Stowe VI, L.P., Quorum Health Group, Inc., Quorum Health Group, Inc	93-1827	10/19/93
Grand Metropolitan Public Limited Company (of England), Benziger Family Ranch Associates, Glen Ellen Winery	94-0019	10/19/93
Primerica Corporation, The Travelers Corporation, The Travelers Corporation	94-0021	10/19/93
Shimizu Corporation, Shimizu Corporation, Wailea Beach Palace Company	94-0031	10/19/93
Fukuoka Jisho Co., Ltd., Shimizu Corporation, Waikapu Mauka Partners	94-0032	10/19/93
American Home Products Corporation, Syntex Corporation, Syntex (U.S.A.) Inc	94-0037	10/19/93
Paul G. Allen, Metricom, Inc., Metricom, Inc	94-0058	10/19/93
Bennett Lumber Products, Inc., KKR Associates, L.P., Daw Forest Products Company, L.P	94-0020	10/20/93
Potlatch Corporation, KKR Associates, L.P., DAW Forest Products Company, L.P	94-0027	10/20/93
The Southern Company, Catellus Development Corporation, Catellus Development Corporation	94-0029	10/20/93
NOCO Management Ltd., a Texas Limited Liability Company, Atlantic Richfield Company, North Dauphin Island Field Offshore Alabama	94-0059	10/20/93
Cypress Semiconductor Corporation, John and Patricia Torode, IC Designs, Inc	93-1799	10/21/93
Culp, Inc., Ronald W. Satterfield, Mallard Fabrics, Inc., Rossville Companies, Inc. and	94-0004	10/21/93
Caraustar Industries, Inc., Cypress Equity Holdings, L.P., Federal Packaging Corporation	94-0012	10/21/93
Tandycrafts, Inc., Alan M. Wiener, Impulse Designs, Inc	94-0036	10/21/93
Anderson Exploration Ltd. (a Canadian company), AMAX, Inc., Amax Petroleum of Canada Inc. (a US Corp.)	94-0041	10/21/93
Abdullah Taha Bakhsh, Mona Lisa Goeken, The Goeken Group Corporation	93-1642	10/22/93
The Society of the New York Hospital, Foundation for United Hospital, Inc., United Hospital Medical Center	93-1837	10/22/93
Cadmus Communications Corporation, Waverly, Inc., Waverly Press	94-0007	10/22/93
FKI plc, SPX Corporation, SPX Corporation (Truth Division)	94-0013	10/22/93
Amoco Corporation, American Central Gas Companies, Inc., American Central Gas Companies, Inc	94-0017	10/22/93
Orion Capital Corporation, Intercargo Corporation, Intercargo Corporation	94-0038	10/22/93
Insurance Auto Auctions, Inc., Sears, Roebuck and Co., Tech-Cor, Inc	94-0049	10/22/93
Sears, Roebuck and Co., Insurance Auto Auctions, Inc., Insurance Auto Auctions, Inc	94-0050	10/22/93
Joseph Charles Lewis, Attwoods plc, Mindis Consolidated Corporation	94-0057	10/22/93
Spartan Stores, Inc., James F. Walker, J.F. Walker Company, Inc	94-0060	10/22/93
China Aviation Supplies Corp., Delta Air Lines, Inc., Delta Air Lines, Inc	94-0061	10/22/93
Gourmet Coffees of America, Inc., Edward C. Kvetko and Gloria Jean Kvetko, Edglo Enterprises, Inc	94-0062	10/22/93
Associated Natural Gas Corporation, Tenneco Inc., Dean Pipeline Company	94-0071	10/22/93
Hooper Holmes, Inc., Guy W. Millner, Norrell Health Care, Inc	94-0080	10/22/93
PR Holding, Inc., a Philippines Company, Delta Air Lines, Inc., Delta Air Lines, Inc	94-0081	10/22/93
Trinity Capital Opportunity Corp., Joseph J. Bianco, Alliance Entertainment Corp	94-0089	10/22/93
Joseph J. Bianco, Trinity Capital Opportunity Corp, Trinity Capital Opportunity Corp	94-0090	10/22/93
Alec E. Gores, Schlumberger Limited, Applicon, Inc	94-0009	10/25/93
Value Health, Inc., Preferred Health Care Ltd., Preferred Health Care Ltd	94-0033	10/25/93
Bain Capital Partners IV, L.P., Armco Inc., R&B Steel, Inc	94-0047	10/25/93
The Pittston Company, Addington Resources, Inc., Addington, Inc., Appalachian Mining, Inc	94-0003	10/26/93

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 101893 AND 102993—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Code, Hennesy & Simons Limited Partnership, Trench Associates, L.P., Trench Holding Company, Inc	94–0053	10/26/93
General Motors Corporation, William J. Devers, Jr., World Computer Corporation	94–0069	10/26/93
Brian Pratt, William M. McCune and Lorraine McCune, Macco Constructors, Inc. and Paramount Construction	94–0087	10/27/93
Alcatel Alsthom, Berk-Tek, Inc., Berk-Tek, Inc	94–0040	10/28/93
Victor J. Barnett, Prudential Corporation, plc, Arcade, Inc	94–0099	10/29/93
Nacolah Group Inc., Nacolah Holding Corporation, Nacolah Holding Corporation	94–0102	10/29/93
Sinclair Broadcast Group, Inc., ABRY Communications, L.P., WTTO, Inc., WCGV, Inc., WNUV TV–54 limited	94–0107	10/29/93
Sinclair Broadcast Group, Inc., Gaylord Entertainment Company, WVTV, Inc	94–0108	10/29/93
Berkshire Fund III, A Limited Partnership, Chrysler Corporation, Marine Asset Management Corporation	94–0122	10/29/93
Lyonnaise Des Eaux-Dumez, Ronald W. Cantwell, United Thermal Corporation	94–0125	10/29/93
Bain Capital Partners IV, L. P., GT Bicycles, Inc., GT Bicycles, Inc	94–0130	10/29/93

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93–27440 Filed 11–5–93; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice of November meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the monthly meeting of the Federal Accounting Standards Advisory Board will be held on Thursday, November 18, 1993 from 9 a.m. to 4 p.m. in room 7313 of the General Accounting Office, 441 G Street NW., Washington, DC.

The agenda for the meeting includes discussions relating to (1) the Capital Expenditures project and (2) general concepts.

We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information and confirm the date of the meeting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT:
Ronald S. Young, Staff Director, 750 First Street NE., room 1001, Washington, DC 20002, or call (202) 512–7354.

Authority: Federal Advisory Committee Act. Pub. L. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988)); 41 CFR 101–6.1015 (1990).

Dated: November 2, 1993.

Ronald S. Young,

Executive Director.

[FR Doc. 93–27404 Filed 11–5–93; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86N–0180]

Public Information; List of All Memoranda of Understanding and Agreements Between FDA and State or Local Government Agencies; Availability; Correction and Update

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction and update.

SUMMARY: The Food and Drug Administration (FDA) is correcting and updating a notice that appeared in the **Federal Register** of September 20, 1993 (58 FR 48889). The document published a list of all memoranda of understanding (MOU's) that are cooperative work-sharing agreements currently in effect between FDA and State or local government agencies. The document was published with two inadvertent errors. This document corrects those errors and, in addition, updates the list of MOU's.

ADDRESSES: Submit written requests for single copies of any of the listed MOU's to the Division of Federal-State Relations (HFC–150), Food and Drug Administration, rm. 12–07, 5600 Fishers Lane, Rockville, MD 20857. Requests should be identified with the Compliance Policy Guide (CPG) number and title of the document. The listed MOU's are also available for public examination in the office of the Freedom of Information Staff, Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Glenn Johnson, Division of Federal-State Relations (HFC–152), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3360.

In FR Doc. 93–22865, appearing on page 48889 in the **Federal Register** of Monday, September 20, 1993, the following corrections are made:

1. On page 48891, in the first and third columns, under the headings "CPG Number" and "Title", the entries for "7157.26" and "7157.44", respectively are removed.

2. On page 48892 the list of MOU's is updated by adding in numerical order the following entries:

CPG Number	Title
7157.55	MOU with *South Carolina* Department of Agriculture, U.S. Department of Agriculture, Food Safety and Inspection Service, Southeastern Region, Animal and Plant Health Inspection Service, Veterinary Service, and Clemson University Regarding the Detection, Investigation, Documentation and Control of Violative Levels of Drugs, Pesticides and Toxic Chemical Residues in Edible Tissues Derived from Food Animals (FDA–225–91–4006)
7157.56	MOU with the State of *North Carolina* Department of Agriculture Concerning Their Mutual Planning and Sharing Reports of Inspections, Investigations, and Analytical Findings Relating to Food and Drug Firms in the State of *North Carolina* (FDA–225–93–4000)

CPG Number	Title
7157.57	MOU with the *Washington* State Department of Agriculture Concerning Their Mutual Planning and Sharing Reports of Inspections, Investigations, and Analytical Findings Relating to Food Firms in the State of *Washington* (FDA–225–93–4001)
7157.58	MOU with the *South Carolina* Department of Health and Environmental Control Concerning Mutual Planning and Sharing Reports of Inspections, Investigations, and Analytical Findings Relating to Food Firms in the State of *South Carolina* (FDA–225–93–4002)
7157.59	MOU with the *Oregon* Department of Agriculture Concerning Mutual Planning and Sharing Reports of Inspections, Investigations, and Analytical Findings Relating to Food Firms in the State of Oregon (FDA–225–93–4003)
7157.60	MOU with the *Iowa* Department of Agriculture and Land Stewardship Concerning the Inspection, Investigation, and Analytical Findings Relative to Animal Feed Firms in the State of *Iowa* (FDA–225–93–4004)
7157.61	MOU with the *Florida* Department of Agriculture and Consumer Services and Food Safety and Inspection Service, USDA, Concerning Regulatory Investigations Involving Drug, Pesticide, and Environmental Chemical Residues in Animal Feeds, Meats, and Poultry Tissue (FDA–225–91–4007)
7157.62	MOU with the Commercial Feed Regulatory Agencies of the States of *Illinois, Indiana, Michigan, Minnesota, North Dakota, South Dakota* and *Wisconsin* Concerning Mutual Planning, Sharing of Information and Training in Matters Relating to Animal Feed and the Impacts of Animal Feed on Food (FDA–225–93–4009)
7157.63	MOU with *Delaware* Division of Public Health to Coordinate Their Regulatory Activities as They Relate to the Inspection of the Food Processing Industry Within the State of *Delaware* (FDA–225–93–4008)
7157.64	MOU with the Commonwealth of *Puerto Rico* Department of Consumer Affairs Concerning Cooperative Education Initiatives, Mutual Planning, Sharing Reports of Inspections, Investigations, and Analytical Findings Relating to both Agency's Areas of Responsibilities Including Health Fraud Surveillance and Administrative/Regulatory Action (FDA–225–94–4000)
7157.65	MOU with the *Iowa* Department of Inspections and Appeals Concerning the Inspection, Investigation and Analytical Findings Relative to Wholesale Food Establishments in the State of *Iowa* (FDA–225–94–4001)

Dated: November 2, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–27394 Filed 11–5–93; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Request:* Reinstatement; *Title of Information Collection:* Business Proposal Formats for Utilization and Quality Control Peer Review Organizations (PROs); *Form Nos.:* HCFA–718–723; *Use:* Submission of proposal information by current PROs and other bidders, according to the business proposal instructions, will satisfy HCFA's need for meaningful, consistent, and verifiable data with which to evaluate contract proposals; *Frequency:* Every 3 years; *Respondents:* Businesses or other for profit, State or local government, small businesses or organizations; *Estimated Number of Responses:* 20; *Average Hours Per Response:* 108.75; *Total Estimated Burden Hours:* 2,175.

2. *Type of Request:* Reinstatement; *Title of Information Collection:* Home Health Agency Plan of Treatment Forms; *Form Nos.:* HCFA–485–487; *Use:* These forms are used by the fiscal intermediaries to assure that reimbursement is made to home health agencies only for services that are covered under Medicare Part A and Part B; *Frequency:* On occasion; *Respondents:* Businesses or other for profit; *Estimated Number of Responses:* 6,800,000; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 1,700,000 (reporting) and 1,700,000 (recordkeeping) for a total of 3,400,000.

3. *Type of Request:* Unapproved, In Use; *Title of Information Collection:* State Survey Agency Budget Expenditure Report and State Agency Certification Workload Report; *Form Nos.:* HCFA–434, –435; *Use:* The information collected is the expenses incurred by the State agencies for carrying out the survey and certification of Medicare and Medicaid facilities. This information is also used in projecting program cost for future years. In addition, anticipated and accomplished workloads must accompany appropriate financial reports; *Frequency:* Annually and quarterly; *Respondents:* State or local governments; *Estimated Number of Responses:* HCFA–434 (212), HCFA–435 (53); *Average Hours Per Response:* HCFA–434 (16), HCFA–435 (160); *Total Estimated Burden Hours:* HCFA–434 (3,392), HCFA–435 (8,480), for a total of 11,872.

4. *Type of Request:* Reinstatement; *Title of Information Collection:* Home Health Agency Cost Report; *Form No.:* HCFA–1728; *Use:* This form is used by home health agencies to report their health care costs to determine amounts reimbursable for the services furnished to Medicare beneficiaries; *Frequency:* Annually; *Respondents:* State and local governments, Businesses or other for profit, nonprofit institutions; *Estimated Number of Responses:* 4,824; *Average Hours Per Response:* 160; *Total Estimated Burden Hours:* 771,840.

5. *Type of Request:* Reinstatement; *Title of Information Collection:* Recordkeeping Requirements in Provider Reimbursement Manual; *Form No.:* HCFA–R–107; *Use:* This requires transplantation facilities to document their efforts in placing a harvested kidney in a Medicare-eligible patient; *Frequency:* With each kidney retrieval; *Respondents:* Businesses or other for profit, nonprofit institutions; *Estimated Number of Responses:* 9,000; *Average Hours Per Response:* Reporting (.083), Recordkeeping (.167); *Total Estimated Burden Hours:* 2,250.

6. *Type of Request:* Revision; *Title of Information Collection:* Quarterly

Medicaid Statement of Expenditures; *Form No.:* HCFA–64; *Use:* This form is submitted by State Medicaid agencies to report their actual program and administrative expenditures. HCFA uses the information to compute the Federal share for reimbursement of the State's Medicaid program costs; *Frequency:* Quarterly; *Respondents:* State or local governments; *Estimated Number of Responses* 228; *Average Hours Per Response:* 53.5; *Total Estimated Burden Hours:* 12,198.

7. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Contract Application for Federally Qualified Health Maintenance Organizations, Medicare Contract Application, and Qualification Application; *Form Nos.:* HCFA–901, –902, and –903; *Use:* These forms will be used as instruments through which entities will apply and furnish information in order to obtain Federal qualification status, competitive medical plan eligibility, Medicare contract status, or service area expansion; *Frequency:* On occasion; *Respondents:* State or local governments, businesses or other for profit, nonprofit organizations, small businesses or organizations; *Estimated Number of Responses:* 65; *Average Hours Per Response:* 100; *Total Estimated Burden Hours:* 6,500.

8. *Type of Request:* New Collection; *Title of Information Collection:* Hospice Survey and Deficiencies Report Form; *Form No.:* HCFA–643; *Use:* In order to participate in the Medicare program, a hospice must meet certain Federal health and safety conditions of participation. This form will be used by State surveyors to record data about a hospice's compliance with these conditions of participation in order to initiate the certification or recertification process; *Frequency:* Annually; *Respondents:* State or local governments, Federal agencies or employees; *Estimated Number of Responses:* 1,200; *Average Hours Per Response:* 2.5; *Total Estimated Burden Hours:* 3,000.

9. *Type of Request:* Reinstatement; *Title of Information Collection:* Organ Procurement Agency/Histocompatibility Laboratory Statement of Reimbursable Costs; *Form No.:* HCFA–216; *Use:* This form is used by organ procurement agencies/histocompatibility labs to report their health care costs to determine amounts reimbursable for the services furnished to Medicare beneficiaries.; *Frequency:* Annually; *Respondents:* Businesses or other for profit, nonprofit institutions; *Estimated Number of Responses:* 97; *Average Hours Per Response:* 45; *Total Estimated Burden Hours:* 4,365.

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 within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, room 3001, Washington, DC 20503.

Dated: October 29, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 93–27391 Filed 11–5–93; 8:45 am]

BILLING CODE 4120–01–P

[OACT–044–N]

RIN 0938–AG40

Medicare Program; Monthly Actuarial Rates and Monthly Supplementary Medical Insurance Premium Rates Beginning January 1, 1994

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: As required by section 1839 of the Social Security Act, this notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for calendar year 1994. It also announces the monthly SMI premium rate to be paid by all enrollees during calendar year 1994. The monthly actuarial rates for 1994 are $61.80 for aged enrollees and $76.10 for disabled enrollees. The monthly SMI premium rate for 1994 is $41.10.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Carter S. Warfield, (410) 966–6396.

SUPPLEMENTARY INFORMATION:

I. Background

The Medicare Supplementary Medical Insurance (SMI) program is the voluntary Medicare Part B program that pays all or part of the costs for physicians' services, outpatient hospital services, home health services, services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities, and certain other medical and health services not covered by hospital insurance (Medicare Part A). The SMI program is available to individuals who are entitled to hospital insurance and to U.S. residents who have attained age 65 and are citizens, or aliens who were lawfully admitted for permanent residence and have resided in the United States for 5 consecutive years. This program requires enrollment and payment of monthly premiums, as provided in 42 CFR part 407, subpart B, and part 408, respectively. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal government.

The Secretary of Health and Human Services is required by section 1839 of the Social Security Act (the Act) to issue two annual notices relating to the SMI program.

One notice announces two amounts that, according to actuarial estimates, will equal respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates."

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are different than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of the Social Security Amendments of 1972 (Pub. L. 92–603), enacted on October 30, 1972, the premium rate was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II Social Security benefits.

However, the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), enacted on September 3, 1982, suspended this premium determination process. Section 124 of Pub. L. 97–248 changed the premium basis to 50 percent of the actuarial rates for aged enrollees (that is, 25 percent of program costs for aged enrollees). Section 606 of the Social Security Amendments of 1983 (Pub. L. 98–21), enacted on April 20, 1983; section 2302 of the Deficit Reduction Act of 1984 (Pub. L. 98–369), enacted on July 18, 1984; section 9313 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA '85) (Pub. L. 99–272), enacted on April 7, 1986; section 4080 of the Omnibus Budget Reconciliation Act of 1987

(OBRA '87) (Pub. L. 100–203), enacted on December 22, 1987; and section 6301 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89) (Pub. L. 101–239), enacted on December 19, 1989, extended through 1990 the provision that the premium be based on 50 percent of the actuarial rates for aged enrollees. This extension expired at the end of 1990.

The premium rate for calendar years 1991 through 1995 was legislated by section 1839(e)(1)(B) of the Act as added by section 4301 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90) (Pub. L. 101–508), enacted on November 5, 1990. In January 1996, the premium determination basis would have reverted to the method established by the 1972 Social Security Act Amendments. However, section 13571 of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Pub. L. 103–66), enacted on August 10, 1993, changed the premium basis to 50 percent of the actuarial rates for aged enrollees for calendar years 1996 through 1998. In January 1999, the premium determination basis will revert to the method established by the 1972 Social Security Act Amendments.

Section 1839(e)(1)(B)(iv) specifies that the premium rate for calendar year 1994 is $41.10.

A further provision affecting the calculation of the SMI premium is section 1839(f) of the Act as amended by section 211 of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360), enacted on July 1, 1988. (The Medicare Catastrophic Coverage Repeal Act of 1989 (Pub. L. 101–234), enacted on December 13, 1989, did not repeal the revisions to section 1839(f) made by Pub. L. 100–360.) Section 1839(f) now provides that if an individual is entitled to benefits under section 202 or 223 of the Act (the Old-Age and Survivors Insurance Benefit and the Disability Insurance Benefit, respectively) and has the SMI premiums deducted from these benefit payments, the premium increase will be reduced to avoid causing a decrease in the individual's net monthly payment. This occurs if the increase in the individual's Social Security benefit due to the cost-of-living adjustment under section 215(i) of the Act is less than the increase in the premium. Specifically, the reduction in the premium amount applies if the individual is entitled to benefits under section 202 or 223 of the Act for November and December of a particular year and the individual's SMI premiums for December and the following January are deducted from the respective month's section 202 or 223 benefits. (A check for benefits under section 202 or 223 is received in the month following the month for which the benefits are due. The SMI premium that is deducted from a particular check is the SMI payment for the month in which the check is received. Therefore, a benefit check for November is not received until December and has the December's SMI premium deducted from it.) (This change, in effect, perpetuates former amendments that prohibited SMI premium increases from reducing an individual's benefits in years in which the dollar amount of the individual's cost-of-living increase in benefits was not at least as great as the dollar amount of the individual's SMI premium increase.)

Generally, if a beneficiary qualifies for this protection (in order to qualify, a beneficiary must have been in current payment status for November and December of the previous year), the reduced premium for the individual for that January and for each of the succeeding 11 months for which he or she is entitled to benefits under section 202 or 223 of the Act is the greater of the following:

(1) The monthly premium for January reduced as necessary to make the December monthly benefits, after the deduction of the SMI premium for January, at least equal to the preceding November's monthly benefits, after the deduction of the SMI premium for December; or

(2) The monthly premium for that individual for that December.

In determining the premium limitations under section 1839(f) of the Act, the monthly benefits to which an individual is entitled under section 202 or 223 do not include retroactive adjustments or payments and deductions on account of work. Also, once the monthly premium amount has been established under section 1839(f) of the Act, it will not be changed during the calendar year even if there are retroactive adjustments or payments and deductions on account of work that apply to the individual's monthly benefits.

Individuals who have enrolled in the SMI program late or have reenrolled after the termination of a coverage period are subject to an increased premium under section 1839(b) of the Act. That increase is a percentage of the premium and is based on the new premium rate before any reductions under section 1839(f) are made.

II. Notice of Monthly Actuarial Rates and Monthly Premium Rate

The monthly actuarial rates applicable for calendar year 1994 are $61.80 for enrollees age 65 and over, and $76.10 for disabled enrollees under age 65. The accompanying statement (section III.) gives the actuarial assumptions and bases from which these rates are derived. The monthly premium rate will be $41.10 during calendar year 1994.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1994

A. Actuarial Status of the Supplementary Medical Insurance Trust Fund

Under the law, the starting point for determining the monthly premium is the amount that would be necessary to finance the SMI program on an incurred basis; that is, the amount of income that would be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until after the close of the calendar year is added to the trust fund and used when needed.

The rates are established prospectively and are therefore subject to projection error. Additionally, legislation enacted after the financing has been established, but effective for the period for which the financing has been set, may affect program costs. As a result, the income to the program may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of variation between actual and projected costs in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for 1992 through 1993.

TABLE 1.—ESTIMATED ACTUARIAL STATUS OF THE SMI TRUST FUND AS OF THE END OF THE FINANCING PERIODS, JAN. 1, 1992, THROUGH DEC. 31, 1993

[In millions of dollars]

Financing period ending	Assets	Liabilities	Assets less liabilities
Dec. 31, 1992	$24,235	$6,658	$17,577
Dec. 31, 1993	23,293	2,626	20,667

Before establishing the actuarial rates for calendar year 1994, the assets of the trust fund as of December 31, 1993 (as displayed in table 1) were adjusted to take into account calculations required by the United States District Court for the Southern District of New York in the case of *Cosgrove* v. *Sullivan*, No. 85 Civ. 4472 (GLG) (S.D.N.Y. August 26, 1993). In that case, the court ordered the Secretary, in determining the actuarial rates for calendar year 1994, to assume that the amount of assets in the Part B trust fund was approximately $9 million less than the amount that would otherwise have been assumed for purposes of determining the actuarial rates.

B. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half of the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin. The contingency margin is an amount appropriate to provide for a moderate degree of variation between actual and projected costs and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1994 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1994, and June 30, 1995, by type of service. Although the actuarial rates are now applicable for calendar years, projections of per-enrollee costs were determined on a July to June period, consistent with the July annual fee screen update used for benefits before the passage of section 2306(b) of Public Law 98–369. The values for the 12-month period ending June 30, 1991, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. Those per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from January 1, 1991, through December 31, 1994, are shown in table 3.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for calendar year 1994 is $73.73. The monthly actuarial rate of $61.80 provides an adjustment of −$1.85 for interest earnings and −$10.08 for a contingency margin. Based on current estimates, it appears that the assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of projection error. Thus, a negative contingency margin is needed to reduce assets toward a more appropriate level.

An appropriate level for assets depends on numerous factors. The most important of these factors are: (1) The difference from prior years in the actual performance of the program and estimates made at the time financing was established and (2) the expected relationship between incurred and cash expenditures. Ongoing analysis is made of the former as the trends in the differences vary over time.

C. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement (before age 65) to disability benefits for more than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projection for the aged, using appropriate actuarial assumptions (see table 2). Costs for the end-stage renal disease program are projected differently because of the different nature of services offered by the program. The combined results for all disabled enrollees are shown in table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar year 1994 is $86.07. The monthly actuarial rate of $76.10 provides an adjustment of −$1.68 for interest earnings and −$8.29 for a contingency margin. Based on current estimates, it appears that assets are more than sufficient to cover the amount of incurred but unpaid expenses and to provide for a moderate degree of variation between actual and projected costs. Thus, a negative contingency margin is needed to reduce assets to more appropriate levels.

D. Sensitivity Testing

Several factors contribute to uncertainty about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in table 2), and increases in physician fees as constrained by the program's physician fee schedule that began implementation January 1, 1992. Two alternative sets of assumptions and the results of those assumptions are shown in table 5. One set represents increases that are lower and is, therefore, more optimistic than the current estimate. The other set represents increases that are higher and is, therefore, more pessimistic than the current version. The values for the alternative assumptions were determined from a study on the average historical variation between actual and projected increases in the respective increase factors. All assumptions not shown in table 5 are the same as in table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $12,319 million by the end of December 1994. This amounts to 17.3 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic (and, therefore, test the adequacy of the assets to accommodate projection errors) produce a surplus of −$1,054 million by the end of December 1994, which amounts to −1.3 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates will result in a surplus of $24,656 million by the end of December 1994, which amounts to 39.1

percent of the estimated total incurred expenditures for the following year.

E. Premium Rate

Section 4301 of OBRA '90 added section 1839(e)(1)(B)(iv) to the Act, which provides that the monthly premium rate for 1994, for both aged and disabled enrollees, is $41.10.

TABLE 2.—PROJECTION FACTORS [1] 12-MONTH PERIODS ENDING JUNE 30 OF 1991–1995

[In percent]

12-month period ending June 30	Physicians' services		Outpatient hosital services	Home health agency services [4]	Group practice prepayment plans	Independent lab services
	Fees [2]	Residual [3]				
Aged:						
1991	−1.5	7.5	15.5	−16.3	19.6	12.2
1992	−1.6	2.2	8.9	−14.7	14.4	5.7
1993	0.4	4.0	12.6	15.3	18.6	9.0
1994	2.4	5.6	12.2	14.6	18.7	18.4
1995	2.1	5.8	12.3	15.9	18.7	18.2
Disabled:						
1991	−1.5	8.8	16.4	0.0	18.5	11.7
1992	−1.6	−0.1	16.1	0.0	6.8	12.3
1993	0.4	2.2	12.5	0.0	16.5	4.7
1994	2.4	−0.3	12.3	0.0	18.2	18.4
1995	2.1	3.8	12.1	0.0	17.0	12.4

[1] All values are per enrollee.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Since July 1, 1981, home health agency services have been almost exclusively provided by the Medicare hospital insurance (HI) program. However, for those SMI enrollees not entitled to HI, the coverage of these services is provided by the SMI program. Since all SMI disabled enrollees are entitled to HI, their coverage of these services is provided by the HI program.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER FINANCING PERIODS ENDING DECEMBER 31, 1991 THROUGH DECEMBER 31, 1994

	Financing periods			
	CY 1991	CY 1992	CY 1993	CY 1994
Covered services (at level recognized):				
Physicians' reasonable charges	$50.06	$51.32	$54.58	$59.00
Outpatient hospital and other institutions	14.28	15.83	17.79	19.96
Home health agencies	0.10	0.09	0.11	0.13
Group practice prepayment plans	6.08	7.09	8.42	9.99
Independent lab	2.10	2.26	2.58	3.05
Total services	72.62	76.59	83.48	92.13
Cost-sharing:				
Deductible	−3.53	−3.60	−3.61	−3.63
Coinsurance	−13.32	−13.87	−15.16	−16.77
Total benefits	55.77	59.12	64.71	71.73
Administrative expenses	1.88	1.92	1.95	2.00
Incurred expenditures	57.65	61.04	66.66	73.73
Value of interest	−1.97	−2.20	−2.40	−1.85
Contingency margin for projection error and to amortize the surplus or deficit	6.92	1.96	6.24	−10.08
Monthly actuarial rate	$62.60	$60.80	$70.50	$61.80

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FINANCING PERIODS ENDING DECEMBER 31, 1991 THROUGH DECEMBER 31, 1994

	Financing periods			
	CY 1991	CY 1992	CY 1993	CY 1994
Covered services (at level recognized):				
Physicians' reasonable charges	$55.72	$56.62	$57.83	$59.88
Outpatient hospital and other institutions	34.37	36.89	39.11	41.44
Home health agencies	0.00	0.00	0.00	0.00
Group practice prepayment plans	1.95	2.18	2.56	3.01
Independent lab	2.26	2.43	2.64	2.94
Total services	94.30	98.12	102.14	107.27
Cost-sharing:				
Deductible	−3.31	−3.42	−3.43	−3.44

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES FINANCING PERIODS ENDING DECEMBER 31, 1991 THROUGH DECEMBER 31, 1994—Continued

	Financing periods			
	CY 1991	CY 1992	CY 1993	CY 1994
Coinsurance	−17.83	−18.38	−19.13	−20.09
Total benefits	73.16	76.32	79.58	83.74
Administrative expenses	2.47	2.48	2.40	2.33
Incurred expenditures	75.63	78.80	81.98	86.07
Value of interest	−3.60	−2.41	−2.27	−1.68
Contingency margin for projection error and to amortize the surplus or deficit	−16.03	4.41	3.19	−8.29
Monthly actuarial rate	56.00	80.80	82.90	76.10

TABLE 5.—ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 1994

	This projection			Low cost projection			High cost projection		
	12-Month period ending June 30			12-Month period ending June 30			12-Month period ending June 30		
	1993	1994	1995	1993	1994	1995	1993	1994	1995
Projection factors (in percent):									
Physician fees [1]									
Aged	0.4	2.4	2.1	−0.4	1.0	−0.4	1.2	3.8	4.6
Disabled	0.4	2.4	2.1	−0.4	1.0	−0.4	1.2	3.8	4.6
Utilization of physician services [2]									
Aged	4.0	5.6	5.8	2.2	3.1	3.0	5.8	8.2	8.6
Disabled	2.2	−0.3	3.8	−1.9	−4.4	0.1	6.3	3.9	7.5
Outpatient hospital services per enrollee									
Aged	12.6	12.2	12.3	9.2	6.6	5.7	16.0	17.7	18.8
Disabled	12.5	12.3	12.1	7.3	7.0	6.5	17.7	17.6	17.8

	As of December 31			As of December 31			AS of December 31		
	1992	1993	1994	1992	1993	1994	1992	1993	1994
Actuarial status (in millions):									
Assets	$24,235	$23,293	$15,218	$24,235	$26,661	$25,074	$24,235	$19,696	$4,416
Liabilities	6,658	2,626	2,899	4,487	331	418	8,873	4,977	5,470
Assets less liabilities	$17,577	$20,667	$12,319	$19,748	$26,330	$24,656	$15,362	$14,719	−$1,054
Ratio of assets less liabilities to expenditures (in percent) [3]	31.2	32.7	17.3	37.3	46.1	39.1	25.6	21.0	−1.3

[1] As recognized for payment under the program.
[2] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[3] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

IV. Cost to Beneficiaries

The monthly SMI premium rate of $41.10 for all enrollees during calendar year 1994 is 12.3 percent higher than the $36.60 monthly premium amount for the previous financing period. The estimated cost of this increase over the current premium to the approximately 35 million SMI enrollees will be about $1,895 million for calendar year 1994.

V. Regulatory Impact Statement

This notice merely announces amounts required by section 1839 of the Social Security Act. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulations. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601 through 612), or section 1102(b) of the Act.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r)

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: October 7, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: November 1, 1993.

Donna E. Shalala,

Secretary.

[FR Doc. 93–27396 Filed 11–5–93; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–040–04–4410–01; OK RMP]

Availability of Proposed Oklahoma Resource Management Plan/Final Environmental Impact Statement (OK RMP/FEIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM), Tulsa District, Oklahoma Resource Area, announces the availability of the Proposed Oklahoma Resource Management Plan (RMP)/Final EIS (FEIS) for public review. This document proposes a comprehensive plan for managing and allocating BLM-managed Federal lands and minerals throughout the State of Oklahoma.

DATES: Interested parties wanting to comment on the Proposed RMP/FEIS can send comments to: Paul Tanner, Area Manager, Bureau of Land Management, Oklahoma Resource Area, 221 North Service Road, Moore, Oklahoma 73160. All comments received will be considered in preparation of the Record of Decision (ROD).

Any person who participated in the planning process and has an interest which may be adversely affected by the proposed RMP may submit a protest. Protests on the proposed RMP will be accepted, if they are submitted or post-marked no later than December 15, 1993. Protests must be sent to: Director (760), Bureau of Land Management, room 407 LS, 1849 C. Street NW., Washington DC 20240–9998. Protests must follow the protest procedures outlined in 43 CFR 1610.5–2.

