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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 920 and 932

[Docket Nos. FV93–920–3FIR and FV92–932–1FIR, Amendment 1]

Finalization of Interim Final Rules for Specified Marketing Orders (Kiwifruit and Olives)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of two interim final rules that authorized expenses and established assessment rates for the Kiwifruit Administrative Committee and the California Olive Committee (Committees) under Marketing Order Nos. 920 and 932, respectively. Authorization of these budgets enables the Committees to incur expenses that are reasonable and necessary to administer their respective programs. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATE: Section 920.210 is effective August 1, 1993, through July 31, 1994; § 932.226 is effective January 1, 1993, through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Britthany E. Beadle, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2524–S, Washington, DC 20090–6456; telephone: (202) 720–5127; Rose Aquayo (§ 920.210), or Terry Vawter (§ 932.226), California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102 B, Fresno, California 93721, telephone: (209) 487–5906.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Marketing Order No. 920 (7 CFR Part 920) regulating the handling of kiwifruit grown in California and Marketing Agreement and Marketing Order No. 932 (7 CFR Part 932), both as amended, regulating the handling of olives grown in California. The marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule is being issued in conformance with Executive Order 12866 and it has been determined that it is not a "significant regulatory action."

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under the marketing order provisions now in effect, kiwifruit and olives grown in California are subject to assessments. It is intended that the assessment rates specified herein will be applicable to all assessable kiwifruit and olives handled during the 1993–94 fiscal year, beginning August 1, 1993, through July 31, 1994 (M.O. 920), and January 1, 1993, through December 31, 1993 (M.O. 932). This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 60 handlers of kiwifruit and 5 handlers of olives grown in California subject to regulation under their respective marketing orders each season. In addition, there are approximately 650 producers of kiwifruit and 1,350 producers of olives in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of kiwifruit producers, kiwifruit handlers, and olive producers may be classified as small entities. None of the olive handlers may be classified as small entities.

The respective marketing orders require that the assessment rates for a particular fiscal year shall apply to all assessable kiwifruit and olives handled from the beginning of such year. An annual budget of expenses is prepared by each of the Committees and submitted to the Department for approval. The members of the Kiwifruit Administrative Committee consist of producers and a non-industry member. The members of the California Olive Committee consist of producers and handlers. They are familiar with the Committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rates recommended by the Committees are derived by dividing anticipated expenses by expected shipments of kiwifruit and olives. Because these rates are applied to actual shipments, they must be established at rates which will produce

sufficient income to pay the Committees' expected expenses. The recommended budgets and rates of assessment are usually acted upon by the Committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, the budget and assessment rate approval must be expedited so that the Committees will have funds to pay their expenses.

The Kiwifruit Administrative Committee (KAC) met on July 14, 1993, and unanimously recommended 1993–94 marketing order expenses of $156,150 and an assessment rate of $0.01 per tray or tray equivalent of kiwifruit. In comparison, 1992–93 marketing year budgeted expenses were $152,913, which is $3,237 less than the $156,150 recommended for this fiscal year. The assessment rate of $0.01 per tray or tray equivalent is $0.01 less than last year's assessment rate of $0.02. The major budget category for 1993–94 is $92,095 for administrative, staff and field salaries.

Assessment income for 1993–94 is estimated to total $100,000 based on anticipated fresh domestic shipments of 10 million trays or tray equivalents of kiwifruit. The assessment income will be augmented by $56,150 from the KAC's reserves to provide adequate funds to cover budgeted expenses. Funds in the reserve at the end of the 1993–94 fiscal year are estimated to be $109,882. These reserve funds will be within the maximum permitted by the order of one fiscal year's expenses.

This action was published as an interim final rule in the **Federal Register** (58 FR 45232, August 27, 1993) and provided a 30-day comment period for interested persons. No comments were received.

The California Olive Committee (COC) met on December 7, 1992, and unanimously recommended total expenses for the 1993 fiscal year of $2,796,000 and an assessment rate of $25.75 per ton of assessable olives handled. This action was published as an interim final rule in the **Federal Register** (58 FR 8538, February 16, 1993) and provided a 30-day comment period which ended March 18, 1993. The recommended 1993 expenses and assessment rate were adopted in a final rule and published in the **Federal Register** (58 FR 33013, June 15, 1993). There were no comments received prior to publication of the final rule.

At a meeting held on July 7, 1993, the COC voted unanimously to increase its expenses by $23,760 to cover additional production research projects not anticipated by the COC in December of 1992. This increased the total budget approved by the Department from $2,796,000 to $2,819,760. These increased expenses are in the form of additional funding levels for five research projects currently being conducted. No change in the assessment rate was recommended by the COC. Adequate funds are available in the COC's reserves to cover the increase in expenses resulting from this action. The amended budget was published as an interim final rule in the **Federal Register** (58 FR 45234, August 27, 1993). There were no comments received concerning the budget increase.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Interim final rules were published in the **Federal Register** (58 FR 45232, August 27, 1993), for 7 CFR part 920 and (58 FR 8538, February 16, 1993) and (58 FR 45234, August 27, 1993), for 7 CFR part 932. Each interim final rule provided a 30-day comment period for interested persons. No comments were received.

It is found that the specified expenses for the marketing orders covered in this rule are reasonable and likely to be incurred and that such expenses and the specified assessment rates to cover such expenses will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because the Committees need to have sufficient funds to pay their expenses which are incurred on a continuous basis. The 1993–94 fiscal years for the programs began on August 1, 1993, for California kiwifruit and January 1, 1993, for olives. The marketing orders require that the rates of assessment for the fiscal year apply to all assessable kiwifruit and olives handled during the fiscal year.

In addition, handlers are aware of these actions which were recommended by the Committees at public meetings and published in the **Federal Register** as interim final rules. No comments were received concerning the two interim final rules that are adopted in this action as a final rule without change.

List of Subjects

7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 920 and 932 are hereby amended as follows:

1. The authority citation for 7 CFR parts 920 and 932 continue to read as follows:

Authority: 7 U.S.C. 601–674.

Note: These sections will not appear in the annual Code of Federal Regulations.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

2. Accordingly, the interim final rule amending 7 CFR part 920 which was published at 58 FR 45232, on August 27, 1993, is adopted as a final rule without change.

PART 932—OLIVES GROWN IN CALIFORNIA

3. Accordingly, the interim final rule amending 7 CFR part 932 which was published at 58 FR 45234, on August 27, 1993, is adopted as a final rule without change.

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–28035 Filed 11–15–93; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 926

[Docket No. FV–92–035FR]

Tokay Grapes Grown in San Joaquin County, CA; Final Rule Revising the Minimum Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds the U.S. No. 1 Institutional grade to the minimum grade requirements under the handling regulation in effect for fresh market shipments of California Tokay grapes. This action will aid handlers in developing new markets for table grapes.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O.

Box 96456, room 2526–S, Washington, DC 20090–6456, telephone (202) 720–1755; or Kellee J. Hopper, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 926 (7 CFR part 926), both as amended, regulating the handling of Tokay grapes grown in San Joaquin County, California. The marketing agreement and order are authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

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

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

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

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

There are approximately 5 handlers of San Joaquin County, California Tokay grapes subject to regulation under the marketing order, and approximately 20 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the Tokay grape handlers and producers may be classified as small entities.

The Tokay Grape Industry Committee (committee), the agency responsible for local administration of the order, met on February 4, 1992, and unanimously recommended revising the minimum grade requirements in the handling regulation to include the U.S. No. 1 Institutional grade as set forth in the United States Standards for Grades of Table Grapes (European and Vinifera Type) (7 CFR 51.880 to 51.913) hereinafter referred to as the Standards.

Under current requirements, from August 12 through November 15 each season, Tokay grapes must meet the minimum grade and size requirements specified for U.S. No. 1 Table as set forth in the Standards, and must meet applicable color requirements.

The committee recommended adding the U.S. No. 1 Institutional grade to the minimum grade requirements in the domestic handling regulation. The requirements of the U.S. No. 1 Institutional grade are the same as for U.S. No. 1 Table grade except for bunch size and container marking requirements. Individual bunches of table grapes grading U.S. No. 1 Table cannot weigh less than one-fourth pound (4 ounces). Individual bunches of grapes grading U.S. No. 1 Institutional cannot weigh less than 2 ounces nor more than 5 ounces. Additionally, at least 95 percent of the containers in a lot of table grapes grading U.S. No. 1 Institutional must be legibly marked "Institutional Pack." No labelling requirements are established under the U.S. No. 1 Table grade.

The committee believes that adding the U.S. No. 1 Institutional grade to the handling regulation will promote domestic sales and exports of institutional grape packs, particularly to Canada. The committee reports an increased demand for institutional grape packs by the foodservice industry (e.g., school systems, airlines and restaurants). Due to the requirements of the current handling regulation, Tokay grape handlers are prohibited from making domestic and export shipments of institutional grape packs. The Standards were amended in April 1991 to establish the U.S. No. 1 Institutional grade.

A proposed rule concerning this action was published in the **Federal Register** (58 FR 40756, July 30, 1993).. Comments concerning this action were invited until August 30, 1993. No comments were received.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for table grapes under a domestic marketing order, imported table grapes must meet the same or comparable requirements. Because this final rule relaxes the minimum grade requirements to add U.S. No. 1 Institutional to the domestic handling regulation, a corresponding change is needed in the table grape import regulation. Such change will be addressed in a separate rulemaking action.

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

After consideration of all relevant matter presented, the information and recommendations submitted by the committee, and other information, it is found that this action will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 926

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 926 is amended as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

1. The authority citation for 7 CFR Part 926 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 926.324 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 926.324 California Tokay Grape Regulation 23.

(a) * * *

(1) Any Tokay grapes grown in the production area which do not meet the grade and size specifications of U.S. No. 1 Table grade or U.S. No. 1 Institutional, and the following additional

requirement: Of 25 percent, by count, of the berries of each bunch which are attached to the lower part of the main stem, including laterals, at least 30 percent, by count, shall show characteristic color; and

* * * * *

(b) *Definitions.* "U.S. No. 1 Table grade," "U.S. No. 1 Institutional," and "characteristic color," shall mean the same in the United States Standards for Grades for Table Grapes (European or Vinifera type) (7 CFR 51.880 through 51.912).

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93-28032 Filed 11-15-93; 8:45 am]

BILLING CODE 3410-02-P

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7 CFR Part 944

[Docket No. FV-92-036FR]

Tokay Grapes Imported Into the United States; Final Rule Revising the Minimum Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds the U.S. No. 1 Institutional grade to the minimum grade requirements for imported Tokay grapes. Currently, imported Tokay grapes must grade at least U.S. No. 1 Table, which includes a requirement that individual bunches weigh at least one-fourth pound (4 ounces). This action will permit smaller bunches of Tokay grapes to be imported into the United States, and is required under section 8e of the amended Agricultural Marketing Agreement Act of 1937.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2526-S, Washington, DC 20090-6456, telephone (202) 720-5127; or Kellee J. Hopper, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California, 93721; telephone: (209) 487-5901.

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

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

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

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

Import regulations issued under the Act are based on those established under Federal marketing orders. Thus, they should also have small entity orientation, and impact both small and large business entities in a manner comparable to rules issued under such marketing orders.

There are no known importers of Tokay grapes at this time. Small agricultural service firms, which include grape importers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $3,500,000.

A proposed rule concerning this action was published in the **Federal Register** (58 FR 40758, July 30, 1993). Comments concerning this action were invited until August 30, 1993. No comments were received.