SUPPLEMENTARY INFORMATION: The Proposed Oklahoma RMP/FEIS identifies and analyzes the future options for managing the approximately 2 million acres of Federal land and mineral estate situated within Oklahoma administered by the BLM, Tulsa District, Oklahoma Resource Area (ORA). The proposed Oklahoma RMP/FEIS has been prepared using the BLM planning regulations issued under the authority of the Federal Land Policy and Management Act of 1976. The proposed Oklahoma RMP/FEIS primarily focus on resolving four land allocation or resource management issues. The four planning issues include: (1) Oil and Gas Leasing, (2) Coal Leasing, (3) Townsite Disposal, and (4) Red River Management. Once a decision is made, the RMP will provide a comprehensive framework for managing and allocating Federal lands and minerals within Oklahoma over the next 20 years.

A copy of the proposed RMP/FEIS has been sent to all individuals, Government agencies, and groups who have expressed interest in the Oklahoma planning process. Public reading copies are also available for review at the BLM State Office, 1474 Rodeo Road, Santa Fe NM; BLM Tulsa District Office, 9522–H E. 47th Place, Tulsa OK; and at the BLM Oklahoma Resource Area Office listed below.

FOR FURTHER INFORMATION OR COPIES OF THE PROPOSED RMP/EIS, CONTACT: Brian D. Mills, RMP Team Leader, Oklahoma Resource Area, 221 North Service Road, Moore, OK 73160, telephone: 405–794–9624.

Dated: November 1, 1993.

William C. Calkins,

Acting State Director.

[FR Doc. 93–27334 Filed 11–5–93; 8:45 am]

BILLING CODE 4310–FB–M

[OR–943–4210–06; GP4–013; OR–5263]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a portion of the land withdrawal for two recreation sites continue for an additional 20 years and requests that the lands involved remain closed to surface entry and mining.

DATES: Comments should be received by February 7, 1994.

FOR FURTHER INFORMATION CONTACT: Pamela Chappel, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7170.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes that the existing land withdrawal made by Public Land Order No. 4848 be continued for a period of 20 years pursuant to section 204 of the Federal Land policy and Management Act of 1976, 43 U.S.C. 1714 (1988).

Emile Creek Recreation Site contains 80 acres in Sec. 1, T. 27 S., R. 2 W., W.M., Douglas County, which is approximately 5 miles northeast of Glide, Oregon.

Swiftwater Recreation Site contains 80 acres in Sec. 1, T. 26 S., R. 3W., W.M. Douglas County, which is approximately 13 miles southeast of Glide, Oregon.

The purpose of the withdrawal is to protect the recreation areas.

The withdrawal currently segregates the lands from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objects in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: October 19, 1993.

Donna M. Webb,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 93–27340 Filed 11–5–93; 8:45 am]

BILLING CODE 4310–33–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-No. 7)]

Productivity Adjustment; Implementation

AGENCY: Interstate Commerce Commission.

ACTION: Final decision.

SUMMARY: The Commission prescribes the use of a five-year moving average for measuring railroad productivity changes in calculating the Rail Cost Adjustment Factor (RCAF). All railroad related special charges will be included in the

input index used to calculate the productivity adjustment to the RCAF.

EFFECTIVE DATE: November 8, 1993.

FOR FURTHER INFORMATION CONTACT: Leslie J. Selzer (202) 927–6181. (TDD for hearing impaired: (202) 927–5721.)

SUPPLEMENTARY INFORMATION: The RCAF is a quarterly index that measures changes in railroad expenses. Beginning in 1989, the RCAF was adjusted for productivity so that it would measure changes in the cost of rail service. That productivity adjustment is calculated by dividing an output index by an input index. The input index measures year-to-year changes in railroad freight expenses, contingent interest and fixed charges expressed on a constant dollar basis. The output index is calculated using weighted ton-miles. Although a multi-year average has been used to calculate the productivity adjustment, no fixed period had been established. This proceeding sets a fixed averaging period of five years. Also, this proceeding provides for the inclusion of all railroad-related special charges in calculating the input index.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, or call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD service (202) 927–5721.)

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Pursuant to 5 U.S.C. 605(b), we conclude that our action will not have an adverse economic impact on a substantial number of small entities. No new regulatory requirements are imposed, directly or indirectly, on such entities. The economic impact on small entities is not likely to be significant within the meaning of the Regulatory Flexibility Act.

Decided: October 26, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27441 Filed 11–5–93; 8:45 am]

BILLING CODE 7035–01–P

[I.C. C. Order No. P–115]

Passenger Train Operation; Chicago and North Western Transportation Co.

The National Railroad Passenger Corporation (AMTRAK) has established through passenger train service between Chicago, Illinois and Milwaukee, Wisconsin. The operation of these trains will be supplemented by the movement of the National Railroad Passenger Corporation's (Amtrak) I.C.E. test train over the tracks and other facilities of the Chicago and North Western Transportation Company (CNW). The route over tracks of CNW is from Global Yard to Rockwell Junction to Kedzie Tower in Chicago, Illinois.

It is the opinion of the Commission that such operations are necessary in the interest of the public and the commerce of the people; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice. *It is ordered,*

(a) Pursuant to authority vested in me by order of the Commission, decided January 13, 1986, and the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), the Chicago and North Western Transportation Company is directed to operate Amtrak's I.C.E. test train over its line from Global Yard to Rockwell Junction to Kedzie Tower, in Chicago, Illinois.

(b) In executing the provisions of this order, the common carriers involved shall proceed even if no agreements or arrangements may now exist between them with reference to the compensation terms and conditions applicable to said operations. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of said carriers in accordance with pertinent authority conferred upon it by the Interstate Act and by the Rail Passenger Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:59 a.m., (CDT) August 17, 1993.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (CDT), August 18, 1993, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon the Chicago and North Western Transportation Company and the National Railroad Passenger Corporation, and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, by William J. Love, Agent, August 11, 1993.

Interstate Commerce Commission.

Sidney L. Strickland,

Secretary.

[FR Doc. 93–27399 Filed 11–5–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32383]

Blue Mountain Railroad, Inc.—Trackage Rights Exemption—Burlington Northern Railroad Co.

Burlington Northern Railroad Company (BN) has agreed to grant local trackage rights to Blue Mountain Railroad, Inc. over approximately 6 miles of rail line between BN milepost 62.01 at Walla Walla, WA, and BN milepost 68.01 near Walair, WA. The trackage rights were to become effective on October 29, 1993.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio.* 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 stay the transaction. Pleadings must be filed with the Commission and served on: Karl Morell, 919 18th Street, NW., suite 210, Washington, DC 20006.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected under Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Decided: November 1, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27401 Filed 11–5–93; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32373]

Donald R. Wood, Jr., CCP Holdings, Inc., Chicago, Central & Pacific Railroad Co. and Cedar River Railroad Co.—Corporate Family Exemption

Donald R. Wood, Jr., CCP Holdings, Inc. (Holdings), Chicago, Central & Pacific Railroad Company (CC&P), and

Cedar River Railroad Company (CRR)[1] have filed a notice of exemption to undertake transactions within their corporate family. CRR is a wholly owned subsidiary of CC&P. Holdings, a noncarrier holding company, was formed for the sole purpose of acquiring and holding the stock of CC&P and CRR. CC&P stockholders[2] will exchange their outstanding shares of CC&P common stock for Holdings common stock. CC&P will then convey to Holdings by stock dividend all CRR stock. After these transactions, Holdings will own 100 percent of the stock of CC&P and CRR. The parties intend to consummate the transaction on or soon after the effective date of the exemption.

CC&P is a class II railroad whose principal lines extend between Chicago, IL, on the east, and Omaha and Nebraska/Council Bluffs, IA and Sioux City, IA on the west. CRR is a class III carrier whose principal line runs between Mona Junction, IA and Glenville, MN, with a branch line between Stacyville Junction and Stacyville, IA.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside applicants' corporate family. The purpose of the transaction is to create a holding company structure for CC&P/CRR. This will allow the corporate family to take advantage of a wide array of financing alternatives.

To ensure that all employees who may be affected by the transaction are given the protection afforded under 49 U.S.C. 10505(g)(2) and 49 U.S.C. 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

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 stay the transaction. Pleadings must be filed with the Commission and served on: William C. Sippel, Oppenheimer, Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

Decided: October 28, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27400 Filed 11–5–93; 8:45 am]

BILLING CODE 7035–01–P

[1] Besides the applicants, the Holdings/CC&P corporate family includes noncarriers Missouri River Bridge Company and Iron Horse Properties, Inc.

[2] Donald R. Wood, Jr., Lyle D. Reed, and Walter A. Drexel.

[Docket No. AB–39 (Sub-No. 18X)]

St. Louis Southwestern Railway Co.—Abandonment Exemption—In Gasconade, Maries, Osage, Miller, Cole, Morgan, Benton, Pettis, Henry, Johnson, Cass, and Jackson Counties, MO

The St. Louis Southwestern Railway Company (SSW) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—Exempt Abandonments to abandon approximately 196.7 miles of rail line, known as the KC Line, from milepost 91.6 at or near the Owensville rail station, to milepost 288.3 at or near the Leeds Junction rail station, in Gasconade, Maries, Osage, Miller, Cole, Morgan, Benton, Pettis, Henry, Johnson, Cass, and Jackson Counties, MO.[1]

SSW has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (service of environmental report on agencies), 49 CFR 1105.8 (service of historic report on State Historic Preservation Officer), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (service of verified notice on governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 8, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29[4] must be filed by November 18, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 29, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

SSW has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by November 12, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: October 27, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27403 Filed 11–5–93; 8:45 am]

BILLING CODE 7035–01–P

[1] SSW, a class I freight carrier, is part of a rail system which includes The Southern Pacific Transportation Company, The Denver and Rio Grande Western Railroad Company, and SPCSL Corp. SSW acquired this line pursuant to Commission approval in St. Louis S.W. Ry.-Pur.-Rock Island (Tucumcari), 363 I.C.C. 320 (1980).

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[3] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[4] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

[Docket No. AB–405 (Sub-No. 1X)]

Upper Merion & Plymouth Railroad—Abandonment Exemption—In Montgomery County, PA

LI Acquisition Corp. d/b/a Upper Merion & Plymouth Railroad (LI) has filed a notice of exemption under 49 part CFR 1152, subpart F—Exempt Abandonments to abandon its 2,600 feet of rail line which begins at a point 200 feet east of the middle of Conshohocken Road and continue in a "Y" pattern east and north, in Plymouth Township, Montgomery County, PA.

LI has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 15, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by November 26, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 6, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Eric M. Hocky, 1800 Penn Mutual Tower, 510 Walnut Street, Philadelphia, PA 19106.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

LI has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by November 19, 1993. Interested persons may obtain a copy of the EA by writing to SEE (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA is available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: November 2, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–27402 Filed 11–5–93; 8:45 am]

BILLING CODE 7035–01–P

[1] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental concerns is encouraged to file its request as soon as possible in order to permit the Commission to review and act on the request before the effective date of this exemption.

[2] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use request as long as it retains jurisdiction to do so.

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs

AGENCY: Bureau of International Labor Affairs, DOL.

ACTION: Request for information.

SUMMARY: This document is a request for information to assist the Department of Labor (the Department) in conducting a review to identify foreign industries that utilize child labor in the export to the United States of manufactured products from industry or mining. In the 1994 Department of Labor Appropriations Bill (Pub. L. 103–112), Congress has required the Secretary of Labor to conduct this study and report his findings to Congress by July 15, 1994.

The Department anticipates that information and written allegations regarding imports into the United States of goods produced with child labor, as well as comments provided by interested persons, will aid it in identifying these industries. The Department also requests information on titles of any relevant reports or studies recently conducted and published on this subject as well as names of experts in this field that might be consulted, including their addresses and telephone numbers, if known.

Authority: Pub. L. 103–112, Stat. 1032.

DATES: For maximum effectiveness, written comments should be received by the Department of Labor on or before November 30, 1993, although those received by December 31, 1993, would still be useful.

ADDRESSES: Comments should be addressed to the Office of Foreign Relations, Bureau of International Labor Affairs, room S–5006, U.S. Department of Labor, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Harold Davey, Office of Foreign Relations, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, DC 20210, telephone (202) 219–6257; FAX 219–5613.

SUPPLEMENTARY INFORMATION: The Senate Appropriations Committee report stated:

[T]he Committee notes that in many developing countries children represent a substantial portion of the work force and can be found in such industries as glass, metal works, textiles, mining, and fireworks manufacturing. According to UNICEF and the International Labor Organization hundreds of millions of children worldwide under the age of 15 are employed.

The Committee understands that child labor laws in many countries around the globe are often not enforced or are circumvented by foreign manufacturers. The Committee also understands that many products made by child labor are being imported into the United States. The Committee believes that (1) since the passage of the Fair Labor Standards Act of 1938, Congress' intent has been to keep the streams of commerce undefiled by the products of child labor; (2) American consumers do not want to provide a market for goods produced by the sweat and toil of children; and that (3) adult workers in the United States should not have their jobs imperiled by imports produced by child labor in developing countries. The Committee also believes, however, that more information is needed about the extent of the problem and what foreign industries are exporting products made whole or in part by child labor to the United States.

All submitted comments will be made a part of the record of the review

referred to above and will be available for public inspection.

Signed at Washington, DC this 1st day of November, 1993.

Andrew Samet,

Acting Deputy Under Secretary for International Affairs.

[FR Doc. 93–27406 Filed 11–5–93; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL SCIENCE FOUNDATION

Office of Polar Programs

Permit Issued Under the Antarctic Conservation Act of 1978

November 3, 1993.

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan, Permit Office, Office of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On August 30, 1993 the National Science Foundation published a notice in the Federal Register of permit applications received. Permit for enter site of special interest, was issued to the John G. Shedd Aquarium on October 27, 1993.

Thomas Forhan,

Permit Officer, Office of Polar Programs.

[FR Doc. 93–27447 Filed 11–5–93; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Nuclear Safety Research Review Committee; Meeting of Subcommittee on Advanced Instrumentation and Controls and Human Factors

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

The NSRRC Subcommittee on Advanced Instrumentation and Controls and Human Factors will hold a meeting on November 29–30, 1993, in the New Jersey Room, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance.

The Subcommittee will review accomplishments, status, and completion plans for nuclear safety research programs in the areas of advanced instrumentation and controls and human factors, primarily in connection with nuclear power plants, but including human factors in certain nuclear materials applications. The agenda will be as follows:

November 29:

9:30 a.m.–12 noon: Opening remarks, overview of activities, life cycle of a research project, software reliability.

1:15 p.m.–6:00 p.m.: Software reliability (continued), human-system interface, personnel performance, reliability engineering.

November 30:

8:30 a.m.–12:00 noon: Human reliability, status of organizational factors research. Personnel performance issues in medical use of nuclear materials. Subcommittee discussion.

1:15 p.m.–4:30 p.m.: Subcommittee discussion (continued).

The Subcommittee will report to the full Committee on the facts and analyses discussed at the meeting.

A detailed agenda will be made available at the meeting.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Subcommittee. Questions may be asked only by members of the Committee and the staff. Persons desiring to make oral statements should notify the Nuclear Regulatory Commission staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to Mr. George Sege (telephone 301/492–3904) between 8 a.m. and 4:30 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: November 1, 1993.

George Sege,

Technical Assistant to the Director, Office of Nuclear Regulatory Research.

[FR Doc. 93–27424 Filed 11–5–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–285]

Omaha Public Power District; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–40 issued to Omaha Public Power District (the licensee) for operation of the Fort Calhoun Station, Unit 1, located in Washington County, Nebraska.

The proposed amendment would revise the Technical Specifications (TSs) to implement administrative changes. Proposed changes include providing consistency with Combustion Engineering (CE) Standard Technical Specifications on refueling frequency, incorporating bases information on pressurizer safety valves, removing revision numbers and dates of the NRC-approved reload analysis topical reports, and indicating the latest NRC-approved revision as stated in the Core Operating Limits Report (COLR), correcting typographical and grammatical problems, and correcting mistakes made in previous amendments.

The October 10, 1993, submittal presented additional information which was not part of the initial application and therefore not part of the original no significant hazards determination previously published in the Federal Register on August 4, 1993 (58 FR 41509).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve significant hazards considerations because operation of Fort Calhoun Station Unit No. 1 in accordance with these changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes include: administrative changes to correct typographical errors, references and revision numbers; make the specifications consistent; provide clarifications; and to make changes consistent with organizational changes, or with the CE Standard Technical Specifications.

The clarification to the basis of Specification 2.1.6 provides a discussion on: the presence of water filled loop seals, the potential effects the loop seal may have on the setpoint deviation of the safety valves, and that any effect is within the results of the Updated Safety Analysis Report.

The clarification to Specification 2.2(2)d1. provides an additional requirement to maintain valve LCV–218–3 operable which is consistent with the intent of the specification in that the valve must be operable to maintain the required flow path from the Safety Injection and Refueling Water (SIRW) tank.

The clarification to Specification 2.3(1) states which electrical buses the safety injection pumps are powered through and is consistent with the Updated Safety Analysis Report, Section 14.15, which assumes that only one full capacity high pressure pump and one full capacity low pressure pump are available during a Loss of Coolant Accident.

The clarification to the basis of Specification 2.14 only deletes the reference to the specific time for a valve to open.

The clarification to Specification 3.7(3) adds verbiage to state that the emergency lighting system required to be tested by this specification is the emergency lighting system required to achieve a plant safe shutdown.

The proposed revision to Specification 5.9.5 merely incorporates reference to the latest NRC approved revisions of the topical reports as stated in the Core Operating Limits Report (COLR). The change does not modify the methodology or the manner in which they may be implemented.

The proposed changes are administrative in nature and are consistent with the assumptions or results stated in the Updated Safety Analysis Report; therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed administrative changes are typographical errors, revision numbers and references, and implement changes to make the Specifications consistent. No new or different operation of plant equipment is proposed. No new or different action statements are proposed. Therefore, the proposed changes do not create the possibility of a new or different type of accident.

(3) Involve a significant reduction in a margin of safety.

The proposed administrative changes correct typographical errors and references, and implement changes to make the Specifications consistent. The clarifications being proposed are within the assumptions or results as stated in the Updated Safety Analysis Report: therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination.

Any comments received within 30 days of the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very frequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 8, 1993, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, and at the local public document room located at W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specific requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to William D. Beckner: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to LeBouef, Lamb, Leiby, and MacRae, 1875 Connecticut Avenue, NW., Washington, DC 20009–5728, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 17, 1993, as supplemented October 10, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Dated at Rockville, Maryland, this 3rd day of November 1993.

For the Nuclear Regulatory Commission.

Steven Bloom,

Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–27503 Filed 11–5–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33124; File No. SR–CBOE–93–40]

Self-Regulatory Organization; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to the Membership Eligibility of Limited Liability Companies

November 1, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 24, 1993, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Currently, CBOE Rule 3.3, "Qualifications of Member Organizations," states that Exchange memberships may be owned or leased by or registered for a corporation or a partnership. The CBOE proposes to add Interpretation and Policy .01 to CBOE Rule 3.3 to state expressly that a Limited Liability Company ("LLC") organized under state law or under other laws approved by the CBOE's Board of Directors shall be deemed a corporation for the purposes of membership eligibility.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Currently, CBOE Rule 3.3, "Qualifications of Member Organizations," states that Exchange memberships may be owned or leased by or registered for a corporation or a partnership. According to the CBOE, an LLC does not fall squarely within the category of either a corporation or a partnership, but possesses features of both. Although the organizational structure of an LLC resembles that of a limited partnership and, if the LLC is structured properly, it is treated as a partnership for Federal income tax purposes, an LLC more closely resembles a corporation in terms of liability to owners. Like a corporation, the LLC itself is responsible for its debts and obligations. Except in unusual circumstances, however, the owner and other LLC participants are not liable for the LLC's debts and obligations.

Because CBOE Rule 3.3 allows both limited partnerships and corporations with these features to become CBOE member organizations, the CBOE believes that LLCs should also be eligible for membership. Accordingly, the CBOE proposes to add Interpretation and Policy .01 to CBOE Rule 3.3 to state expressly that an LLC organized under state law or under other laws approved by the CBOE's Board of Directors shall be deemed a corporation for the purposes of membership eligibility. Because the financial responsibility of a member firm and its owners is an important consideration in determining membership eligibility and approval and because LLCs most closely resemble corporations in this respect, the Exchange believes that LLCs should be deemed to be corporations under CBOE Rule 3.3. As such, LLCs will be subject to the CBOE Rule 3.3 requirement that member organizations be registered as brokers or dealers pursuant to section 15 of the Act. In addition, like any organization applying for membership, LLCs will also be subject to all other requirements for membership approval.

The CBOE believes that the proposal is consistent with section 6(c) of the Act, in general, and furthers the objectives of section 6(b)(3), in particular, in that it is designed to ensure that the rules of the Exchange provide that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the administration of an existing CBOE rule. The Commission notes that CBOE Rule 3.3 currently allows corporations and partnerships to become Exchange members and that LLCs possess features of both of these entities. As with a corporation, LLCs are liable for their debts and obligations, although an LLC's owners and other participants are not liable for the LLC's debts and obligations, except under unusual circumstances. The Commission notes that LLCs will be subject to all of the CBOE's requirements for membership approval and that because they will be deemed to be corporations for the purposes of Exchange Rule 3.3, an LLC which owns a membership or for which a membership is registered will be required under Exchange Rule 3.3 to register as a broker or dealer under the Act. Accordingly, the proposal has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27347 Filed 11–5–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33126; File No. SR–DTC–93–12]

Self-Regulatory Organizations; The Depository Trust Co.; Notice of Filing of a Proposed Rule Change Relating to the Implementation of a Money Market Instruments Program

November 1, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on October 19, 1993, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–DTC–93–12) as described in Items I, II, and III below, which Items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of the following: (1) DTC's final plan for its money market instrument ("MMI") programs, including proposed fees; and (2) proposed revisions to DTC's Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the

[1] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC 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 purpose of the proposed rule change is to make DTC's services available for transactions in additional types of money market instruments and to expand or improve DTC's existing MMI programs. Proposed new DTC MMI programs include those for institutional certificates of deposit, municipal commercial paper, and bankers' acceptances. The existing DTC MMI programs to be expanded or improved include those for corporate commercial paper, medium-term notes, preferred stock in a CP-like mode, short-term bank notes, and discount notes.

(i) Operational Characteristics

The new MMI programs are offered by DTC as an extension of its Same-Day Funds Settlement ("SDFS") system to include these new types of MMIs.[2] The automated operating procedures for MMIs are virtually the same as those followed by SDFS participants and by Institutional Delivery ("ID") system users for basic depository services in other eligible SDFS securities.

The MMI issues made SDFA-eligible will be distributed in book-entry-only ("BEO") form by the issuer's issuing agent which, paralleling the SDFS commercial paper and medium-term note programs, will send MMI issuance instructions to DTC electronically. Settlement of an issuance will be on the same day or on a specified future day. The issuer's paying agent ("PA"), acting also as DTC's custodian, will hold a master or balance MMI certificate for DTC unless the issuer and its issuing and paying agent bank ("IPA") choose to distribute uncertificated MMIs through DTC. Because SDFS-eligible MMIs will be BEO and because MMI issuances will be initiated electronically, participant operating procedures for deposits and withdrawals will not apply to MMIs.

DTC's systems are capable of handling all foreseeable increases in transaction volume associated with the proposed MMI programs.

(ii) Pilot Operation

DTC plans to begin a pilot operation of the new MMI programs on or before December 17, 1993, with certificates of deposit ("CDs") of a small number of issuers. Additional issuers' CDs will be included gradually as experience with the pilot operation warrants.

(iii) *DTC Rules Revisions*

The primary purpose of the proposed revisions of DTC's Rules is to provide for new and expanded or improved MMI programs.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(A)[3] of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions for which DTC is responsible. The proposed fees for the MMI programs were adopted pursuant to section 17A(b)(3)(D)[4] of the Act which authorizes DTC to adopt reasonable fees for the services which it provides to participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Soon after the introduction of DTC's SDFS system in July 1987, interested participants and both the Money Market Committee of the Public Securities Association ("PSA") and the New York Clearing House ("NYCH") asked DTC to develop a corporate commercial paper ("CP") program. This subject was consequently included in DTC's Program Agenda proposals for 1988–90, sent to users for comment in May 1988. DTC also asked participants to comment on whether they wished to see other MMIs, such as institutional certificates of deposit and bankers' acceptances, added to the SDFS system after CP. Participants responded affirmatively as was reported in DTC's revised Program Agenda issued in May 1989.

Inaugurated in October 1990, DTC's CP program has on deposit approximately $384 billion or about 71% of CP outstanding in the U.S. Virtually all CP outstanding, except that in direct issuers' proprietary book-entry systems, is expected to be in DTC's program by sometime in 1994.

While continuing to work with DTC on implementation of the CP Program, the Task Force formed by the PSA Money Market Committee in April 1988 to advise DTC on CP began in 1991 to focus as well on DTC proposals for adding other MMI programs to the SDFS system. The Task Force includes representatives from dealers, NYCH banks, and banks headquartered outside New York that have an interest in this subject.

Based on the work of the Task Force and on discussions with individual participants and others, DTC sent a proposal for MMI programs and their safeguards to participants for comment on December 30, 1992. At the same time, DTC sent a companion memorandum designed for issuers' IPAs to bank participants then acting as IPAs in DTC's CP and medium-term note programs.

DTC received ten written comments on the December 1992 MMI proposals with five from banks, three from broker-dealers, and two from industry organizations. The written comments and subsequent discussions with participants and their associations indicated a wide consensus that DTC should offer MMI programs based on the December 1992 proposals. The final plan for DTC MMI programs and their safeguards includes modifications of the December 1992 proposals arising from those responses and discussions.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 DTC 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

[2] DTC's SDFS system currently includes the following issue types: Corporate commercial paper, municipal notes and bonds, municipal variable-rate demand obligations, zero coupon bonds backed by U.S. Government securities, continuously-offered medium-term corporate notes, short-term bank notes, auction-rate and tender-rate preferred stocks and notes, collateralized mortgage obligations and other asset-backed securities, Government trust certificates and Government agency securities not eligible for the Federal Reserve's book-entry system, retail certificates of deposit, corporate and municipal variable mode obligations, corporate bonds, discount notes, and unit trusts.

[3] 15 U.S.C. 78q–1(b)(3)(A) (1988).

[4] 15 U.S.C. 78q–1(b)(3)(D) (1988).

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–92–12 and should be submitted by November 29, 1993.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27345 Filed 11–5–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33118; File No. SR–NYSE–93–39]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to the Listing and Trading of Equity Linked Debt Securities

October 29, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt: (1) Section 703.21 of the Exchange's Listed Company Manual ("Manual") to provide listing standards applicable to equity-linked debt securities ("ELDS") whose value is based, in part, on the value of an individual common stock or other individual equity security; and (2) Paragraph 904.07 of the Manual, to provide a form of membership information circular describing ELDS. The text of the proposed rule change is available at the Office of the Secretary, the NYSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 NYSE 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 Exchange is proposing listing criteria to allow the listing of hybrid debt securities. The Exchange refers to such debt securities as "Equity Linked Debt Securities" or "ELDS." ELDS are non-convertible debt of an issuer where the value of the debt is based, at least in part, on the value of another issuer's common stock or other individual equity security. ELDS may pay periodic interest or may be issued as zero-coupon instruments. In addition, ELDS may or may not have a ceiling and/or floor on the amount of principal that may be returned at maturity of the instrument.

The Exchange believes that the proposed ELDS listing criteria are generally consistent with the other "derivative product" listing criteria found in Section 703 of the Manual.[3]

The issuer of the ELDS must meet general NYSE listing standards and have a minimum tangible net worth of $150 million. In addition, the original issue price of a series of ELDS, combined with all of the issuer's other ELDS listed on a national securities exchange or otherwise publicly traded in the United States, may not be greater than 25% of the issuer's net worth at the time of issuance. The ELDS issue itself must (1) consist of at least one million ELDS, (2) have at least 400 holders, and (3) have a minimum life of one year.

The Exchange is also proposing criteria governing the equity security on which the value of the ELDS is based. Specifically, (1) the issuer of each such security must be a reporting company with a market capitalization of at least $3 billion, (2) there must be a trading volume in each such security of at least 2.5 million shares in the year prior to the ELDS listing, and (3) each such security must be either listed on a national securities exchange or traded through the facility of a national securities association. If the issuer of the ELDS and the issuer of the linked security are not affiliated, the ELDS may not exceed five percent of the total outstanding shares of the underlying security. If the two issuers are affiliated, the Exchange will consult with the Commission staff in evaluating the maximum percentage of ELDS that may be issued.

The Exchange will generally treat ELDS as equity securities. Thus, for example, ELDS will be subject to equity margin treatment. In addition, due to the unique nature of ELDS, pursuant to proposed Section 904.07 of the Manual, the Exchange will distribute a circular to its members and member organizations alerting them to the unique characteristics of ELDS and providing guidance regarding their compliance responsibilities with respect to such securities.[4]

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

---

[5] 17 CFR 200.30–3(a)(12) (1992).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] See, e.g., Manual Sections 703.15 (foreign currency warrants), 703.17 (index warrant listing standards), 703.18 (contingent value rights), and 703.19 (other derivative securities).

[4] See File No. SR–NYSE–93–39, Exhibit B.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–93–39 and should be submitted by November 29, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

[5] 17 CFR 200.30–3(a)(12) (1992).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 93–27346 Filed 11–5–93; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 34–33125; File No. SR–PHLX–93–17]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Activities of Persons Without Trading Privileges Who Have Access to the Equity Options Trading Floor

November 1, 1993.

On June 4, 1993, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] a proposed rule change relating to the activities of clerks and other persons lacking trading privileges but having access to the equity options trading floor. Notice of the proposal and Amendment No. 1[3] appeared in the Federal Register on July 15, 1993.[4] No comment letters were received on the proposed rule change. The Exchange subsequently filed a second amendment to the proposal.[5] This order approves the Exchange's proposal, as amended.

The PHLX proposes to adopt Floor Procedure Advice F–23 ("Advice F–23") to prohibit clerks,[6] other than Specialist clerks, from maintaining a sustained presence[7] in the equity options trading crowd and from improperly performing membership functions. Advice F–23 would also be part of the PHLX's minor rule violation enforcement and reporting plan, administered pursuant to PHLX Rule 970 ("Minor Rule Violation Plan").

The PHLX Rule 104 prohibits Exchange members from executing trades with non-members. In addition, Exchange bylaws state that membership in the Exchange confers upon the holder the privileges and obligations of active membership.[8] Based on these rules, proposed Advice F–23 would establish that the Exchange's minor rule violation plan includes these prohibitions against trading by clerks.

Fines pursuant to Advice F–23 will be applied on a "rolling" three-year cycle under PHLX's Minor Rule Violation Plan, such that repeat violations during any three-year period would result in escalating fines. If there is no violation of Advice F–23 for three years, the next violation would be treated as a first occurrence. If there is a violation within three years after the most recent violation, the next highest fine will be issued. Thus, a third violation less than three years after a fine was issued for a second occurrence would be treated as a third occurrence, even though more than three years may have elapsed since the first occurrence.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5)[9] in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest. Specifically, the Commission finds that the proposal will further the protection of investors and the public interest and maintain order on the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1992).

[3] On June 22, 1993, and June 24, 1993, the Exchange filed Amendment No. 1 to the proposal to clarify that included within the definition of "clerk" are members whose membership privileges have been suspended or terminated as well as other members without trading privileges. See Letter from Gerald O'Connell, Vice President, Market Surveillance, PHLX, to Brad Ritter, Attorney, Office of Options, Division of Market Regulation, Commission, dated June 22, 1993; Letter from Edith Hallahan, Attorney, Market Surveillance, PHLX, to Brad Ritter, Attorney, Office of Options, Division of Market Regulation, Commission, dated June 24, 1993 ("Amendment No. 1").

[4] See Securities Exchange Act Release No. 32606 (July 9, 1993), 58 FR 38153.

[5] On September 27, 1993, the Exchange filed Amendment No. 2 to the proposed rule change to clarify the meaning of "sustained presence" for purposes of determining whether a violation of the proposed rule has occurred. See Letter from Gerald O'Connell, Vice President, Market Surveillance, PHLX, to Richard Zack, Branch Chief, Office of Options, Division of Market Regulation, Commission, dated September 27, 1993 ("Amendment No. 2").

[6] A "clerk" is defined in proposed Advice F–23 as "any person not registered or eligible to effect transactions on the floor as a Specialist, ROT [Registered Options Trader], or Floor Broker, including members whose membership privileges have been suspended or terminated as well as other members without trading privileges." See Amendment No. 1, *supra* note 3.

[7] The Exchange defines "sustained presence" as "a period of time beyond such time that would, under the prevailing circumstances, be needed by the clerk to complete the allowable business function which brought the clerk to that crowd in the first place." In enforcing this rule, the Exchange has represented that it will apply a reasonableness standard such that if the clerk exceeds a reasonable time period a violation has occurred. See Amendment No. 2, *supra* note 5.

[8] See PHLX Bylaw Article XII, Section 12–1.

[9] 15 U.S.C. 78f(b)(5) (1988).

equity options trading floor by penalizing impermissible activity by non-members and members lacking trading privileges. In addition, the proposal provides a fair procedure for the prohibition or limitation by the Exchange of persons with respect to access to services offered by the Exchange or a member thereof.

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 2 provides a clarification of the meaning of the term "sustained presence" for purposes of imposing fines pursuant to the proposed rule change. The Commission believes that this clarification minimizes the possibility of arbitrary application of the rule, better serves to put clerks on notice as to the type of conduct that will result in a violation of the rule, and does not raise new issues. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment No. 2 to the PHLX's proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the file number in the caption above and should be submitted by November 29, 1993.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–PHLX–93–17) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1992).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27348 Filed 11–5–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19827; 812–7839]

Keystone Custodian Fund, Series B–1, et al.; Application for Exemption

November 1, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemptive order under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Keystone Custodian Fund, Series B–1, Keystone Custodian Fund, Series B–2, Keystone Custodian Fund, Series B–4, Keystone Custodian Fund, Series K–1, Keystone Custodian Fund, Series K–2, Keystone Custodian Fund, Series S–1, Keystone Custodian Fund, Series S–3, Keystone Custodian Fund, Series S–4, Keystone America Capital Preservation and Income Fund, Keystone America Capital Preservation and Income Fund—II, Keystone America Equity Income Fund, Keystone America Global Opportunities Fund, Keystone America Government Securities Fund, Keystone America Hartwell Emerging Growth Fund, Inc., Keystone America Hartwell Growth Fund, Inc., Keystone America Intermediate Term Bond Fund, Keystone America Omega Fund, Inc., Keystone America State Tax Free Fund, Keystone America Strategic Income Fund, Keystone America Tax Free Income Fund, Keystone America World Bond Fund, Keystone Australia Funds, Inc., Keystone International Fund Inc., Keystone Liquid Trust, Keystone Precious Metals Holdings, Inc., Keystone Tax Exempt Trust, Keystone Tax Free Fund, Keystone Institutional Adjustable Rate Fund, Master Reserves Trust, Master Reserves Tax Free Trust (collectively, the "Funds"); Keystone Custodian Funds, Inc. ("Keystone"), Hartwell Keystone Advisers, Inc. ("Hartwell Keystone"), Robert Van Partners, Inc. ("Robert Van"), Keystone Management, Inc. ("Keystone Management"), Credit Lyonnais International Asset Management ("Credit Lyonnais"), EquitiLink Australia, Ltd. ("EquitiLink"), Harbor Capital Management Company, Inc. ("Harbor Capital"), and Hartwell Management Company, Inc. ("Hartwell Management") (collectively, the "Advisers").

RELEVANT ACT SECTIONS: Section 17(d) and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to deposit their uninvested cash balances into a joint trading account through which the cash would be invested in repurchase agreements.

FILING DATE: The application was filed on December 23, 1991 and amended on March 13, 1992, September 22, 1992, and September 10, 1993. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 26, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants: the Funds, Keystone, Hartwell Keystone, and Robert Van, 200 Berkeley Street, Boston, Massachusetts 02116; Keystone Management, 8300 Howard Hughes Parkway, Las Vegas, Nevada 89109; Credit Lyonnais, Credit Lyonnais Building—20th Floor, 1301 Avenue of the Americas, New York, New York 10019; EquitiLink, 44 Pitt Street, Sydney, N.S.W. 2000 Australia; Harbor Capital, 265 Franklin Street, Boston, Massachusetts 02110; and Hartwell Management, 515 Madison Avenue, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Robert A. Robertson, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a registered open-end management investment company and is authorized to invest in repurchase agreements. Applicants request that relief be extended to each

registered investment company for which, in the future, Keystone, or any other investment adviser controlling, controlled by, or under common control with Keystone, serves as investment adviser. (The term "Funds" will include these future funds.)

2. Except for Keystone America Hartwell Emerging Growth Fund and Keystone America Hartwell Growth Fund, Keystone serves as the Funds' investment adviser. Hartwell Keystone, a wholly-owned subsidiary of Keystone, serves as the investment adviser for Keystone America Hartwell Emerging Growth Fund and Keystone American Hartwell Growth Fund. Robert Van, Credit Lyonnais, EquitiLink, Harbor Capital, and Hartwell Management serve as subadvisors to certain of the Funds. Applicants request that relief be extended to each investment adviser controlling, controlled by, or under common control with Keystone that, in the future, serves as an investment adviser to a Fund. (The term "Advisers" will include these future investment advisers.)

3. Keystone Management, a wholly-owned subsidiary of Keystone, provides administrative services to the Funds. State Street Bank and Trust Co. serves as the Funds' custodian bank (the "Custodian Bank").

4. At the end of each trading day, each Fund is expected to have uninvested cash balances in its account at the Custodial Bank that would not otherwise be invested in portfolio securities. Keystone typically would invest such cash, on behalf of a Fund, in overnight repurchase agreements with a bank (including the Custodian Bank) or a broker-dealer, short-term money market securities, or other short-term, investments authorized by its investment policies, thereby earning additional income for that Fund.

5. Applicants propose to deposit the daily uninvested cash balances of the Funds into one joint account. The daily balances of the proposed joint account would be invested in one or more repurchase agreements. Under the general provisions of each Fund's agreement with the Advisers, the Advisers would share the responsibility for investing monies in the joint account, establishing accounting and control procedures, and ensuring the equal treatment of each Fund. However, applicants intend that only Keystone (and Hartwell Keystone should Keystone America Hartwell Emerging Growth Fund or Keystone America Hartwell Growth Fund elect to participate) will manage the actual operation of the joint account and invest the money held in the account.

6. All joint repurchase agreement transactions will comply with the standards and guidelines set forth in Investment Company Act Release No. 13005 (Feb. 2, 1983) and with any other positions taken by the SEC or its staff by rule, release, letter, or otherwise relating to repurchase agreement transactions. These systems and standards include quality standards for issuers of the repurchase agreements and requirements that the repurchase agreements be at least 100% collateralized at all times. Each Fund acknowledges that it has a continuing obligation to monitor published statements of the SEC on repurchase agreements, and in the event the SEC sets forth different or additional requirements, each Fund will modify its systems and standards accordingly.

7. The joint accounts would not differ from any other custodian account maintained by a Fund with the exception that monies from each Fund could be deposited on a commingled basis. The joint accounts would be structured to avoid any indicia of a separate legal existence and would only exist to provide a convenient way of aggregating the individual daily transactions necessary to manage the Funds' respective daily uninvested cash balances. Each of the Funds participating in a proposed joint account would participate in that account on the same basis as every other participating Fund, and in conformity with each Fund's fundamental investment objectives, policies, and restrictions.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Each Fund, by participating in the proposed joint account, and the Advisers, by managing the proposed joint account, could be deemed to be "a joint participant" in a transaction within the meaning of section 17(d). In addition, the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d–1.

2. The Funds' board of directors are satisfied that the proposed method of operating the joint account would not result in any conflicts of interest between any of the Funds or between a Fund and Keystone, Keystone Management, and/or Hartwell Keystone. The boards also considered the fact that although the Advisers would gain some benefit through administrative convenience and some possible reduction in clerical costs, the primary beneficiaries would be the participating Funds and their shareholders since the joint account would enhance the efficiency and productivity of the Funds' daily investment transactions. Accordingly, applicants believe that the criteria for issuance of an order are met.

Applicants' Conditions

Applicants agree to the following conditions in any order of the SEC granting the requested relief:

1. A separate custodian cash account would be established at the Custodian Bank into which each Fund would cause its uninvested net cash balances to be deposited daily.

2. Cash in the joint account would be invested solely in repurchase agreements collateralized by suitable U.S. government obligations (i.e., obligations issued or guaranteed as to principal and interest by the U.S. government or by any of its agencies or instrumentalities). Each repurchase agreement would satisfy the most restrictive standards for repurchase agreement transactions set by any Fund participating in a particular repurchase agreement transaction. Each repurchase agreement will have, with rare exceptions, an overnight or over-the-weekend duration, and in no event will it have a duration of more than seven days.

3. Each Fund relying on rule 2a–7 under the Act, in order to value on the basis of amortized cost, would use the average maturity of the joint account for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in the account on that day.

4. To eliminate the possibility of one Fund using any part of the balance of the joint account credited to another Fund, no Fund would be allowed to create a negative balance in the joint account; provided, however, that a Fund would be permitted to draw down its entire balance at any time. Each Fund's decision to invest in the joint account would be solely at the Fund's option. A Fund would not be required either to invest a minimum amount or to maintain a minimum balance. Each Fund would retain sole ownership rights to all of its assets invested in the joint account, including interest payable on such assets. Each Fund's investment in the joint account would be documented daily on the books of both the Fund and the Custodian Bank.

5. A Fund would participate in the instruments held in the joint account

and any interest earned or accrued thereon on the basis of its percentage share of the account's then total balance.

6. No Adviser will collect an additional fee from any Fund for managing the joint account.

7. The administration of the joint account would be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

8. The board of directors/trustees of each Fund participating in the joint trading account will adopt procedures pursuant to which the joint trading account will operate, which will be reasonably designed to provide that the requirements of the application will be met. The board will make and approve such changes as they deem necessary to ensure that such procedures are followed. In addition, the board would determine, no less frequently than annually, whether the joint trading account has been operated in accordance with such procedures.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27344 Filed 11–5–93; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 19828; 812–8398]

PMC Capital, Inc.; Application

November 2, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: PMC Capital, Inc. ("PMC"), Western Financial Capital Corporation ("WFC"), First Western SBLC, Inc. ("FW"), and Pro-Med Investment Corporation ("PMIC").

RELEVANT ACT SECTIONS: Order requested under sections 6(c) to amend a prior order that granted certain exemptions from sections 8(b) and 30(d) of the Act and rules 8b–16 and 30d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek to amend a prior order so PMC can invest more than 10% of its total assets, calculated on a consolidated basis, in securities similar to those in which certain subsidiaries of PMC invest, while continuing to file amendments to its registration statements and transmit to shareholders semi-annual reports on a consolidated basis.

FILING DATE: The application was filed on May 12, 1993, and an amendment thereto was filed on September 21, 1993. In a letter dated October 30, 1993, applicants' counsel stated that an additional amendment, the substance of which is reflected in this notice, will be filed during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing.

Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 26, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 17290 Preston Road, Dallas, Texas 75252.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 272–3030, or Barry D. Miller, Senior Special Counsel, (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations and Legal Analysis

1. PMC, a Florida corporation, is a closed-end, diversified management investment company, registered under the Act. PMC has three subsidiaries, WFC, FW, and PMIC, that are licensed by the Small Business Administration ("SBA") and registered under the Act as closed-end, diversified management investment companies. WFC, a licensed small business investment company ("SBIC"), and FW, a licensed small business lending company ("SBLC"), are Florida corporations wholly-owned by PMC. PMIC, a licensed specialized small business investment company, is a wholly-controlled Florida subsidiary of PMC.

2. WF obtains direct loans or guarantees of borrowings from the SBA for reinvestment. FW's activities primarily consist of making loans solely to qualifying small businesses in conjunction with SBA guarantee programs pursuant to which the SBA guarantees up to 90% for the principal amount of the loans FW makes. PMIC's operations are almost identical to those of WF, except that PMIC obtains funding from the SBA not only from loans but from the sale of nonvoting preferred stock to the SBA. PMC owns all of PMIC's common stock, PMIC's only class of voting stock.

3. PMC, and the applicant subsidiaries and certain other wholly-owned or wholly-controlled future subsidiaries of PMC licensed by the SBA (the "SBA Subsidiaries"), have an order that conditionally exempts them from, *inter alia*, sections 8(b) and 30(d) of the Act, and rules 8b–16 and 30d–1 thereunder.

4. Section 8(b) of the Act requires every registered investment company to file with the SEC a registration statement containing such information and documents as the SEC shall prescribe. Rule 8b–16 thereunder requires every registered investment company filing reports on Form N–SAR to amend its registration statement filed pursuant to section 8(b) not more than 120 days after the close of each fiscal year. The Prior Order granted PMC an exemption from section 8(b) and rule 8b–16 to the extent necessary to permit PMC to file on behalf of itself and the SBA Subsidiaries, amendments to PMC's registration statement filed under the Act containing information regarding, and financial statements of, PMC and the SBA Subsidiaries, on a consolidated basis only. The consolidated filing was to be in lieu of the separate filing obligations of the SBA Subsidiaries pursuant to section 8(b) and rule 8b–16.

5. Section 30(d) of the Act requires every registered investment company to transmit to their shareholders, at least semi-annually, reports containing such information and financial statements or their equivalent as the SEC may prescribe. Rule 30d–1 thereunder requires every registered management investment company to transmit to their shareholders, at least semi-annually, a report containing the financial statements required to be included in any such reports by the SEC's registration statement form under the Act and prescribes the time within which such report must be transmitted. PMC was granted an exemption from section 30(d) of the Act and rule 30d–1 thereunder to the extent necessary to permit it to transmit to its shareholders, semi-annually, reports containing financial information and statements prescribed on a consolidated basis for PMC and the SBA Subsidiaries. That exemption was granted in lieu of the separate reporting obligations of the SBA Subsidiaries.

6. As a condition to the relief granted in the Prior Order, PMC agreed that separate financial statements would not be required in any amendment filed with the SEC pursuant to rule 8b–16 under the Act, or in any semi-annual report transmitted to its shareholders, only as long as the amount of PMC's total assets on a consolidated basis invested in securities other than those of the SBA Subsidiaries does not exceed 10%. If 10% or more of PMC's total assets on a consolidated basis is invested in securities other than those of the SBA Subsidiaries, additional financial statements will be provided; namely, combined financial statements of the SBA Subsidiaries, and separate financial statements of any other subsidiary in which PMC's investment exceeds 10% of its total assets on a consolidated basis.

7. Applicants seek to amend the Prior Order so PMC can invest more than 10% of its total assets, calculated on a consolidated basis, in securities similar to those in which the SBA Subsidiaries invest while continuing to report solely on a consolidated basis.

8. Applicants seek the requested relief because PMC has determined that it is in the best interest of its shareholders to allocate a greater portion of its assets to those small business concerns that, while similar to the investments in which the SBA Subsidiaries invest, do not qualify as permitted investments by an SBIC or an SBLC because of regulations promulgated by the SBA. Because of the limitations imposed on the SBA Subsidiaries, PMC wants to make loans directly rather than through the SBA Subsidiaries. PMC and its investment company subsidiaries will continue to engage in the same business, small business lending, and will continue to operate as an economic unit.

9. A two-tiered investment company engaged in small business lending, like PMC, which consists of a parent investment company and wholly-owned or controlled investment company subsidiaries, operates essentially as an economic unit. Accordingly, consolidated information and financial statements provide the most meaningful data to the investor. PMC believes that separate filings would create unreasonable effort and expense without accruing any benefit to PMC's shareholders.

10. Applicants state that the 10% limitation on investments outside the SBA Subsidiaries presumably was imposed to address a situation where PMC and the SBA Subsidiaries are engaged in nonhomogeneous operations and where PMC's asset commitment to such operations is significant. That limitation may adequately protect the investor from confusion caused by financial statements which lump together nonhomogeneous operations. The potential for confusion, however, is not raised by applicants' proposed modification. PMC and the SBA Subsidiaries are and will continue to engage in the same business, small business lending. For reporting purposes, it is not useful to distinguish loans made to those small businesses which meet certain requirements of the SBA and those that do not. Segregation of non-SBA and SBA small business lending only would be useful to the SBA, which already receives separate financial statements of the SBA Subsidiaries under the reporting requirements of that agency. The chief concern of the SEC is protection of investors and the proposed modification does not jeopardize that goal.

11. Applicants believe that the requested modification is consistent with the policy and provisions of the Act in that it will enable PMC to provide the SEC and the investing public with adequate information concerning its operations and those of its subsidiaries in the most meaningful form.

Applicants' Condition

Applicants agree that any order of the SEC granting the requested relief may be conditioned upon the following:

Separate financial statements will not be required in any amendment filed with the SEC pursuant to rule 8b–16 under the Act, or in any semi-annual report to their shareholders, only as long as the amount of PMC's total assets on a consolidated basis invested in assets other than securities of the SBA Subsidiaries or securities similar to those in which such subsidiaries invest, does not exceed 10%. PMC will, in response to the appropriate item of Form N–SAR or appropriate successor form, indicate that the report is being filed on behalf of the SBA Subsidiaries, and the "811" number of each SBA Subsidiary. Notwithstanding anything in this application, PMC shall not be relieved of any reporting obligations or requirements, including, but not limited to, the requirement for consolidating statements setting forth the individual statements of its significant subsidiaries or the prohibition against filing financial statements that are consolidated with subsidiaries that are not investment companies, each as provided by rule 6–03(c) of regulation S–X.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27343 Filed 11–5–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19826; 912–8536]

The Prudential Insurance Co. of America, et al.; Application for Order

November 1, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order of approval under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: The Prudential Insurance Company of America ("Prudential"), Prudential Institutional Fund ("PIF"), Prudential Variable Contract Account–10 ("VCA–10"), Prudential Variable Contract Account–11 ("VCA–11"), Prudential Variable Contract Account–24 ("VCA–24"), and Prudential Retirement Services, Inc. ("PRSI").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to section 11 of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order approving the terms under which contract owners or participants holding interests under certain group variable annuity contracts may exchange amounts under the contracts for interests in PIF.

FILING DATE: The application was filed August 13, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 26, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, Rosanne J. Baruh, Esq., The Prudential Insurance Company of America, 21 Prudential Plaza, Newark, New Jersey 07102–3777.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Senior Attorney, at

(202) 272–2058 or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Prudential is a mutual life insurance company organized under the laws of the State of New Jersey. Prudential had approximately $200 billion in total consolidated assets as of December 31, 1992.

2. PIF is an open-end, no-load, registered management company. PIF consists of seven portfolios, each of which is managed by a registered investment adviser which is a direct or indirect wholly owned subsidiary of Prudential. PIF is available only to certain institutional investors, including retirement plans.

3. VCA–10 is a separate account of Prudential registered as an open-end management investment company. VCA–10 invests primarily in common stocks and is an investment option under the Medley Program. Prudential is the investment manager for VCA–10.

4. VCA–11 is a separate account of Prudential registered as an open-end management investment company. VCA–11 invests primarily in money market instruments and is an investment option under the Medley Program. Prudential is the investment manager for VCA–11.

5. VCA–24 is a separate account of Prudential registered as a unit investment trust. VCA–24 invests solely in shares of specific portfolios of Prudential Series Fund, Inc. ("Series Fund") which is a registered open-end management investment company. VCA–24 is an investment option under the Medley Program.

6. The Series Fund is an open-end management investment company with several series. Shares of the Series Fund are currently sold exclusively to separate accounts of Prudential and certain other affiliated insurance companies to fund benefits under variable annuity and variable life insurance contracts.

7. PRSI is an indirect wholly owned subsidiary of Prudential registered as a broker-dealer under the Securities Exchange Act of 1934. It is the principal underwriter of the contracts. PRSI is also PIF's principal underwriter.

8. Prudential issues group annuity contracts under its "Medley" Program. Under the Medley Program, employers make contributions on behalf of their employees under the contracts. Prudential offers the group annuity contracts for use in connection with retirement arrangements that qualify for federal tax benefits under sections 401, 403(b), 408 or 457 of the Internal Revenue Code and with certain non-qualified annuity arrangements. Under the Medley Program, contract owners may hold a fixed-dollar group annuity contract ("Companion Contract") and up to three group variable annuity contracts, each of which is funded by VCA–10, VCA–11, and VCA–24, respectively (collectively, the "Contracts").

If the Medley Program selected by the employer includes all the Contracts, the participant may choose to have contributions made by the employer on his or her behalf invested in any of these options, and amounts may be transferred among accounts during the accumulation period, subject to certain limits. No variable annuity payout options are offered. Only fixed annuity options are available.

Applicants propose to expand the investment options under the Medley Program to include PIF, with the expanded program to be known as "Medley Plus."

9. Prudential assesses the following charges under the Medley Contracts. An annual account charge of up to $20 may be assessed participants to cover certain administrative expenses. An administrative fee of 0.75% of average net assets is assessed against VCA–10, VCA–11, and VCA–24 to recoup administrative expenses not covered by the annual account charge. An investment management fee of 0.25% of average net assets is assessed against the assets of VCA–10 and VCA–11. The Series Fund portfolios have investment management fees ranging from 0.40% to 0.75%, as well as certain other Fund expenses. There is no front-end sales charge under the Medley Contracts, but there is a declining contingent deferred sales charge upon the early withdrawal of contributions. This charge is generally at 7% of contributions withdrawn in the first two years of program participation, declining over time until it disappears after 15 years of program participation.

10. Applicants propose to offer Contract owners the opportunity to add PIF as an investment option. If the Contract Owner determines to accept this opportunity, Applicants will communicate in writing about the terms of the exchange offer to any participants who have the ability to direct investment of contributions. Applicants will provide to such participants a current PIF prospectus and a supplement describing the terms of the exchange offers. In addition, Applicants plan to hold meetings with such participants to explain the terms of the exchange offers.

Participants will be afforded a fixed time (a "window"), determined in connection with the particular contract and retirement arrangement in question but at least 60 days in length, to exchange any or all amounts invested in their accumulation accounts under the Companion Contract, VCA–10, VCA–11, or VCA–24 for shares of PIF without the imposition of any contingent deferred sales charge. Amounts transferred within that window from VCA–10, VCA–11, or VCA–24 will be exchanged for shares of PIF at their respective net asset values, without the imposition of any charges.

11. Amounts transferred from the Medley Program to PIF within the window will not be subject to any sales load. PIF is a no-load fund, without any front end or contingent deferred sales charge, or any other redemption charge. Because Contract owners or participants may exchange to PIF to withdraw contributions from Medley altogether without incurring a sales charge. Applicants reserve the right to regulate the timing under which the offers of exchange are extended to Contract owners and participants. Absent this reservation of authority, Contract owners or participants could exchange into PIF without having a bona fide intent to invest therein. Applicants maintain that systematic abuses of this type would be unfair to Applicants and undermine the integrity of the sales load structure under the Contracts.

If participants do not elect to exchange units of their Medley accumulation accounts for shares of PIF during the window, participants may subsequently transfer from the Contracts' investment options to PIF only amounts that are not subject to the contingent deferred sales charge. No exchanges of amounts subject to the contingent deferred sales charge will be allowed outside the window. Applicants reserve the right, however, to offer participants subsequent windows for charge-free exchanges into PIF. All such exchange offers will be open for a period of at least 60 days, disclosed and made available on a uniform and fair basis to similarly situated participants. Any such window which is not self-terminating by its terms will only be withdrawn by Applicants on 60 days notice.

12. If a Medley participant exchanges all of his or her other Medley accumulation accounts for shares of PIF, the annual account charge of not more

than $20, which is assessed at the end of the calendar year, may be deducted from the participant's interest in PIF at the end of the calendar year.

Applicants' Legal Analysis

1. Section 11(a) of the 1940 Act provides, in pertinent part, that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make or cause to be made an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his or her security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

2. Section 11(c) of the 1940 Act provides that, irrespective of the basis of exchange, subsection (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust, or to any offer of exchange of any security of a registered unit investment trust for the securities of any other investment company. Although Applicants believe the proposed exchanges are at net asset value, the involvement of VCA–24, a registered unit investment trust, requires a prior order of approval of the Commission.

3. Applicants represent that one of the practices Congress sought to prevent through the adoption of section 11 of the 1940 Act was switching. Because the proposed offers of exchange will be based on the relative net asset values or unit values of the interests being exchanged, there is no possibility of switching of customers to exact additional sales charges.

4. Applicants represent that, but for the fact that PIF is a registered investment company offered directly to qualified plans and certain institutional investors, instead of a funding vehicle for variable annuity contracts issued through separate accounts, Rule 11a–2 of the 1940 Act would authorize the proposed exchanges. In this regard, Applicants represent that the proposed exchanges are fully consistent with the sales load provisions of Rule 11a–2. In addition, Applicants note that the Commission has issued previous orders approving exchanges between variable annuity contracts and publicly available open-end management investment companies.[1]

[1] See e.g., Western Life Insurance Company, Investment Company Act Release No. 18103 (Apr. 17, 1991) (Notice); Investment Company Act Release No. 18150 (May 15, 1991) (Order); Charter National Life Insurance Company, Investment Company Act Release No. 18083 (Apr. 8, 1991) (Notice); Investment Company Act Release 18130 (May 1, 1991) (Order); The Travelers Insurance Company, Investment Company Act Release 9120 (Jan. 12, 1976); Investment Company Act Release 9153 (Feb. 11, 1976) (Order).

Conclusion

Applicants represent that the proposed offers of exchange meet all the objectives of section 11 and provide a benefit to Contract Owners and participants. Therefore, Applicants request that the Commission issue an order approving the terms of the offers of exchange as requested.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–27342 Filed 11–5–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed 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.

DATES: Comments should be submitted on or before December 8, 1993. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th floor, Washington, DC 20416. Telephone: (202) 205–6629.

OMB REVIEWER: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Lender Transcript of Account
Form No. SBA Form 1149
Frequency: On Occasion
Description of Respondents: SBA guaranty lenders
Annual Responses: 4,073
Annual Burden: 4,073

Dated: November 2, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–27397 Filed 11–5–93; 8:45 am]

BILLING CODE 8025–01–M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed 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.

DATES: Comments should be submitted on or before December 8, 1993. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th floor, Washington, DC 20416. Telephone: (202) 205–6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Contract Progress Report of Certificate of Competency
Form No.: SBA Form 104A
Frequency: Monthly
Description of Respondents: Small Business Contractors
Annual Responses: 700
Annual Burden: 4200

Dated: November 2, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–27398 Filed 11–5–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 93–073]

National Offshore Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: A meeting of the National Offshore Safety Advisory Committee (NOSAC) will be held on Wednesday, December 1, 1993, in Room 2200, at the McDermott offices, 1450 Poydras Street, New Orleans, Louisiana (504) 587–4578. The meeting is scheduled to run from 1 p.m. to 4 p.m. Attendance is open to the public. The agenda will include discussion on the following topics:

(a) Revisions to OCS Regulations (33 CFR Subchapter N).

(b) ISM Code Implementation for the Offshore Industry.

(c) IMO Items Affecting the Offshore Industry.

(d) Periodic Verification of Lightship.

(e) National Pollution Fund Center Activities.

Attendance at the meeting is open to the public. With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the NOSAC Executive Director no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written materials should be submitted to the Executive Director no later than November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Commander Adan Guerrero, Executive Director, National Offshore Safety Advisory Committee (NOSAC), room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–2307.

Dated: October 29, 1993.

R.C. North,

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

[FR Doc. 93–27381 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–14–M

[CGD 93–070]

Oil Record Book Required for Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of international requirements.

SUMMARY: The Oil Record Book required to be carried on ships by Annex I of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) has been amended. These amendments went into force on April 4, 1993. The Coast Guard is publishing the changes that have been made to the Oil Record Book requirements by these amendments.

FOR FURTHER INFORMATION CONTACT: LT Jonathan C. Burton, Marine Environmental Protection Division (G–MEP–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, 20593–0001, (202) 267–0426.

SUPPLEMENTARY INFORMATION: On July 4, 1991, the Marine Environment Protection Committee of the International Maritime Organization adopted amendments to the Oil Record Book required by Annex I of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). These amendments went into force on April 4, 1993, and apply to all oil tankers 150 gross tons and over and all other vessels 400 gross tons and over under the flag of the United States and any other country signatory to MARPOL 73/78.

The amendments contain numerous technical changes. Of special note is the new requirement to record the results of bunkering operations in the Machinery Space Operations section of the Oil Record Book.

A rulemaking has been initiated to revise this section and, until the rule is final, the Coast Guard will not enforce these amendments against domestic or foreign ships. However, other countries signatory to MARPOL are enforcing them and, therefore, ship operators may want to bring their Oil Record Books into compliance with the amendments to avoid fines or other penalties. The current Oil Record Book (CG–4602A (Rev. 10–83)) is being reprinted and will reflect the amendments. In the interim, the following list has been developed to advise ship operators of the changes that have been made to the Oil Record Book requirements. Additional copies of the change list, a full text of the MARPOL 73/78 changes, and additional information can be obtained by contracting the office under "FOR FURTHER INFORMATION CONTACT."

Oil Record Book Change List

The following is a list of changes to Annex I of MARPOL 73/78 affecting the Oil Record Book requirements. They should be considered before navigating a vessel in the waters of foreign countries that are signatory to MARPOL 73/78 in order to avoid possible citations.

Changes to the Oil Record Book Resulting From Amendments to the Annex of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution From Ships, 1973

Part I—Machinery Space Operations: Introduction

New paragraph 4

The Oil Record Book contains many references to oil quantity. The limited accuracy of tank measurement devices, temperature variations and clingage will affect the accuracy of these readings. The entries in the Oil Record Book should be considered accordingly.

(A) Ballasting or Cleaning of Oil Fuel Tanks

* * * * *

3. Cleaning process:
   - .1 position of ship and time at the start and completion of cleaning;
   - .2 identify tank(s) in which one or another method has been employed (rinsing through, steaming, cleaning with chemicals; type and quantity of chemicals used);
   - .3 identity of tank(s) into which cleaning water was transferred.

4. Ballasting:
   - .1 position of ship and time at start and end of ballasting;
   - .2 quantity of ballast if tanks are not cleaned;
   - .3 position of ship at start of cleaning;
   - .4 position of ship at start of ballasting.

(B) Discharge of Dirty Ballast or Cleaning Water From Oil Fuel Tanks Referred to Under Section (A):

* * * * *

9. Method of discharge:
   - .1 through 100 ppm equipment; (Is allowed for ships delivered before 6 July 1993 until 6 July 1998).
   - .2 through 15 ppm equipment (Required for ships delivered after 6 July 1993.

* * * * *

(C) Collection and Disposal of Oil Residue (Sludge)

11. Collection of oil residues Quantity of oil residues (sludge) retained on board at the end of a voyage, but not more frequently than once a week. When ships are on short voyages, the quantity should be recorded weekly [1]:
   - .1 separated sludge (sludge resulting from purification of fuel and lubricating oils) and other residues, if applicable:
     —identity of tank(s) .....
     —capacity of tank(s) ..... m^3

—total quantity of retention .. m³;

.2 other residues (such as oil residues resulting from drainages, leakages, exhausted oil, etc., in the machinery spaces), if applicable due to tank arrangement in addition to .1:

—identity of tank(s) .....

—capacity of tank(s) ..... m³

—total quantity of retention .. m³;

12. Methods of disposal of residue State quantity of oil residue disposed of, the tank(s) emptied and the quantity of contents retained:

.1 to reception facilities (identify port) [2];

.2 transferred to another (other) tank(s) (indicate tank(s) and the total content of tank(s);

.3 incinerated (indicate total time of operation);

.4 other method (state which).

(D) Non-Automatic Discharge Overboard or Disposal Otherwise of Bilge Water Which Has Accumulated in Machinery Spaces

13. Quantity discharged or disposed of.

14. Time of discharged or disposal (start and stop).

15. Method of discharge or disposal:

.1 through 100 ppm equipment (state position at start and end;

.2 through 15 ppm equipment (state position at start and end);

.3 to reception facilities (identify port) [2];

.4 transfer to slop tank or holding tank (indicate tank(s)); state quantity transferred and the total quantity retained in tank(s).

Notes: [1] Only in tanks listed in item 3 of Form A and B of the Supplement to the IOPP Certificate.

[2] Ships' masters should obtain from the operator of the reception facilities which include barges and tank trucks a receipt or certificate detailing the quantity of tank washing, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.

(E) Automatic Discharge Overboard or Disposal Otherwise of Bilge Water Which has Accumulated in Machinery Spaces

16. Time and position of ship at which the system has been put into automatic mode of operation for discharge overboard.

17. Time when the system has been put into automatic mode of operation for transfer of bilge water to holding tank (identify tank).

* * * * *

(H) Bunkering of Fuel or Bulk Lubricating Oil

27. Bunkering

.1 Place of bunkering.

.2 Time of bunkering.

.3 Type and quantity of fuel oil and identity of tank(s)) (state quantity added and total quantity of tank(s)).

.4 Type and quantity of lubricating oil and identity of tank(s) (state quantity added and total content of tank(s)).

(I) Additional Operational Procedures and General Remarks (Change the Section To Be (I) Vice (H))

* * * * *

Part II—Cargo/Ballast Operations: Introduction

New paragraph 5

The Oil Record Book contains many references to oil quantity. The limited accuracy of tank measurement devices, temperature variations and clingage will affect the accuracy of these readings. The entries in the Oil Record Book should be considered accordingly.

(A) Loading of Oil Cargo

* * * * *

3. Total quantity of oil loaded (state quantity added and the total content of tank(s)).

(B) Internal Transfer of Oil Cargo During Voyage

* * * * *

4. .2 To: (state quantity of oil loaded (stated quantity added and the total content of tank(s)).

5. Was (were) the tank(s) in 4.1 emptied? (If not, state the quantity retained)

* * * * *

(E) Ballasting of Cargo tanks

18. Position of ship at start and end of ballasting.

19. Ballasting process:

.1 identity of tank(s) ballasted;

.2 time of start and end;

.3 quantity of ballast received. Indicate total quantity of ballast for each tank involved in the operation.

(F) Ballasting of Dedicated Clean Ballast Tanks (CBT Tankers Only)

* * * * *

23. Quantity of the oil water which, after line flushing, is transferred to the slop tank(s) or cargo tank(s) in which slop is preliminarily stored (identify tank(s)). State the total quantity.

* * * * *

(G) Cleaning of Cargo Tanks

* * * * *

31. Tank washings transferred to:

.1 reception facilities (state port and quantity) [5];

.2 slop tank(s) or cargo tank(s) designated as slop tank(s) (identify tank(s); state quantity transferred and total quantity).

(H) Discharge of Dirty Ballast

* * * * *

39. Quantity of oil water transferred to slop tank(s) (identify slop tank(s). State total quantity).

40. Discharged to shore reception facilities (identify port and quantity involved) [5]

* * * * *

(J) Disposal of Residues and Oily Mixtures not otherwise dealt with

56. Quantity disposed of from each tank. (State the quantity retained.)

57. Method of Disposal

.1 to reception facilities (identify port and quantity involved) [5]

* * * * *

(P) Loading of Ballast Water

* * * * *

79. Total quantity of ballast loaded in cubic meters.

* * * * *

(R) Ballast Water Discharge to Reception Facility

* * * * *

84. Total quantity of ballast water discharge in cubic meters.

* * * * *

Notes: [5] Ships' masters should obtain from the operator of the reception facilities which include barges and tank trucks a receipt or certificate detailing the quantity of tank washings, dirty ballast, residues or oily mixtures transferred, together with the time and date of the transfer. This receipt or certificate, if attached to the Oil Record Book, may aid the master of the ship in proving that his ship was not involved in an alleged pollution incident. The receipt or certificate should be kept together with the Oil Record Book.

* * * * *

Dated: October 22, 1993.