This action is being taken because section 8e of the Act requires imported Tokay grapes to meet the same or comparable requirements as those established under a domestic marketing order. Under this final rule, imported Tokay grapes have to meet the same minimum grade requirements as domestically produced Tokay grapes that are grown in southeastern California and regulated under Marketing Order No. 926 (7 CFR part 926).

Under the terms of the marketing order, from August 12 through November 15 each season, Tokay grapes must meet minimum grade and size requirements as specified for U.S. No. 1 Table, as set forth in the United States Standards for Table Grapes (European or Vinifera Type) (7 CFR 51.880 to 51.913), hereinafter referred to as the Standards. In addition, under the handling regulation Tokay grapes are subject to an additional color requirement. Effective April 18, 1991, a new U.S. No. 1 Institutional grade was established under the Standards.

The Tokay Grape Industry Committee (committee), the agency responsible for local administration of the marketing order, recommended that the minimum grade requirements established for domestically grown Tokay grapes be revised to include the new U.S. No. 1 Institutional grade.

The U.S. No. 1 Institutional grade will: (1) Provide greater tolerance by permitting more weight variance of individual bunches; individual bunches of grapes grading U.S. No. 1 Institutional cannot weigh less than 2 ounces or more than 5 ounces; and (2) provide that at least 95 percent of the containers in a lot of grapes grading U.S. No. 1 Institutional are required, under the Standards, to be marked "Institutional Pack." Grapes grading U.S. No. 1 Table consist of bunches of well developed grapes, which are fairly well colored, uniform in appearance, and free from decay, mold and other condition factors. Bunches must weigh at least one-fourth pound (4 ounces). The requirements of the U.S. No. 1 Institutional grade are the same as for U.S. No. 1 Table grade except for bunch size and container marking requirements.

The committee's recommendation to revise domestic handling requirements is being taken under a separate rulemaking action. This final rule relaxing the minimum grade requirement for imported Tokay grapes is necessary to make import requirements consistent with those in effect under the marketing order. This action permits smaller bunches of grapes to be imported into the United States by adding the U.S. No. 1 Institutional grade to the minimum

grade requirements for Tokay grape imports.

The primary purpose of the Standards is to provide uniform trading terms relative to quality criteria commonly recognized by buyers and sellers of grapes. Because the requirements for U.S. No. 1 Table and U.S. No. 1 Institutional grapes are identical except for bunch size, it has been determined that the U.S. No. 1 Institutional grade requirements must include a container marking requirement to avoid buyer confusion in the marketplace. Because this requirement has been determined to be essential in identifying U.S. No. 1 Institutional grapes, imports of U.S. No. 1 Institutional grade Tokay grapes have to meet all of the requirements of that grade set forth in the Standards, including the requirement that containers of such grapes be marked "Institutional Pack."

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

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

After consideration of all relevant matter presented, the information and recommendations submitted by the committees and other information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR part 944 is amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 is revised to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 944.605 is amended by revising paragraph (a) to read as follows:

§ 944.605 Tokay Grape Import Regulation 5.

(a) *Applicabilty to imports.* Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period August 12 through November 15 of each year the importation into the United States of Tokay variety grapes is prohibited unless such grapes meet the grade and size specifications of U.S. No. 1 Table Grade, or U.S. No. 1 Institutional, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type) (7 CFR 51.880 through 51.913), and the following additional requirement: Of the 25 percent, by count, of berries of each bunch which are attached to the lower part of the stem, including laterals, at least 30 percent, by count, shall show characteristic color.

* * * * *

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93–28033 Filed 11–15–93; 8:45 am]

BILLING CODE 3410–02–P

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7 CFR Part 958

[Docket No. FV–92–093FR]

Onions Grown in Certain Designated Counties in Idaho and Malheur County, OR; Amendment to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires shipments of pearl onions to be inspected and certified as being within the maximum permissible size of 1¾ inches in diameter and requires handlers to pay assessments on such onions. Under the current regulation, pearl onions are exempt from inspection and assessments as well as minimum grade and size requirements, but cannot be larger than 1¾ inches in diameter. To eliminate redundancy in the regulations, this rule also removes one paragraph regarding imported onions, which is the same as requirements in effect under 7 CFR 980.117 for imported onions.

EFFECTIVE DATE: November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Gary Olson, Northwest Marketing Field Office, 1220 SW. Third Avenue, room 369, Portland, Oregon, 97204, telephone (503) 326–2724, or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456, telephone (202) 690–0464, FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 130 and Order No. 958 (7 CFR part 958) (order), both as amended, hereinafter referred to as the order, regulating the handling of onions grown in Idaho and Malheur County, Oregon. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This rule is being issued in conformance with Executive Order 12866, and it has been determined that it is not a "significant regulatory action."

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

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

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

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

There are approximately 35 handlers of Idaho-Oregon onions subject to regulation under the marketing order, and approximately 450 producers in the production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $3,500,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of onion producers and handlers subject to

regulations under the order may be classified as small entities.

Onions grown in Idaho and Eastern Oregon are regulated all year by grade, size, and pack under the handling regulation (7 CFR 958.328). Paragraph (h) of § 958.328 currently defines pearl onions as onions grown using specific cultural practices that limit growth to the same general size as boiler and pickler onions, measuring 1¾ inches in diameter or less. The regulation groups all small onions under the heading of boilers and picklers with sizes up to 1¾ inches in diameter. The United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) (7 CFR 51.2834) states that the size range for boiler onions shall be 1 to 1⅞ inches while picklers shall be 1 inch or less in diameter.

Pursuant to paragraph (e) of § 958.328, pearl onions are handled as special purpose shipments and, thus, are exempt from the grade, size, maturity, assessment and inspection requirements of the order. However, handlers of pearl onions must comply with safeguard requirements of the order.

The Department previously increased the exempted size of pearl onions to 1¾ inches in diameter (55 FR 36601, September 6, 1990). That increase was justified because a small number of the culturally-grown, pearl onions were larger than the intended size of 1 inch or less in diameter. The Committee had reported that buyers were more willing to purchase the somewhat larger onions in lots of pearl onions than to pay the additional handling costs associated with sorting the various sizes. Because pearl onions are sold as a specialty item, distinct from other onions grown in the production area, it was not expected that the increase in exemption size would adversely affect the marketing of other onions.

On June 30, 1992, the Idaho-Eastern Oregon Onion Committee (Committee) unanimously recommended amending the order's handling regulation to change the term "pearl onions" to "pickler onions" and to reduce the maximum size of such onions to not more than 1 inch in diameter. A proposed rule was published in the October 6, 1992, issue of the **Federal Register** (57 FR 45993), giving interested persons until November 5, 1992, to file comments with respect to the proposal. In response to the proposal, four comments were received. One extensive comment from the only current pearl onion producer (Magic Valley Foods, Ltd.) presented arguments contrary to those of the Committee. To allow both the Committee and other interested persons sufficient time to study the comments and provide additional comments and background material, the comment period was reopened until January 22, 1993 (58 FR 3234, January 8, 1993).

The Committee held a meeting on December 16, 1992, to resolve the apparent differences between the comments filed and the original recommendations of the Committee. Representatives of Magic Valley Foods, Ltd. participated in the meeting.

As a result of the meeting, the Committee filed a comment to withdraw its original recommendations to reduce the pearl onion maximum size requirement to 1 inch in diameter. The Committee believes that, because the majority of pearl onions shipped are 1 to 1¼ inches in diameter, the current requirement of 1¾ inches maximum diameter is acceptable and need not be changed.

In its comment, the Committee also requested withdrawal of its original recommendation to change the term "pearl" onion to "pickler" onion because the term pickler refers to smaller size pearl onions which are not representative of the majority of pearl onions marketed.

During the meeting, the Committee also considered further action with regard to pearl onions. It was pointed out that market inspection reports indicated that some exempt onions larger than 1¾ inches in diameter have appeared in marketing channels. The Committee concluded that the size exemption must be verified and the best way to do that would be to add inspection requirements to verify the maximum size on all pearl onions. Thus, the Committee recommended unanimously that all pearl onions be inspected and certified for maximum size.

The Committee also discussed whether pearl onions should be subject to assessments. It believes that all segments of the Idaho-Eastern Oregon onion industry, including the pearl onion segment of the industry, benefit from the order's research and promotion activities. Thus, the Committee recommended unanimously that pearl onion shipments be assessed.

Based on this recommendation, the Department issued a revised proposed rule which was published in the June 30, 1993 issue of the **Federal Register** (58 FR 34944), giving interested persons until July 30, 1993, to file comments with respect to the proposal. In response to the proposal, no comments were received. The Department is herein adopting the June 30 proposals without change.

Under this rule, all pearl onions up to a maximum of 1¾ inches in diameter would be shipped under paragraph (e) *Special purpose shipments* but such onions will be subject to maximum size, assessment, and inspection requirements. The reference to pearl onions will be removed from paragraph (f) *Safeguards*, of § 958.328, since such requirements no longer are necessary. Also, for clarification, the reference to pearl onions under paragraph (h) *Definitions*, is revised by adding after the words "boilers and picklers" the words "* * * and that have been inspected and certified as * * *."

This action also removes paragraph (i) *Applicability to imports*, of § 958.328 from the handling regulation. That paragraph provides information that is contained in 7 CFR 980.117 Import regulations; onions. Because the same information applicable to imported onions is contained in the import regulations, paragraph (i) in the domestic handling regulations should be removed to eliminate redundancy of regulations.

These changes are intended to result in clearer terminology, a more consistent application of assessments, and an improved ability by the committee to oversee compliance with program requirements.

The Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

The information collection requirements that are contained in these regulations have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0087.

After consideration of all relevant matters presented, the committee's recommendation and other available information, it is found that the issuance of this rule will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** because (1) the shipping season for onions has already begun and for maximum effectiveness this rule should apply to as many shipments as possible; (2) the proposed rule was discussed at two open public meetings, the last of which was attended by representatives of the only pearl onion grower of record in the production area; (3) no comments were filed to the June 30 proposed rule; and (4) there are no special preparations required of the handler that cannot be completed by the effective date.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR Part 958 continues to read as follows:

Authority: 7 U.S.C. 601-674.

2. Section 958.328 is amended by revising paragraphs (e), (f) introductory text, (f)(2) and (h), and removing paragraph (i) to read as follows:

§ 958.328 Handling regulation.

* * * * *

(e) *Special purpose shipments.* The minimum grade, size, maturity, assessment, and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes: (1) planting, (2) livestock feed, (3) charity, (4) dehydration, (5) canning, (6) freezing, (7) extraction, and (8) pickling. In addition, the minimum grade, size, and maturity requirements set forth in paragraph (a) of this section shall not be applicable to shipments of pearl onions, but the maximum size requirements in paragraph (h) of this section and the assessment and inspection requirements shall be applicable to shipments of pearl onions.

(f) *Safeguards.* Each handler making shipments of onions for dehydration, planting, canning, freezing, extraction or pickling pursuant to paragraph (e) of this section shall:

* * * * *

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) * * *

* * * * *

(h) *Definitions.* The terms "U.S. No. 1," "U.S. Commercial," and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 51.2830 through .2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195 through .3209), as amended, whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onions of red varieties with tops braided (interlaced). "Pearl onions" means onions produced using specific cultural practices that limit growth to the same general size as boilers and picklers, and that have been inspected and certified as measuring 1¾ inches in diameter or less. The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

Dated: November 8, 1993.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 93-28034 Filed 11-15-93; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-78-AD; Amendment 39-8728; AD 93-22-03]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires a one-time inspection of the rudder (brake) pedal assemblies for correct installation of retainer rings and installation of a retainer ring, if necessary. This amendment is prompted by a report of a missing retainer ring in the rudder (brake) pedal. The actions specified by this AD are intended to prevent reduced braking authority and reduced directional control of the airplane while it is on the ground.