R.C. North,

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

[FR Doc. 93–27379 Filed 11–5–93; 8:45 am]

BILLING CODE 4910–14–M

Sunshine Act Meetings

Federal Register
Vol. 58, No, 214
Monday, November 8, 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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: November 16, 1993, 2:00 p.m. (Eastern time)

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes
2. Report to the Commission—Office of Communications and Legislative Affairs
3. Memorandum of Understanding between the Office of General Counsel of the National Labor Relations Board and the Equal Employment Opportunity Commission

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the *Federal Register*, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 663–7100 (voice) and (202) 663–4077 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Office on (202) 663–4070.

Dated: November 4, 1993

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 93–27578 Filed 11–04–93; 2:39 pm]

BILLING CODE 6750–06–M

FEDERAL ENERGY REGULATORY COMMISSION

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), U.S.C. 552b:

DATE AND TIME: November 10, 1993, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro, 989th Meeting—November 10, 1993, Regular Meeting (10:00 a.m.)

CAH–1.
Docket Nos. EL84–20–007 and 008, Commonwealth Power Company

CAH–2.
Project Nos. 6568–003, 004, 008 and 020, Delmer Wagner

CAH–3.
Project Nos. 8990–031 and 8654–025, Noah Corporation

CAH–4.
Project No. 2741–007, Kings River Conservation District

Consent Agenda—Electric

CAE–1.
Docket No. QF90–143–001, Yuma Cogeneration Associates

CAE–2.
Docket No. ER93–385–000, Northern States Power Company (Minnesota)

CAE–3.
Docket No. ER93–325–001, Georgia Power Company

CAE–4.
Docket Nos. ER–90–349–008, ER90–406–004 and ER91–21–004, Northern States Power Company (Minnesota and Wisconsin)

CAE–5.
Docket No. RM93–10–001, New Reporting Requirement Implementing Section 213(b) of the Federal Power Act and Supporting Expanded Regulatory Responsibilities Under the Energy Policy Act of 1992, and Conforming and Other Changes to Form No. FERC–714

CAE–6.
Docket No. ER92–544–002, Montaup Electric Company

CAE–7.
Omitted

CAE–8.
Omitted

CAE–9.
Omitted

CAE–10.
Docket Nos. ER93–59–001, ER93–65–001 and EL91–29–002, Southern Company Services, Inc.

CAE–11.
Docket No. EG–94–1–000, UC Operating Services

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM94–3–000, Revisions to Regulations Governing Freedom of Information Act Requests

Consent Agenda—Oil and Gas

CAG–1.
Docket No. RP94–20–000, Texas Eastern Transmission Corporation.

CAG–2.
Docket No. RP94–21–000, Northern Natural Gas Company

CAG–3.
Docket No. RP94–24–000, Pacific Gas Transmission Company

CAG–4.
Docket Nos. RP89–183–000, 002, 051, TC89–8–000, RP91–43–000, TM91–3–43–000, RP91–152–000 and 001 (Phase II), Williams Natural Gas Company

CAG–5.
Docket No. RP94–18–001, Texas Eastern Transmission Corporation

CAG–6.
Docket Nos. RP92–104–005 and RP92–131–006, K N Energy, Inc.

CAG–7.
Docket Nos. RP91–224–007, 008, 010, RP92–1–012, 013 and 014, Northern Natural Gas Company

CAG–8.
Docket No. RP93–14–014, Algonquin Gas Transmission Company

CAG–9.
Docket No. RP93–172–002, Panhandle Eastern Pipe Line Company

CAG–10.
Docket No. RP93–166–001, Tennessee Gas Pipeline Company

CAG–11.
Docket Nos. RP93–184–001 and RP93–185–001, Carnegie Natural Gas Company

CAG–12.
Docket No. GP93–7–001, Railroad Commission of Texas, Unit Petroleum Company, Sell No. 2 Well, FERC JD93–13959B

CAG–13.
Docket Nos. RP91–203–029, RP92–132–030, RP92–160–002, CP89–629–028, CP90–639–017, CP91–2206–007 and RS92–23–009, Tennessee Gas Pipeline Company

CAG–14.
Omitted

CAG–15.
Docket Nos. TA92–1–43–003, RP92–136–001 and TM92–6–43–001, Williams Natural Gas Company

CAG–16.
Docket Nos. IS93–28–000, IS93–32–000 and IS94–2–000, Koch Pipelines, Inc.

CAG–17.
Docket No. RO92–2–000, The Crude Company

CAG–18.
Docket No. RO87–25–000, Storey Oil Company, Inc.

CAG–19.
Docket No. RO90–2–001, McWhirter Distributing Company, Inc.

CAG–20.

Docket No. RO89–7–000, Morrison Petroleum Company, Inc.
CAG–21.
Docket Nos. GP83–11–002 and RI83–9–003, Colorado Interstate Gas Company
CAG–22.
Docket No. RS92–8–005, Northern Natural Gas Company
CAG–23.
Docket Nos. RS92–14–010, CP93–39–002, CP93–147–002, CP93–149–002, G–1391–002, RP93–72–002, CP88–197–007, CP88–388–007, CP87–5–030, CP87–312–018, CP87–313–005, CP87–314–005, CP84–306–006, CP80–223–006, CP92–397–003, CP91–554–010, CP92–491–007, CP61–198–002, RP89–124–007, RP91–51–012, RP91–98–008, RP91–125–005, TM91–5–22–003, TM91–6–22–006, TM91–7–006, TM91–9–22–004, TM92–1–22–005, RP91–222–005, RP92–7–002, TM92–3–22–003, TM92–4–22–002, TM92–5–22–004, TM92–7–22–002, TM92–10–22–003, RP93–69–003, TM93–3–22–002, TQ93–3–22–003, TQ93–4–22–003, TQ93–2–22–002, TF93–3–22–002, TF93–2–22–002, TF93–1–22–003, TQ93–1–22–002, TA92–1–22–004, TQ92–2–22–003, TQ92–3–22–002, TQ92–4–22–003, TQ92–1–22–003, TA91–1–22–008, TQ91–3–22–004, TQ91–4–22–002, TF91–2–22–002, TF91–1–22–003, TQ91–1–22–004, TQ91–2–22–003, CNG Transmission Corporation
CAG–24.
Docket Nos. RS92–16–005, RP91–187–011 and CP91–2448–005, Florida Gas Transmission Company
CAG–25.
Docket Nos. RS92–43–007 and RP93–4–011, Mississippi River Transmission Corporation
CAG–26.
Docket No. RS92–64–006, High Island Offshore System Docket No. RS92–88–008, U-T Offshore System
CAG–27.
Docket Nos. RS92–11–000, 019, RP88–67–069, (Phase I/Rates), and RP92–234–004, Texas Eastern Transmission Corporation
Docket Nos. RP85–177–115, RP93–13–004, RP93–22–003, and CP90–2154–006, Texas Eastern Transmission Corporation
Docket No. RP93–65–002, Public Service Electric and Gas Company v. Texas Eastern Transmission Corporation
Docket Nos. RP88–81–023, RP88–221–017, RP89–255–006, RP90–15–004, RP90–119–017, and RP91–4–005, Texas Eastern Transmission Corporation
CAG–28.
Docket No. RS92–45–007, Natural Gas Pipeline Company of America
CAG–29.
Docket No. RS92–11–015, Texas Eastern Transmission Corporation
CAG–30.
Docket No. CP92–182–006, Florida Gas Transmission Company
Docket No. CP92–415–004, Transcontinental Gas Pipe Line Corporation and Florida Gas Transmission Company
CAG–31.
Docket Nos. CP93–186–000 and 001, Blue Ridge Pipeline Company
Docket Nos. CP93–187–000 and 001, Transcontinental Gas Pipe Line Corporation
CAG–32.
Docket No. CP93–52–000, Texas Gas Transmission Corporation
CAG–33.
Docket No. CP92–64–000, Texas Gas Transmission Corporation
CAG–34.
Docket No. CP89–635–003, Columbia Gas Transmission Corporation
CAG–35.
Docket No. CP93–409–000, Questar Pipeline Company
CAG–36.
Docket No. CP89–637–008, ANR Pipeline Company
Docket No. CP90–1363–002, Natural Gas Pipeline Company of America
Docket No. CP89–2174–004, Arkla Energy Resources Company
Docket No. CP90–1249–002, Colorado Interstate Gas Company
Docket No. CP91–1798–003, Natural Gas Pipeline Company of America
Docket No. CP91–2705–003, ANR Pipeline Company
Docket No. CP88–14–002, ANR Pipeline Company
Docket No. CP92–448–002, ANR Pipeline Company
CAG–37.
Docket No. CP93–421–000, Arkla Energy Resources Company

Hydro Agenda

H–1.
Docket No. RM93–7–000, Charges and Fees for Hydroelectric Projects. Notice of Proposed Rulemaking.

Electric Agenda

E–1.
Reserved

Oil and Gas Agenda

I. Pipeline Rate Matters
PR–1.
Reserved

II. Restructuring Matters
RS–1.
Docket No. RS92–79–002, Sea Robin Pipeline Company. Order on compliance and rehearing.
RS–2.
Docket Nos. RS92–12–005, 006, 007, RP94–30–000, RP89–183–050, TC89–9–009, RP91–43–009, TM91–3–009, RP91–152–026, and RP93–171–000, Williams Natural Gas Company. Order on compliance, clarification and rehearing.
RS–3.
Docket Nos. RS92–33–004 and 003, East Tennessee Gas Company. Order on compliance, clarification and rehearing.
RS–4.
Docket Nos. RS92–23–012, 013, RP91–203–033, and RP92–132–034, Tennessee Gas Pipeline Company. Order on compliance, clarification and rehearing.

III. Pipeline Certificate Matters
PC–1.
Reserved

Lois D. Cashell,
Secretary.
[FR Doc. 93–27577 Filed 11–4–93; 2:39 pm]
BILLING CODE 6717–01–M

INTER-AMERICAN FOUNDATION

Inter-American Foundation Board Meeting—Cancellation

TIME AND DATE: 10 a.m.—12 p.m., November 9, 1993.
PLACE: 901 N Stuart Street, Tenth Floor, Arlington, Virginia 22203.

The Inter-American Foundation's Board meeting scheduled for Tuesday, November 9, 1993, has been cancelled. No new date has been set.

CONTACT PERSONS FOR MORE INFORMATION: Adolfo A. Franco, Secretary to the Board, (703) 841–3894.

Dated: November 4, 1993.

Adolfo A. Franco,
Sunshine Act Officer.
[FR Doc. 93–27574 Filed 11–4–93; 2:39 pm]
BILLING CODE 7025–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of November 8, 15, 22, and 29, 1993.
PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.
STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:
Week of November 8

Monday, November 8
9:30 a.m.
Briefing on Site Decommissioning Management Plan (Public Meeting)
(Contact: David Fauver, 301–504–2554)
11:00 a.m.
Briefing on Investigative Matters (Closed—Ex. 5 & 7)

Wednesday, November 10
10:00 a.m.
Briefing by Office of Technology Assessment on Aging Nuclear Power Plants: Managing Plant Life and Decommissioning (Public Meeting)
11:00 a.m.
Discussion of Internal Management Practices (Closed—Ex. 2)
2:00 p.m.
Briefing on NRC Research Programs on Human Factors (Public Meeting)
(Contact: Tom King, 301–492–3510)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule, 10 CFR Parts 30, 40, 50, 70, and 72, "Self-Guarantee as an Additional Financial Assurance Mechanism" (Tentative)
(Contact: Clark Prichard, 301–492–3734)

Week of November 15—Tentative

There are no Commission meetings scheduled for the Week of November 15.

Week of November 22—Tentative

Wednesday, November 24

9:00 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 29—Tentative

Thursday, December 2

1:30 p.m.

Periodic Briefing on EEO Programs (Public Meeting) (Contact: Vandy Miller, 301–504–2326)

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–27575 Filed 11–4–93; 2:39 pm]

BILLING CODE 7590–01–M

STATE JUSTICE INSTITUTE

TIME AND DATE:

9:00 a.m. to 5:00 p.m., November 12, 1993

9:00 a.m. to 3:00 p.m., November 13, 1993

PLACE: New Orleans Hilton Riverside, Poydras at the Mississippi River, New Orleans, Louisiana 70140.

MATTERS TO BE CONSIDERED: Grant applications, a public forum, and internal Institute business.

PORTIONS OPEN TO THE PUBLIC: Grant application reviews, public forum, and portions of the business meetings.

PORTIONS CLOSED TO THE PUBLIC: Internal personnel matters.

CONTACT PERSON FOR MORE INFORMATION: David I. Tevelin, Executive Director, State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314, (703) 684–6100.

David I. Tevelin,

Executive Director.

[FR Doc. 93–27576 Filed 11–4–93; 2:39 pm]

BILLING CODE 6820–SC–M

Corrections

Federal Register
Vol. 58, No. 214
Monday, November 8, 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.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 93-60; FCC 93-450]

Private Land Mobile Radio Services; Co-Channel Protection Criteria Above 800 MHz

Correction

In the correction to rule document 93-25261 published on page 58729 in the issue of Wednesday, November 3, 1993, in the second column, the section was incorrectly identified as "§ 90.261". It should have read "§ 90.621" in the two places where it appears

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 93-85]
RIN 1515-AA50

User Fees for Customs Services

Correction

In rule document 93-25835 beginning on page 54271 in the issue of Thursday, October 21, 1993, make the following corrections:

§ 24.22 [Corrected]

On page 54285, in the first column:

1. In § 24.22 (g)(3)(i), in the sixth line, "(g)(2)(i)(A)" should read "(g)(2)(i)(A)(*1*)".

2. In § 24.22 (g)(3)(ii), in the sixth line, "(g)(2)(i)(B)" should read "(g)(2)(i)(A)(*2*)".

3. In § 24.22 (g)(3)(iii), in the fourth line, "(g)(2)(i)(A)" should read "(g)(2)(i)(A)(*1*)".

BILLING CODE 1505-01-D

federal register

Monday
November 8, 1993

Part II

Department of Transportation

Federal Transit Administration

Fiscal Year 1994 Apportionments and Allocations; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FTA Fiscal Year 1994 Apportionments and Allocations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation (DOT) and Related Agencies Appropriations Act, 1994, signed into law by President Clinton on October 27, 1993, provides fiscal year 1994 appropriations for the Federal Transit Administration's transit assistance programs. As required by law, the Agency today is publishing a comprehensive list of apportionments/allocations for its various funding programs.

This Notice includes the apportionment of fiscal year 1994 funds for the sections 9, 18, and 16 formula programs, the Interstate Substitute Transit Program (23 U.S.C. 103(e)(4)), the Section 3 Fixed Guideway Modernization Program, and the Sections 8 and 26(a)(2) Planning Programs, based on the 1994 DOT Appropriations Act, the Federal Transit Act, as amended, and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). This Notice also contains the allocations for the statutorily required funding for the Section 3 New Starts Program and the Section 3 Bus Program. Statutory limitations on the use of operating assistance are also included in this Notice, as well as other pertinent information.

In addition, a new FTA policy regarding pre-award authority to incur project costs is included in this Notice.

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator for grant specific information and issues; Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, (202) 366–2053, for general information concerning sections 3, 9, 18, 16 or 23 U.S.C. 103(e)(4) (Interstate Substitute Transit Program); or Robert F. Kirkland, Chief, Resource Management Division, Office of Planning, (202) 366–1632, for general information concerning the Sections 8 and 26(a)(2) Planning Programs.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
II. Overview of Appropriations for Grant Programs
A. General
B. Project Management Set-Aside
III. Section 9 Program
A. Total Section 9 Formula Apportionments
B. Data Used for Section 9 Apportionments
C. Adjustments to Urbanized Areas
D. Adjustments for Energy and Operating Efficiencies
E. Formula Apportionment Adjustments
F. Section 9 Fiscal Year 1994 Apportionments to Governors
G. Section 9 Operating Assistance Limitations
H. Statewide Operating Assistance Limitations
I. Designated Transportation Management Areas
IV. Section 18 and RTAP Programs
A. Section 18 Program
B. RTAP Program
V. Section 16 Program
VI. Title 23 Interstate Substitute Transit Program
VII. Surface Transportation Program "Flexible" Funds Used for Transit Purposes
A. Transfer Process
B. Matching Share for Flexible Funds
C. Other Funds Transferred to FTA
VIII. Section 3 Program
A. Section 3 Fixed Guideway Modernization
B. Section 3 New Starts
C. Section 3 Bus
1. Funding Availability
2. Priority Consideration
3. Demand for Section 3 Bus Funds
4. Other Selection Factors
5. Application Submission
D. Proposed Rescission of Section 3 Bus and New Start Funds
IX. Unit Values of Data for Sections 9, 18, and Section 3 Fixed Guideway Modernization
X. Sections 8 and 26(a)(2) Programs
A. Section 8 Urbanized Area Program
B. Section 26(a)(2) State Planning and Research Program
C. Data Used for Sections 8 and 26(a)(2) Apportionments
XI. Period of Availability of Funds
XII. Notice of Pre-Award Authority to Incur Project Costs
A. Background
B. Expanded Coverage
C. Conditions
D. Environmental and Other Requirements
XIII. Repayment of Temporary Matching Fund Waivers
XIV. Quarterly Approval of Grants
XV. Grant Application Procedures

Tables

1. FTA Fiscal Year 1994 Appropriations for Grant Programs
2. FTA Fiscal Year 1994 Section 9 Formula Apportionments
3. FTA Fiscal Year 1994 Section 18 Formula Apportionments and Rural Transit Assistance Program (RTAP) Allocations
4. FTA Fiscal Year 1994 Section 16 Apportionments
5. FTA Fiscal Year 1994 Interstate Substitute Transit Projects
6. FTA Fiscal Year 1994 Section 3 Fixed Guideway Modernization Formula Apportionments
7. FTA Fiscal Year 1994 Section 3 New Start Allocations
8. FTA Fiscal Year 1994 Section 3 Bus Allocations
9. FTA Fiscal Year 1994 Sections 8 and 26(a)(2) Apportionments
10. Unit Values of Data—FTA Fiscal Year 1994 Formula Grant Apportionments

I. Background

Section 9 program funds are apportioned by statutory formula to urbanized areas and to the Governors to provide capital and operating assistance in urbanized areas. Section 18 program funds are apportioned by statutory formula to the States for capital and operating assistance in nonurbanized areas. Section 16 program funds are apportioned by statutory formula to the States to provide capital assistance to organizations providing transportation service for elderly persons and persons with disabilities. Interstate substitute transit funds are allocated by formula to areas that have withdrawn planned interstate routes. Section 3 fixed guideway modernization funds are apportioned by statutory formula to specified urbanized areas for capital improvements in rail and other fixed guideways. Funds appropriated for planning by Metropolitan Planning Organizations (MPOs) under section 8 are apportioned by a statutory formula to the States for allocation by them to MPOs in urbanized areas or portions thereof. Appropriated funds under section 26(a)(2) for State planning and research also are apportioned to States by a statutory formula. Section 3 new starts earmarks contained in the 1994 DOT Appropriations Act and all bus fund allocations contained in the accompanying Conference Report are also included.

II. Overview of Appropriations for Grant Programs

A. General

In fiscal year 1994, the appropriation for the sections 9 and 18 programs is $2,356,140,508. Of this amount, 94.50 percent ($2,226,552,780) is made available to the section 9 program; and 5.50 percent ($129,587,728) is made available to the section 18 program. The other program appropriations contained in this Notice are as follows: $4,612,500 for the Rural Transit Assistance Program (RTAP); $58,726,492 for the section 16 program; $41,512,500 for the section 8 program; $8,475,000 for the section 26(a)(2) program; $45,000,000 for the Interstate Substitute Transit Program; and $1,785,000,000 for the section 3 program. Of the section 3 amount, $760,060,000 is for the Fixed Guideway Modernization Program, $667,940,000 is

for the New Starts Program and $357,000,000 is for the Bus Program.

Table 1 displays the amounts appropriated for these programs, including adjustments and final apportionment/allocation amounts. Text following this table provides a narrative explanation for the funding levels and other factors affecting these apportionments/allocations.

BILING CODE 4910-57-P

TABLE 1

FTA FISCAL YEAR 1994 APPROPRIATIONS FOR GRANT PROGRAMS

SOURCES OF FUNDS		TOTAL AVAILABLE
SECTIONS 9 AND 18 PROGRAMS	$2,356,140,508	
SECTION 9 PROGRAM		
(94.50% of Total Available for Sections 9 and 18)		2,226,552,780
Less 1/2% Set Aside		(11,132,764)
Reapportioned Funds Added		10,839,071
Total Apportioned		2,226,259,087
Operating Assistance Limitation		802,278,000
SECTION 18 PROGRAM		
(5.50% of Total Available for Sections 9 and 18)		129,587,728
Less 1/2% Set Aside		(647,939)
Reapportioned Funds Added		714,683
Total Apportioned		129,654,472
RTAP PROGRAM		4,612,500
Reapportioned Funds Added		2,903
Total Apportioned		4,615,403
SECTION 16 PROGRAM		58,726,492
Reapportioned Funds Added		237,890
Total Apportioned		58,964,382
INTERSTATE SUBSTITUTE TRANSIT PROGRAM		45,000,000
Less 1/2% Set Aside		(225,000)
Total Allocated		44,775,000
SECTION 3 PROGRAM	1,785,000,000	
FIXED GUIDEWAY MODERNIZATION		760,060,000
Less 3/4% Set Aside		(5,700,450)
Total Apportioned		754,359,550
NEW STARTS		667,940,000
Less 3/4% Set Aside		(5,009,550)
Total Allocated		662,930,450
BUS		357,000,000
Less 3/4% Set Aside		(2,677,500)
Unallocated		73,251,136
Total Allocated		427,573,636
SECTION 8 PROGRAM		41,512,500
SECTION 26(a) PROGRAM		8,475,000

BILLING CODE 4910-57-C

B. Project Management Set-Aside

Section 23 of the Federal Transit Act, as amended, allows the Secretary of Transportation to use not more than one-half of one percent of the funds made available under sections 3, 9, 18, the National Capital Transportation Act, as amended, and 23 U.S.C. 103(e)(4) (Interstate Substitute Transit Program), and an additional one-quarter of one percent of section 3 funds, to contract with any person to oversee the construction of any major project under these statutory programs and to conduct safety, procurement, management and financial reviews and audits. Therefore, one-half of one percent of the funds appropriated for fiscal year 1994 for sections 9, 18, the National Capital Transportation Act, as amended, and 23 U.S.C. 103(e)(4), and three-quarters of one percent of section 3 funds, have been reserved for this purpose before apportionment of the funds.

III. Section 9 Program

A. Total Section 9 Formula Apportionments

In addition to the appropriated fiscal year 1994 section 9 funds of $2,226,552,780, the section 9 apportionment also includes $10,839,071 in deobligated sections 5 and 9 funds which have become available for reapportionment under the section 9 program as provided for under section 9(o).

Table 2 displays the amount apportioned for the section 9 program. After the one-half percent set-aside ($11,132,764), the amount appropriated under section 9 is $2,215,420,016. The funds to be reapportioned, described in the previous paragraph, were then added. Thus, the total amount apportioned for section 9 is $2,226,259,087.

B. Data Used for Section 9 Apportionments

Data submitted for the 1992 Section 15 Report Year have been used to calculate the fiscal year 1994 section 9 apportionments for urbanized areas over 200,000 in population. Section 15 reports are being submitted and processed more rapidly and thus more current Section 15 data can be used for the apportionments. The population and population density figures used in calculating the section 9 formula are from the 1990 Census.

C. Adjustments to Urbanized Areas

According to the 1990 Census, Enid, Oklahoma, and Danville, Illinois, lost population and changed from urbanized to nonurbanized status. However, a statutory exception permitted these two areas to phase out of the section 9 urbanized area population base during fiscal years 1992 and 1993. In fiscal year 1992, these areas were retained in the section 9 base and received an apportionment as if they were urbanized. In fiscal year 1993, Enid and Danville were partially phased into the rural population base. In the fiscal year 1994 apportionments, these areas are included only in the population base for section 18.

D. Adjustments for Energy and Operating Efficiencies

Section 9(b)(4) of the Federal Transit Act, as amended, provides that, if a recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under section 9(b)(2)(A) shall not be reduced as a result of such actions. One recipient has submitted data acceptable to FTA in accordance with this provision. Accordingly, the revenue vehicle miles used in the section 9 database to calculate the fiscal year 1994 section 9 apportionment reflect the amount the recipient would have received without the reductions in mileage.

E. Formula Apportionment Adjustments

Minor adjustments have been made to the apportionments for two urbanized areas because of corrections to data that were used to compute the fiscal year 1993 formula grant apportionments published in the Federal Register of October 14, 1992 (57 FR 47212).

Differences between corrected apportionments and previously published apportionments have been resolved and necessary adjustments have been made by adding to the apportionments for fiscal year 1994. The dollar amounts published in this Notice contain these adjustments, and the affected urbanized areas have been so advised.

F. Section 9 Fiscal Year 1994 Apportionments to Governors

The total section 9 apportionment to the Governor for use in areas under 200,000 in population for each State is shown on Table 2. Table 2 also contains the total apportionment amount attributable to each of the urbanized areas within the State. The Governor may determine the allocation of funds among the urbanized areas under 200,000 in population with one exception. As further discussed below, funds attributed to an urbanized area under 200,000 which is within the planning boundaries of a transportation management area must be obligated in that area.

FTA encourages State agencies to be the applicants for section 9 funds on behalf of urbanized areas under 200,000 in population. With the State acting as applicant, funding for several urbanized areas could be combined in a single grant.

G. Section 9 Operating Assistance Limitations

The fiscal year 1994 limitations on the amount of section 9 funds that may be used for operating assistance are included in Table 2 with the fiscal year 1994 apportionment.

The operating assistance limitations for all urbanized areas have been increased under provisions of section 9(k)(2)(B) of the Federal Transit Act, as amended, to reflect the increase in the Consumer Price Index (CPI) for all urban consumers during the most recent calendar years. The CPI Detailed Report, December 1992, published by the Department of Labor, indicates the calendar year 1992 CPI increase for all urban consumers is 2.9 percent. This increase was applied against the base operating assistance limitation calculated under section 9(k)(2)(A).

This increase results in an overall national fiscal year 1994 authorized operating assistance limitation level of $1,055,521,351. However, the 1994 DOT Appropriations Act limits the nationwide availability for operating assistance to a maximum of $802,278,000. Accordingly, the operating assistance limitation published in this Notice takes into account both the 1994 DOT Appropriations Act and the Federal Transit Act, as amended. Therefore, the higher operating assistance limitation of the Federal Transit Act, as amended, ($1,055,521,351) has been reduced to the $802,278,000 required by the 1994 DOT Appropriations Act by taking a pro rata reduction across all categories of grantees.

H. Statewide Operating Assistance Limitations

Section 9(m)(1) of the Federal Transit Act, as amended, specifies that in any case in which a statewide agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, and when such statewide agency or instrumentality is the designated recipient of FTA funds,

and when the statewide agency or instrumentality provides service among two or more urbanized areas, the statewide agency or instrumentality shall be allowed to apply for operating assistance up to the combined total permissible amount of all urbanized areas in which it provides service, regardless of whether the amount for any particular urbanized area is exceeded.

I. Designated Transportation Management Areas

All urbanized areas over 200,000 in population have been designated as transportation management areas (TMAs), in accordance with section 8(i)(1) of the Federal Transit Act, as amended. These designations were formally made in a **Federal Register** notice dated May 18, 1992 (57 FR 21160), signed by the Federal Highway Administrator and the Federal Transit Administrator. Additional areas may be designated as TMAs upon the request of the Governor and the MPO designated for such area or the affected local officials.

Guidance for setting the boundaries of TMAs is contained in the joint transportation planning regulations published in the **Federal Register** on October 28, 1993 (58 FR 58040). In some cases, the TMA boundaries which have been established by the MPO for the designated TMA also include one or more urbanized areas under 200,000 in population. Where this situation exists, the discretion of the Governor to allocate section 9 "Governor's Apportionment" funds for urbanized areas under 200,000 in population is restricted.

Section 9(m)(1) of the Federal Transit Act, as amended, was modified by ISTEA to require that a recipient or recipients be designated to dispense the section 9 funds attributable to TMAs. Those areas that do not already have a designated recipient must name one and notify the appropriate FTA regional office of the designation. This would include those urbanized areas under 200,000 in population that may receive TMA designation independently, or those under 200,000 in population which are currently included within the boundaries of a larger designated TMA. In such cases, the Governor would only have discretion to allocate Governor's Apportionment funds attributable to areas which are outside of designated TMA boundaries. In order for the FTA and Governors to know which urbanized areas under 200,000 in population are included within the boundaries of an existing TMA, and so that they can be identified in future **Federal Register** notices, each MPO whose TMA planning boundaries include these smaller urbanized areas is asked to identify such areas to the FTA. This notification should be made in writing to the Associate Administrator for Grants Management, Federal Transit Administration, 400 7th Street, SW, Washington, DC 20590, no later than July 1, 1994.

IV. Section 18 and RTAP Programs

A. Section 18 Program

The fiscal year 1994 section 18 apportionments total $129,654,472. The State apportionments are displayed on Table 3.

A total of $129,587,728 is appropriated for the section 18 program. After the one-half percent set-aside ($647,939), the fiscal year 1994 apportionment also includes $714,683 in prior year deobligated funds which have become available for reapportionment under section 18. Section 18 funds provide capital, operating and administrative assistance for areas less than 50,000 in population.

Each State must spend no less than 15 percent of its fiscal year 1994 section 18 apportionment for the development and support of intercity bus transportation, unless the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met. Fiscal year 1994 section 18 grant applications must reflect this level of programming for intercity bus or include a certification from the Governor.

The population figures used in calculating the section 18 apportionment figures are from the 1990 Census.

B. RTAP Program

The fiscal year 1994 Rural Transit Assistance Program (RTAP) allocations to the States totaling $4,615,403 are also displayed on Table 3. This amount includes $4,612,500 in fiscal year 1994 appropriated funds, and $2,903 in prior year deobligated funds which have become available for reallocation. The funds are allocated to the States to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in nonurbanized areas. These funds are to be used in conjunction with the States' administration of the section 18 formula assistance program.

V. Section 16 Program

A total of $58,964,382 is apportioned to the States for fiscal year 1994 under the section 16 program. The fiscal year 1994 apportionment also includes $237,890 in prior year unobligated funds which have become available for reapportionment under section 16. Table 4 shows each State's apportionment.

The formula for apportioning section 16 funds uses 1990 Census population data for persons aged sixty-five and over and for persons with disabilities.

The funds provide capital assistance for transportation for elderly persons and persons with disabilities. Eligible capital expenses may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.

While the assistance is intended primarily for private non-profit organizations, public bodies that coordinate services for the elderly and persons with disabilities, or any public body that certifies to the State that non-profit organizations in the area are not readily available to carry out the service, may receive section 16 funds.

Section 16 funds. Section 16 funds may be transferred by the Governor to supplement section 9 or section 18 capital funds during the last 90 days of the fiscal year.

VI. Title 23 Interstate Substitute Transit Program

A total of $45,000,000 is appropriated for transit projects which have been substituted for withdrawn interstate highway segments. The funds are allocated by a formula which reflects the remaining cost to complete each withdrawal area's substitute transit projects. After the one-half percent set-aside ($225,000), $44,775,000 remains for projects. Table 5 displays the allocation of these funds.

In addition to the funds directly appropriated for interstate substitute transit projects, substitute highway funds allocated to a withdrawal area may be transferred from the Federal Highway Administration (FHWA) to FTA to be used for transit projects.

VII. Surface Transportation Program "Flexible" Funds Used for Transit Purposes

A. Transfer Process

"Flexible" DOT funds, such as Surface Transportation Program (STP) funds, Congestion Mitigation and Air Quality (CMAQ) funds, or others, which are designated for use on transit projects, are transferred from the FHWA to FTA for project approval. Flexible funds programmed for transit projects must result from the local and state planning and programming process, and must be contained on an approved State Transportation Improvement Program

(STIP) before the funds can be transferred. In order to initiate the transfer process, the grantee must submit a completed application to the FTA Regional Office, and must notify the state highway/transportation agency that it has submitted an application which requires a transfer of funds. Once the state highway/transportation agency determines that the state has sufficient obligation authority, it must notify FHWA that the funds are to be used for transit purposes and request that they be obligated by FHWA as a transfer project to FTA. Flexible funds programmed for transit projects must result from the local and state planning and programming process, and must be contained on an approved state transportation improvement program (STIP) before the funds can be transferred. The flexible funds transferred to FTA will be placed in an urbanized area or state account under one of the three existing formula programs—Sections 9, 16, or 18.

From thereon, they will be treated as FTA formula funds, although they will retain a special identifying code. The flexible funds may be used for any non-operating purpose eligible under these FTA programs. All FTA requirements are applicable to transferred funds. Flexible funds should be combined with regular FTA formula funds in a single annual grant application.

B. Matching Share for Flexible Funds

The provisions of title 23, U.S.C., regarding the non-Federal share apply to title 23 funds used for transit projects. Thus, flexible funds transferred to FTA retain the same matching share that such funds would have if used for highway purposes and administered by the FHWA.

There are three instances in which a higher than 80 percent Federal share would be maintained. First, in States with large areas of Indian and certain public domain lands, and National Forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that state. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transit projects funded with flexible funds in these public land states. FHWA develops annually the sliding scale matching ratios for the increased Federal share.

Additionally, commuter carpooling and vanpooling projects and transit safety projects using flexible funds administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by the FHWA. The 100 percent safety projects are subject to a nationwide ten percent program limitation.

C. Other Funds Transferred to FTA

Certain demonstration projects authorized under title 23 are specified to be used for transit projects and are more appropriately administered by FTA. In such cases, FHWA has transferred the funds to FTA for administration. Since these funds are not STP flexible funds, they are transferred into the appropriate Section 3 Program category (Bus, Fixed Guideway Modernization, or New Starts) for obligation and are administered as Section 3 projects.

VIII. Section 3 Program

A. Section 3 Fixed Guideway Modernization

Section 3 fixed guideway modernization funds (formerly rail modernization) are allocated by formula. Statutory percentages were established to allocate the first $497,700,000 to 11 fixed guideway areas. The next $70,000,000 is allocated one-half to these 11 urbanized areas and one-half to 34 other urbanized areas with fixed guideways which are at least seven years old on the basis of the section 9 fixed guideway tier formula factors. The remaining funds are allocated to all of these urbanized areas as one universe.

For fiscal year 1994, $760,060,000 was appropriated for fixed guideway modernization. After the three-quarter percent set-aside ($5,700,450), $754,359,550 is available for apportionment to the specified urbanized areas for fiscal year 1994 under the Section 3 Fixed Guideway Modernization Program.

Table 6 displays these apportionments. Section 3 fixed guideway modernization funds apportioned under this section must be used for capital projects related to such fixed guideway systems.

All urbanized areas with fixed guideway systems which are at least seven years old are eligible to receive section 3 fixed guideway modernization funds. A request for the start-up service dates for fixed guideways has been incorporated into the section 15 data reporting system to ensure that all eligible fixed guideway data is included in the calculation of these apportionments. Based on the information received in the current Section 15 data, seventeen additional areas are included in the fiscal year 1994 Section 3 fixed guideway modernization apportionments.

B. Section 3 New Starts

The fiscal year 1994 appropriation for the New Starts Program is $667,940,000. These funds are entirely earmarked for projects specified within the 1994 DOT Appropriations Act. After the three-quarter percent set-aside ($5,009,550), $662,930,450 remains available for allocation to areas. Table 7 displays the allocations by area and also shows prior year unobligated earmarks for the New Starts Program. The 1994 DOT Appropriations Act also directed that a portion of the new start funds appropriated in fiscal year 1993 for the Honolulu rapid transit project were to be reallocated to seven other new start projects. These projects and the funds allocated to them are also listed on Table 7.

C. Section 3 Bus

1. Funding Availability

The fiscal year 1994 appropriation for the section 3 Bus Program is $357,000,000 for the purchase of buses, bus-related equipment and paratransit vehicles, and for the construction of bus-related facilities. After the three-quarter percent set-aside ($2,677,500) for project management oversight, $354,322,500 remains available for projects. The Conference Report accompanying the 1994 DOT Appropriations Act earmarked $257,000,000 to specified states or localities for bus and bus related facilities. In addition, the ISTEA earmarked $12,000,000 in section 3 bus funding to two bus projects in fiscal year 1994. FTA administrative commitments of fiscal year 1994 funds to two projects through advanced construction authority and a full funding grant agreement total $12,071,364. Thus, $73,251,136 remains available for discretionary allocation by the Federal Transit Administrator. Table 8 displays the allocations of earmarked fiscal year 1994 Bus Program funds by area and also shows prior year unobligated earmarks for the Bus Program.

2. Priority Consideration

The 1994 Senate Report directs the FTA to give priority to three categories of projects in the review of requests for discretionary funds. The highest priority consideration is to be given to those grant requests which enable states and transit authorities to meet federally imposed requirements arising from the Americans with Disabilities Act and the Clean Air Act. Such projects would

include alternative fuel vehicles and ADA compliance equipment, including retrofit of existing equipment and purchase of new rolling stock. Priority consideration will also be given to those grant requests which would fund either the construction or retrofit of facilities that will serve as intermodal facilities. Such facilities would include passenger terminals that serve both rail and bus, transfer points enabling transit passengers to transfer from one surface mode to another, and facilities that would serve separate providers of bus service. In addition, consideration will be given to State block grant requests which combine several requests of small urbanized areas or rural areas into one request for the purpose of more efficient and better control at the state level. The 1994 House Report directs the FTA to give special consideration to grant applications of transit authorities seeking to purchase alternative fueled vehicles.

3. Demand for Section 3 Bus Funds

The demand for section 3 bus funds over the past several years has been far greater than the available funding. In anticipation of the implementation of President Clinton's Economic Stimulus Program, which proposed additional section 3 bus funding in fiscal year 1993, FTA received section 3 bus applications totalling over $870,000,000. Because additional funding did not become available under the Economic Stimulus proposal in fiscal year 1993, many of these applicants are seeking discretionary funding in fiscal year 1994. This continued demand is further evidenced by the fact that the Senate Appropriations Committee received over 102 requests for funds totalling over $800,000,000 for fiscal year 1994 bus funding.

4. Other Selection Factors

In addition to the priority areas listed above, other factors will be taken into consideration in reviewing applications for discretionary funding. These include: Readiness of the project to be implemented (for example, is the application complete and approvable, is the project on an approved STIP, have all environmental requirements been met, does the project have a section 13(c) labor certification); has the grantee programmed all of its available formula resources; and does the grantee have a good record for timely and efficient management of previous FTA funds. FTA will also seek to provide geographic distribution of funds nationwide, and provide an allocation among cities of differing sizes.

5. Application Submission

Section 3 discretionary bus applications should be submitted to the appropriate regional office as soon as possible for consideration early in fiscal year 1994. Grantees who have previously submitted applications should contact the regional office to verify that the grantee still wants the application to be considered for fiscal year 1994 discretionary funding, and to make any necessary modifications or updates to the application.

D. Proposed Rescission of Section 3 Bus and New Start Funds

Based on recommendations contained in the National Performance Review, the Administration is submitting to Congress a proposal to rescind certain funds previously appropriated under a number of Federal programs, including certain section 3 funds that had been earmarked by Congress for specific bus or new start projects in fiscal year 1991 or prior years. The FTA amounts proposed to be rescinded total $50,537,525 for the following:

Miami, FL	Metromover Extension	$14,058,350
Baltimore, MD	LRT Extension	14,309,590
Buffalo, NY	Naval Park Station	808,935
Cleveland, OH	Dual Hub Corridor	5,459,030
Portland, OR	Joint Development Banfield	13,408,620
Madison, WI	Bus Transfer Facilities	1,499,800
Total		$50,537,525

Congress has 45 days to act upon the request, and during this time period the funds involved are not available for obligation. If Congress does not approve the rescission of the FTA funds within the 45-day period, the funds become available for obligation by FTA.

IX. Unit Values of Data for Sections 9 and 18, and Section 3 Fixed Guideway Modernization

For technical assistance purposes, the dollar unit values of data derived from the computations of sections 9 and 18, and section 3 fixed guideway modernization apportionments are included in this Notice on Table 10. To determine how a particular apportionment amount was developed, areas may multiply their population, population density, and section 15 data by these unit values.

X. Sections 8 and 26(a)(2) Programs

A. Section 8 Urbanized Area Program

The fiscal year 1994 section 8 apportionments to States for MPOs to be used in urbanized areas total $41,512,500. A basic allocation of 80 percent of this amount ($33,210,000) is distributed to the States based on urbanized area population for State distribution to each urbanized area, or parts thereof, within each State. A supplemental allocation of the remaining 20 percent ($8,302,500) is also provided to the States based on an FTA administrative formula to address planning needs in the larger, more complex urbanized areas.

Table 9 contains the final State apportionments for the combined basic and supplemental allocations. Each State, in cooperation with the MPOs, must develop an allocation formula for the combined apportionment which distributes these funds to MPOs representing urbanized areas, or parts thereof, within the State. This formula, which must be approved by the FTA, must ensure to the maximum extent practicable that no MPO is allocated less than the amount it received by administrative formula under section 8 in fiscal year 1991 (minimum MPO allocation). Each State formula must include a provision for the minimum MPO allocation. Where the State and MPOs desire to use a new formula not previously approved by FTA, it must be submitted to FTA for prior approval.

B. Section 26(a)(2) State Planning and Research Program

The fiscal year 1994 apportionments for the State Section 26(a)(2) Planning and Research Program total $8,475,000. Final State apportionments for this program are also contained on Table 9. This is the third year of a new consolidated program which is apportioned to the States for purposes of

sections 6, 8, 10, 11, and 20 of the ISTEA, and includes such activities as planning, technical studies and assistance, demonstrations, management training, and cooperative research. In addition, a State may authorize a portion of these funds to be used to supplement Section 8 funds allocated by the State to its urbanized areas, as the respective State deems appropriate.

C. Data Used for Sections 8 and 26(a)(2) Apportionments

Population data from the 1990 Census is used in calculating Sections 8 and 26(a)(2) apportionments. The Section 8 funding provided to urbanized areas in each State by administrative formula in fiscal year 1991 was used as a "hold harmless" base in calculating funding to each State.

XI. Period of Availability of Funds

The funds apportioned under section 9, section 3 fixed guideway modernization, sections 8 and 26(a)(2) in this Notice will remain available to be obligated by FTA to recipients for three (3) fiscal years following fiscal year 1994. Any of these apportioned funds unobligated at the close of business on September 30, 1997, will revert to FTA for reapportionment under these respective programs. Funds apportioned to nonurbanized areas under section 18, including RTAP funds, will remain available for two (2) fiscal years following fiscal year 1994. Any such funds remaining unobligated at the close of business on September 30, 1996, will revert to FTA for reapportionment among the States. Funds allocated to States under section 16 in this Notice must be obligated by September 30, 1994. Any such funds remaining unobligated as of this date will revert to FTA for reapportionment among the States. Fiscal year 1994 title 23 Interstate Substitute Transit funds are available until expended. The 1994 DOT Appropriations Act includes a provision requiring that fiscal year 1994 Section 3 discretionary new starts and bus funds not obligated for their original purpose as of September 30, 1996, shall be made available for other discretionary projects. A similar provision in the 1993 DOT Appropriations Act requires that fiscal year 1993 bus and new start funds that are not obligated by September 30, 1995, shall also be made available for other discretionary projects.

XII. Notice of Pre-Award Authority To Incur Project Costs

A. Background

FTA is engaged in an ongoing effort to streamline and simplify the administration of its programs. To this end, the agency has examined the current authority extended to grantees to incur costs for operating assistance projects prior to grant award and has decided to extend this authority to certain non-operating projects. This new pre-award spending authority permits a grantee to incur costs on an eligible transit project without prejudice to possible future Federal participation in the cost of the project or projects. This authority is similar to Letter of No Prejudice (LONP) authority which is granted only in writing, on a case by case basis, upon specific written request and justification by a grantee.

B. Expanded Coverage

Effective as of October 1, 1993, the FTA is allowing limited authority to incur costs for Section 3 Fixed Guideway Modernization, sections 8, 9, 16, 18, 26(a)(2) and title 23 (Interstate Substitute-Transit) projects in advance of possible future Federal participation. This authority applies only to the apportioned funds contained in this notice for the programs listed above, as well as prior year carryover amounts for these programs available to the grantee. It also applies to flexible funds from the STP program or the CMAQ program which are programmed on an approved STIP, only after they have been transferred to FTA for obligation as a section 9, 16, or 18 project. The authority does not apply to the Section 3 New Starts or Bus Programs. Costs incurred prior to October 1, 1993, are not eligible to be reimbursed.

C. Conditions

Similar to the LONP authority, the conditions under which this authority may be utilized are specified below:

(1). This pre-award authority is not a legal or moral commitment that the project(s) will be approved for FTA assistance or that the FTA will obligate Federal funds. Furthermore, it is not a legal or moral commitment that all items undertaken by the applicant will be eligible for inclusion in the project(s).

(2). All FTA statutory, procedural, and contractual requirements must be met.

(3). No action will be taken by the grantee which prejudices the legal and administrative findings which the Federal Transit Administrator must make in order to approve a project.

(4). Local funds expended by the grantee pursuant to and after the date of this authority will be eligible for credit toward local match or reimbursement if the FTA later makes a grant for the project(s) or project amendment(s).

(5). The Federal amount of any future FTA assistance to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal-local match ratio at the time the funds are obligated.

(6). This authority expires with the lapsing of fiscal year 1994 funds listed in this Notice and carryover funds available to the grantee.

D. Environmental and Other Requirements

FTA is concerned that grantees fully understand that all of the Federal requirements attendant to a grant must be met for the project to remain eligible for Federal funding. Some of these requirements must be met before pre-award costs are incurred, notably the requirements of the National Environmental Policy Act (NEPA). Compliance with NEPA and other environmental laws or executive orders (e.g., protection of parklands, wetlands, historic properties) must be completed before state or local funds are advanced for a project expected to be subsequently funded with FTA funds. Depending on which class the project is included under in FTA's environmental regulations (23 CFR part 771) the grantee may not advance the project beyond planning and design work before FTA has approved either a categorical exclusion (refer to 23 CFR 771.117(d)), a finding of no significant impact, or a final environmental impact statement. The conformity requirements of the Clean Air Act (40 CFR.51) also must be fully met before the project may be advanced with non-Federal funds.

Similarly, Federal procurement procedures, as well as the whole range of Federal requirements must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented thereby. If a grantee has questions or concerns regarding the environmental requirements, or any other Federal requirements that must be met before incurring costs, it should contact the appropriate regional office.

Before an applicant may incur costs either for activities expected to be funded by the Section 3 Bus or Section

3 New Starts Programs, or for activities requiring multi-year funding or funding beyond fiscal year 1994, it must first obtain a written LONP from the FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office. FTA will consider the request in light of its "Letter of No Prejudice Policy" (47 FR 46956, October 21, 1982).

XIII. Repayment of Temporary Matching Fund Waivers

Under the Temporary Matching Fund Waiver provision authorized in section 1054 of ISTEA, grantees have been able to request a Federal share of 100 percent up to the area's total apportionment. A total of nine grants or amendments have been awarded which employ the temporary waiver of local matching funds for sections 9 and 18 grants approved in fiscal years 1992 and 1993. These include grants funded with STP or CMAQ funds. The local share amounts for these grants must be repaid by March 30, 1994. If not repaid, the amount owed will be deducted from the area's fiscal years 1995 and 1996 formula apportionments.

XIV. Quarterly Approval of Grants

The FTA has established a quarterly approval and release cycle for processing grants. All sections 9, 18, 16, 3, 8, 26(a)(2), and Title 23 Interstate Substitute Transit grants are processed on a quarterly basis. This includes sections 9, 18, or 16 grants using STP or CMAQ funds.

If completed applications are submitted to the appropriate FTA Regional Office no later than the first business day of the quarter, FTA will award grants by the last business day of the quarter.

In order to expedite the grant approval process within the quarterly approval structure, grants which are complete and have received the required section 13(c) certification may be approved before the end of the quarter. Applications for the first quarter should be submitted to the FTA Regional Office within five business days of this notice. The first quarter grants will be released on or before December 30, 1993. There are only two factors which would delay FTA's approval of the project beyond the end of a quarter. First is a failure by the Department of Labor (DOL) to issue a 13(c) certification where such certification is a prerequisite to a grant approval, and second is the failure of FHWA to actually transfer flexible funds.

For an application to be considered complete, all required activities such as inclusion of the project in a locally approved Transportation Improvement Program (TIP), a State Transportation Improvement Program (STIP), intergovernmental reviews, environmental reviews, all applicable civil rights, anti-drug, and clean air requirements, and submission of all requisite certifications and documentation must be completed. The application must be in approvable form with all required documentation and submissions on hand, except for the 13(c) certification which is issued by DOL. Incomplete applications will not be processed, but if the missing components are supplied, will be considered in the next quarter.

XV. Grant Application Procedures

All applications for FTA funds should be submitted to the appropriate FTA Regional Office. Formula grant applications should be prepared in conformance with the following FTA Circulars: Section 9–C9030.1A, September 18, 1987; Section 18–C9040.1C, November 3, 1992; and Section 16–C9070.1C, December 23, 1992. Applications for STP "flexible" fund grants should be prepared in the same manner as the apportioned funds under sections 9, 18, or 16. Guidance on preparation of applications for sections 3, 8, 26(a) and title 23 funds may be obtained from each FTA Regional Office. Copies of circulars are also available from Regional Offices.

Issued on: November 3, 1993.

Gordon J. Linton,

Administrator.

BILLING CODE 4910–57–P

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS OVER 1,000,000 IN POPULATION

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
Atlanta, GA	30,083,986	6,074,856
Baltimore, MD	26,054,703	9,723,299
Boston, MA	61,479,284	18,255,443
Chicago, IL-Northwestern IN	158,569,976	50,576,686
Cincinnati, OH-KY	11,504,677	5,266,860
Cleveland, OH	19,754,267	9,636,608
Dallas-Fort Worth, TX	28,050,854	8,641,578
Denver, CO	17,088,381	5,899,540
Detroit, MI	29,515,588	21,393,840
Ft Lauderdale-Hollywood-Pompano Bch, FL	15,698,048	7,337,331
Houston, TX	32,776,647	9,080,481
Kansas City, MO-KS	7,923,974	4,462,727
Los Angeles, CA	142,710,839	57,061,393
Miami-Hialeah, FL	28,469,483	8,381,597
Milwaukee, WI	14,098,369	5,461,011
Minneapolis-St. Paul, MN	19,247,771	7,281,433
New Orleans, LA	12,941,334	6,605,306
New York, NY-Northeastern NJ	498,647,056	132,150,192
Norfolk-Virginia Beach-Newport News, VA	8,533,816	4,195,723
Philadelphia, PA-NJ	92,632,339	31,812,065
Phoenix, AZ	17,783,269	4,704,649
Pittsburgh, PA	25,708,162	9,495,859
Portland-Vancouver, OR-WA	16,653,099	4,399,929
Riverside-San Bernardino, CA	7,708,242	2,514,794
Sacramento, CA	9,851,554	3,477,938
San Antonio, TX	14,613,666	4,576,347
San Diego, CA	29,225,654	7,302,150
San Francisco-Oakland, CA	91,452,351	19,442,832
San Jose, CA	21,807,960	6,605,772
San Juan, PR	10,589,419	7,507,965
Seattle, WA	37,694,803	6,169,695
St. Louis, MO-IL	16,683,616	9,586,297
Tampa-St. Petersburg-Clearwater, FL	11,770,161	5,219,393
Washington, DC-MD-VA	71,215,603	16,878,258
TOTAL	$1,638,538,951	$517,179,849

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
Akron, OH	4,648,856	2,303,157
Albany-Schenectady-Troy, NY	5,749,382	2,233,810
Albuquerque, NM	4,493,659	1,543,704
Allentown-Bethlehem-Easton, PA-NJ	3,430,725	2,335,522
Anchorage, AK	1,901,495	762,198
Ann Arbor, MI	3,023,713	979,294
Augusta, GA-SC	1,588,000	780,110
Austin, TX	9,000,976	1,469,087
Bakersfield, CA	2,901,356	957,895
Baton Rouge, LA	2,266,549	1,280,038
Birmingham, AL	4,615,879	2,351,335
Bridgeport-Milford, CT	4,968,073	2,041,392
Buffalo-Niagara Falls, NY	10,293,906	5,992,124
Canton, OH	1,544,095	1,127,878
Charleston, SC	2,372,078	1,069,343
Charlotte, NC	4,575,705	1,289,113
Chattanooga, TN-GA	2,014,246	971,813
Colorado Springs, CO	2,956,631	964,728
Columbia, SC	2,277,530	1,091,686
Columbus, GA-AL	1,485,033	817,965
Columbus, OH	9,161,336	4,345,970
Corpus Christi, TX	2,664,562	858,410
Davenport-Rock Island-Moline, IA-IL	2,384,435	1,116,925
Dayton, OH	9,636,632	2,891,902
Daytona Beach, FL	1,715,052	775,611
Des Moines, IA	2,214,437	1,087,824
Durham, NC	2,032,878	799,443
El Paso, TX-NM	6,660,262	1,779,238
Fayetteville, NC	1,201,637	735,697
Flint, MI	2,808,906	1,513,208
Fort Myers-Cape Coral, FL	1,630,298	564,991
Fort Wayne, IN	1,719,617	1,078,995
Fresno, CA	4,173,753	1,452,044
Grand Rapids, MI	3,313,688	1,534,752
Greenville, SC	1,600,681	741,822
Harrisburg, PA	1,940,695	1,120,344
Hartford-Middletown, CT	7,403,742	2,273,560
Honolulu, HI	16,520,800	2,815,753
Indianapolis, IN	6,702,540	3,783,331
Jackson, MS	1,562,870	894,369
Jacksonville, FL	6,225,444	2,004,575
Knoxville, TN	1,980,258	891,576
Lansing-East Lansing, MI	2,612,867	1,150,915
Las Vegas, NV	5,325,834	1,366,210
Lawrence-Haverhill, MA-NH	2,858,674	845,737
Lexington-Fayette, KY	1,825,708	1,282,934
Little Rock-North Little Rock, AR	2,071,075	1,025,851
Lorain-Elyria, OH	1,160,675	773,854
Louisville, KY-IN	8,430,737	3,863,941

TABLE 2
FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO URBANIZED AREAS 200,000 TO 1,000,000 IN POPULATION

URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
Madison, WI	3,986,739	987,033
McAllen-Edinburg-Mission, TX	1,082,405	820,018
Melbourne-Palm Bay, FL	2,049,943	697,186
Memphis, TN-AR-MS	7,531,966	3,581,058
Mobile, AL	2,030,495	997,912
Modesto, CA	2,377,871	982,143
Montgomery, AL	1,287,275	1,015,419
Nashville, TN	4,531,306	1,660,321
New Haven-Meriden, CT	7,704,873	2,293,923
Ogden, UT	2,345,304	693,318
Oklahoma City, OK	4,237,841	2,297,963
Omaha, NE-IA	4,801,246	2,356,716
Orlando, FL	8,025,987	1,734,124
Oxnard-Ventura, CA	3,215,027	1,344,880
Pensacola, FL	1,826,904	751,583
Peoria, IL	1,866,083	1,047,187
Providence-Pawtucket, RI-MA	13,034,375	4,707,579
Provo-Orem, UT	2,106,428	807,075
Raleigh, NC	2,185,369	724,226
Reno, NV	3,087,638	834,898
Richmond, VA	5,312,022	1,918,263
Rochester, NY	6,258,806	3,075,023
Rockford, IL	1,540,483	963,662
Salt Lake City, UT	10,571,199	2,432,107
Sarasota-Bradenton, FL	2,898,361	1,255,479
Scranton-Wilkes-Barre, PA	2,877,754	1,725,361
Shreveport, LA	2,096,930	1,045,659
South Bend-Mishawaka, IN-MI	1,916,913	1,142,287
Spokane, WA	4,549,106	1,108,427
Springfield, MA-CT	4,933,783	2,013,818
Stockton, CA	2,641,498	1,329,727
Syracuse, NY	4,433,613	1,887,973
Tacoma, WA	7,123,650	1,543,217
Toledo, OH-MI	4,847,915	2,229,595
Trenton, NJ-PA	3,870,563	1,968,561
Tucson, AZ	6,545,822	1,649,356
Tulsa, OK	3,606,816	1,561,635
West Palm Bch-Boca Raton-Delray Bch, FL	10,232,371	1,643,643
Wichita, KS	2,543,067	1,350,998
Wilmington, DE-NJ-MD-PA	4,577,511	1,998,116
Worcester, MA-CT	2,806,263	1,153,354
Youngstown-Warren, OH	1,995,069	1,776,796
TOTAL	$ 373,142,570	$ 144,839,592

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
ALABAMA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,023,845	$ 2,967,919
Anniston, AL	388,127	
Auburn-Opelika, AL	311,394	
Decatur, AL	355,397	
Dothan, AL	298,505	
Florence, AL	415,865	
Gadsden, AL	367,554	
Huntsville, AL	1,166,784	
Tuscaloosa, AL	720,219	
ALASKA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 0	$ 0
ARIZONA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 638,913	$ 311,717
Yuma, AZ-CA (AZ)	638,913	
ARKANSAS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,537,398	$ 1,202,906
Fayetteville-Springdale, AR	424,294	
Fort Smith, AR-OK (AR)	577,581	
Pine Bluff, AR	390,318	
Texarkana, TX-AR (AR)	145,205	
CALIFORNIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 23,549,604	$ 10,243,566
Antioch-Pittsburg, CA	1,331,786	
Chico, CA	581,485	
Davis, CA	705,890	
Fairfield, CA	857,324	
Hemet-San Jacinto, CA	715,261	
Hesperia-Apple Valley-Victorville, CA	912,460	
Indio-Coachella, CA	432,499	
Lancaster-Palmdale, CA	1,534,791	
Lodi, CA	600,865	
Lompoc, CA	369,021	
Merced, CA	656,052	
Napa, CA	685,503	

TABLE 2
FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
CALIFORNIA:		
Palm Springs, CA	854,017	
Redding, CA	493,806	
Salinas, CA	1,299,473	
San Luis Obispo, CA	615,385	
Santa Barbara, CA	2,010,347	
Santa Cruz, CA	1,039,520	
Santa Maria, CA	945,772	
Santa Rosa, CA	1,833,744	
Seaside-Monterey, CA	1,232,237	
Simi Valley, CA	1,166,401	
Vacaville, CA	708,092	
Visalia, CA	808,795	
Watsonville, CA	445,579	
Yuba City, CA	710,968	
Yuma, AZ-CA (CA)	2,531	
COLORADO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,339,243	$ 2,770,119
Boulder, CO	965,548	
Fort Collins, CO	804,207	
Grand Junction, CO	457,882	
Greeley, CO	643,219	
Longmont, CO	586,161	
Pueblo, CO	882,226	
CONNECTICUT:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 14,761,548	$ 7,106,829
Bristol, CT	683,930	
Danbury, CT-NY (CT)	2,517,145	
New Britain, CT	1,280,656	
New London-Norwich, CT	1,030,547	
Norwalk, CT	2,657,232	
Stamford, CT-NY (CT)	3,342,159	
Waterbury, CT	3,249,879	
DELAWARE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 327,362	$ 143,707
Dover, DE	327,362	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
FLORIDA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 9,977,296	$ 4,748,787
Deltona, FL	331,740	
Fort Pierce, FL	794,678	
Fort Walton Beach, FL	770,338	
Gainesville, FL	987,239	
Kissimmee, FL	459,826	
Lakeland, FL	1,009,256	
Naples, FL	664,228	
Ocala, FL	446,192	
Panama City, FL	669,612	
Punta Gorda, FL	437,886	
Spring Hill, FL	334,740	
Stuart, FL	584,067	
Tallahassee, FL	1,125,401	
Titusville, FL	322,154	
Vero Beach, FL	407,997	
Winter Haven, FL	631,942	
GEORGIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,368,310	$ 3,267,936
Albany, GA	541,069	
Athens, GA	518,762	
Brunswick, GA	298,529	
Macon, GA	969,786	
Rome, GA	304,334	
Savannah, GA	1,268,858	
Warner Robins, GA	466,972	
HAWAII:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,160,989	$ 716,695
Kailua, HI	1,160,989	
IDAHO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,297,799	$ 1,219,601
Boise City, ID	1,406,056	
Idaho Falls, ID	504,044	
Pocatello, ID	387,699	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
ILLINOIS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 10,525,078	$ 8,090,041
Alton, IL	568,805	
Aurora, IL	1,593,061	
Beloit, WI-IL (IL)	72,698	
Bloomington-Normal, IL	916,351	
Champaign-Urbana, IL	1,293,152	
Crystal Lake, IL	519,212	
Decatur, IL	727,916	
Dubuque, IA-IL (IL)	16,956	
Elgin, IL	1,149,158	
Joliet, IL	1,328,757	
Kankakee, IL	521,500	
Round Lake Beach-McHenry, IL-WI (IL)	756,743	
Springfield, IL	1,060,769	
INDIANA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,138,682	$ 4,614,391
Anderson, IN	496,178	
Bloomington, IN	740,425	
Elkhart-Goshen, IN	742,090	
Evansville, IN-KY (IN)	1,374,719	
Kokomo, IN	499,671	
Lafayette-West Lafayette, IN	993,377	
Muncie, IN	730,256	
Terre Haute, IN	561,966	
IOWA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,341,820	$ 2,677,620
Cedar Rapids, IA	1,038,527	
Dubuque, IA-IL (IA)	505,491	
Iowa City, IA	598,373	
Sioux City, IA-NE-SD (IA)	552,656	
Waterloo-Cedar Falls, IA	646,773	
KANSAS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,622,561	$ 1,144,613
Lawrence, KS	614,431	
St. Joseph, MO-KS (KS)	5,072	
Topeka, KS	1,003,058	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
KENTUCKY:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,278,842	$ 957,245
Clarksville, TN-KY (KY)	156,045	
Evansville, IN-KY (KY)	191,619	
Huntington-Ashland, WV-KY-OH (KY)	382,121	
Owensboro, KY	549,057	
LOUISIANA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,787,399	$ 2,814,839
Alexandria, LA	552,689	
Houma, LA	388,760	
Lafayette, LA	956,288	
Lake Charles, LA	768,168	
Monroe, LA	730,411	
Slidell, LA	391,083	
MAINE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,648,342	$ 1,217,651
Bangor, ME	338,706	
Lewiston-Auburn, ME	393,571	
Portland, ME	841,549	
Portsmouth-Dover-Rochester, NH-ME (ME)	74,516	
MARYLAND:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,833,041	$ 1,131,877
Annapolis, MD	597,025	
Cumberland, MD-WV (MD)	317,529	
Frederick, MD	430,783	
Hagerstown, MD-PA-WV (MD)	487,704	
MASSACHUSETTS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 7,259,700	$ 6,041,053
Brockton, MA	1,326,131	
Fall River, MA-RI (MA)	1,293,412	
Fitchburg-Leominster, MA	524,144	
Hyannis, MA	374,294	
Lowell, MA-NH (MA)	1,641,545	
New Bedford, MA	1,422,481	
Pittsfield, MA	338,824	
Taunton, MA	338,869	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
MICHIGAN:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 6,195,129	$ 4,945,772
Battle Creek, MI	517,409	
Bay City, MI	578,031	
Benton Harbor, MI	418,104	
Holland, MI	469,246	
Jackson, MI	577,712	
Kalamazoo, MI	1,247,544	
Muskegon, MI	760,949	
Port Huron, MI	500,797	
Saginaw, MI	1,125,337	
MINNESOTA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,207,762	$ 1,643,083
Duluth, MN-WI (MN)	537,241	
Fargo-Moorhead, ND-MN (MN)	310,639	
Grand Forks, ND-MN (MN)	68,082	
La Crosse, WI-MN (MN)	33,350	
Rochester, MN	605,958	
St. Cloud, MN	652,492	
MISSISSIPPI:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,895,402	$ 1,365,577
Biloxi-Gulfport, MS	1,173,499	
Hattiesburg, MS	365,744	
Pascagoula, MS	356,159	
MISSOURI:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,611,897	$ 1,815,246
Columbia, MO	515,655	
Joplin, MO	362,132	
Springfield, MO	1,216,490	
St. Joseph, MO-KS (MO)	517,620	
MONTANA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,738,747	$ 1,304,039
Billings, MT	670,564	
Great Falls, MT	625,316	
Missoula, MT	442,867	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
NEBRASKA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,932,956	$ 1,180,215
Lincoln, NE	1,849,340	
Sioux City, IA-NE-SD (NE)	83,616	
NEVADA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 0	$ 0
NEW HAMPSHIRE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,347,297	$ 1,402,039
Lowell, MA-NH (NH)	4,804	
Manchester, NH	984,026	
Nashua, NH	786,893	
Portsmouth-Dover-Rochester, NH-ME (NH)	571,574	
NEW JERSEY:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,778,508	$ 1,750,351
Atlantic City, NJ	1,281,898	
Vineland-Millville, NJ	496,610	
NEW MEXICO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 968,494	$ 521,679
Las Cruces, NM	538,002	
Santa Fe, NM	430,492	
NEW YORK:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 5,373,525	$ 4,348,794
Binghamton, NY	1,348,778	
Danbury, CT-NY (NY)	18,281	
Elmira, NY	553,851	
Glens Falls, NY	380,873	
Ithaca, NY	384,408	
Newburgh, NY	499,165	
Poughkeepsie, NY	1,048,562	
Stamford, CT-NY (NY)	124	
Utica-Rome, NY	1,139,483	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
NORTH CAROLINA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 8,723,388	$ 5,734,415
Asheville, NC	673,334	
Burlington, NC	488,447	
Gastonia, NC	715,202	
Goldsboro, NC	371,422	
Greensboro, NC	1,538,265	
Greenville, NC	427,653	
Hickory, NC	407,862	
High Point, NC	687,807	
Jacksonville, NC	664,052	
Kannapolis, NC	479,387	
Rocky Mount, NC	383,213	
Wilmington, NC	626,796	
Winston-Salem, NC	1,259,948	
NORTH DAKOTA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,694,947	$ 1,046,671
Bismarck, ND	488,750	
Fargo-Moorhead, ND-MN (ND)	706,860	
Grand Forks, ND-MN (ND)	499,337	
OHIO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,660,308	$ 3,697,486
Hamilton, OH	963,246	
Huntington-Ashland, WV-KY-OH (OH)	245,294	
Lima, OH	526,444	
Mansfield, OH	508,260	
Middletown, OH	662,281	
Newark, OH	403,521	
Parkersburg, WV-OH (OH)	59,752	
Sharon, PA-OH (OH)	39,402	
Springfield, OH	766,084	
Steubenville-Weirton, OH-WV-PA (OH)	275,607	
Wheeling, WV-OH (OH)	210,417	
OKLAHOMA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 725,352	$ 581,992
Fort Smith, AR-OK (OK)	12,725	
Lawton, OK	712,627	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
OREGON:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,782,702	$ 2,146,396
Eugene-Springfield, OR	1,780,601	
Longview, WA-OR (OR)	11,842	
Medford, OR	550,287	
Salem, OR	1,439,972	
PENNSYLVANIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 9,888,648	$ 7,726,018
Altoona, PA	675,532	
Erie, PA	1,737,794	
Hagerstown, MD-PA-WV (PA)	5,953	
Johnstown, PA	622,946	
Lancaster, PA	1,571,187	
Monessen, PA	427,581	
Pottstown, PA	405,752	
Reading, PA	1,834,891	
Sharon, PA-OH (PA)	284,063	
State College, PA	591,208	
Steubenville-Weirton, OH-WV-PA (PA)	2,065	
Williamsport, PA	495,590	
York, PA	1,234,886	
PUERTO RICO:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 9,135,045	$ 4,988,497
Aguadilla, PR	799,190	
Arecibo, PR	746,744	
Caguas, PR	1,955,621	
Cayey, PR	578,205	
Humacao, PR	500,424	
Mayaguez, PR	1,075,162	
Ponce, PR	2,392,572	
Vega Baja-Manati, PR	1,087,127	
RHODE ISLAND:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 581,470	$ 370,941
Fall River, MA-RI (RI)	133,298	
Newport, RI	448,172	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
SOUTH CAROLINA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,462,447	$ 1,525,934
Anderson, SC	331,179	
Florence, SC	340,643	
Myrtle Beach, SC	357,229	
Rock Hill, SC	379,301	
Spartanburg, SC	661,204	
Sumter, SC	392,891	
SOUTH DAKOTA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,222,680	$ 788,226
Rapid City, SD	389,404	
Sioux City, IA-NE-SD (SD)	10,918	
Sioux Falls, SD	822,358	
TENNESSEE:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 1,892,309	$ 1,337,239
Bristol, TN-VA (TN)	176,874	
Clarksville, TN-KY (TN)	431,249	
Jackson, TN	326,415	
Johnson City, TN	497,562	
Kingsport, TN-VA (TN)	460,209	
TEXAS:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 17,521,105	$ 11,577,714
Abilene, TX	621,618	
Amarillo, TX	1,152,968	
Beaumont, TX	792,989	
Brownsville, TX	1,152,590	
Bryan-College Station, TX	772,046	
Denton, TX	417,037	
Galveston, TX	442,382	
Harlingen, TX	566,464	
Killeen, TX	1,083,492	
Laredo, TX	1,368,417	
Lewisville, TX	481,433	
Longview, TX	473,670	
Lubbock, TX	1,348,989	
Midland, TX	591,058	
Odessa, TX	655,697	
Port Arthur, TX	715,268	
San Angelo, TX	614,629	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
TEXAS:		
Sherman-Denison, TX	307,660	
Temple, TX	349,280	
Texarkana, TX-AR (TX)	281,841	
Texas City, TX	749,186	
Tyler, TX	585,845	
Victoria, TX	406,121	
Waco, TX	884,745	
Wichita Falls, TX	705,680	
UTAH:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 350,192	$ 153,735
Logan, UT	350,192	
VERMONT:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 614,483	$ 368,076
Burlington, VT	614,483	
VIRGINIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 4,078,906	$ 3,028,012
Bristol, TN-VA (VA)	125,922	
Charlottesville, VA	586,507	
Danville, VA	333,064	
Fredericksburg, VA	391,026	
Kingsport, TN-VA (VA)	23,774	
Lynchburg, VA	557,970	
Petersburg, VA	707,355	
Roanoke, VA	1,353,288	
WASHINGTON:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 3,854,641	$ 2,171,710
Bellingham, WA	454,153	
Bremerton, WA	879,779	
Longview, WA-OR (WA)	384,285	
Olympia, WA	684,474	
Richland-Kennewick-Pasco, WA	714,056	
Yakima, WA	737,894	