DATES: Effective December 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of December 16, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published in the **Federal Register** on July 6, 1993 (58 FR 35905). That action proposed to require a one-time inspection of the rudder (brake) pedal assemblies for correct installation of retainer rings and installation of a retainer ring, if necessary.

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

One commenter supports the proposal.

Another commenter, the Air Transport Association (ATA) of America, requests that the proposal be withdrawn because it is unnecessary. The ATA indicates that both of its affected member operators are already in full compliance with the proposed actions. Additionally, since the Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, has already notified other world airline regulators of the subject discrepancy, there is no reason for the FAA to issue an AD to advise operators outside of the United States. The FAA does not concur. The FAA is encouraged by the fact that the affected ATA member operators have acted prudently and have already completed the requirements of this AD. The phrase, "Required as indicated, unless accomplished previously," as contained in the AD, indicates that those operators that have accomplished the actions specified in the rule are not required to repeat those actions. However, should any additional non-U.S.registered Fokker Model F28 Mark 0100 series airplanes be imported and added to the U.S. Register in the future, this AD is necessary to ensure the accomplishment of the required actions on those airplanes before they are placed in service. In light of this, the FAA has determined that the issuance of this AD is warranted and appropriate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 65 airplanes of U.S. registry will be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, 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 $3,575, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

However, the FAA has been advised that at least 40 U.S.-registered airplanes have been inspected in accordance with the requirements of this AD. Therefore, the future economic cost impact of this rule on U.S. operators is now only $825.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93-22-03 Fokker: Amendment 39-8728. Docket 93-NM-78-AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11407, inclusive, 11409, and 11410; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced braking authority and reduced directional control of the airplane while it is on the ground, accomplish the following:

(a) Within 30 days after the effective date of this AD, conduct an inspection of the rudder (brake) pedal assemblies, to verify installation of retainer rings, part number (P/N) MS16624-1075, in accordance with Fokker Service Bulletin SBF100-27-047, Revision 1, dated February 9, 1993.

(1) If all of the retainer rings are installed correctly, no further action is required by this AD.

(2) If any retainer ring is not installed, or is not installed correctly, prior to further flight, install retainer ring, P/N MS16624-1075, in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

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

(c) 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.

(d) The inspection and necessary installation shall be done in accordance with Fokker Service Bulletin SBF100-27-047, Revision 1, dated February 9, 1993, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1	1	February 9, 1993.
2-4	Original	August 28, 1992

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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on December 16, 1993.

Issued in Renton, Washington, on October 28, 1993.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-26968 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-85-AD; Amendment 39-8727; AD 93-22-02]

Airworthiness Directives; Fokker Model F27 Rough Field Version (RFV) Series Airplanes, Excluding Model F27 Mk 050 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F27 RFV series airplanes, that requires inspection of the main landing gear (MLG) legs to determine if parts are missing or damaged, and modification, if necessary; and periodic measurements of the extension of each MLG shock absorber sliding member. Additionally, this amendment will provide for the accomplishment of a certain modification as optional terminating action for the periodic measurements. This amendment is prompted by reports of overextension of the MLG sliding member due to missing parts in the MLG leg assembly. The actions specified by this AD are intended to prevent loss of the MLG sliding member, which could result in reduced structural integrity of the MLG.

DATES: Effective December 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 16, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314; and Dowty Aerospace, Cheltenham Road, Goucester GS2 9QH, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F27 Rough Field Version (RFV) series airplanes was published in the **Federal Register** on July 21, 1993 (58 FR 38984). That action proposed to require a one-time inspection of the main landing gear (MLG) legs to determine proper installation of parts, and modification, if necessary. The action also proposed to require periodic measurements (and recording) of the extension of the MLG sliding member. The action also proposed to provide for a modification of the MLG assembly as optional terminating action for the periodic measurements.

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

The commenter supports the proposed rule.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 2 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $330, or $165 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–22–02 Fokker: Amendment 39–8727. Docket 93–NM–85–AD.

Applicability: Model F27 Rough Field Version (RFV) series airplanes, excluding Model F27 Mk 050 series airplanes; equipped with Dowty Aerospace main landing gear (MLG), part numbers 200563001, 200679001, 200679002, 200679003, or 200679004; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the MLG sliding member, which could result in reduced structural integrity of the MLG, accomplish the following:

(a) Within 30 days after the effective date of this AD, inspect the MLG legs to confirm the correct installation of the sliding member out-stop installation in accordance with Fokker Service Bulletin F27–32–165, Revision 1, dated April 28, 1993, and paragraph 2.C. ("Part A Procedure") of Dowty Aerospace Landing Gear Service Bulletin 32–81W, Revision 2, dated February 3, 1993. If any parts are determined to be missing or damaged, prior to further flight, modify the MLG assembly in accordance with Dowty Aerospace Landing Gear Service Bulletin 32–77W, Revision 4, dated February 3, 1993.

(b) Within 30 days after the effective date of this AD, measure and record the extension of the MLG sliding member when the landing gear is fully extended, in accordance with paragraph 2.D. ("Part B Procedure") of Dowty Aerospace Landing Gear Service Bulletin 32–81W, Revision 2, dated February 3, 1993.

(1) If the extension dimension exceeds 410.2 mm (16.15 inches), prior to further flight, modify the MLG assembly in accordance with Dowty Aerospace Landing Gear Service Bulletin 32–77W, Revision 4, dated February 3, 1993.

(2) If the extension dimension is equal to or less than 410.2 mm (16.15 inches), repeat the measurement at intervals not to exceed 500 flight cycles.

(3) If the extension dimension increases by more than 1.0 mm (0.40 inch) above the initially recorded dimension during any measurement required by this paragraph, prior to further flight, inspect the MLG in accordance with paragraph (a) of this AD.

(c) Accomplishment of the modification of the MLG in accordance with Dowty Aerospace Landing Gear Service Bulletin 32–77W, Revision 4, dated February 3, 1993, constitutes terminating action for the actions required by paragraphs (a) and (b) of this AD.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

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

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

(f) The inspections, modifications, measurements, and recording shall be done in accordance with the following Fokker service bulletin and Dowty Aerospace Landing Gear service bulletins, as applicable, which contain the specified effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
F27–32–165	1–3	1	April 28, 1993.
Revision 1, April 28, 1993			

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
32-81W Revision 2, February 3, 1993	1, 4	2	February 3, 1993.
February 3, 1993	2, 5	1	October 12, 1992.
	3, 6, 7	Original	September 29, 1992.
32-77W	1, 5, 6	4	February 3, 1993.
Revision 4, February 3, 1993	2-4, 7-9	3	September 29, 1992.

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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314; and Dowty Aerospace, Cheltenham Road, Goucester GS2 9QH, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on December 16, 1993.

Issued in Renton, Washington, on October 28, 1993.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-26969 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-57-AD; Amendment 39-8733; AD 93-22-09]

Airworthiness Directives; Jetstream Aircraft Limited (Formerly British Aerospace) Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Jetstream Aircraft Limited Model ATP airplanes, that requires replacement of certain hydraulic selector valves with new, improved selector valves in the emergency extension system for the landing gear. This amendment is prompted by results of functional testing of the hydraulic landing gear change-over valve mechanism which revealed that the hydraulic selector valves may stick and subsequently prevent landing gear extension via the emergency extension system. The actions specified by this AD are intended to prevent failure of the emergency extension system for the landing gear, which could result in a gear-up landing.

DATES: Effective December 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 16, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all Jetstream Aircraft Limited Model ATP airplanes was published in the **Federal Register** on June 10, 1993 (58 FR 32469). That action proposed to require replacement of certain hydraulic selector valves with new, improved selector valves in the emergency extension system for the landing gear.

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

One commenter supports the proposed rule, but requests that the proposed 3,375-landing compliance time for the replacement of certain hydraulic selector valves be shortened to 6 months. The commenter indicates that the term "landing" does not take into account the uncounted number of times the landing gear could be cycled during go-around, balked landing maneuvers, or training flights. The commenter concludes that, since not every gear cycling results in a landing, an inspection threshold based upon calendar time, rather than the number of landings, would be more appropriate. The commenter also suggests that since only nine U.S.-registered airplanes would be affected by the proposal, the replacement could be implemented within a shortened compliance time.

The FAA does not concur with the commenter's request for several reasons. First, compliance times for AD's are normally based on a parameter that is related to the failure of the component addressed. In the case of this AD, failure of the landing gear selector valves is very likely related to the number of gear cycles, since the problem of silt build-up is related to the number of operations to which the valves are subject. Although the number of gear cycles is undoubtedly related to the failure, operators typically do not have records of the number of gear cyclings on an airplane. Operators are required, however, to record in their maintenance logs the number of landings on the airplane. Since each landing process entails at least one gear cycling, a calculation of the total number of landings on any given airplane would likely comprise the majority of the number of total gear cyclings on that airplane. In light of this, and the fact that the number of landings is a parameter that is readily available to operators, the FAA has determined that it is appropriate for the compliance time for this AD action be based on number of landings.

Second, although the silt build-up problem and subsequent failure of the selector valves are undoubtedly related to the number of landings (or gear cycles), there is no apparent direct relationship between such failure and calendar time. Therefore, the FAA does

not concur with the commenter's request to change the compliance time to 6 months.

Third, in developing the compliance time for this AD action, the FAA considered not only the safety implications of the unsafe condition addressed, but (1) the size and average utilization rate of the affected fleet, (2) the practical aspects of an orderly modification of the fleet during regular maintenance periods, (3) the availability of required modification parts, (4) the recommendations of the airframe manufacturer and the United Kingdom Civil Airworthiness Authority, and (5) the time necessary for the rulemaking process. Further, the FAA has determined that the existence of a primary and emergency extension system for the landing gear on these airplanes reduces the probability of an occurrence wherein the flight crew would not be able to lower the landing gear. In consideration of all of these items, the FAA has determined that the compliance time of 3,375 landings is appropriate, and finds no reason that would warrant shortening that compliance time, as the commenter suggested.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 9 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $50 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,430, or $270 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93-22-09 Jetstream Aircraft Limited (formerly British Aerospace): Amendment 39-8733. Docket 93-NM-57-AD.

Applicability: All Model ATP airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent a gear-up landing, accomplish the following:

(a) Within 3,375 landings after the effective date of this AD, remove the hydraulic selector valves, part numbers AIR44880-5 and AIR44882-6, and install new, improved hydraulic selector valves, part numbers AIR46658-0 or AIR46660-0, as appropriate, in the emergency extension system for the landing gear, in accordance with AP Precision Hydraulics, Ltd., Service Bulletin AIR44880-29-02, Revision 1, dated March 9, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

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

(c) 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.

(d) The removal and installation shall be done in accordance with AP Precision Hydraulics, Ltd., Service Bulletin AIR44880-29-02, Revision 1, dated March 9, 1993, which contains the specified effective pages:

Page No.	Revision level shown on page	Date shown on page
1	1	March 9, 1993.
2	Original	January 1993.

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 Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on December 16, 1993.

Issued in Renton, Washington, on November 4, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-27665 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-84-AD; Amendment 39-8726; AD 93-22-01]

Airworthiness Directives; Fokker Model F28 Mk 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mk 0100 series airplanes, that requires connection of the liftdumper system wiring shields to ground. This amendment is prompted by reports of liftdumper system wiring shields that were not connected to ground as intended. The actions specified by this AD are intended to prevent inadvertent positive voltages on the affected system wiring, which could result in nuisance liftdumper alerts, the inability to arm the liftdumper system, and reduction in protection of the system against

inadvertent liftdumper extension in the manual mode.

DATES: Effective December 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 16, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mk 0100 series airplanes was published in the **Federal Register** on July 27, 1993 (58 FR 40078). That action proposed to require an inspection to determine if the wiring shields of the lift dumper system are connected to ground, and connection of the shields to ground, if necessary.

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

Both commenters support the proposed rule.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 54 airplanes of U.S. registry will be affected by this AD, that it will take approximately 12 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $35,640, or $660 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

93–22–01 FOKKER: Amendment 39–8726. Docket 93–NM–84–AD.

Applicability: Model F28 Mk 0100 series airplanes, serial numbers 11244 through 11392 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent inadvertent positive voltage on the wiring of the liftdumper system, accomplish the following:

(a) Within 8 months after the effective date of this AD, inspect the liftdumper system wiring shield ground connections to determine if the shields are connected to ground, in accordance with Fokker Service Bulletin SBF100–27–043, dated October 1, 1992. If any shield is not connected to ground, prior to further flight, connect the shield to ground in accordance with the service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

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

(c) 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.

(d) The inspection and connection shall be done in accordance with Fokker Service Bulletin SBF100–27–043, dated October 1, 1992. 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 Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on December 16, 1993.

Issued in Renton, Washington, on October 28, 1993.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–26970 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 92–ASW–33; Amendment 39–8690; AD 93–18–5]

Airworthiness Directives; McDonnell Douglas Helicopter Company and Hughes Helicopters, Inc. Model 369D, 369E, 369F, 369FF, and 369H Series Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Helicopter Company and Hughes Helicopters, Inc. Model 369 series helicopters, that requires an initial and repetitive inspections of the fuel vent line emergency shutoff valve assembly (assembly). Replacement of that assembly is required upon either

discovering a closed or otherwise obstructed vent tube or before attaining 3,000 hours' time-in-service. This amendment is prompted by several reports of erroneously high fuel quantity indications that led to inflight engine fuel exhaustion. The actions specified by this AD are intended to prevent erroneously high inflight fuel quantity indications that could lead to engine fuel exhaustion and a subsequent power-off landing.

DATES: Effective December 21, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 21, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Helicopter Company, 5000 East McDowell Road, Mesa, Arizona 85205–9797, Attention: Field Service Department. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg. 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Conze, Aerospace Engineer, Propulsion Branch, Los Angeles Aircraft Certification Office, ANM–143L, FAA, Northwest Mountain Region, 3229 E. Spring Street, Long Beach, California 90806–2425, telephone (310) 988–5261, fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to McDonnell Douglas Helicopter Company (MDHC) and Hughes Helicopters, Inc. Model 369 series helicopters was published in the **Federal Register** on March 23, 1993 (58 FR 15445). That action proposed to require an initial and repetitive inspections of the fuel vent line emergency shutoff valve assembly (assembly) and replacement of that assembly upon either discovering a closed or otherwise obstructed vent tube, or before attaining 3,000 hours' time-in-service.

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

One commenter states that the AD would be simplified by incorporating by reference the MDHC Service Information Notice (SIN) that adequately covers the required inspection method rather than, as proposed, specifying the inspection method, procedure, and the necessary graphics in the body of the AD. The FAA agrees with the commenter. Referring to part I of the SIN condenses the AD and also facilitates compliance with the AD for those persons who have complied with the SIN. Paragraph (b) of this AD is revised by removing paragraphs (b) (1) through (4) and by adding part 1 of the SIN for a nonsubstantive substitution.

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

The FAA estimates that 2,800 helicopters of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per helicopter to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $2,320 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $7,728,000.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 93–18–05 McDonnell Douglas Helicopter Company and Hughes Helicopters, Inc.: Amendment 39–8690. Docket Number 92–ASW–33.

Applicability: Model 369D, 369E (Serial No. 0001E thru 0508E), 369F (Serial No. 0003 thru 0091), 369FF (Serial No. 0003 thru 0091), and 369H series helicopters, equipped with fuel vent line emergency shutoff valve assemblies, part number (P/N) 369H8108, 369H8108–01 or 369H8108–503, certificated in any category.

Compliance: Helicopters with less than 2,400 hours' time-in-service on the effective date of this AD shall be inspected on or before attaining 2,500 hours' time-in-service, and thereafter, at an interval not to exceed 100 hours' time-in-service from the last inspection until an improved fuel vent line emergency shutoff valve assembly (assembly) is installed in accordance with paragraph (d) of this AD. Helicopters with 2,400 hours' or more time-in-service on the effective date of this AD shall be inspected in accordance with this AD within the next 100 hours' time-in-service, and thereafter, at an interval not to exceed 100 hours' time-in-service from the last inspection until an improved assembly is installed in accordance with paragraph (d) of this AD.

To prevent erroneously high inflight fuel quantity indications due to a blocked fuel vent line in the assembly, accomplish the following:

(a) Remove the assembly from the helicopter as required by the appropriate Model 369 maintenance manual.

(b) Inspect the fuel vent line emergency shutoff valve (valve) in accordance with Part I, Fuel Vent Line Emergency Shutoff Valve Inspection, of McDonnell Douglas Helicopter Company Service Information Notice HN–234, DN–181, EN–73, FN–60, dated January 17, 1992.

(c) If the inspections conducted in accordance with the requirements of paragraph (b) uncover an incorrectly closed or obstructed valve, before further flight install an airworthy assembly in accordance with the appropriate Model 369 maintenance manual.

(d) Install assembly, P/N 369H8108–505 or higher dash number, as follows, unless already accomplished:

(1) For helicopters with 2,400 hours' or more time-in-service on the effective date of this AD, install the assembly on or before attaining the next 600 hours' time-in-service.

(2) For helicopters with less than 2,400 hours' time-in-service on the effective date of this AD, install the assembly before attaining 3,000 hours' time-in-service.

(e) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Propulsion Branch, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806–2425. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Propulsion Branch, Los Angeles Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, Propulsion Branch, Los Angeles Aircraft Certification Office.

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

(g) The inspection shall be done in accordance with MDHC Service Information Notice HN–234, DN–181, EN–73, FN–60, dated January 17, 1992. 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 McDonnell Douglas Helicopter Company, 5000 East McDowell Road, Mesa, Arizona 85205–9797, Attention: Field Service Department. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg 3B, room 158, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective December 21, 1993.

Issued in Fort Worth, Texas, on September 10, 1993.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93–27795 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 97

[Docket No. 27503; Amdt. No. 1571]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

The Rule

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally

current. It, therefore—(1) is not a significant regulatory action under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on November 5, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

. . . *Effective January 6, 1994*

Scottsdale, AZ, Scottsdale, VOR–A, Amdt 2
Bellaire, MI, Antrim County, MLS RWY 2, Orig., CANCELLED
Cadillac, MI, Wexford County, MLS RWY 25, Amdt 5, CANCELLED
Goldsby, OK, David Jay Perry, VOR/DME RWY 31, Orig.
Norman, OK, David Jay Perry, VOR/DME–A, Orig., CANCELLED
Sand Springs, OK, William R Pogue Muni, NDB RWY 35, Amdt 2
La Grande, OR, La Grande/Union County, NDB–A, Amdt 3
Burnet, TX, Burnet Muni Kate Craddock Field, NDB RWY 1, Amdt 3
Burnet, TX, Burnet Muni Kate Craddock Field, VOR/DME RNAV RWY 19, Amdt 2
Ogden, UT, Ogden-Hinckley, ILS RWY 3, Amdt 3
Seattle, WA, Seattle-Tacoma Intl, VOR RWY 34L/R, Amdt 8
Seattle, WA, Seattle-Tacoma Intl, NDB RWY 34R Amdt 7
Seattle, WA, Seattle-Tacoma Intl, ILS RWY 34L, Amdt 1A, CANCELLED
Seattle, WA, Seattle-Tacoma Intl, ILS RWY 34R, Amdt 9, CANCELLED
Seattle, WA, Seattle-Tacoma Intl, ILS/DME RWY 34L, Orig.
Seattle, WA, Seattle-Tacoma Intl, ILS/DME RWY 34R, Orig.
Tacoma, WA, Tacoma Narrows, NDB RWY 35, Amdt 6
Tacoma, WA, Tacoma Narrows, ILS RWY 17, Amdt 8

. . . *Effective December 9, 1993*

Boca Raton, FL, Boca Raton, VOR/DME–A, Orig.
Burlington, KS, Coffey County, NDB RWY 36, Orig.
Baltimore, MD, Baltimore-Washington Intl, VOR RWY 33L, Amdt 4, CANCELLED
Baltimore, MD, Baltimore-Washington Intl, VOR/DME RWY 33L, Orig.
Cozad, NE, Cozad Muni, VOR RWY 13, Amdt 1
Minder, NE, Pioneer Village Field, VOR RWY 34, Amdt 1
Lancaster, OH, Fairfield County, VOR–A, Amdt 9
Lancaster, OH, Fairfield County, LOC RWY 28, Orig.
Lancaster, OH, Fairfield County, SDF RWY 28, Amdt 4, CANCELLED
Lancaster, OH, Fairfield County, NDB RWY 28, Amdt 7
Lancaster, OH, Fairfield County, VOR/DME RNAV RWY 10, Amdt 9
Wooster, OH, Wayne County, VOR RWY 9, Orig.
Wooster, OH, Wayne County, VOR RWY 27, Orig.
Wooster, OH, Wayne County, NDB RWY 27, Amdt 7
Medford, OR, Medford-Jackson County, VOR/DME RWY 14, Amdt 3
Corpus Christi, TX, Corpus Christi Intl, LOC RWY 31, Amdt 5
Houston, TX, Ellington Field, ILS RWY 22, Orig.

. . . *Effective October 27, 1993*

Macon, GA, Herbert Smart Downtown, VOR–A, Amdt 5

. . . *Effective October 22, 1993*

Billings, MT, Billings Logan Intl, VOR/DME RNAV RWY 28R, Amdt 2

[FR Doc. 93–28126 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27504; Amdt. No. 1572]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control Approaches, Standard Instrument, Incorporation by reference (1) navigation.

Issued in Washington, DC on November 5, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

Effective	State	City	Airport	FDC Number	SIAP
09/03/93	OK	Cushing	Cushing Muni	FDC 3/5108	NDB Rwy 35 Amdt 3A.
09/08/93	OK	Perry	Perry Muni	FDC 3/5030	Vor/Dme Rwy 17 Amdt 1.
10/14/93	NJ	Newark	Newark Intl	FDC 3/5781	Procedures. This corrects NOTAM IN TL 93–23.
10/22/93	IN	South Bend	South Bend/ Michiana regional	FDC 3/5771	RADAR–1 Amdt 9.
10/22/93	IN	South Bend	South Bend/ Michiana regional	FDC 3/5772	ILS Rwy 9 Amdt 8.
10/22/93	IN	South Bend	South Bend/ Michiana regional	FDC 3/5773	NDB Rwy 27 Amdt 28.
10/22/93	IN	South Bend	South Bend/ Michiana regional	FDC 3/5774	ILS Rwy 27 Amdt 34.