TABLE 2

FTA FISCAL YEAR 1994 SECTION 9 FORMULA APPORTIONMENTS

AMOUNTS APPORTIONED TO STATE GOVERNORS FOR URBANIZED AREAS 50,000 TO 200,000 IN POPULATION

STATE/URBANIZED AREA	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
WEST VIRGINIA:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 2,962,488	$ 2,728,212
Charleston, WV	1,191,759	
Cumberland, MD-WV (WV)	14,254	
Hagerstown, MD-PA-WV (WV)	3,600	
Huntington-Ashland, WV-KY-OH (WV)	669,100	
Parkersburg, WV-OH (WV)	430,319	
Steubenville-Weirton, OH-WV-PA (WV)	185,141	
Wheeling, WV-OH (WV)	468,315	
WISCONSIN:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 8,109,936	$ 5,926,753
Appleton-Neenah, WI	1,485,075	
Beloit, WI-IL (WI)	318,327	
Duluth, MN-WI (WI)	139,435	
Eau Claire, WI	581,683	
Green Bay, WI	1,127,919	
Janesville, WI	428,086	
Kenosha, WI	779,462	
La Crosse, WI-MN (WI)	618,802	
Oshkosh, WI	540,041	
Racine, WI	1,203,882	
Round Lake Beach-McHenry, IL-WI (WI)	451	
Sheboygan, WI	508,816	
Wausau, WI	377,957	
WYOMING:		
Governor's apportionment for areas 50,000 to 200,000 in population:	$ 849,030	$ 694,625
Casper, WY	389,471	
Cheyenne, WY	459,559	
TOTAL	$ 214,577,566	$140,258,560

	TOTAL APPORTIONMENT	OPERATING ASSISTANCE LIMITATIONS
OVER 1,000,000 IN POPULATION	1,638,538,951	517,179,849
200,000-1,000,000 IN POPULATION	373,142,570	144,839,592
50,000-200,000 IN POPULATION	214,577,566	140,258,560
NATIONAL TOTALS	$ 2,226,259,087	$802,278,000

TABLE 3

FTA FISCAL YEAR 1994 SECTION 18 FORMULA APPORTIONMENTS AND

RURAL TRANSIT ASSISTANCE PROGRAM (RTAP) ALLOCATIONS

TO THE STATES FOR NONURBANIZED AREAS

STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION	STATE	SECTION 18 APPORTIONMENT	RTAP ALLOCATION
ALABAMA	3,095,492	98,356	NEBRASKA	1,252,631	69,568
ALASKA	461,605	57,211	NEVADA	408,965	56,389
AMERICAN SAMOA	65,793	11,028	NEW HAMPSHIRE	1,082,832	66,916
ARIZONA	1,419,630	72,177	NEW JERSEY	1,548,221	74,186
ARKANSAS	2,474,717	88,659	NEW MEXICO	1,217,136	69,014
CALIFORNIA	6,039,978	144,354	NEW YORK	5,449,923	135,136
COLORADO	1,289,294	70,141	NORTH CAROLINA	5,789,428	140,440
CONNECTICUT	1,169,511	68,270	NORTH DAKOTA	613,953	59,591
DELAWARE	291,765	54,558	NORTHERN MARIANAS	60,971	10,952
FLORIDA	3,882,765	110,655	OHIO	5,894,040	142,074
GEORGIA	4,525,939	120,702	OKLAHOMA	2,519,641	89,361
GUAM	187,298	12,926	OREGON	2,000,617	81,253
HAWAII	507,968	57,935	PENNSYLVANIA	6,574,863	152,710
IDAHO	1,024,810	66,009	PUERTO RICO	1,964,776	80,693
ILLINOIS	4,152,296	114,865	RHODE ISLAND	251,691	53,932
INDIANA	4,011,024	112,658	SOUTH CAROLINA	2,897,638	95,266
IOWA	2,579,930	90,302	SOUTH DAKOTA	748,360	61,691
KANSAS	2,052,253	82,059	TENNESSEE	3,740,519	108,433
KENTUCKY	3,387,821	102,923	TEXAS	7,897,275	173,366
LOUISIANA	2,801,973	93,771	UTAH	567,298	58,862
MAINE	1,352,061	71,121	VERMONT	669,099	60,452
MARYLAND	1,687,984	76,369	VIRGIN ISLANDS	143,209	12,237
MASSACHUSETTS	1,809,006	78,259	VIRGINIA	3,316,333	101,806
MICHIGAN	4,899,096	126,531	WASHINGTON	2,323,713	86,300
MINNESOTA	2,819,147	94,039	WEST VIRGINIA	1,975,825	80,865
MISSISSIPPI	2,751,122	92,977	WISCONSIN	3,413,995	103,332
MISSOURI	3,283,580	101,295	WYOMING	477,486	57,459
MONTANA	830,176	62,969			
TOTAL				$ 129,654,472	$ 4,615,403

TABLE 4

FTA FISCAL YEAR 1994 SECTION 16 APPORTIONMENTS

AMOUNTS ALLOCATED TO STATES

STATE	ALLOCATION	STATE	ALLOCATION
ALABAMA	1,021,761	NEBRASKA	464,773
ALASKA	177,708	NEVADA	350,899
AMERICAN SAMOA	52,075	NEW HAMPSHIRE	332,605
ARIZONA	903,234	NEW JERSEY	1,693,381
ARKANSAS	719,942	NEW MEXICO	411,171
CALIFORNIA	5,447,020	NEW YORK	3,897,514
COLORADO	705,076	NORTH CAROLINA	1,497,296
CONNECTICUT	805,020	NORTH DAKOTA	262,033
DELAWARE	258,053	NORTHERN MARIANAS	51,896
DISTRICT OF COLUMBIA	256,287	OHIO	2,490,572
FLORIDA	3,682,148	OKLAHOMA	848,490
GEORGIA	1,318,978	OREGON	790,244
GUAM	131,903	PENNSYLVANIA	2,982,094
HAWAII	322,820	PUERTO RICO	750,682
IDAHO	329,895	RHODE ISLAND	364,877
ILLINOIS	2,387,318	SOUTH CAROLINA	820,829
INDIANA	1,262,068	SOUTH DAKOTA	281,365
IOWA	772,463	TENNESSEE	1,202,832
KANSAS	650,827	TEXAS	3,079,212
KENTUCKY	980,050	UTAH	384,530
LOUISIANA	983,156	VERMONT	236,066
MAINE	407,465	VIRGIN ISLANDS	133,764
MARYLAND	987,711	VIRGINIA	1,250,498
MASSACHUSETTS	1,413,835	WASHINGTON	1,123,579
MICHIGAN	2,045,414	WEST VIRGINIA	605,189
MINNESOTA	1,001,354	WISCONSIN	1,146,696
MISSISSIPPI	700,006	WYOMING	203,793
MISSOURI	1,279,592		
MONTANA	304,323		

TOTAL			$ 58,964,382

TABLE 5

FISCAL YEAR 1994 INTERSTATE SUBSTITUTE TRANSIT PROJECTS

AMOUNTS APPORTIONED TO WITHDRAWAL AREAS

WITHDRAWAL AREAS	FY 1994 FORMULA APPORTIONMENT
CA Sacramento	$46,118
CA San Francisco	1,338,325
CT Killingly	161,190
CT Hartford	484,018
DC District of Columbia	48,805
IL Chicago	999,738
IA Waterloo	72,088
MD Baltimore	10,476,006
MA Boston	609,388
NJ New York City	53,730
NY Albany	18,806
NY New York City	23,938,953
OH Cleveland	1,640,108
OR Portland	3,042,461
RI Providence	1,301,162
TN Memphis	544,464
TOTAL	$44,775,000

TABLE 6

FISCAL YEAR 1994 SECTION 3 FORMULA APPORTIONMENTS AMOUNTS APPORTIONED TO AREAS FOR FIXED GUIDEWAY MODERNIZATION

AREAS	AMOUNT
CA Los Angeles	$5,614,692
CA Sacramento	1,224,278
CA San Diego	3,042,334
CA San Francisco	49,721,540
CA San Jose	4,137,273
CO Denver	397,080
CT Hartford	440,758
CT Southwestern Connecticut	32,035,625
DE Wilmington	430,865
DC Washington	17,289,510
FL Miami	3,667,493
GA Atlanta	6,716,788
HI Honolulu	373,466
IL Chicago/Northwestern Indiana	106,436,968
LA New Orleans	2,166,861
MD Baltimore	1,747,614
MD Commuter Rail	13,290,026
MA Boston	52,594,063
MA Lawrence-Haverhill	671,474
MI Detroit	225,163
MN Minneapolis	1,123,083
MO Kansas City	28,989
MO St. Louis	222,666
NJ Northeastern New Jersey	66,476,878
NJ Trenton	806,060
NY Buffalo	538,781
NY New York	264,999,071
OH Cincinnati	2,893
OH Cleveland	10,825,336
OH Dayton	1,776,333
OH Toledo	17,546
PA Harrisburg	10,663
PA Philadelphia/Southern New Jersey	76,131,775
PA Pittsburgh	15,294,847
PR San Juan	1,046,411
OR Portland	1,190,073
RI Providence	1,275,983
TN Chattanooga	41,556
TX Dallas	387,793
TX Houston	2,134,238
TX San Antonio	24,126
VA Norfolk	64,515
WA Seattle	7,168,311
WA Tacoma	273,321
WI Madison	274,511
TOTAL	$754,359,550

TABLE 7

FISCAL YEAR 1994 SECTION 3 NEW START ALLOCATIONS

PROJECT LOCATION AND DESCRIPTION	FY 1994 ALLOCATION	PRIOR YEAR UNOBLIGATED ALLOCATION	TOTAL ALLOCATION
CA Los Angeles Metrorail MOS-2 and 3	$168,725,000		$168,725,000
CA Los Angeles-San Diego Commuter Rail	0	$10,000,000	10,000,000
CA Orange County Transit System	15,383,750		15,383,750
CA Sacramento LRT Extension	992,500		992,500
CA San Diego Mid Coast Extension	0	3,585,250	3,585,250
CA San Francisco Airport BART/Tasman LRT	27,988,500	25,518,087	53,506,587
CA San Jose to Gilroy Commuter Rail	0	8,000,000	8,000,000
CA Vallejo North Bay Ferry	0	8,000,000	8,000,000
FL Jacksonville ASE Extension	0	15,045,001	15,045,001
FL Miami Metromover Extension	0	25,081,595	25,081,595
FL Miami Urban Initiative	0	2,154,718	2,154,718
FL Orlando OSCAR Streetcar	2,977,500	2,495,000	5,472,500
FL Tri-County Commuter Rail	9,925,000		9,925,000
GA Atlanta MARTA North Line Ext	0	11,045,616	11,045,616
IL Chicago Central Area Connector	23,909,325	40,281,627	64,190,952
LA New Orleans Canal Street Corridor	3,573,000		3,573,000
MA South Boston Piers Transitway	9,925,000		9,925,000
MD Maryland Commuter Rail	23,323,750		23,323,750
MD Baltimore LRT Extension	0	41,682,090	41,682,090
ME Portland-Boston Commuter Rail	9,428,750	25,308,750	34,737,500
MI Detroit LRT	0	10,000,000	10,000,000
MN Twin Cities Central Corridor	2,779,000		2,779,000
MO Kansas City Phase I LRT	0	1,132,000	1,132,000
MO St. Louis METRO Link and Extensions	15,086,000	8,035,000	23,121,000
NJ Urban Core	62,031,250	148,439,275	210,470,525
NJ Lakewood-Matawan Commuter Rail	2,977,500	2,977,500	5,955,000
NJ Hawthorne-Warwick Commuter Rail	6,649,750	38,669,250	45,319,000
NJ South Jersey Regional Rail	496,250		496,250
NY Buffalo Naval Park Station	0	808,935	808,935
NY Queens Connection	64,512,500		64,512,500
NY Staten Island Midtown Ferry	0	1,000,000	1,000,000
OH Cleveland Dual Hub Corridor	794,000	8,947,780	9,741,780
OH Cincinnati	1,339,875		1,339,875
OH Northeast Ohio Commuter Rail	992,500		992,500
OR Portland Westside. LRT	82,873,750	13,408,620	96,282,370
PA Philadelphia Cross-County Commuter Rail	0	1,204,750	1,204,750
PA Pittsburgh Busway	36,424,750		36,424,750
TN Chattanooga Trolley	0	1,000,000	1,000,000
TN Memphis Regional Rail	496,250		496,250
TX Dallas South Oak Cliff LRT	39,700,000		39,700,000
TX Dallas /Ft. Worth Railtran Commuter Rail	0	2,480,000	2,480,000
TX Houston Regional Bus Plan	38,707,500	175,975	38,883,475
UT Salt Lake City LRT	2,977,500	1,953,530	4,931,030
WA Seattle-Tacoma Commuter Rail	0	18,425,250	18,425,250
WI Wisconsin Central Commuter Line	7,940,000		7,940,000
TOTAL	$662,930,450	$476,855,599	$1,139,786,049

FROM FY 1993 PRIOR YEAR EARMARK	
IL Chicago Central Area Circulator	$8,500,000
MA South Boston Piers Transitway	10,000,000
PA Pittsburgh Busway	5,000,000
TX Dallas South Oak Cliff LRT	4,000,000
TX Houston Regional Bus Plan	1,000,000
WI Milwaukee East-West Corridor	3,000,000
TOTAL	$31,500,000

TABLE 8

FISCAL YEAR 1994 FTA SECTION 3 BUS ALLOCATIONS

ISTEA ALLOCATION

MI State	$10,000,000
PA Altoona (Bus Testing)	2,000,000

ADMINISTRATIVE COMMITMENT

NY NYDOT	$9,491,364
PA BARTA	2,580,000

FY 1994 CONFERENCE EARMARKS

AR Little Rock	2,100,000
AZ Tucson	1,500,000
CA Lake Tahoe Regional Transit	2,100,000
CA Los Angeles	8,000,000
CA Sacramento	4,000,000
CA Santa Barbara	3,000,000
CA San Francisco Bay Area	3,000,000
FL Miami	3,000,000
FL Orlando	2,500,000
GA Atlanta	4,000,000
HI Kauai	1,750,000
IL State	17,000,000
IN South Bend	3,100,000
IA State	8,000,000
IA Cedar Rapids	3,000,000
IA Des Moines	2,000,000
KY Louisville	2,000,000
KS Topeka	8,000,000
LA New Orleans	5,000,000
ME State	2,000,000
MD Silver Spring	1,500,000
MA Pioneer Valley Transit Authority	1,000,000
MI Southeast SMART	5,000,000
MN Minneapolis MTC	7,000,000
MO State	8,000,000
MO St. Louis	4,000,000
NJ Camden	800,000
NJ South Amboy	500,000
NM Albuquerque	1,750,000
NV Clark County	2,500,000
NV Las Vegas	4,500,000
NY Nassau County	12,000,000
NC State	12,000,000
OH State	14,000,000
OH Cleveland	3,500,000
OH Lake County	2,000,000
OK State	5,000,000
OK Oklahoma City	1,000,000
OK Tulsa	1,000,000
OR Eugene	2,000,000
OR Salem	3,800,000
PA Philadelphia	10,000,000
PA Williamsport	2,500,000
PR San. Juan	2,500,000
SC Charleston	4,000,000
SD Sioux Falls	2,400,000
TN State	8,000,000
TX Corpus Christi	1,500,000
TX Dallas	4,000,000
TX El Paso	5,000,000
TX Laredo	4,500,000

FY 1994 CONFERENCE EARMARKS

UT Salt Lake City	3,000,000
VT Rutland	1,500,000
VA Fairfax	6,000,000
WA Seattle	4,700,000
WV Wheeling	8,500,000
WI State	5,000,000
WI Milwaukee	3,000,000
Fuel Cell Buses	3,000,000
Unallocated	73,251,136
TOTAL	$354,322,500

FISCAL YEAR 1993 AND PRIOR YEAR UNOBLIGATED EARMARKS

AREA	PRIOR YEAR EARMARKS
AR Eureka Springs	$63,600
CA Los Angeles	12,203,694
CA Sacramento	5,580,067
CA San Francisco (Pac. Med. Ctr.)	2,500,000
CO Eagle County	77,607
FL Key West	1,856,876
FL Miami	2,920,000
GA Atlanta	1,301,729
IN State	4,653,759
IA Des Moines	12,123,694
MD State	739,998
MI State	10,750,000
MO Kansas City	12,538,697
MO St. Louis	813,580
NY Buffalo	6,125,776
NC State	5,600,000
NM Rio Rancho	325,432
OR Eugene	6,850,034
PA Altoona (Bus Testing)	1,425,000
PA Erie	4,067,898
PA Philadelphia	4,000,000
PA Pittsburgh (Robinson)	8,135,795
PR San Juan	5,742,915
TN Chattanooga	1,000,000
TN Memphis	1,350,000
TN Memphis	8,534,068
TN Nashville	3,456,800
TX Brazos Valley	1,136,040
TX Corpus Christi	3,158,047
TX Dallas	7,500,000
TX Dallas	21,153,069
WA Chelan-Douglas	1,914,305
WI Madison	2,493,000
Fuel Cell Bus	1,477
TOTAL	$162,092,957

TABLE 9

FTA FISCAL YEAR 1994 SECTIONS 8 AND 26(a)(2) APPORTIONMENTS

STATE	SECTION 8 APPORTIONMENT FOR MPOs	SECTION 26(a)(2) APPORTIONMENT FOR STATE PLANNING/RESEARCH
Alabama	$362,551	$92,790
Alaska	166,050	42,375
Arizona	656,708	133,943
Arkansas	166,050	42,375
California	7,040,939	1,284,265
Colorado	539,088	119,914
Connecticut	481,810	123,842
Delaware	166,050	42,375
District/Col	223,237	42,375
Florida	2,246,371	513,261
Georgia	797,286	164,437
Hawaii	166,050	42,375
Idaho	166,050	42,375
Illinois	2,421,760	427,583
Indiana	588,336	135,793
Iowa	185,833	47,538
Kansas	214,302	51,369
Kentucky	257,554	64,392
Louisiana	445,572	112,360
Maine	166,050	42,375
Maryland	962,817	180,614
Massachusetts	1,173,464	238,555
Michigan	1,513,381	293,125
Minnesota	613,980	119,567
Mississippi	166,050	42,375
Missouri	715,407	140,334
Montana	166,050	42,375
Nebraska	166,050	42,375
Nevada	179,735	45,947
New Hampshire	166,050	42,375
New Jersey	2,053,185	334,330
New Mexico	166,050	42,375
New York	4,170,695	711,877
North Carolina	492,926	126,725
North Dakota	166,050	42,375
Ohio	1,429,284	335,713
Oklahoma	266,393	68,300
Oregon	300,178	71,614
Pennsylvania	1,909,473	363,476
Rhode Island	166,050	42,375
South Carolina	279,838	71,951
South Dakota	166,050	42,375
Tennessee	436,648	111,855
Texas	2,808,686	573,506
Utah	258,656	66,545
Vermont	166,050	42,375
Virginia	921,617	193,135
Washington	736,459	162,120
West Virginia	166,050	42,375
Wisconsin	557,792	124,297
Wyoming	166,050	42,375
Puerto Rico	447,689	107,177
	$41,512,500	$8,475,000

TABLE 10

Federal Transit Administration - Unit Values Of Data
Fiscal Year 1994 Formula Grant Apportionments

Section 9 - Bus Tier:

Urbanized Areas Over 1,000,000:

Population	$2.35560021
Population x Density	$0.00060417
Bus Revenue Vehicle Mile	$0.36181747

Urbanized Areas Under 1,000,000:

Population	$2.12881039
Population x Density	$0.00093752
Bus Revenue Vehicle Mile	$0.47778427

Bus Incentive (PM denotes Passenger Mile):

Bus PM x Bus PM / Operating Cost	$0.00345797

Section 9 - Fixed Guideway Tier:

Fixed Guideway Revenue Vehicle Mile	$0.47697957
Fixed Guideway Route Mile	$30,659
-Commuter Rail Floor	$4,819,096

Fixed Guideway Incentive:

Fixed Guideway PM x Fixed Guideway PM / Operating Cost	$0.00046064
-Commuter Rail Incentive Floor	$221,272

Section 9 - Urbanized Areas Under 200,000:

Population	$3.85141767
Population x Density	$0.00192461

Section 18 - Non-Urbanized Areas:

Population	$1.40735284

Section 3 - Fixed Guideway Modernization:

	Tier 3	Tier 4
Legislatively Specified Areas:		All Areas:
Revenue Vehicle Mile	$0.0304903	$0.1418196
Route Mile	$2,144.41	$9,128.39
Other Areas:		
Revenue Vehicle Mile	$0.20800161	
Route Mile	$8,481.25	

[FR Doc. 93–27464 Filed 11–4–93; 9:06 am]
BILLING CODE 4910–57–C

federal register

Monday
November 8, 1993

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870 et al.
Abandoned Mine Reclamation Grant Procedures; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 870, 886, 887, and 888

RIN 1029–AB72

Abandoned Mine Reclamation Grant Procedures

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the United States Department of the Interior proposes to amend its regulations to be consistent with new grant procedures implemented by OSM and to make editorial changes in the regulations that will update the regulations to ensure consistency with the statutory changes Congress has made to Title IV of the Surface Mining Control and Reclamation Act (SMCRA) of 1977.

DATES: *Written Comments:* OSM will accept written comments on the proposed rule until 5 p.m. Eastern time on January 7, 1994.

Public hearings: Upon request, OSM will hold public hearings on the proposed rule in Denver, Colorado on December 31, 1993 and in Pittsburgh, Pennsylvania on December 31, 1993. OSM will accept requests for public hearings until 5 p.m. Eastern time on December 8, 1993. Individuals wishing to attend but not testify at any hearing should contract the person identified under **FOR FURTHER INFORMATION CONTACT** beforehand to verify that the hearing will be held.

ADDRESSES: *Written Comments:* Hand deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 660, 800 North Capitol St., NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 10–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.

Public Hearings: If public hearings are scheduled in Denver or Pittsburgh (see **DATES:** *Public Hearings*), such hearings will be held at Brooks Towers, 2nd Floor Conference Room, 1020 15th St., Denver, Colorado and Building 10, Parkway Center, room 201, Pittsburgh, Pennsylvania.

Request for Public Hearings: Submit requests orally or in writing to the person and address specified under the **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Norman J. Hess, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–208–2949.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Discussion of Proposed Rule
IV. Procedural Matters

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments. Comments received after the close of the comment period (see **DATES**) or delivered to an address other than those listed above (see **ADDRESSES**) may not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings

OSM will hold public hearings on the proposed rule by request only. The dates and addresses scheduled for the hearings at two locations are specified previously in this notice (see **DATES** and **ADDRESSES**).

Any person interested in participating at a hearing at a particular location should inform Mr. Hess (see **FOR FURTHER INFORMATION CONTACT**) either orally or in writing of the desired hearing location by 5 p.m. Eastern time December 8, 1993. If no one has contacted Mr. Hess to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

II. Background

A. Summary of the Abandoned Mine Land (AML) Program

The AML Program was established by SMCRA, Public Law 95–87, 30 U.S.C. 1201 *et seq.*, in response to concern over extensive environmental damage caused by past coal mining activities. In effect, the Abandoned Mine Reclamation Fund (Fund) and the program it supports is the coal industry's equivalent to the "Superfund" administered by the Environmental Protection Agency to address hazardous waste discharges.

The eligibility requirements for reclamation of abandoned mine lands are set forth in section 404 of SMCRA. Funding of reclamation projects is subject to a priority schedule. For example, "Priority 1" projects concern those that involve the protection of public health, safety, general welfare, and property from extreme danger of the adverse effects of coal mining practices. "Priority 3" projects, on the other hand, concern environmental problems associated with past coal mining practices that do not necessarily constitute a public health or safety threat.

The Fund, administered by the Secretary of the Interior through OSM, is financed by a reclamation fee assessment on every ton of mined coal at the rate of 35 cents per ton of surface mined coal, 15 cents per ton of underground mined coal, and 10 cents per ton for lignite. Expenditures from the Fund are subject to appropriation by Congress.

The Fund is divided into the State/Indian tribe and Federal shares with each State or Indian tribe under a federally approved reclamation program entitled to fifty percent of the reclamation fees collected from coal operations within the State or respective Indian lands. Annually, these States/Indian tribes receive grants to carry out reclamation projects pursuant to their AML programs. States are authorized to use up to three million dollars of their State-share funds to establish State coal mine subsidence insurance programs, and are also authorized to deposit up to ten percent of their annual grants into special interest-bearing State trust accounts available for future reclamation purposes or for acid mine drainage reclamation projects.

The Federal expenses share of the Fund is allocated among a number of programs such as Federal emergency projects (involving sudden and life-threatening situations that demand immediate attention), high-priority reclamation projects in States and Indian tribes without federally approved reclamation programs (referred to as "nonprogram" States), and the Small Operator Assistance Program which provides financial assistance to small coal operators to help defray certain costs associated with the surface coal mining permitting process. At present, 24 States and three Indian tribes have OSM approved abandoned mine reclamation programs.

B. Overview of Proposed Changes to Abandoned Mine Land Grant Regulations

Over the years, Congress has made several amendments to the provisions in Title IV of SMCRA. These amendments

have been, or are in the process of being, implemented by OSM. In addition, the Department has adopted the government-wide Grants Management Common Rule (43 CFR 12 subpart C). Due to these changes, certain regulatory references are now outdated or refer to statutory provisions that no longer exist. OSM therefore is proposing in this rulemaking to edit the AML regulations in 30 CFR Chapter VII, Subchapter R to ensure that they will be consistent with agency practice and all past amendments to Title IV of SMCRA. The specific changes proposed to the AML rules are set forth below.

III. Discussion of Proposed Rule

Part 870—Abandoned Mine Reclamation Fund-Fee Collection and Coal Production Reporting

OSM proposes to revise § 870.5 to include Indian tribes in the definition of "agency" to reflect that OSM has approved Abandoned Mine Reclamation programs for three Indian tribes: the Crow, Hopi, and Navajo. See section 405(k) of Public Law No. 100–71, 101 Stat. 416 (1987).

Part 886—State Reclamation Grants

OSM proposes to revise § 886.1 by adding the term "Indian tribes" and deleting specific reference to "State reclamation plan[s]" to reflect that OSM has approved abandoned mine reclamation programs for three Indian tribes: the Crow, Hopi, and Navajo. In every instance in this document where Indian tribe has been inserted, the purpose is to add clarity and avoid confusion by reflecting the fact that OSM approval has been extended to Indian tribal programs as well as State programs. See Public Law No. 100–71, 101 Stat. 416 (1987).

OSM also proposes to amend § 886.3 by making certain editorial changes. Paragraph (b) would be deleted and the paragraph designation for paragraph (a) would be removed. The word "allocated" would also be replaced with "distributed annually." This revision would clarify that AML grant funds are "distributed" to States and Indian tribes. The previous use of the word "allocated" was, in the context used, inappropriate. Allocation means the administrative identification in the records of OSM of monies in the Fund for a specific purpose, e.g. identification of monies for exclusive use by a State/Indian tribe, whereas "distribution" is the process by which OSM makes those monies available to States/Indian tribes after the monies are appropriated from the AML Fund by Congress. Throughout this proposed rule, editorial changes have been made to clarify this terminology. In addition, the word "annually" is added to reflect the current procedure that exists for AML grant distribution. States/Indian tribes with approved AML programs are eligible to submit AML grant requests on an annual basis.

Paragraph (b) of § 886.3 would be deleted due to the legislative changes effectuated by the 1990 amendments to Title IV of SMCRA. See the Abandoned Mine Reclamation Act (AMRA) of 1990, Public Law 101–508 (November 5, 1990). All funds are now allocated for a specific purpose (see 30 U.S.C. 1232 (g)). Accordingly, the reference to 30 CFR 886.3 concerning "remaining funds" is no longer relevant.

Section 886.10 addresses information collection requirements and the appropriate OMB clearance number. OSM proposes to revise and amend this section by updating the data contained in the section and including the estimated reporting burden per response for complying with the information collection requirements. The proposed revision also provides OSM and OMB addresses where comments regarding the information collection requirements may be sent.

Section 886.11 would be amended to reflect that OSM has approved Abandoned Mine Reclamation plans for three Indian tribes: the Crow, Hopi, and Navajo.

Paragraph (a) of § 886.12 would be amended by removing the word "State." This amendment would reflect that Tribal programs have been approved by OSM.

Paragraph (b) of § 886.12, which outlines the permissible uses for grant moneys under this part, would be amended by revising the paragraph to reflect specific changes made by the 1990 amendments to Title IV of SMCRA. See Public Law No. 101–508. Rather than listing certain reclamation objectives, OSM is proposing to reference specific statutory and regulatory provisions that detail eligibility requirements. This change would avoid confusion and provide clearer direction for the States/Indian tribes.

Paragraph (a) of § 886.13 would be revised by deleting any reference to administrative grants as being separate grants in and of themselves. This change reflects the new OSM policy of awarding all AML funds through a single grant. Administrative costs in this grant would no longer require a second grant, but would cover only the first year of the grant.

Paragraph (b) of § 886.13 would also be revised in order to implement changes made by the 1990 amendments to SMCRA. These statutory amendments deleted a reference to "impact assistance funding" in section 402(g) of SMCRA and moved these reclamation objectives to the non-coal provisions in new SMCRA section 411. A similar change would thus be made in these regulations. Also, the addition of the language "but not to exceed 8 years" in § 886.13 would recognize that subsidence insurance grants have traditionally been eight year grants. Additionally, and to avoid confusion, OSM would also replace the specific reference to sections 403 and 409 of SMCRA with a general reference to SMCRA.

OSM also proposes to delete paragraphs (b)(2) and (b)(3) of § 886.13 which refer to specific AML projects. Under the revised AML grant procedures, project specific information would be, in part, in the Abandoned Mine Land Inventory System and, in part, submitted at the time of project activation. This change would decrease certain administration costs of States/Indian tribes, thereby allowing more AML funds to be used for specific AML reclamation purposes.

Section 886.14 discusses the annual submission of budget information. OSM proposes to require annual budget estimates.

This proposal would clarify that States/Indian tribes should no longer submit site specific information to OSM as part of this process. The budget information called for by this revision would provide information that OSM needs to formulate its own budget requests to Congress. In addition, the deletion of the word "administrative" is proposed because under the new procedures outlined in this proposed rule, administrative grants would no longer be separate grants. Other proposed changes to this section are editorial in nature and are designed to reflect existing OSM practice and procedure.

The existing § 886.14 includes a reference to section 405(f) of SMCRA, relating to project information required from applicants. Since § 886.14 would be revised to relate solely to budget information, submission of information relating to section 405(f) now is discussed in the preamble to § 886.16.

Section 886.15 would be amended by revising paragraph (a) which currently allows OSM 90 days in which to act upon a grant application. This amendment would require OSM action on a grant application within 60 days of submittal. This change promotes the overall goal of expediting the AML granting process.