Effective	State	City	Airport	FDC Number	SIAP
10/26/93	IL	Chicago	Chicago Midway	FDC 3/5866	ILS Rwy 31C, Amdt 5.
10/28/93	AR	Corning	Corning Muni	FDC 3/5908	Vor/Dme–A Amdt 1.
10/28/93	NE	Valentine	Miller Field	FDC 3/5907	NDB Rwy 31 Amdt 6.
10/28/93	TX	San Antonio	San Antonio Intl	FDC 3/5900	NDB Rwy 12R Amdt 20.
10/28/93	TX	San Antonio	San Antonio Intl	FDC 3/5901	NDB Rwy 30L Amdt 11.
10/28/93	TX	San Antonio	San Antonio Intl	FDC 3/5903	ILS Rwy 30L Amdt 8.
10/29/93	MO	Kansas City	Kansas City downtown	FDC 3/5947	ILS Rwy 3 Amdt 1B.
11/01/93	KS	Garden City	Garden City regional	FDC 3/5990	ILS Rwy 34 Orig.
11/02/93	CO	Denver	Front range	FDC 3/6005	NDB Rwy 26 Amdt 2.
11/02/93	CO	Denver	Front range	FDC 3/6006	ILS Rwy 26 Amdt 2.
11/02/93	GA	Moultrie	Moultrie Muni	FDC 3/6004	Vor Rwy 22 Amdt 11.
11/02/93	MS	Jackson	Jackson Intl	FDC 3/5670	ILS Rwy 15L Amdt 7.
11/02/93	MS	Jackson	Jackson Intl	FDC 3/5671	NDB Rwy 15L Amdt 4.
11/02/93	TX	San Antonio	San Antonio Intl	FDC 3/5997	NDB Rwy 3 Amdt 37.

Corning

Corning Muni

Arkansas
VOR/DME–A Amdt 1
Effective. 10/28/93

FDC 3/5908/4M9/FI/P Corning Muni, Corning, AR. VOR/DME–A Amdt 1—CHG note to read—Use Walnut Ridge Alstg. This becomes VOR/DME–A Amdt 1A.

Denver

Front Range

Colorado
NDB RWY 26 Amdt 2
Effective: 11/02/93

FDC 3/6005/FTG/FI/P Front Range, Denver, CO. NDB Rwy 26 Amdt 2—Alternate minimums NA. This becomes NDB Rwy 26 Amdt 2A.

Denver

Front Range

Colorado
ILS RWY 26 Amdt 2
Effective: 11/02/93

FDC 3/6006/FTG/ FI/P Front Range, Denver, CO. ILS Rwy 26 Amdt 2—Alternate Minimums NA. This becomes ILS Rwy 26 Amdt 2A.

Moultrie

Moultrie Muni

Georgia
VOR Rwy 22 Amdt 11
Effective: 11/02/93

FDC 3/6004/MGR/ FI/P Moultrie Muni, Moultrie, GA. VOR Rwy 22 Amdt 11—Delete—Min Alt Mgr 4 DME 1100 and DME minimums. This becomes VOR Rwy 22 Amdt 11A.

Chicago

Chicago Midway

Illinois
ILS Rwy 31C, Amdt 5
Effective: 10/26/93

FDC 3/5866/MDW/ FI/P Chicago Midway, Chicago, IL. ILS Rwy 31C, Amdt 5—Delete note—INOP table does not apply. Add note—for INOP LDIN LGTS increase S–31C VIS ¼ mile. This is ILS Rwy 31C, Amdt 5A.

South Bend

South Bend/Michiana Regional

Indiana
Radar–1 Amdt 9
Effective: 10/22/93

FDC 3/5771/SBN/ FI/P South Bend/ Michiana Regional, South Bend, IN. Radar–1 Amdt 9—Circling MDA 1280/HAA 481 CATS B/C. Change all reference to Rwy 9–27 to 9R–27L. This is radar–1 Amdt 9A.

South Bend

South Bend/Michiana Regional

Indiana
ILS Rwy 9 Amdt 8
Effective: 10/22/93

FDC 3/5772/SBN/ FI/P South Bend/ Michiana Regional, South Bend, IN. ILS Rwy 9 Amdt 8—Change all reference to Rwy 9–27 to Rwy 9R–27L. Circling MDA 1280/HAA 481 CATS B/C. Change note to read—Inoperative table does not apply to S–LOC 9 CAT C. This is ILS Rwy 9R Amdt 8A.

South Bend

South Bend/Michiana Regional

Indiana
NDB Rwy 27 Amdt 28
Effective: 10/22/93

FDC 3/5773/SBN/ FI/P South Bend/ Michiana Regional, South Bend, IN. NDB Rwy 27 Amdt 28—Change all reference to Rwy 9–27 to Rwy 9R–27L. This is NDB Rwy 27L Amdt 28A.

South Bend

South Bend/Michiana Regional

Indiana
ILS Rwy 27 Amdt 34
Effective: 10/22/93

FDC 3/5774/SBN/ FI/P South Bend/ Michiana Regional, South Bend, IN. ILS Rwy 27 Amdt 34—Change all reference to Rwy 9–27 to Rwy 9R–27L. Circling MDA 1280/HAA 481 CATS B/C. This is ILS Rwy 27L Amdt 34A.

Garden City

Garden City Regional

Kansas
ILS Rwy 34 Orig
Effective: 11/01/93

FDC 3/5990/GCK/ FI/P Garden City Regional, Garden City, KS. ILS Rwy 34 Orig—Chg TCH to 60.2 Ft. CHG MSA Navaid to read Pieve LOM. This is ILS Rwy 34 Orig–A.

Kansas City

Kansas City Downtown

Missouri
ILS Rwy 3 Amdt 1B
Effective: 10/29/93

FDC 3/5947/MKC/ FI/P Kansas City Downtown, Kansas City, MO. ILS Rwy 3 Amdt 1B—Change the following—Missed Approach—4.33 miles after Norge LOM, Dist to THR from OM 4.33, GS ANT 999, GS ALT AT OM 2185, TCH 44.8. This becomes ILS Rwy 3 Amdt 1C.

Jackson

Jackson Intl

Mississippi
ILS Rwy 15L Amdt 7
Effective: 11/02/93

FDC 3/5670/JAN/ FI/P Jackson Intl, Jackson, MS. ILS Rwy 15L Amdt 7—NOTAM cancelled by 3/5867.

Jackson

Jackson Intl

Mississippi
NDB Rwy 15L AMDT 4
Effective: 11/02/93

FDC 3/5671/JAN/ FI/P Jackson Intl, Jackson, MS. NDB Rwy 15L Amdt 4 . . . NOTAM cancelled by 3/5867.

Valentine

Miller Field

Nebraska
NDB Rwy 31 Amdt 6

Effective: 10/28/93

FDC 3/5907/VTN/ FI/P Miller Field, Valentine, NE. NDB Rwy 31 Amdt 6 . . . MSA from VTN NDB within 25 NM 350–170 4000, 170–350 4600. This is NDB Rwy 31 Amdt 6A.

Newark

Newark Intl

New Jersey
Procedures
Effective: 10/14/93
This corrects NOTAM in TL 93–23

FDC 3/5781/EWR/ FI/P Newark Intl, Newark, NJ. Procedures . . . ref the following procs chg MSA 090–270 to 2000. NDB Rwy 4L Amdt '9A' becomes Amdt '9B'; NDB Rwy 4R Amdt 5 becomes Amdt 5A; ILS Rwy 4L Amdt 11A becomes Amdt 11B; ILS Rwy 4R Amdt 8A becomes Amdt 8B; ILS Rwy 4R (CAT II) Amdt 8 becomes Amdt 8A.

Perry

Perry Muni

Oklahoma
VOR/DME Rwy 17 Amdt 1
Effective: 09/08/93

FDC 3/5030/F22/ FI/P Perry Muni, Perry, OK. Vor/Dme Rwy 17 Amdt 1 . . . add note . . . use Ponca City Alstg, when not received proc NA. This is Vor/Dme Rwy 17 Amdt 1A.

Cushing

Cushing Muni

Oklahoma
NDB Rwy 35 Amdt 3A
Effective: 09/03/93

FDC 3/5108/CUH/ FI/P Cushing Muni, Cushing, OK. NDB Rwy 35 Amdt 3A . . . MSA from Cushing /CUH/NDB 3100. Chg note to read . . . Use Oklahoma City/Will Rogers World Alstg. S–35 HAT 770 all Cats. TDZE 890. Trml Rtes . . . Drops Int to Cushing /CUH/ NDB CRS 257, Dist 9.8 NM. Last Int to Cushing /CUH/ NDB CRS 099, dist 25.1 NM. Totes Int to Cushing /CUH/ NDB dist 12.7 NM. This is NDB Rwy 35 Amdt 3B.

San Antonio

San Antonio Intl

Texas
NDB Rwy 12R Amdt 20
Effective: 10/28/93

FDC 3/5900/SAT/ FI/P San Antonio Intl, San Antonio, TX. NDB Rwy 12R Amdt 20 . . . MSA an LOM within 25 NM . . . 225–325 4100, 325–226 3200. This is NDB Rwy 12R Amdt 20A.

San Antonio

San Antonio Intl

Texas
NDB Rwy 30L Amdt 11
Effective: 10/28/93

FDC 3/5901/SAT/ FI/P San Antonio Intl, San Antonio, TX. NDB Rwy 30L Amdt 11 . . . MSA and LOM within 25 NM . . . 225–325 4100, 325–226 3200. This is NDB Rwy 30L Amdt 11A.

San Antonio

San Antonio Intl

Texas
ILS Rwy 30L Amdt 8
Effective: 10/28/93

FDC 3/5903/SAT/ FI/P San Antonio Intl, San Antonio, TX. ILS Rwy 30L Amdt 8 . . . Rwy 30R TDZE 788. Sidestep Rwy 30R HAT 572. This is ILS Rwy 30L Amdt 8A.

San Antonio

San Antonio Intl

Texas
NDB Rwy 3 Amdt 37
Effective: 11/02/93

FDC 3/5997/SAT/ FI/P San Antonio Intl, San Antonio, TX. NDB Rwy 3 Amdt 37 . . . MSA SA LOM within 25 NM . . . 225–325 4100, 325–226 3200. Rwy 3 TDZE 786 HAT 594 all Cats. Remove note . . . VOR required. This is NDB Rwy 3 Amdt 37A.

[FR Doc. 93–28128 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Delegation of authority to Regional Administrators

CFR Correction

In Title 17 of the Code of Federal Regulations, parts 200 to 239, revised as of June 1, 1993, make the following correction. On page 36, in § 200.30–6, paragraph (d)(1)(i) was inadvertently printed incorrectly and paragraphs (d)(1)(ii), (d)(2), (d)(3), and (e) were inadvertently dropped from the volume. The reinstated text of § 200.30–6, paragraphs (d) and (e) reads as follows:

§ 200.30–6 Delegation of authority to Regional Administrators.

* * * * *

(d) With respect to the Securities Exchange Act of 1934, 15 U.S.C. 78 *et seq.*:

(1) Pursuant to Rule 17a–5(a) (§ 240.17a–5(a) of this chapter) and Rule 17a–5(d) (§ 240.17a–5(d) of this chapter):

(i) To consider applications by brokers and dealers for extensions of time within which to file reports required by Rule 17a–5 (§ 240.17a–5 of this chapter) and to grant or to deny such applications: *Provided*, Such applicant is advised of his right to have such denial reviewed by the Commission; and

(ii) To grant or deny requests by brokers and dealers for the approval of a change of date for the annual audited reports required by Rule 17a–5 (§ 240.17a–5 of this chapter) where the report will not be as of a date more than 15 months from the date as of which the last preceding annual audited report was prepared: *Provided*, Such applicant is advised of his right to have such denial reviewed by the Commission.

(2) Pursuant to section 15(b)(2)(C) of the Act (15 U.S.C. 78o(b)(2)(C)):

(i) To delay until the second six month period from registration with the Commission, the inspection of newly registered broker-dealers that have not commenced actual operations within six months of their registration with the Commission; and

(ii) To delay until the second six month period from registration with the Commission, the inspection of newly registered broker-dealers to determine whether they are in compliance with applicable provisions of the Act and rules thereunder, other than financial responsibility rules.

(3) Pursuant to Rule 0–4 (§ 240.0–4 of this chapter), to disclose to the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation and to the state banking authorities, information and documents deemed confidential regarding registered clearing agencies and registered transfer agents; *Provided* That, in matters in which the Commission has entered a formal order of investigation, such disclosure shall be made only with the concurrence of the Director of the Division of Enforcement or his or her delegate, and the General Counsel or his or her delegate.

(e) With respect to the Investment Advisers Act of 1940, 15 U.S.C. 80b–1, *et seq.*: Pursuant to Rule 204–2(j)(3)(ii) (§ 275.204–2(j)(3)(ii) of this chapter), to make written demands upon non-resident investment advisers subject to the provisions of such rule to furnish to the Commission true, correct, complete and current copies of any or all books and records which such non-resident investment advisers are required to make, keep current or preserve pursuant to any provision of any rule or regulation of the Commission adopted under the Investment Advisers Act of 1940, or any part of such books and records which may be specified in any such demand.

* * * * *

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960–AD59

Considering an Application Filed Under the Railroad Retirement Act as an Application for Social Security Benefits

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are amending our regulation to clarify that an application filed with the Railroad Retirement Board (RRB) for an annuity under the Railroad Retirement Act of 1974 (RRA), as amended, is also an application for social security benefits under title II of the Social Security Act (the Act), unless the applicant specifies otherwise. This regulation is based on section 5(b) of the RRA.

EFFECTIVE DATE: This regulation is effective November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–8471.

SUPPLEMENTARY INFORMATION: The RRA provides benefits for railroad employees and their spouses and survivors. This program is coordinated with the social security programs provided under title II of the Act to provide retirement, auxiliary, survivor, and disability benefits payable on the basis of an individual's work in the railroad industry and in work covered by social security.

Section 5(b) of the RRA (45 U.S.C. 231d(b)) provides that an application filed with the RRB for an annuity under section 2 of the RRA (45 U.S.C. 231a) shall, unless the applicant specifies otherwise, be deemed to be an application for any benefit to which such applicant may be entitled under either the RRA or title II of the Act.

The Railroad Unemployment Insurance Act (RUIA), (45 U.S.C. 351ff) provides unemployment and sickness benefits to qualified employees in the railroad industry. However, unlike the RRA, there is no provision in the RUIA for considering an application filed with the RRB for unemployment or sickness benefits under the RUIA as an application for social security benefits.

Our current regulation § 404.611 provides in paragraph (b) that an application filed with the RRB on one of its forms is also considered an application for social security benefits if the applicant is in one of three specified categories of qualified claimants. In applying this regulation, we consider an application filed with the RRB also to be an application for social security benefits only if the application is for an annuity under section 2 of the RRA. This treatment is based on the provision of section 5(b) of the RRA discussed above and the absence of a parallel provision in the RUIA, or in any other statute, stating that an application filed with the RRB for benefits under the RUIA is also an application for social security benefits.

We are amending § 404.611(b) to clarify that only an application filed with the RRB on one of its forms for an annuity under section 2 of the RRA is, unless the applicant specifies otherwise, also an application for social security benefits. This change clarifies our existing regulation to reflect more accurately the procedure we have been following pursuant to section 5(b) of the RRA. Further, since section 5(b) of the RRA applies to all applicants for an annuity under section 2 of the RRA, separate references to the three categories of claimants now listed in § 404.611(b) (1), (2), and (3) are unnecessary, and we are deleting them from the regulation.

On October 19, 1992, we published a proposed rule in the **Federal Register** at 57 FR 47584 with a 60-day comment period. We received no comments. We are, therefore, publishing this final rule unchanged from the proposed rule.

Regulatory Procedures

Executive Order No. 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it will result in no program or administrative costs or savings. It simply clarifies existing policy and has no effect on the amount of benefit payments or existing operating procedures. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities since this rule affects only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

This final rule imposes no additional reporting and recordkeeping requirements subject to Office of Management and Budget clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.802 Social Security-Disability Insurance; 93.803 Social Security-Retirement Insurance; 93.805 Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: August 6, 1993.

Lawrence H. Thompson,

Principal Deputy Commissioner of Social Security.

Approved: September 30, 1993.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, we are amending subpart G of part 404 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart G of part 404 continues to read as follows:

Authority: Secs. 202 (i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 1102 of the Social Security Act; 42 U.S.C. 402 (i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 1302.

2. Section 404.611 is amended by revising paragraph (b) to read as follows:

§ 404.611 Filing of application with Social Security Administration.

* * * * *

(b) *Effect of claims filed with the Railroad Retirement Board.* Pursuant to section 5(b) of the Railroad Retirement Act of 1974, as amended, 45 U.S.C. 231d(b), if you file an application with the Railroad Retirement Board on one of its forms for an annuity under section 2 of the Railroad Retirement Act of 1974, as amended, 45 U.S.C. 231a, unless you specify otherwise, this application also will be an application for any benefit to which you may be entitled under title II of the Social Security Act.

* * * * *

[FR Doc. 93–27916 Filed 11–15–93; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 296

National Reconnaissance Office Freedom of Information Act Program Regulation

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule establishes the National Reconnaissance Office (NRO) regulation governing the disclosure of information under the Freedom of Information Act (FOIA) and conforms the NRO's rules to the Department's FOIA rule and schedule.

EFFECTIVE DATE: October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Michael P. Healy, (703) 892–0147.

SUPPLEMENTARY INFORMATION: The NRO published a proposed rule of this part on August 5, 1993 (58 FR 41679). No comments were received. The NRO is adopting the proposed rule with minimal changes. This rule does not constitute a significant regulatory action within the meaning of Executive Order 12866. Neither the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612), nor the reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (Pub. L. 96–511, as amended) apply. It is hereby certified that this final rule does not exert a significant economic impact on a significant number of small entities. This determination is made based upon the fact that the rule merely codifies the procedural aspects of the NRO Freedom of Information Act Program, which includes guidance on how and from whom to request information pertaining to the NRO; imposes no new requirements, rights, or benefits on small entities; will have neither a beneficial nor an adverse affect on small entities, and is not a major rule under the Regulatory Flexibility Act.

List of Subjects 32 CFR Part 296

Freedom of Information.

Accordingly, title 32, chapter I, subchapter N is amended to add part 296 to read as follow:

PART 296—NATIONAL RECONNAISSANCE OFFICE FREEDOM OF INFORMATION ACT PROGRAM REGULATION

Sec.

296.1 Purpose.
296.2 Definitions.
296.3 Indexes.
296.4 Procedures for request of records.
296.5 Appeals.

Authority: 5 U.S.C. 552.

§ 296.1 Purpose.

The purpose of this part is to provide policies and procedures for the National Reconnaissance Office (NRO) implementation of the Freedom of Information Act (FOIA), and to promote uniformity in the NRO FOIA program.

§ 296.2 Definitions.

The terms used in this rule, with the exception of the following, are defined in 32 CFR part 286.

(a) *Freedom of Information Act Appellate Authority.* The Deputy Director, NRO.

(b) *Initial Denial Authority.* The Director, External Relations, NRO, or the Acting Director.

§ 296.3 Indexes.

The NRO does not originate final orders, opinions, statements of policy, interpretations, staff manuals or instructions that affect a member of the public of the type covered by the indexing requirement of 5 U.S.C. 552(a)(2). The Director, NRO, has therefore determined, pursuant to pertinent statutory and executive order requirements, that it is unnecessary and impracticable to publish an index of the type required by 5 U.S.C. 552.

§ 296.4 Procedures for request of records.

(a) *Requests.* Request for access to records of the National Reconnaissance Office may be filed by mail addressed to the Director, External Relations, National Reconnaissance Office, 1040 Defense Pentagon, Washington, D.C. 20301–1040. Requests need not be made on any special form but must be by letter or other written statement identifying the request as a Freedom of Information Act request and setting forth sufficient information reasonably describing the requested record. All request should contain a willingness to pay assessable FOIA fees.

(b) *Determination and notification.* When the requested record has been located and identified, the Initial Denial Authority shall determine whether the record is one which, consistent with statutory requirements, executive orders and appropriate directives, may be released or should be exempted under the provisions of 5 U.S.C. 552. Normally, the Initial Denial Authority, shall notify the requester of the determination within 10 working days of the receipt of the request.

(c) *Extension of response time.* In unusual circumstances, when additional time is needed to respond, normally the Initial Denial Authority shall notify the requester in writing within the initial response period of the delay, the reasons therefore, and if specified, a date, not to exceed 10 working days, on which a determination is expected to be dispatched. When a significant number of requests have been received, e.g., 10 or more, the requests shall be initially processed in order of receipt. However, this does not preclude the Initial Denial Authority from completing action on a request which can be easily answered, regardless of its ranking within the order of receipt.

(d) *Fees.* (1) *General.* As a component of the Department of Defense, the applicable published Department rules and schedules with respect to the schedule of fees chargeable and waiver of fees will also be the policy of NRO. See 32 CFR 286.33.

(2) *Advance payments.* (i) Where a total fee to be assessed is estimated to exceed $250, advance payment of the estimated fee will be required before processing of the request, except where assurances of full payment are received from a requester with a history of prompt payment. Where a requester has previously failed to pay a fee within 30 calendar days of the date of the billing, the requester will be required to pay the full amount owed, plus any applicable interest, or demonstrate that he or she has paid the fee, as well as make an advance payment of the full amount of any estimated fee before processing of a new or pending request continues.

(ii) For all other requests, advance payment, i.e., a payment made before work is commenced, will not be required. Payment owed for work already completed is not an advance payment; however, responses will not be held pending receipt of fees from requesters with a history of prompt payment. Fees should be paid by certified check or postal money order forwarded to the Director, External Relations, and made payable to the Treasurer of the United States.

§ 296.5 Appeals.

Any person denied access to records, denied a fee waiver, or who considers a no record determination to be adverse in nature, may, within 60 days after notification of such denial, file an appeal to the Freedom on Information Act Appellate Authority, National Reconnaissance Office. Such an appeal shall be in writing addressed to the Freedom of Information Act Appellate Authority, National Reconnaissance Office, 1040 Defense Pentagon, Washington, DC 20301–1040, shall reference the initial denial, and shall contain in sufficient detail and particularity, the grounds upon which the requester believes the release of the information, or granting of the fee

waiver, is required. The Freedom of Information Act Appellate Authority shall normally make a final determination on an appeal within 20 working days after receipt of the appeal.