Paragraph (b) of § 886.15, which gives OSM 30 days to approve or disapprove a revised application, would be revised to allow OSM to treat the revised application as an original. OSM would then have 60 days (under proposed § 886.15(a)) to approve or disapprove the application. This change reflects OSM's view that 30 days would be an insufficient amount of time for it to evaluate revised applications. Sixty days is considered by OSM to be a more realistic time frame in which to execute this task.

Paragraph (c) of § 886.15 also would be revised by replacing the word "allocated" with "distributed" in order to clarify that AML funds are "distributed" to States/Indian tribes annually. See *supra*, discussion of proposed revisions to § 886.3. In addition, paragraphs (c)(1)–(6), which make reference to specific forms, would be deleted in favor of a generalized instruction to use approved forms. This change would eliminate the need to amend these regulations in the event there needs to be a change in form requirements, such as by a new Federal law.

Paragraph (d) of § 886.15 would be revised by inserting the requirement that States/Indian tribes comply with all Federal laws in order to apply for grants under this part. The deletion of the reference to OSM implementing regulations is merely an editorial change.

Paragraph (f) of § 886.15 would also be removed because the requirements of this subsection are redundant. Specifically, the information called for in this subsection is also required when States/Indian tribes submit reclamation plans for OSM approval. See 30 CFR 884.13(c)(7).

Section 886.16 would be amended to effectuate some editorial changes and some substantive changes. Specifically, paragraph 886.16(a) would be revised by deleting reference to Director approval of an agency's grant application. This would be an editorial change; the deleted language is superfluous in light of the fact that a "grant agreement" is in fact the document that represents approval of the agency's grant application. Therefore, the existence of a grant agreement denotes that OSM has in fact approved the agency's grant application.

Paragraph (3) of subsection 886.16(a) requires that the grant agreement include project specific amounts. This paragraph would be deleted in order to simplify the AML granting process. Specifically, the deletion of paragraph (a)(3) would provide that individual projects no longer be included in the grant agreement. Instead, this information would be submitted to OSM Field Offices on a project-by-project basis prior to OSM approval for the expenditure of funds for individual projects. Current provisions of these regulations (See recordkeeping and reporting requirements discussed in §§ 886.23 and 886.24), combined with the National Environmental Policy Act (NEPA) compliance process discussed in revised § 886.16(d) below, alleviate the need for approval of specific project amounts in the grant agreement.

Paragraph (a)(4) of § 886.16 requires that the grant agreement include allowable transfers of funds. Likewise, paragraph (b) of § 886.16 requires Director approval of agency assignment of functions and funds. Paragraph (a)(4) would be removed, and paragraph (b) would be revised to grant more flexibility to the States/Indian tribes in administering their AML grants monies. The proposed revision to paragraph (b) would alleviate the need for Director approval prior to assignment by the States/Indian tribes. In the view of OSM, States/Indian tribes are in the best position to dictate which entities are better suited to carry out day-to-day reclamation activities. With OSM approval no longer necessary, paragraph (a)(4) would become irrelevant and would therefore be removed.

Paragraph (c) of § 886.16 would also be deleted and paragraph (d) would be revised and renumbered as paragraph (c) to reflect changes in the procedures required to effectuate a grant agreement between OSM and a State/Indian tribe. This amendment would reflect a change in the technical administration of the grant agreement process. Specifically, this amendment would require that the Director sign and transmit only two copies of the grant agreement to the agency, instead of the four required prior to amendment. In addition, this amendment would change the time period for the agency to execute the grant from 3 weeks to 20 days. For purposes of this section, the agency would be required to sign the agreement and return it to OSM within the 20-day period. Since the grant, when signed by the Director, would obligate funds, proposed paragraph (c) would state that failure of the State/Indian tribe to execute the grant within 20 days would result in a deobligation of the total Federal grant amount. Thus, if the signed agreement is not returned to OSM by the close of business on the 20th day after the Director signs it and no explanation of the delay is provided, OSM would initiate deobligation procedures.

A new paragraph (d) of § 886.16 would be added to clarify that compliance with NEPA is required before AML grant funds may be used by the State/Indian tribe. Currently, OSM grant procedure requires NEPA compliance at the construction grant award stage. Since the issuance of a grant need not contain authorization of expenditures for any specific project, that action should not require NEPA compliance. Instead, NEPA compliance is deferred until the State/Indian tribe requests authorization to expend funds under the grant. The actual initiation of each project is the action that might have a significant effect on the environment. Under these proposed procedures, NEPA documentation would be developed as a normal part of project planning rather than up front in a grant application. Although OSM Field Office approval would still be required before the States/Indian tribes are authorized to proceed with individual projects, OSM believes that the overall management of the grant by the States/Indian tribes would be enhanced by this action.

Prior to the time that authorization to expend funds for construction activities is requested, information specific to the project is provided to the OSM Field Office by the State/Indian tribe. The required information is provided on the Form OSM–76, Abandoned Mine Land Problem Area Description (OMB No. 1029–0081). This information conforms to that required in section 405(f) of SMCRA.

It is noted that budgets are "revised" and grants are "amended." Because of the method of approving an AML grant, a budget by itself is not required to be revised. Thus, the title of § 886.17 would be changed from "Grant and budget revisions" to read "grant amendments."

Section 886.17 would be amended by revising paragraph (a)(1) which refers to OMB Circular A–102. This editorial change would properly reference the Grants Management Common Rule. This editorial changes has been effectuated throughout this proposed rule.

Paragraph (a)(2) of § 886.17, which discusses events that trigger notification requirements, would be revised by deleting paragraphs (i) and (ii) and inserting language specifying that notification is necessary for changes that will result in an extension of the grant period, or require additional funds, or make a budget transfer from administrative costs to project costs or vice versa. This revision would eliminate the need to notify OSM of project specific changes, but would retain the mandates of the Grants

Management Common Rule. This would simplify the grant process; OSM would not require project-by-project approval of State/Indian tribe AML projects at the time of initial grant approval. Thus, a grant amendment would not be necessary merely due to changes in individual projects.

Likewise, paragraphs (b)(1) and (b)(3)(i)–(iii) of § 886.17, which require OSM approval for budget revisions of $5,000 or 5 percent of the grant amount, except in certain enumerated circumstances, would be removed by these amendments. Thus, the requirements in paragraphs (b)(1) and (b)(3)(i)–(iii) of § 886.17 would be deleted in favor of the new instructions set forth in revised paragraph 886.17(a)(2). This is a conforming change that is brought about by the Grants Management Common Rule and would codify existing practices.

In addition, paragraph (b)(2) of § 886.17 would be revised to allow OSM 30 days, instead of the current 15 days, in which to either approve or disapprove the amendment. Paragraph (b)(2) would thus be retained as revised, and redesignated as paragraph (b). The proposed 30 day time limit reflects OSM's evaluation of the time needed to complete its review of the amendment.

Section 886.18, discussing conditions for grant reduction, suspension, and termination, would be amended by revising paragraph (a)(2) to make minor editorial changes to these regulations, specifically to change the reference from 30 CFR § 872.11(b)(2) to 30 CFR §§ 872.11(b)(1) and 872.11(b)(2). This would be a conforming change made necessary by rulemaking to implement the AMRA, Public Law 101–508.

Paragraph (a)(3) of § 886.18 would also be revised by specifying that certain Indian tribes may receive reclamation funds without having an approved regulatory program. Under the 1987 amendments to SMCRA, the Crow, Hopi, and Navajo Indian tribes are excepted from the Title V regulatory program requirement for purposes of Title IV of SMCRA. See 30 U.S.C. section 1235(k) (1988).

Paragraph (b) of § 886.18 would be replaced by a new paragraph (b). The new paragraph (b) would incorporate remedial measures outlined in the Grants Management Common Rule. Also, the current paragraph (b) would be revised and redesignated as paragraph (c). This new paragraph (c) would contain editorial changes to indicate that the "OSM official delegated grant signature authority" is the person who would give notice of grant reduction, suspension, or termination of a grant. In addition, paragraph (c) would require certified mail transmittal of the required written notice. Paragraph (c) would also add a subparagraph (7) that would incorporate the concept of mutual termination as outlined in the Grants Management Common Rule.

Likewise, the current paragraph (c) of § 886.18 would be redesignated as paragraph (d) and revised to clarify that State or Tribal appeals of OSM decisions to reduce, suspend, or terminate a grant would be elevated to the Director of OSM. This proposed rule provides that the Director would have 30 days from receipt to decide the appeal. The Director's decision could then be appealed to the Secretary.

Such appeals would be processed in accordance with existing OSM procedures. OSM has elected not to codify the details of this process since such procedures may be amended as necessary.

Section 886.19, which explains requirements for an audit, would be revised to remove an outdated reference to OMB Circular A–102. Instead, the grantees would be instructed to arrange for audits pursuant to the requirements specified by OMB. Such requirements currently are contained in OMB Circular A–128.

Section 886.20, which outlines administrative procedures for agencies under this part, would be revised by replacing references to OMB Circular A–102 with the Grants Management Common Rule. This change will alleviate the need for rulemaking to effectuate every minor change in form requirements.

Section 886.21, outlining allowable costs, would be revised by deleting the word "project" in paragraph (a). As discussed throughout this rulemaking, these amendments would eliminate certain project specific grant procedures under the AML program. The revision would have little substantive effect since previous grants, although containing project specific information, were for overall reclamation activities.

Section 886.22 would contain editorial changes to paragraph (a) in order to properly reference the Grants Management Common Rule. In addition, paragraph (d) of this section, mandating that drawdowns be made by the agency as closely as possible to the time of making disbursements, would be revised by requiring that when advances are appropriate, they should be made as closely as possible to the actual time of disbursement. This change would reflect current practice and procedure.

Section 886.23 would be amended by replacing the semi-annual reporting requirement with an annual reporting requirement. In the view of OSM, annual reporting would be sufficient to ensure proper Federal oversight. The AML program has been in effect in most States for over a decade. This change represents the growing maturity of these programs and the confidence that OSM has in their management.

In addition, existing paragraphs (a) and (b) of this section would be revised by deleting references to specific form requirements. This would be accomplished by deleting a portion paragraph (a), all of paragraphs (a)(1)–(2), and all of paragraph (b). In place of these references to specific forms, this amendment would direct agencies to submit reporting forms specified by OSM. This change would eliminate the need for rulemaking procedures to amend these regulations in every instance when form requirements change. In addition, many of the forms required by this section anticipate the need for project specific information. In light of the changes that would be effectuated by these amendments, such specific information no longer needs to be submitted to OSM in advance. Some project specific information would be provided to OSM at the time a grantee requests approval for expenditure of funds for individual projects. Additional detailed information would also be available in the grantee's files.

A revised paragraph (b) would be added to § 886.23 which would require, at the completion of a grant/cooperative agreement, agency submission of closeout reports as specified by OSM. Specifically, paragraph (b)(1) requires submission of form OSM–76 upon project completion. This submission is necessary to comply with the requirement in section 403(c) of SMCRA that on a regular basis OSM note on its inventory those projects completed under Title IV.

Section 886.24 would be amended by revising paragraph (a) which requires agencies to keep records in accordance with OMB Circular A–102. OSM would revise this paragraph to properly reference the Grants Management Common Rule which supersedes Circular A–102 for purposes of this Part.

Paragraph (a)(1) of § 886.24 would contain an editorial revision in wording to add greater clarity and also reference the Grants Management Common Rule. Paragraph (b) of § 886.24, which mandates certain recordkeeping requirements for subgrantees and contractors, would be deleted. Designation of paragraph (a) would be removed and paragraph (1) and (2) would be redesignated as paragraphs (a) and (b) respectively. In the judgment of OSM, the information called for by this paragraph would be redundant in light

of the requirements of the Grants Management Common Rule.

OSM proposes to add a new § 886.25 to simplify the existing regulation by including special Indian land procedures (formerly part 888) in part 886.

New § 886.25(a) discusses the Director's authority to mitigate emergencies or extreme dangers resulting from past coal mining practices and to perform other reclamation on Indian lands not subject to an approved reclamation program.

New § 886.25(b) is a conforming change that would incorporate the language of deleted § 888.11(a).

New § 886.25(c) is a conforming change that would incorporate the language of deleted § 888.11(b).

New § 886.25(d) is a conforming change that would incorporate the language of deleted § 888.11(c).

New § 886.25(e) is a conforming change that would incorporate the language of deleted § 888.11(d).

Part 887—Subsidence Insurance Program Grants

Section 887.3 discussed the Director's authority to approve or disapprove grants for subsidence insurance up to a total of $3,000,000 in States with approved reclamation plans. The reference to section 402(g)(2) would be revised to properly reference section 402(g)(1) in light of the 1990 amendments to SMCRA. The reference to paragraph 872.11(b)(2) would be changed to a more general reference to paragraph 872.11(b) in order to reference some explanatory language found in that paragraph.

Section 887.10 deals with information collection requirements and their submittal to OMB for approval. The collection of this information would not be required until it has been approved by OMB. OSM proposes to revise and amend this section by updating the data contained in the section and including the estimated reporting burden per response for complying with the information collection requirements. The proposed revision would also provide the OSM and OMB addresses where comments regarding the information collection requirements may be sent.

Section 887.11 discusses eligibility for subsidence insurance program grants under this part. This section would be revised by making minor editorial changes. The reference to paragraph 872.11(b)(2) would be changed to a more general reference to paragraph 872.11(b) in order to reference some explanatory language found in that paragraph. In addition, the reference to SMCRA section 402(g)(2) would be revised to properly reference section 402(g)(1) in light of the 1990 amendments to SMCRA.

Section 887.12 would be amended by replacing all references to OMB Circular A–102 with references to the Grants Management Common Rule. As discussed above, this change reflects the fact that the Grants Management Common Rule supersedes OMB Circular A–102 for the purposes of this part.

In addition, paragraph (b) of § 887.12, which begins to specify the contents of a grant application under this part, would be revised by adding a reference to the procedures of 30 CFR 886. This amendment advances the goal of simplifying the AML grants process by providing a uniform set of procedures for the grant application process. The effect of this amendment would be to combine the process of applying for reclamation grants under Part 886 and for subsidence insurance program grants under this Part.

Section 887.13 would be amended by replacing reference to OMB Circular A–102 with reference to the Grants Management Common Rule. As discussed above, this change is made throughout these amendments.

Part 888—Indian Reclamation Programs

OSM proposes to delete part 888 and incorporate its provisions into new § 886.25. *See supra*, discussion of proposed revisions of § 886.25.

IV. Procedural Matters

Paperwork Reduction Act

The collections of information contained in this rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget.

Public reporting burden for this collection of information is estimated to average 44 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 the burdens, to the Information Collection Clearance Officer, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW, room 640 NC, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1029–0059, 1029–xxxx), Washington, DC 20503.

Executive Order 12291

In accordance with the criteria of Executive Order 12291, the Department of the Interior has determined that this rule is not major and does not require a regulatory impact analysis.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities.

Author

The principal author of this rule is Norman J. Hess, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone 202–208–2949.

National Environmental Policy Act

OSM has prepared a draft environmental assessment (EA), and has made a tentative finding that the proposed rule would not significantly affect the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). It is anticipated that a Finding of No Significant Impact will be approved for the final rule in accordance with OSM procedures under NEPA. The EA is on file in the OSM Administrative Record at the address specified previously (see "ADDRESSES"). An EA will be completed on the final rule and a finding made on the significance of any resulting impacts prior to promulgation of the final rule.

Executive Order 12778 on Civil Justice Reform

This proposed rule has been reviewed under the applicable standards of section 2(b)(2) of Executive Order 12778, Civil Justice Reform (56 FR 55195). In general, the requirements of section 2(b)(2) of Executive Order 12778 are covered by the preamble discussion of this proposed rule. Additional remarks follow concerning individual elements of the Executive Order:

A. What is the preemptive effect, if any, to be given to the regulation?

The proposed rule specifies procedures for the Federal grants program under Title IV of SMCRA. This rule is not intended to preempt State law except that to the extent States wish to participate in the program, they must comply with the Federal rules.

B. What is the effect on existing Federal law or regulation, if any, including all provisions repealed or modified?

This rule modifies the AML grant process regulations pursuant to SMCRA as described herein, and is not intended to modify the rules or provisions of any other Federal statute. The preceding discussion of this rule specifies the Federal regulatory provisions that are affected by this rule.

C. Does the rule provide a clear and certain legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction?

The standards established by this rule are as clear and certain as practicable, given the complexity of the topics covered and the mandates of SMCRA.

D. What is the retroactive effect, if any, to be given to the regulation?

This rule is not intended to have retroactive effect.

E. Are administrative proceedings required before parties may file suit in court? Which proceedings apply? Is the exhaustion of administrative remedies required?

No administrative proceedings are required before parties may file suit in court challenging the provisions of this rule under section 526(a) of SMCRA, 30 U.S.C. 1276(a). Prior to any judicial challenge to the application of this rule, however, administrative procedures must be exhausted.

F. Does the rule define key terms, either explicitly or by reference to other regulations or statues that explicitly define those items?

Terms that are important to the understanding of this rule are set forth in 30 CFR 870.5 and 887.5.

G. Does the rule address other important issues affecting clarity and general draftsmanship of regulations set forth by the Attorney General, with the concurrence of the Director of the Office of Management and Budget, that are determined to be in accordance with the purposes of the Executive Order?

The Attorney General and the Director of the Office of Management and Budget have not issued any guidance on this requirement.

List of Subjects

30 CFR Part 870

Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 886

Grant programs—natural resources, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 887

Grant programs—natural resources, Insurance, Surface mining, Underground mining.

30 CFR Part 888

Indian land, Surface mining, Underground mining.

Accordingly, it is proposed to amend 30 CFR parts 870, 886, 887, and 888 as set forth below:

Dated: August 17, 1993.

Michael Dombeck,

Acting Assistant Secretary—Land and Minerals Management.

CHAPTER VII—OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

SUBCHAPTER R—ABANDONED MINE LAND RECLAMATION

PART 870—ABANDONED MINE RECLAMATION FUND-FEE COLLECTION AND COAL PRODUCTION REPORT

1. The authority citation for part 870 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

2. Section 870.5 is amended by revising the definition of agency to read as follows:

§ 870.5 Definitions.

* * * * *

Agency means the State agency designated by the Governor, or in the case of Indian tribes, the Tribal agency designated by the equivalent head of an Indian tribe, to administer the State/Indian tribe reclamation program and to receive and administer grants under this part.

* * * * *

3. The title of part 886 is revised to read as follows:

PART 886—STATE AND TRIBAL RECLAMATION GRANTS

4. The authority citation for part 886 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended.

5. Section 886.1 is revised to read as follows:

§ 886.1 Scope.

This part sets forth procedures for grants to States/Indian tribes having an approved plan for the reclamation of eligible lands and water and other activities necessary to carry out the plan as approved. OSM's "Final guidelines for Reclamation Programs and Projects" (45 FR 14810–14819, March 6, 1980) should be utilized as applicable.

6. Section 886.3 is revised to read as follows:

§ 886.3 Authority.

The Director is authorized to approve or disapprove applications for grants under this part if the total amount of the grants does not exceed the moneys appropriated by the Congress. Such moneys are distributed annually to the States/Indian tribes.

7. Section 886.10 is revised to read as follows:

§ 886.10 Information collection.

The collections of information contained in 30 CFR part 886 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029–0059. The information will be collected to meet the requirements of section 405 of the Act, which allows the Secretary to grant funds to States/Indian tribes pursuant to section 402(g) and which are necessary to implement the State/Indian tribe reclamation program. This information will be used by the OSM to ensure that the State/Indian tribe complies with the Grants Management Common Rule (43 CFR part 12, subpart C) and sound principles of grants management. The obligation to respond is required to obtain a benefit in accordance with Public Law 95–87. Public reporting burden for this 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 the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, 1951 Constitution Avenue, NW., Room 640 NC, Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1029–0059), Washington, D.C. 20503.

8. Section 886.11 is revised to read as follows:

§ 886.11 Eligibility for grants.

A State/Indian tribe is eligible for grants under this part if it has a reclamation plan approved under part 884 of this chapter.

9. Section 886.12 is amended by revising paragraphs (a) and (b) to read as follows:

§ 886.12 Coverage and amount of grants.

(a) An agency may use moneys granted under this part to administer the approved reclamation program and to carry out the specific reclamation activities included in the plan and described in the annual grant agreement. The moneys may be used to cover costs to the agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to the OMB Circular A–87.

(b) Grants shall be approved for reclamation of eligible lands and water in accordance with 30 U.S.C. 1234 and 1241 and 30 CFR 874.12, 875.12, and 875.14, and in accordance with the priorities stated in 30 U.S.C. 1233 and 1241 and 30 CFR 874.13 and 875.15. To the extent technologically and economically feasible, public facilities that are planned, constructed or modified in whole or in part with abandoned mine land grant funds should utilize fuel other than petroleum or natural gas.

* * * * *

10. Section 886.13 is revised to read as follows:

§ 886.13 Grant period.

(a) Except as provided in paragraph (b) of this section, the grant funding period for projects shall not exceed 3 years. The period for administrative costs of the authorized agency should not exceed the first year of the grant.

(b) The Director, in order to facilitate consideration of eligible public facilities, may approve a grant period for specific projects beyond 3 years, but not to exceed 8 years, only if he/she finds, on the basis of the information contained in the grant application, that such projects to be funded will fulfill the objectives of 30 U.S.C. 1201 *et seq.*

11. Section 886.14 is revised to read as follows:

§ 886.14 Annual submission of budget information.

The agency shall cooperate with OSM in the development of information for use by the Director in the preparation of his/her requests for appropriation of moneys for reclamation grants. The schedule for such estimates shall be determined by the OSM on an annual basis. Funds required to prepare this submission may be included in the grants under 30 CFR 886.12

12. Section 866.15 is amended by removing paragraph (f) and revising paragraphs (a), (b), (c), and (d) to read as follows:

§ 886.15 Grant application procedures.

(a) OSM shall act upon a grant application within 60 days of receipt. If OSM approves an agency's grant application, a grant agreement shall be prepared and signed by the agency and the Director.

(b) If the application is not approved, OSM shall set forth in writing the reasons for disapproval and may propose modifications if appropriate. The agency may resubmit the application or appropriate revised portions of the application. OSM shall process the revised application as an original application.

(c) A preapplication is not required if the total of the grant requested is within the amounts distributed to the State/Indian tribe annually by the Director based on the Congressional appropriation. The agency shall use application forms and procedures specified by OSM.

(d) The agency shall agree to perform the grant in accordance with the Act, applicable Federal laws and regulations, and applicable OMB and Treasury Circulars.

* * * * *

13. Section 886.16 is amended by revising paragraphs (a) and (b); by removing paragraph (c); by redesignating paragraph (d) and (c); by revising redesignated paragraph (c); and by adding a new paragraph (d) to read as follows:

§ 886.16 Grant agreements.

(a) OSM shall prepare a grant agreement which includes:

(1) A statement of the work to be covered by the grant; and

(2) A statement of the approvals of specific actions as required under this subchapter or the conditions to be met before such approvals can be given if moneys are included in the grant for such actions.

(b) The State/Indian tribe may assign functions and funds to other Federal, State or local agencies. The grantee agency shall retain responsibility for overall administration of that grant, including use of funds and reporting.

(c) The Director shall sign two copies of the agreement and transmit them either by certified mail, return receipt requested, or by hand delivery, to the agency for countersignature. The agency shall have a period of 20 calendar days from the date of the Director's signature to execute this grant in order to accept its terms and conditions. Unless an extension of time is formally approved by the Director, failure to execute the agreement within the stated period shall result in an immediate deobligation of the total Federal grant amount. The grant constitutes an obligation of Federal funds at the time the Director signs the agreement.

(d) Although the funds are obligated at the time of signature by the Director, for any expenditure requiring compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), funds may not be used by the State/Indian tribe until all actions necessary to assure compliance with that Act are taken. In addition, a completed Form OSM–76 (Abandoned Mine Land Reclamation Problem Area Description) showing the proposed funding for the planned non-emergency project work must be submitted to the applicable OSM Field Office prior to funds being used by the State/Indian tribe for construction activities.

* * * * *

14. Section 886.17 is revised to read as follows:

§ 886.17 Grant amendments.

(a) *Grant amendments.* (1) A grant amendment is a written alteration of the term or conditions of the grant agreement, whether accomplished on the initiative of the agency or OSM. All procedures for the grant amendments shall conform to the Grants Management Common Rule (43 CFR part 12, subpart C).

(2) The agency shall promptly notify the Director, or the Director shall promptly notify the agency, in writing of events or proposed changes that may require a grant amendment. The agency shall notify the Director in advance of changes that will result in an extension of the grant period or require additional funds, or when the agency plans to make a budget transfer from administrative costs to projects costs or vice versa.

(b) OSM shall either approve or disapprove the amendment within 30 days of its receipt.

15. Section 886.18 is amended by revising paragraphs (a)(2) and (a)(3); by redesignating paragraphs (b) and (c) as paragraphs (c) as (d) respectively; by revising the newly redesignated paragraphs (c) and (d); and by adding new paragraph (b) to read as follows:

§ 886.18 Grant reduction, suspension, and termination.

(a) * * *

(2) If an agency fails to expend moneys distributed and granted within three years from the date of grant award, or within an extension granted under §§ 886.13 or 886.17, OSM may reduce the grant in accordance with § 872.11(b)(1) and (b)(2) of this subchapter.

(3) Except in the case of those Indian tribes who may receive reclamation funds without having an approved regulatory program, if an agency fails to implement, enforce, or maintain an approved State regulatory program or any part thereof and, as a result, the administration and enforcement grant provided under part 735 of this chapter is terminated, OSM shall terminate the grant awarded under this part.

* * * * *

(b) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance in a State plan or application, a notice of award, or elsewhere, the awarding agency may take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee;

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;

(3) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program;

(4) Withhold further grant awards for the program; or

(5) Take other remedies that may be legally available.

(c) *Grant reduction, suspension, and termination procedures.* (1) The OSM official delegated grant signature authority shall give at least 30 days written notice to the agency by certified mail, return receipt requested, of intent to reduce, suspend, or terminate a grant. OSM shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) OSM shall afford the agency opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The OSM official delegated grant signature authority shall notify the agency of the termination, suspension, or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination, the agency shall refund or credit to the Fund that remaining portion of the grant money not encumbered. However, any portion of the grant that is required to meet contractual commitments made prior to the effective date of termination shall be retained by the agency.

(5) Upon notification of OSM's intent to terminate the grant, the agency shall not make any new commitments without the approval of OSM.

(6) OSM may allow termination costs as determined by applicable Federal cost principles listed in Office of Management and Budget Circular A–87.

(7) Notwithstanding paragraphs (c)(1) through (6) of this section, and when both parties agree that the continuation of the program would not produce beneficial results commensurate with the further expenditure of funds, OSM or the agency may determine that a grant or cooperative agreement should be terminated in whole or in part. Such termination for convenience shall be handled as an amendment and shall be signed by the OSM official delegated grant signature authority.

(d) *Appeals.* (1) Within 30 days of OSM's decision to reduce, suspend, or terminate a grant, the agency may appeal the decision to the Director.

(i) The agency shall include in the appeal a statement of the decision being appealed and the facts that the agency believes justify a reversal or modification of the decision.

(ii) The Director shall decide the appeal within 30 days of receipt.

(2) Within 30 days of the Director's decision to reduce, suspend, or terminate a grant, the agency may appeal the decision to the Secretary.

(i) The agency shall include in the appeal a statement of the decision being appealed and the facts that the agency believes justify a reversal or modification of the decision.

(ii) The Secretary shall act upon the appeal within 30 days of receipt.

16. Section 886.19 is revised to read as follows:

§ 886.19 Audit.

The agency shall arrange for an independent audit at least once every two years, pursuant to the requirements of the Office of Management and Budget. The audit will be performed in accordance with the audit guides provided by the General Accounting Office and the Office of Management and Budget.

17. Section 886.20 is revised to read as follows:

§ 886.20 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property, and related requirements contained in the Grants Management Common Rule (43 CFR part 12, subpart C) and use the property form specified by OSM and approved by the Office of Management and Budget.

18. Section 886.21 is amended by revising paragraph (a) to read as follows:

§ 886.21 Allowable costs.

(a) Reclamation costs that shall be allowed include actual costs of construction, operation and maintenance, planning and engineering, construction inspection, other necessary administration costs, and up to 90 percent of the costs of the acquisition of land.

* * * * *

19. Section 886.22 is amended by revising paragraphs (a) and (d) to read as follows:

§ 886.22 Financial management.

(a) The agency shall account for grant funds in accordance with the requirement of the Grants Management Common Rule (43 CFR part 12, subpart C). Agencies shall use generally accepted accounting principles and practices consistently applied. Accounting for grant funds must be accurate and current.

* * * * *

(d) When advances are made, they should be made as closely as possible to the actual time of the disbursement.

* * * * *

20. Section 886.23 is revised to read as follows:

§ 886.23 Reports.

(a) For each grant/cooperative agreement, the agency shall annually submit to OSM reporting forms specified by OSM.

(b) At the completion of each grant/cooperative agreement, the agency shall submit the closeout reports specified by OSM. A completed Form OSM–76 shall be submitted upon project completion.

21. Section 886.24 is amended by revising paragraph (a) introductory text and removing its designation as (a); revising paragraph (a)(1) and redesignating it as (a); removing paragraph (b) and redesignating paragraph (a)(2) as (b); to read as follows:

§ 886.24 Records.

The agency shall maintain complete records in accordance with the Grants Management Common Rule (43 CFR part 12, subpart C). This includes, but is not limited to, books, documents, maps, and other evidence and accounting procedures and practices sufficient to reflect properly—

(a) The amount and disposition of all assistance received for the program; and

(b) * * *

22. Section 886.25 is added to read as follows:

§ 886.25 Special Indian lands procedures.

(a) This section applies to Indian lands not subject to an approved Tribal program. The Director is authorized to mitigate emergency situations or extreme danger situations arising from

past mining practices and begin reclamation of other areas determined to have high priority on such lands.

(b) The Director is authorized to receive proposals from Indian tribes for projects that should be carried out on Indian lands subject to this Section and to carry out such projects pursuant to parts 872 through 882 of this chapter.

(c) The Director shall consult with the Indian tribe and the Bureau of Indian Affairs' office having jurisdiction over the Indian lands on all reclamation activities carried out on Indian lands under this section.

(d) If a proposal is made by an Indian tribe and approved by the Director, the Tribal governing body shall approve the project plans. The costs of the project may be charged against the money allocated to OSM under § 872.11(b)(5).

(e) Approved projects may be carried out directly by the Director or through such arrangements as the Director may make with the Bureau of Indian Affairs or other agencies.

PART 887—SUBSIDENCE INSURANCE PROGRAM GRANTS

23. The authority citation for part 887 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

24. Section 887.3 is revised to read as follows:

§ 887.3 Authority.

The Director is authorized to approve or disapprove applications for grants up to a total amount of $3,000,000 for each State with an approved State reclamation plan provided moneys are available under § 872.11(b) of this chapter and section 402(g)(1) of Public Law 95–87 (30 U.S.C. 1232).

25. Section 887.10 is revised to read as follows:

§ 887.10 Information collection.

The collection of information contained in 30 CFR part 887 has been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.*, and will be assigned a clearance number on approval. The collection of this information will not be required until it has been approved by the Office of Management and Budget. The information will be used to grant funds to State regulatory authorities and Indian tribes to administer their subsidence insurance program. Response is required to obtain a benefit in accordance with 30 U.S.C. 1201 *et seq.* Public reporting burden for this information is estimated to average 40 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 the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, 1951 Constitution Avenue NW., room 640 NC, Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1029–XXXX), Washington, DC 20503.

26. Section 887.11 is revised to read as follows:

§ 887.11 Eligibility for grants.

A State is eligible for grants under this part if it has a State reclamation plan approved under part 884 of this chapter and if it has funds available under § 872.11(b) of this chapter and section 402(g)(1) of SMCRA, as amended, 30 U.S.C. 1232.

27. Section 887.12 is amended by revising paragraph (a), paragraph (b) introductory text, and paragraph (e) to read as follows:

§ 887.12 Coverage and amount of grants.

(a) An agency may use moneys granted under this part to develop, administer, and operate a subsidence insurance program to insure private property against damages caused by subsidence resulting from underground coal mining. The moneys may be used to cover costs to the agency for services and materials obtained from other State and Federal agencies or local jurisdictions according to OMB Circular A–87. Moneys granted may be used to cover capitalization requirements and initial reserve requirements mandated by applicable State law provided use of such moneys is consistent with the Grants Management Common Rule (43 CFR part 12, subpart C).

(b) The grant application shall be submitted under the procedures of 30 CFR part 886 and contain the following:

* * * * *

(e) Insurance premiums shall be considered program income and must be used to further eligible subsidence insurance program objectives in accordance with the Grants Management Common Rule (43 CFR part 12, Subpart C).

28. Section 887.13 is revised to read as follows:

§ 887.13 Grant period.

The grant funding period shall not exceed eight years from the time the grant is approved by OSM. Unexpended funds remaining at the end of any grant period shall be returned according to the Grants Management Common Rule (43 CFR part 12, subpart C).

PART 888—[REMOVED]

29. Part 888 is removed.

[FR Doc. 93–27395 Filed 11–5–93; 8:45 am]
BILLING CODE 4310–05–M

Reader Aids

Federal Register

Vol. 58, No. 214

Monday, November 8, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** service for Public Law numbers, and Federal Register finding aids.	202–275–1538, or 275–0920

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

58255–58482.....1
58483–58640.....2
58641–58734.....3
58735–58934.....4
58935–59158.....5
59159–59342.....8

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

303.....58935

3 CFR

Proclamations:
6619.....58255
6352 (See USTR notice of November 3).....58713
6620.....59157
Executive Orders:
12170 (Continued by notice of November 1).....58639
12569 (Amended by EO 12877).....59159
12677 (Revoked by EO 12876).....58735
12853 (See DOT notice of November 1).....58480
12872 (See DOT notice of November 1).....58480
12876.....58735
12877.....59159
Administrative Orders:
Notices:
November 1, 1993.....58639
Presidential Determinations:
94–3 of October 29, 1993.....58637
94–3 of October 29 (See USTR notice of November 1).....58379

5 CFR

302.....58257
317.....58257
352.....58257
359.....58257
534.....58257
550.....58257
610.....58257

7 CFR

271.....58444
272.....58442, 58444, 58455
273.....58442, 58444, 58455
457.....58262
1421.....58739
1434.....58739
1786.....58729
1901.....58641
1943.....58647
1944.....58641
1955.....58647
Proposed Rules:
13.....58299
272.....58458
273.....58458, 58463

8 CFR

103.....58935
240.....58935
299.....58935
Proposed Rules:
204.....59200
214.....58982
274a.....58982

9 CFR

94.....58751
203.....58902
317.....58918
381.....58918
Proposed Rules:
92.....58304
317.....58922
381.....58922

10 CFR

Proposed Rules:
73.....58804
40.....58657
52.....58664

12 CFR

618.....59161
711.....58263
1625.....58938
Proposed Rules:
936.....58305, 58988
960.....58988
1402.....59210
1408.....59215

13 CFR

121.....58650

14 CFR

25.....58263
39.....59161
71.....58277
97.....58277, 58279
1221.....58944
Proposed Rules:
Ch. I.....58512
39.....58305, 58307, 58310, 58667, 58669, 58807, 58808, 58992, 59223
71.....58311, 58312
121.....58512
127.....58512
135.....58512
145.....58512

15 CFR

789.....58483
799.....59163
904.....58484

16 CFR
305.....59166, 59167, 59168
Proposed Rules:
307.....58810

17 CFR
1.....58651, 58729
249.....58651

18 CFR
341.....58753
342.....58753
343.....58753
344.....58753
345.....58753
347.....58753
360.....58753
361.....58753
375.....58753
Proposed Rules:
Ch. I.....58814
284.....58817
341.....58817
352.....58817

19 CFR
24.....59298

20 CFR
Proposed Rules:
655.....58994

21 CFR
510.....59168
520.....58651
526.....58486
529.....59168
556.....58486
558.....58652
573.....59169
Proposed Rules:
1308.....58819

24 CFR
280.....58280
905.....58784
970.....58784
Proposed Rules:
905.....58513
965.....58513

25 CFR
11.....58729
Proposed Rules:
226.....59142

26 CFR
1.....58787
Proposed Rules:
31.....58820

28 CFR
Proposed Rules:
65.....58994

29 CFR
1.....58954
5.....58954
Proposed Rules:
507.....58994

30 CFR
950.....58487
Proposed Rules:
253.....58517
701.....58518
784.....58518
817.....58518
870.....59334
886.....59334
887.....59334
888.....59334
904.....58313
915.....58997
917.....58997
935.....58824
946.....58827

31 CFR
128.....58494

32 CFR
199.....58955

33 CFR
100.....59170
165.....58497, 59171
Proposed Rules:
117.....58518

34 CFR
643.....59144

36 CFR
215.....58904
217.....58904

37 CFR
307.....58282

39 CFR
Proposed Rules:
3001.....58519

40 CFR
9.....58382
51.....58498
55.....59172
85.....58382
86.....58382
282.....58624
763.....58964
Proposed Rules:
Ch. I.....58315
81.....58999
261.....58521

41 CFR
301.....58501

42 CFR
405.....58502
406.....58502
409.....58502
410.....58502
411.....58502
412.....58502
413.....58502
418.....58502
489.....58502
Proposed Rules:
124.....58828

43 CFR
Public Land Order:
3160.....58505
3180.....58630
6997.....58593
7001.....59098
7004.....58992
7007.....58968
7008.....58969

44 CFR
64.....58653, 58655, 58969

46 CFR
502.....58970

47 CFR
2.....59174
15.....59174
22.....59174
43.....58788
73.....58506, 58507, 58790
80.....58790
90.....58729, 59298
99.....59174
Proposed Rules:
73.....58533, 58671, 58672, 58833, 58834

48 CFR
Ch. 7.....58596
836.....58730
852.....58730
501.....58283
752.....58596
1805.....59188
1807.....58791
1834.....58791
1839.....59188
1852.....58791, 59188
1870.....58791
9903.....58791
Proposed Rules:
209.....58315, 58316
217.....58317
235.....58673
242.....58317
252.....58316
9904.....58999

49 CFR
390.....59194
391.....59194
571.....59189
665.....58732
Proposed Rules:
172.....59224
174.....59224
175.....59224
176.....59224
177.....59224
571.....59224
575.....59224

50 CFR
16.....58976
215.....58297
216.....58285
625.....59196
630.....58507
642.....58509
652.....59197
661.....59197
675.....58297, 58802
Proposed Rules:
17.....58534
215.....58680
216.....58680, 59007
222.....58680
227.....58318, 59230
285.....59008
630.....59008
641.....59230
651.....59232
652.....58681
678.....59008

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List November 5, 1993

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $775.00 domestic, $193.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 783–3238 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2233.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–019–00001–1)	$15.00	Jan. 1, 1993
3 (1992 Compilation and Parts 100 and 101)	(869–019–00002–0)	17.00	[1] Jan. 1, 1993
4	(869–019–00003–8)	5.50	Jan. 1, 1993
5 Parts:			
1–699	(869–019–00004–6)	21.00	Jan. 1, 1993
700–1199	(869–019–00005–4)	17.00	Jan. 1, 1993
1200–End, 6 (6 Reserved)	(869–019–00006–2)	21.00	Jan. 1, 1993
7 Parts:			
0–26	(869–019–00007–1)	20.00	Jan. 1, 1993
27–45	(869–019–00008–9)	13.00	Jan. 1, 1993
46–51	(869–019–00009–7)	20.00	Jan. 1, 1993
52	(869–019–00010–1)	28.00	Jan. 1, 1993
53–209	(869–019–00011–9)	21.00	Jan. 1, 1993
210–299	(869–019–00012–7)	30.00	Jan. 1, 1993
300–399	(869–019–00013–5)	15.00	Jan. 1, 1993
400–699	(869–019–00014–3)	17.00	Jan. 1, 1993
700–899	(869–019–00015–1)	21.00	Jan. 1, 1993
900–999	(869–019–00016–0)	33.00	Jan. 1, 1993
1000–1059	(869–019–00017–8)	20.00	Jan. 1, 1993
1060–1119	(869–019–00018–6)	13.00	Jan. 1, 1993
1120–1199	(869–019–00019–4)	11.00	Jan. 1, 1993
1200–1499	(869–019–00020–8)	27.00	Jan. 1, 1993
1500–1899	(869–019–00021–6)	17.00	Jan. 1, 1993
1900–1939	(869–019–00022–4)	13.00	Jan. 1, 1993
1940–1949	(869–019–00023–2)	27.00	Jan. 1, 1993
1950–1999	(869–019–00024–1)	32.00	Jan. 1, 1993
2000–End	(869–019–00025–9)	12.00	Jan. 1, 1993
8	(869–019–00026–7)	20.00	Jan. 1, 1993
9 Parts:			
1–199	(869–019–00027–5)	27.00	Jan. 1, 1993
200–End	(869–019–00028–3)	21.00	Jan. 1, 1993
10 Parts:			
0–50	(869–019–00029–1)	29.00	Jan. 1, 1993
51–199	(869–019–00030–5)	21.00	Jan. 1, 1993
200–399	(869–019–00031–3)	15.00	Jan. 1, 1993
400–499	(869–019–00032–1)	20.00	Jan. 1, 1993
500–End	(869–019–00033–0)	33.00	Jan. 1, 1993
11	(869–019–00034–8)	13.00	Jan. 1, 1993
12 Parts:			
1–199	(869–019–00035–6)	11.00	Jan. 1, 1993
200–219	(869–019–00036–4)	15.00	Jan. 1, 1993
220–299	(869–019–00037–2)	26.00	Jan. 1, 1993
300–499	(869–019–00038–1)	21.00	Jan. 1, 1993
500–599	(869–019–00039–9)	19.00	Jan. 1, 1993
600–End	(869–019–00040–2)	28.00	Jan. 1, 1993
13	(869–019–00041–1)	28.00	Jan. 1, 1993
14 Parts:			
1–59	(869–019–00042–9)	29.00	Jan. 1, 1993
60–139	(869–019–00043–7)	26.00	Jan. 1, 1993
140–199	(869–019–00044–5)	12.00	Jan. 1, 1993
200–1199	(869–019–00045–3)	22.00	Jan. 1, 1993
1200–End	(869–019–00046–1)	16.00	Jan. 1, 1993
15 Parts:			
0–299	(869–019–00047–0)	14.00	Jan. 1, 1993
300–799	(869–019–00048–8)	25.00	Jan. 1, 1993
800–End	(869–019–00049–6)	19.00	Jan. 1, 1993
16 Parts:			
0–149	(869–019–00050–0)	7.00	Jan. 1, 1993
150–999	(869–019–00051–8)	17.00	Jan. 1, 1993
1000–End	(869–019–00052–6)	24.00	Jan. 1, 1993
17 Parts:			
1–199	(869–019–00054–2)	18.00	Apr. 1, 1993
200–239	(869–019–00055–1)	23.00	June 1, 1993
240–End	(869–019–00056–9)	30.00	June 1, 1993
18 Parts:			
1–149	(869–019–00057–7)	16.00	Apr. 1, 1993
150–279	(869–019–00058–5)	19.00	Apr. 1, 1993
280–399	(869–019–00059–3)	15.00	Apr. 1, 1993
400–End	(869–019–00060–7)	10.00	Apr. 1, 1993
19 Parts:			
1–199	(869–019–00061–5)	35.00	Apr. 1, 1993
200–End	(869–019–00062–3)	11.00	Apr. 1, 1993
20 Parts:			
1–399	(869–019–00063–1)	19.00	Apr. 1, 1993
400–499	(869–019–00064–0)	31.00	Apr. 1, 1993
500–End	(869–019–00065–8)	30.00	Apr. 1, 1993
21 Parts:			
1–99	(869–019–00066–6)	15.00	Apr. 1, 1993
100–169	(869–019–00067–4)	21.00	Apr. 1, 1993
170–199	(869–019–00068–2)	20.00	Apr. 1, 1993
200–299	(869–019–00069–1)	6.00	Apr. 1, 1993
300–499	(869–019–00070–4)	34.00	Apr. 1, 1993
500–599	(869–019–00071–2)	21.00	Apr. 1, 1993
600–799	(869–019–00072–1)	8.00	Apr. 1, 1993
800–1299	(869–019–00073–9)	22.00	Apr. 1, 1993
1300–End	(869–019–00074–7)	12.00	Apr. 1, 1993
22 Parts:			
1–299	(869–019–00075–5)	30.00	Apr. 1, 1993
300–End	(869–019–00076–3)	22.00	Apr. 1, 1993
23	(869–019–00077–1)	21.00	Apr. 1, 1993
24 Parts:			
0–199	(869–019–00078–0)	38.00	Apr. 1, 1993
200–499	(869–019–00079–8)	36.00	Apr. 1, 1993
500–699	(869–019–00080–1)	17.00	Apr. 1, 1993
700–1699	(869–019–00081–0)	39.00	Apr. 1, 1993
1700–End	(869–019–00082–8)	15.00	Apr. 1, 1993
25	(869–019–00083–6)	31.00	Apr. 1, 1993
26 Parts:			
§§ 1.0–1–1.60	(869–019–00084–4)	21.00	Apr. 1, 1993
§§ 1.61–1.169	(869–019–00085–2)	37.00	Apr. 1, 1993
§§ 1.170–1.300	(869–019–00086–1)	23.00	Apr. 1, 1993
§§ 1.301–1.400	(869–019–00087–9)	21.00	Apr. 1, 1993
§§ 1.401–1.440	(869–019–00088–7)	31.00	Apr. 1, 1993
§§ 1.441–1.500	(869–019–00089–5)	23.00	Apr. 1, 1993
§§ 1.501–1.640	(869–019–00090–9)	20.00	Apr. 1, 1993
§§ 1.641–1.850	(869–019–00091–7)	24.00	Apr. 1, 1993
§§ 1.851–1.907	(869–019–00092–5)	27.00	Apr. 1, 1993
§§ 1.908–1.1000	(869–019–00093–3)	26.00	Apr. 1, 1993
§§ 1.1001–1.1400	(869–019–00094–1)	22.00	Apr. 1, 1993
§§ 1.1401–End	(869–019–00095–0)	31.00	Apr. 1, 1993
2–29	(869–019–00096–8)	23.00	Apr. 1, 1993
30–39	(869–019–00097–6)	18.00	Apr. 1, 1993
40–49	(869–019–00098–4)	13.00	Apr. 1, 1993
50–299	(869–019–00099–2)	13.00	Apr. 1, 1993
300–499	(869–017–00100–0)	23.00	Apr. 1, 1993
500–599	(869–019–00101–8)	6.00	[4] Apr. 1, 1990

Title	Stock Number	Price	Revision Date
600–End	(869–019–00102–6)	8.00	Apr. 1, 1993
27 Parts:			
1–199	(869–019–00103–4)	37.00	Apr. 1, 1993
200–End	(869–019–00104–2)	11.00	[5] Apr. 1, 1991
28 Parts:			
1–42	(869–019–00105–1)	27.00	July 1, 1993
43–end	(869–019–00106–9)	21.00	July 1, 1993
29 Parts:			
0–99	(869–019–00107–7)	21.00	July 1, 1993
100–499	(869–019–00108–5)	9.50	July 1, 1993
500–899	(869–019–00109–3)	36.00	July 1, 1993
900–1899	(869–019–00110–7)	17.00	July 1, 1993
1900–1910 (§§ 1901.1 to 1910.999)	(869–017–00109–1)	29.00	July 1, 1992
1910 (§§ 1910.1000 to end)	(869–017–00110–4)	16.00	July 1, 1992
1911–1925	(869–017–00111–2)	9.00	[6] July 1, 1989
1926	(869–017–00112–1)	14.00	July 1, 1992
1927–End	(869–017–00113–9)	30.00	July 1, 1992
30 Parts:			
1–199	(869–019–00116–6)	27.00	July 1, 1993
200–699	(869–019–00117–4)	20.00	July 1, 1993
700–End	(869–019–00118–2)	27.00	July 1, 1993
31 Parts:			
0–199	(869–019–00119–1)	18.00	July 1, 1993
200–End	(869–019–00120–4)	29.00	July 1, 1993
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–019–00121–2)	30.00	July 1, 1993
191–399	(869–019–00122–1)	36.00	July 1, 1993
400–629	(869–019–00123–9)	26.00	July 1, 1993
630–699	(869–019–00124–7)	14.00	[7] July 1, 1991
700–799	(869–019–00125–5)	21.00	July 1, 1993
800–End	(869–019–00126–3)	22.00	July 1, 1993
33 Parts:			
1–124	(869–019–00127–1)	20.00	July 1, 1993
125–199	(869–019–00128–0)	25.00	July 1, 1993
200–End	(869–019–00129–8)	24.00	July 1, 1993
34 Parts:			
1–299	(869–017–00128–7)	27.00	July 1, 1992
300–399	(869–019–00131–0)	20.00	July 1, 1993
400–End	(869–019–00132–8)	37.00	July 1, 1993
35	(869–019–00133–6)	12.00	July 1, 1993
36 Parts:			
1–199	(869–019–00134–4)	16.00	July 1, 1993
200–End	(869–019–00135–2)	35.00	July 1, 1993
37	(869–019–00136–1)	20.00	July 1, 1993
38 Parts:			
0–17	(869–019–00137–9)	31.00	July 1, 1993
18–End	(869–019–00138–7)	30.00	July 1, 1993
39	(869–019–00139–5)	17.00	July 1, 1993
40 Parts:			
1–51	(869–017–00138–4)	31.00	July 1, 1992
52	(869–017–00139–2)	33.00	July 1, 1992
53–60	(869–017–00140–6)	36.00	July 1, 1992
61–80	(869–017–00141–4)	16.00	July 1, 1992
81–85	(869–017–00142–2)	17.00	July 1, 1992
86–99	(869–017–00143–1)	33.00	July 1, 1992
100–149	(869–017–00144–9)	34.00	July 1, 1992
150–189	(869–017–00145–7)	21.00	July 1, 1992
190–259	(869–017–00146–5)	16.00	July 1, 1992
260–299	(869–017–00147–3)	36.00	July 1, 1992
300–399	(869–017–00148–1)	15.00	July 1, 1992
400–424	(869–017–00149–0)	26.00	July 1, 1992
425–699	(869–017–00150–3)	26.00	July 1, 1992
700–789	(869–017–00151–1)	23.00	July 1, 1992
790–End	(869–017–00152–0)	25.00	July 1, 1992

Title	Stock Number	Price	Revision Date
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–019–00156–5)	10.00	July 1, 1993
101	(869–019–00157–3)	30.00	July 1, 1993
102–200	(869–019–00158–1)	11.00	[7] July 1, 1991
201–End	(869–019–00159–0)	12.00	July 1, 1993
42 Parts:			
1–399	(869–017–00157–1)	23.00	Oct. 1, 1992
400–429	(869–017–00158–9)	23.00	Oct. 1, 1992
430–End	(869–017–00159–7)	31.00	Oct. 1, 1992
43 Parts:			
1–999	(869–017–00160–1)	22.00	Oct. 1, 1992
1000–3999	(869–017–00161–9)	30.00	Oct. 1, 1992
4000–End	(869–017–00162–7)	13.00	Oct. 1, 1992
44	(869–017–00163–5)	26.00	Oct. 1, 1992
45 Parts:			
1–199	(869–017–00164–3)	20.00	Oct. 1, 1992
200–499	(869–017–00165–1)	14.00	Oct. 1, 1992
500–1199	(869–017–00166–0)	30.00	Oct. 1, 1992
1200–End	(869–017–00167–8)	20.00	Oct. 1, 1992
46 Parts:			
1–40	(869–017–00168–6)	17.00	Oct. 1, 1992
41–69	(869–017–00169–4)	16.00	Oct. 1, 1992
70–89	(869–017–00170–8)	8.00	Oct. 1, 1992
90–139	(869–017–00171–6)	14.00	Oct. 1, 1992
140–155	(869–017–00172–4)	12.00	Oct. 1, 1992
156–165	(869–017–00173–2)	14.00	[8] Oct. 1, 1991
166–199	(869–017–00174–1)	17.00	Oct. 1, 1992
200–499	(869–017–00175–9)	22.00	Oct. 1, 1992
500–End	(869–017–00176–7)	14.00	Oct. 1, 1992
47 Parts:			
0–19	(869–017–00177–5)	22.00	Oct. 1, 1992
20–39	(869–017–00178–3)	22.00	Oct. 1, 1992
40–69	(869–017–00179–1)	12.00	Oct. 1, 1992
70–79	(869–017–00180–5)	21.00	Oct. 1, 1992
80–End	(869–017–00181–3)	24.00	Oct. 1, 1992
48 Chapters:			
1 (Parts 1–51)	(869–017–00182–1)	34.00	Oct. 1, 1992
1 (Parts 52–99)	(869–017–00183–0)	22.00	Oct. 1, 1992
2 (Parts 201–251)	(869–017–00184–8)	15.00	Oct. 1, 1992
2 (Parts 252–299)	(869–017–00185–6)	12.00	Oct. 1, 1992
3–6	(869–017–00186–4)	22.00	Oct. 1, 1992
7–14	(869–017–00187–2)	30.00	Oct. 1, 1992
15–28	(869–017–00188–1)	26.00	Oct. 1, 1992
29–End	(869–017–00189–9)	16.00	Oct. 1, 1992
49 Parts:			
1–99	(869–017–00190–2)	22.00	Oct. 1, 1992
100–177	(869–017–00191–1)	27.00	Oct. 1, 1992
178–199	(869–017–00192–9)	19.00	Oct. 1, 1992
200–399	(869–017–00193–7)	27.00	Oct. 1, 1992
400–999	(869–017–00194–5)	31.00	Oct. 1, 1992
1000–1199	(869–017–00195–3)	19.00	Oct. 1, 1992
1200–End	(869–017–00196–1)	21.00	Oct. 1, 1992
50 Parts:			
1–199	(869–017–00197–0)	23.00	Oct. 1, 1992
200–599	(869–017–00198–8)	20.00	Oct. 1, 1992
600–End	(869–017–00199–6)	20.00	Oct. 1, 1992
CFR Index and Findings Aids	(869–019–00053–4)	36.00	Jan. 1, 1993
Complete 1993 CFR set		775.00	1993

Title	Stock Number	Price	Revision Date
Microfiche CFR Edition:			
Complete set (one-time mailing)		188.00	1990
Complete set (one-time mailing)		188.00	1991
Complete set (one-time mailing)		188.00	1992
Subscription (mailed as issued)		223.00	1993
Individual copies		2.00	1993

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 31, 1993. The CFR volume issued April 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1993. The CFR volume issued July 1, 1991, should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 1991 to September 30, 1992. The CFR volume issued October 1, 1991, should be retained.

Order Now!

The United States Government Manual 1993/94

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$30.00 per copy



Superintendent of Documents **Publications** Order Form

Order Processing Code:
* **6395**

Charge your order. It's easy!

To fax your orders (202) 512-

☐ **YES,** please send me _____ copies of the **The United States Government Manual, 1993/94** S/N 069–000–000
at $30.00 ($37.50 foreign) each.

The total cost of my order is $ _____. Price includes regular domestic postage and handling and is subject to cha

(Company or personal name) (Please type or print)

(Additional address/attention line)

(Street address)

(City, State, Zip code)

(Daytime phone including area code)

(Purchase order no.)

Please choose method of payment:

❑ Check payable to the Superintendent of Documen

❑ GPO Deposit Account

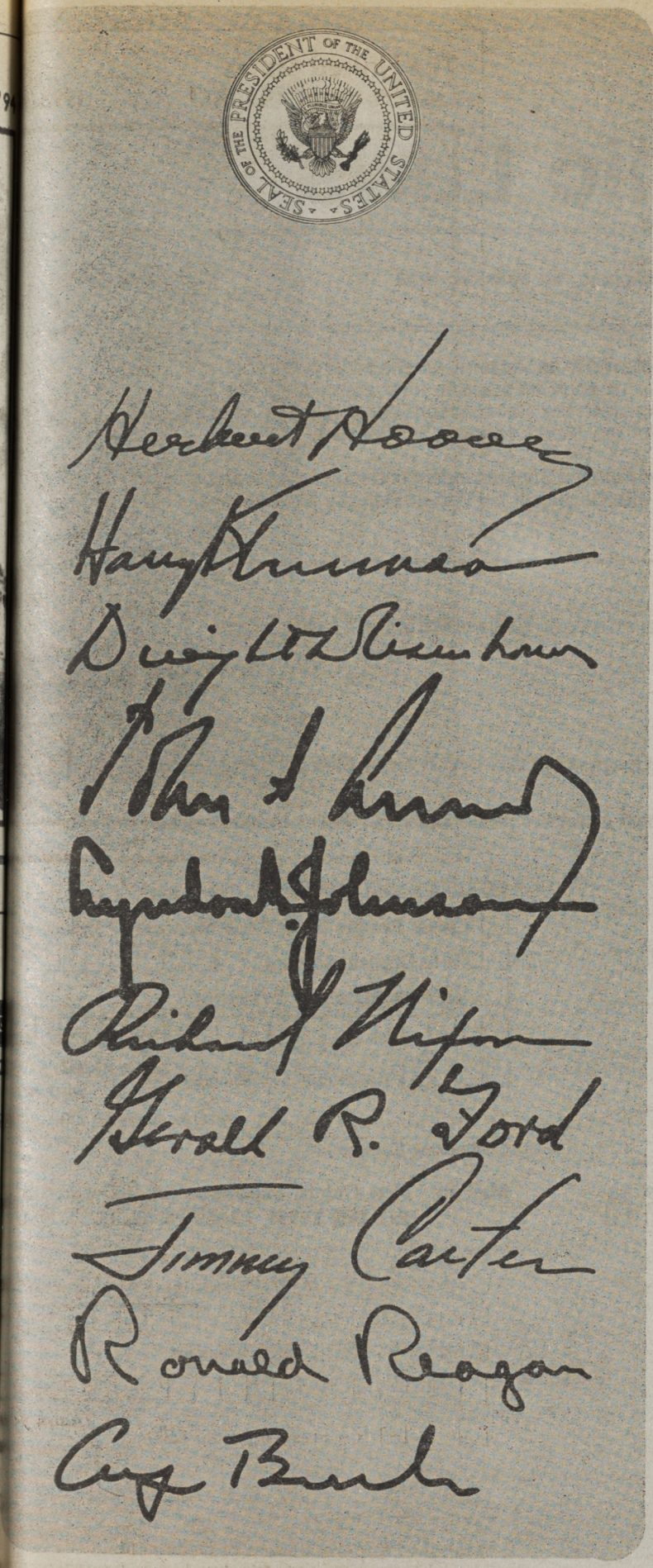
❑ VISA ❑ MasterCard Account

(Credit card expiration date)

Thank yo your or

(Authorizing signature)

Mail to: Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–795



Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are available; other volumes not listed are out of print.

Ronald Reagan

1983 (Book I) $31.00

1983 (Book II) $32.00

1984 (Book I) $36.00

1984 (Book II) $36.00

1985 (Book I) $34.00

1985 (Book II) $30.00

1986 (Book I) $37.00

1986 (Book II) $35.00

1987 (Book I) $33.00

1987 (Book II) $35.00

1988 (Book I) $39.00

1988–89 (Book II) $38.00

George Bush

1989 (Book I) $38.00

1989 (Book II) $40.00

1990 (Book I) $41.00

1990 (Book II) $41.00

1991 (Book I) $41.00

1991 (Book II) $44.00

1992 (Book I) $47.00

Published by the Office of the Federal Register, National Archives and Records Administration

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250–7954

(Rev. 7/93)

Public Laws

103d Congress, 1st Session, 1993

Pamphlet prints of public laws, often referred to as slip laws, are the initial publication of Federal laws upon enactment and are printed as soon as possible after approval by the President. Legislative history references appear on each law. Subscription service includes all public laws, issued irregularly upon enactment, for the 103d Congress, 1st Session, 1993.

(Individual laws also may be purchased from the Superintendent of Documents, Washington, DC 20402-9328. Prices vary. See Reader Aids Section of the Federal Register for announcements of newly enacted laws and prices).

Superintendent of Documents **Subscriptions** Order Form

Order Processing Code:
*** 6216**

☐ **YES**, enter my subscription(s) as follows:

Charge your order.
It's Easy!
To fax your orders (202) 512-2

_____ subscriptions to **PUBLIC LAWS** for the 103d Congress, 1st Session, 1993 for $156 per subscription.

The total cost of my order is $_____. International customers please add 25%. Prices include regular domestic postage and handling and are subject to change.

_____
(Company or Personal Name) (Please type or print)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

_____
(Daytime phone including area code)

_____
(Purchase Order No.)

May we make your name/address available to other mailers? YES ☐ NO ☐

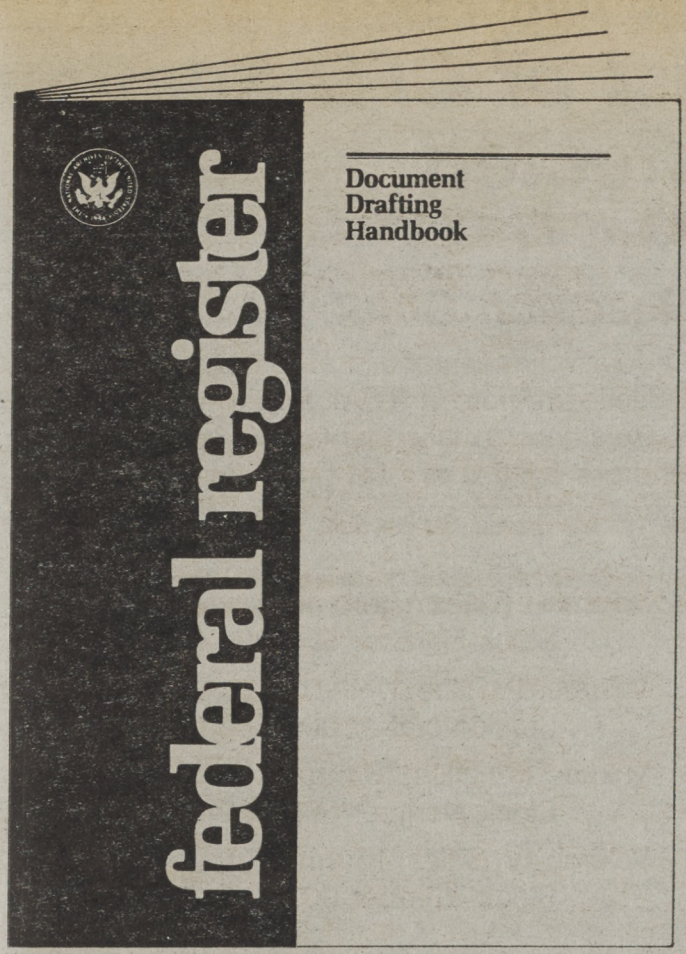
Please Choose Method of Payment:

☐ Check Payable to the Superintendent of Document
☐ GPO Deposit Account ☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐
☐☐☐☐ (Credit card expiration date)

Thank you f
your ord

_____
(Authorizing Signature)

Mail To: New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954



Federal Register Document Drafting Handbook

A Handbook for Regulation Drafters

This handbook is designed to help Federal agencies prepare documents for publication in the Federal Register. The updated requirements in the handbook reflect recent changes in regulatory development procedures, document format, and printing technology.

Price $5.50

Superintendent of Documents Publication Order Form

Order processing code: *6133

Charge your order. It's easy!
To fax your orders and inquiries—(202) 512-2250

☐ **YES,** please send me the following indicated publications:

_____ copies of **DOCUMENT DRAFTING HANDBOOK at $5.50 each.** S/N 069-000-00037-1

1. The total cost of my order is $_____ Foreign orders please add an additional 25%. All prices include regular domestic postage and handling and are subject to change.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____) _____
(Daytime phone including area code)

3. Please choose method of payment:

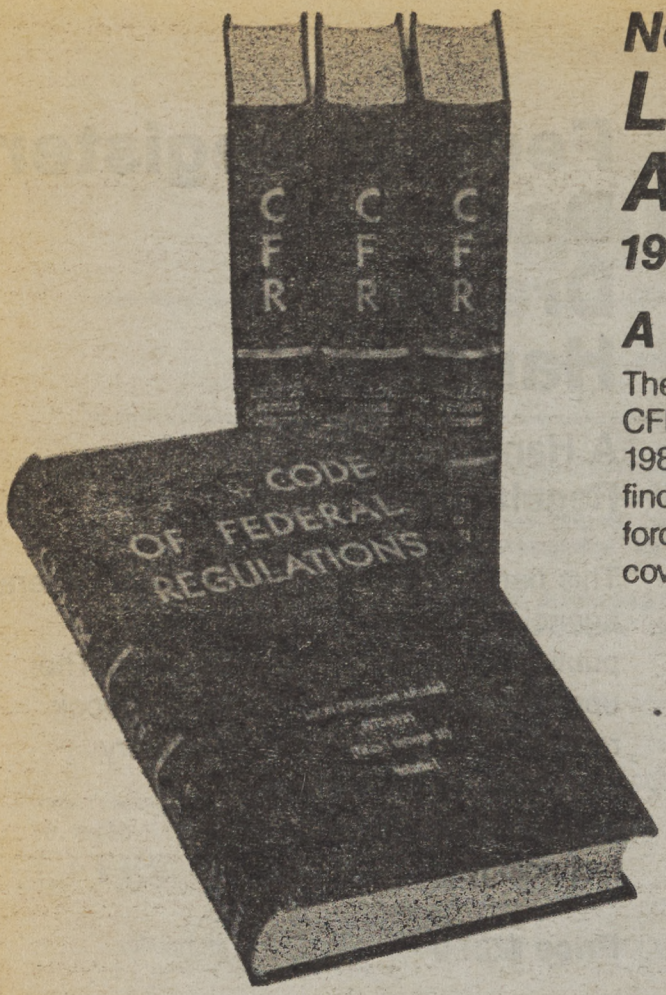
☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature) (Rev 12/91)

4. **Mail To:** New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954



New Publication
List of CFR Sections Affected
1973-1985
A Research Guide

These four volumes contain a compilation of the "List of CFR Sections Affected (LSA)" for the years 1973 through 1985. Reference to these tables will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

Volume I (Titles 1 thru 16).....$27.00
Stock Number 069-000-00029-1

Volume II (Titles 17 thru 27).....$25.00
Stock Number 069-000-00030-4

Volume III (Titles 28 thru 41).....$28.00
Stock Number 069-000-00031-2

Volume IV (Titles 42 thru 50).....$25.00
Stock Number 069-000-00032-1

Superintendent of Documents Publications Order Form

Order Processing Code:
***6962**

Charge your order. It's easy!

To fax your orders and inquiries—(202) 512-2250

Please Type or Print (Form is aligned for typewriter use.)

Prices include regular domestic postage and handling and are good through 12/92. After this date, please call Order and Information Desk at 202-783-3238 to verify prices. International customers please add 25%.

Qty.	Stock Number	Title	Price Each	Total Price
1	021-602-00001-9	Catalog—Bestselling Government Books	FREE	FREE
			Total for Publications	

(Company or personal name) **(Please type or print)**

(Additional address/attention line)

(Street address)

(City, State, ZIP Code)

( ) (Daytime phone including area code)

Mail order to:
New Orders, Superintendent of Documents
P.O. Box 371954, Pittsburgh, PA 15250-7954

Please Choose Method of Payment:

☐ Check payable to the Superintendent of Documents
☐ GPO Deposit Account ☐☐☐☐☐☐☐☐-☐
☐ VISA or MasterCard Account
☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

(Credit card expiration date) ***Thank you for your order!***

(Signature)

Rev 6-92



Printed on recycled paper