Dated: November 9, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-28028 Filed 11-15-93; 8:45 am]

BILLING CODE 5000-04-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS TYPHOON (PC 5) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval patrol craft. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS TYPHOON (PC 5) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 23(a)(ii), pertaining to display of a masthead light and a second (after) masthead light on vessels exceeding 50 meters in length; Annex I, paragraph 2(k), pertaining to the vertical distance between the forward and after anchor lights and the height of the forward anchor light above the hull; Rule 21(c), pertaining to location of the sternlight, without interfering with its special functions as a naval patrol craft. The Judge Advocate General of the Navy has also certified that the number of masthead lights displayed and the location of the other mentioned lights are in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the number and placement of lights on USS TYPHOON (PC 5) in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Three of § 706.2 is amended by revising the column headings and adding the following ship:

§ 706.2 Certifications of the Secretary of Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE THREE

Vessel	Number	Masthead lights arc of visibility; Rule 21(a)	Side lights arc of visibility; Rule 21(b)	Stern light arc of visibility; Rule 21(c)	Side lights distance inboard of ship's sides in meters § 3(b) Annex 1	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters § 2(K) Annex 1	Anchor lights relationship of aft light to forward light in meters § 2(K) Annex 1
*	*	*	*	*	*	*	*	
U.S.S. *Typhoon*	PC 5					[1] 25.5	3.0	1.1 below.
*	*	*	*	*	*	*	*	

[1] Only when towing.

Dated: October 18, 1993.

H.E. Grant,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93-28070 Filed 11-15-93; 8:45 am]

BILLING CODE 3810-01-P

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32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that U.S.S. *Monsoon* (PC 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval patrol craft. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge

Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that U.S.S. *Monsoon* (PC 4) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Rule 23(a)(ii), pertaining to display of a masthead light and a second (after) masthead light on vessels exceeding 50 meters in length; Annex I, paragraph 2(k), pertaining to the vertical distance between the forward and after anchor lights and the height of the forward anchor light above the hull; Rule 21(c), pertaining to location of the sternlight, without interfering with its special functions as a naval patrol craft. The Judge Advocate General of the Navy has also certified that the number of masthead lights displayed and the location of the other mentioned lights are in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the number and placement of lights on U.S.S. *Monsoon* (PC 4) in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Three of § 706.2 is amended by revising the column headings and adding the following ship:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE THREE

Vessel	Number	Masthead lights arc of visibility; Rule 21(a)	Side lights arc of visibility; Rule 21(b)	Stern light arc of visibility; Rule 21(c)	Side lights distance inboard of ship's sides in meters; § 3(b) Annex 1	Stern light, distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(K) Annex 1	Anchor lights relationship of aft light to forward light in meters; § 2(K) Annex 1
*	*	*		*	*		*	*
U.S.S. *Monsoon*	PC 4					[1] 25.5	3.0	1.1 below.
*	*	*		*	*		*	*

[1] Only when towing.

Dated: October 18, 1993.

H.E. Grant,

Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

[FR Doc. 93–28073 Filed 11–15–93; 8:45 am]

BILLING CODE 3810–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 36 and 44

RIN 2900–AG13

Loan Guaranty: Limited Denial of Participation in the Loan Guaranty Program

AGENCY: Department of Veterans Affairs.

ACTION: Final regulatory amendments.

SUMMARY: The Department of Veterans Affairs (VA) is amending its loan guaranty regulations to relocate and update certain provisions governing the suspension and debarment of participants from the VA guaranteed home loan program. These amendments clarify the procedures to be followed by VA field facilities when excluding loan guaranty program participants within their jurisdictional areas from participation, generally for periods of up to one year.

EFFECTIVE DATE: December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Judith A. Caden, Assistant Director for Loan Policy (264), Loan Guaranty Service, Veterans Benefits Administration, Department of Veterans Affairs, Washington, DC 20420, (202) 233–3042.

SUPPLEMENTARY INFORMATION: On May 3, 1993, VA published in the **Federal Register** (58 FR 26282) proposed regulatory amendments to 38 CFR Parts 36 and 44. Public comments were requested on a proposal to revise and relocate to part 44 certain provisions of part 36 governing the suspension of program participants from VA's Loan Guaranty Program. These revised provisions were to be placed into a new subpart G of part 44 entitled "Limited Denial of Participation in the Loan Guaranty Program." Please refer to the May 3, 1993, **Federal Register** for a complete discussion of the proposed amendments. No comments were received on the proposed amendments. Accordingly, VA is adopting the regulatory amendments as originally proposed.

The Secretary hereby certifies that these final regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, title 5, United States Code, section 601–612. These regulations essentially transpose VA regulations regarding exclusion from the loan guaranty program from part 36 to part 44, where they will be located with VA's Government-wide debarment regulations. The final regulations also update the archaic language in the current part 36 suspension regulations. Pursuant to 5 U.S.C. 605(b), these regulations are exempt from the initial and final regulatory analysis requirements of sections 603 and 604.

The Secretary certifies that this final rule will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

Catalog of Federal Domestic Assistance Program Numbers are 64.114 and 64.119.

List of Subjects in 38 CFR Parts 36 and 44

Administrative practice and procedure, Condominium, Grants, Grant programs, Housing, Loan programs—housing and community development, Manufactured homes, Reporting and recordkeeping requirements, Veterans.

These amendments are made under the authority granted the Secretary by sections 501(a) and 3703(c) of title 38, United States Code.

Approved: October 7, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR parts 36 and 44, are amended as set forth below.

PART 36—LOAN GUARANTY

1. The authority citation for §§ 36.4201 through 36.4287 continues to read as follows:

Authority: Sections 36.4201 through 36.4287 issued under 38 U.S.C. 501(a), 3712.

2. Sections 36.4233 and 36.4235 are removed.

3. The authority citation for §§ 36.4300 through 36.4375 continues to read as follows:

Authority: Sections 36.4300 through 36.4375 issued under 38 U.S.C. 501(a).

4. Sections 36.4331, 36.4341, and 36.4361 are removed.

PART 44—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)

5. The authority citation for part 44 is revised to read as follows:

Authority: 38 U.S.C. 501(a) and 3703(c); E.O. 12549; E.O. 12689.

6. Sections 44.700 through 44.713 are added to read as follows:

Subpart G—Limited Denial of Participation

Sec.
44.700 General.
44.705 Causes for a limited denial of participation.
44.710 Scope and period of a limited denial of participation.
44.711 Notice.
44.712 Conference.
44.713 Appeal.

§ 44.700 General.

Field Facility Directors are authorized to order a limited denial of participation affecting any participant or contractor and its affiliates except lenders and manufactured home manufacturers. In each case, even if the offense or violation is of a criminal, fraudulent or other serious nature, the decision to order a limited denial of participation shall be discretionary and in the best interests of the Government.

§ 44.705 Causes for a limited denial of participation.

(a) *Causes.* A limited denial of participation shall be based upon adequate evidence of any of the following causes:

(1) Irregularities in a participant's or contractor's performance in the VA loan guaranty program;

(2) Denial of participation in programs administered by the Department of Housing and Urban Development or the Department of Agriculture, Farmers Home Administration;

(3) Failure to satisfy contractual obligations or to proceed in accordance with contract specifications;

(4) Failure to proceed in accordance with VA requirements or to comply with VA regulations;

(5) Construction deficiencies deemed by VA to be the participant's responsibility;

(6) Falsely certifying in connection with any VA program, whether or not the certification was made directly to VA;

(7) Commission of an offense or other cause listed in § 44.305;

(8) Violation of any law, regulation, or procedure relating to the application for guaranty, or to the performance of obligations incurred pursuant to a commitment to guaranty;

(9) Making or procuring to be made any false statement for the purpose of influencing in any way an action of the Department;

(10) Imposition of a limited denial of participation by any other VA field facility;

(b) *Indictment.* A criminal indictment or information shall constitute adequate evidence for the purpose of limited denial of participation actions.

(c) *Limited denial of participation.* Imposition of a limited denial of participation by a VA field facility shall, at the discretion of any other VA field facility, constitute adequate evidence for a concurrent limited denial of participation. Where such a concurrent limited denial of participation is imposed, participation may be restricted on the same basis without the need for an additional conference or further hearing.

§ 44.710 Scope and period of a limited denial of participation.

(a) *Scope and Period.* The scope of a limited denial of participation shall be as follows:

(1) A limited denial of participation extends only to participation in the VA Loan Guaranty Program and shall be effective only within the geographic jurisdiction of the office or offices imposing it.

(2) The sanction may be imposed for a period not to exceed 12 months except for unresolved construction deficiencies. In cases involving construction deficiencies, the builder may be excluded for either a period not to exceed 12 months or for an indeterminate period which ends when the deficiency has been corrected or otherwise resolved in a manner acceptable to VA.

(b) *Effectiveness.* The sanction shall be effective immediately upon issuance, and shall remain effective for the prescribed period. If the cause for the limited denial of participation is resolved before the expiration of the prescribed period, the official who imposed the sanction may terminate it. The imposition of a limited denial of participation shall not affect the right of the Department to suspend or debar any person under this part.

(c) *Affiliates.* An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation, and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is capable of meeting VA requirements and is currently a responsible entity and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

§ 44.711 Notice.

(a) *Generally.* A limited denial of participation shall be initiated by advising a participant or contractor, and any specifically named affiliate, by certified mail, return receipt requested:

(1) That the sanction is effective as of the date of the notice;

(2) Of the reasons for the sanction in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 44.705 for imposing the sanction;

(4) Of the right to request in writing, within 30 days of receipt of the notice, a conference on the sanction, and the right to have such conference held

within 10 business days of receipt of the request;

(5) Of the potential effect of the sanction and the impact on the participant's or contractor's participation in Departmental programs, specifying the program(s) involved and the geographical area affected by the action.

(b) *Notification of action.* After 30 days, if no conference has been requested, the official imposing the limited denial of participation will notify VA Central Office of the action taken and of the fact that no conference has been requested. If a conference is requested within the 30-day period, VA Central Office need not be notified unless a decision to affirm all or a portion of the remaining period of exclusion is issued. VA Central Office will notify all VA field offices of sanctions imposed and still in effect under this subpart.

§ 44.712 Conference.

Upon receipt of a request for a conference, the official imposing the sanction shall arrange such a conference with the participant or contractor and may designate another official to conduct the conference. The participant shall be given the opportunity to be heard within 10 business days of receipt of the request. This conference precedes, and is in addition to, the formal hearing provided if an appeal is taken under § 44.713. Although formal rules of procedure do not apply to the conference, the participant or contractor may be represented by counsel and may present all relevant information and materials to the official or designee. After consideration of the information and materials presented, the official shall, in writing, advise the participant or contractor of the decision to withdraw, modify or affirm the limited denial of participation. If the decision is made to affirm all or a portion of the remaining period of exclusion, the participant shall be advised of the right to request a formal hearing in writing within 30 days of receipt of notice of decision. This decision shall be issued promptly, but in no event later than 20 days after the conference and receipt of materials.

§ 44.713 Appeal.

Where the decision is made to affirm all or a portion of the remaining period of exclusion, any participant desiring an appeal shall file a written request for a hearing with the Under Secretary for Benefits, Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420. This request shall be filed within 30 days of receipt of the decision to affirm. If a hearing is requested, it shall be held in accordance with the procedures set forth at §§ 44.313 and 44.314. Where a limited denial of participation is followed by a suspension or debarment, the limited denial of participation shall be superseded and the appeal shall be heard solely as an appeal of the suspension or debarment.

[FR Doc. 93–27923 Filed 11–15–93; 8:45 am]
BILLING CODE 8320–01–P

POSTAL SERVICE

39 CFR Part 111

Changes In Preferred Postal Rates—Second-, Third- and Fourth-Class Mail

AGENCY: Postal Service.

ACTION: Postage rate changes.

SUMMARY: Under the provisions of the Revenue Forgone Reform Act signed into law October 28, 1993, the second-class in-county rates, the advertising zone rates for issues of second-class classroom and nonprofit publications that contain more than 10 percent advertising, and the zone 1 and 2 rates for science-of-agriculture publications will change. The special bulk third-class rates will change for matter other than flats. In addition, publishers will be allowed to mail books and other eligible materials at the fourth-class library rate only if they are mailed in response to a purchase order from a qualifying institution or organization.

EFFECTIVE DATE: The Board of Governors directed that the changes pertaining to postage rates and the new criterion that publishers must meet to mail materials at the library rates be implemented effective 12:01 a.m., November 21, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest Collins, (202) 268–5316.

SUPPLEMENTARY INFORMATION: Under the provisions of the Revenue Forgone Reform Act, the postage rates for the advertising portion of second-class special rate and classroom rate publications will be the same as the rates applicable for second-class regular rate publications when copies of an issue or edition, if applicable, of such publications contain more than 10 percent advertising; the science-of-agriculture rates will be 75 per cent of the rates charged for regular rate publications qualifying for delivery office, SCF and zones 1 and 2 rates; and the postage rates for special bulk third-class matter other than flats will change; publishers will be allowed to mail qualifying materials at the library rates only if the materials are sent in response to a purchase order from a qualifying institution or organization. The Act also contains restrictions on the kinds of materials that will be eligible for mailing at the special bulk third-class rates. Such changes will not be effective before January 1, 1994, and a proposed rule regarding the restrictions will be published in the **Federal Register** for comment by affected customers and interested parties.

The Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Section E419 of the Domestic Mail Manual is revised to make it clearer that certain materials may be sent between qualifying institutions, organizations and individuals at the library rate, and to incorporate the criterion that publishers must meet to mail at such rates.

Effective November 21, 1993, the Domestic Mail Manual is amended as follows:

Rates and Fees Module

* * * * *

Eligibility Module

* * * * *

E419 Library Rate

* * * * *

(Former section 1.6 is deleted and old sections 1.7, 1.8, and 1.9 are renumbered as 1.6, 1.7, and 1.8, respectively, and section 1.4 is amended to read as follows)

1.4 Mailable Items Sent Between

The following items may be mailed at the library rate when sent between: (1) Schools, colleges, universities, public libraries, museums, herbariums, and nonprofit religious, educational, scientific, philanthropic (charitable), agricultural, labor, veterans', and fraternal organizations or associations, (2) any such institution, organization, or association, and an individual who has no financial interest in the sale, promotion, or distribution of the materials, or (3) any such institution,

organization, or association, and a publisher, if such institution, organization, or association has placed an order to purchase such materials for delivery to itself:

a. Books, consisting wholly of reading matter, scholarly bibliography, or reading matter with incidental blank spaces for notations and containing no advertising except for incidental announcements of books.

b. Printed music, whether in bound or sheet form

c. Bound volumes of academic theses in typewritten or duplicated form.

d. Periodicals, whether bound or unbound.

e. Sound recordings.

f. Other library materials in printed, duplicated, or photographic form or in the form of unpublished manuscripts.

g. Museum materials, specimens, collections, teaching aids, printed matter, and interpretive materials for informing and furthering the educational work and interests of museums and herbariums.

(In 1.5 change heading to "Mailable Items Sent to or From")

* * * * *

3. Sections R200, R300 and R400 are revised to include the new postage rates for second-, third- and fourth-class library rate mail.

R200 Second-Class Mail

* * * * *

2.0 In-County Rates

2.1 Per pound or fraction

Zone	Rate
Delivery office	$0.107
All others	.117

* * * * *

3.0 Special Nonprofit Rates

3.1 Pound rates are

For the nonadvertising portion—$0.107 per pound or fraction. For the advertising portion, per pound or fraction:

Zone	Rate
Delivery office	$0.168
SCF	.178
1 and 2	.196
3	.204
4	.224
5	.258
6	.292
7	.332
8	.367

3.2 Piece Rates Per Addressed Piece

Level	Regular	Zip+4 (letter-size)	Barcoded (letter-size)	ZIP+4 barcoded (flat-size)
G	$0.170	$0.163	$0.153	$0.147
H3	.127	.123	.117	.112
H5	.127	.123	.110	.112
I1	.089	.....	.....	.....
I2	.087	.....	.....	.....
I3	.082	.....	.....	.....

4.0 Classroom Rates

4.1 Pound rates are

For the nonadvertising portion—$0.107 per pound or fraction. For the advertising portion, per pound or fraction:

Zone	Rate
Delivery office	$0.168
SCF	.178
1 and 2	.196
3	.204
4	.224
5	.258
6	.292
7	.332
8	.367

4.2 Piece Rates Per Addresses Piece

Level	Regular	ZIP+4 (letter-size)	Barcoded (letter-size)	ZIP+4 Barcoded (flat-size)
G	$0.170	$0.163	$0.153	$0.147
H3	.127	.123	.117	.112
H5	127	.123	.110	.112
I1	.089	.....	.....	.....
I2	.087	.....	.....	.....
I3	.082	.....	.....	.....

5.0 Science-of-Agriculture Rates

5.1 Pound rates are

For the nonadvertising portion—$0.147 per pound or fraction. For the advertising portion, per pound or fraction:

Zone	Rate
Delivery office	$0.126
SCF	.134
1 and 2	.147
3	.204
4	.224
5	.258
6	.292
7	.332
8	.367

* * * * *

R300 Third-Class Mail

* * * * *

6.0 Special Bulk Third-Class Letter-Size Minimum Per Piece Rates—Pieces 0.2085 LB. (3.3363 OZ) or Less

Entry discount	Nonautomation rates		Automation rates						
	Basic	3/5	Carrier route	Saturation W–S	Basic ZIP+4	3/5 ZIP+4	Basic barcoded	3-Digit barcoded	5-Digit barcoded
None	0.113	0.100	0.076	0.073	0.106	0.096	0.096	0.090	0.083
BMC	.101	.088	.064	.061	.094	.084	.084	.078	.071
SCF	.096	.083	.059	.056	.089	.079	.079	.073	.066
Delivery unit			.054	.051					

R400 Fourth-Class Mail

6.0 Library Rates

Library rate weight not exceeding pounds	Postage
1	0.66
2	0.90
3	1.14
4	1.38
5	1.62
6	1.86
7	2.10
8	2.22
9	2.34
10	2.46
11	2.58
12	2.70
13	2.82
14	2.94
15	3.06
16	3.18
17	3.30
18	3.42
19	3.54
20	3.66
21	3.78
22	3.90
23	4.02
24	4.14
25	4.26
26	4.38
27	4.50
28	4.62
29	4.74
30	4.86
31	4.98
32	5.10
33	5.22
34	5.34
35	5.46
36	5.58
37	5.70
38	5.82
39	5.94
40	6.06
41	6.18
42	6.30
43	6.42
44	6.54
45	6.66
46	6.78
47	6.90
48	7.02
49	7.14
50	7.26
51	7.38
52	7.50
53	7.62
54	7.74
55	7.86
56	7.98
57	8.10
58	8.22
59	8.34
60	8.46
61	8.58
62	8.70
63	8.82
64	8.94
65	9.06
66	9.18
67	9.30
68	9.42
69	9.54
70	9.66

A transmittal letter making these changes in the Domestic Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 93–28087 Filed 11–15–93; 8:45 am]

BILLING CODE 5000–04–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL 4797–5]

Georgia; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Georgia has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Georgia has adopted by reference and is seeking authority to regulate certain revisions promulgated between July 1, 1990, and June 30, 1991, otherwise known as RCRA Cluster I. These requirements are listed in section B of this notice. The Environmental Protection Agency (EPA) has reviewed Georgia's application and has made a decision, subject to public review and comment, that Georgia's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Georgia's hazardous waste program revisions. Georgia's application for program revision is available for public review and comment.

DATES: Final authorization for Georgia's program revision shall be effective January 18, 1994 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Georgia's program revision application must be received by the close of business, December 16, 1993.

ADDRESSES: Written comments should be sent to A.R. Hanke at the address listed under **FOR FURTHER INFORMATION CONTACT.** Copies of Georgia's program revision application are available during normal business hours at the following addresses for inspection and copying: Georgia Department of Natural Resources, Waste Management Branch, 205 Butler Street, SE, Floyd Towers East, Atlanta, Georgia 30334, 404–656–2833. U.S. EPA Region IV, Library, 345 Courtland Street, NE., Atlanta, Georgia 30365; 404–347–4216.

FOR FURTHER INFORMATION CONTACT: A.R. Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365; (404–347–2234).

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements

promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, and 124, and 270.

B. Georgia

Georgia initially received final authorization for its base RCRA program effective on August 21, 1984, and the latest Immediate Final Rule for authorizing revisions to its program was published in 58 FR 11539, on February 26, 1993. Today Georgia is seeking approval of its program revisions in accordance with 40 CFR 271.21 (b)(3).

EPA has reviewed Georgia's application and has made an immediate final decision that Georgia's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Georgia. The public may submit written comments on EPA's immediate final decision up until December 16, 1993. Copies of Georgia's application for these program revisions are available for inspection and copying at the locations indicated in the ADDRESSES section of this notice.

Approval of Georgia's program revisions shall become effective January 18, 1994, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision, or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Georgia is today seeking authority to administer the following federal requirements promulgated between July 1, 1990 and June 30, 1991, for the remaining rules in RCRA Cluster I except for the February 21, 1991 (56 FR 7134) Burning of Hazardous Waste in Boilers and Industrial Furnaces Rule (Checklist 85).

Provision	FR reference	Federal promulgation date	State authority
CL 47 Technical correction to special requirements for hazardous waste generated by conditionally exempt small quantity generators.	53 FR 27162	7/19/88	391–3–11–.07(1).
CL 81 Petroleum refinery primary and secondary oil/water/solids separation sludge listings (FO37 and FO38).	55 FR 46354 55 FR 51707	11/2/90 12/17/90	391–3–11–.07(1).
CL 82 Wood preserving listings	55 FR 50450	12/6/90	391–3–11–.02(1).
CL 83 Land disposal restrictions for third-third scheduled wastes	56 FR 3864	1/31/91	391–3–11.07(1) 391–3–11.08(1) 391–3–11.16.
CL 89 Revision to the petroleum refining primary and secondary oil/water/solids separation sludge listings (FO37 and FO38).	56 FR 21955	5/13/91	391–3–11–.07(1).
CL 90 Mining waste exclusion III	56 FR 27300	6/13/91	391–3–11–.07.
CL 91 Wood preserving listings	56 FR 27332	6/13/91	391–3–11.07(1).

Georgia is not authorized to operate the federal program on Indian Lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

C. Decision

I conclude that Georgia's application for these program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Georgia is granted final authorization to operate its hazardous waste program as revised.

Georgia now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Georgia also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule 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. 604(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Georgia's program, thereby eliminating duplicate requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials, transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record-keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 28, 1993.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 93–28117 Filed 11–15–93; 8:45 am]

BILLING CODE 6350–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–3 and 301–16

[FTR Amendment 32]

Federal Travel Regulation; Commercial Carrier Accommodations; Conference Planning; Actual Subsistence Expense Reimbursement; Indirect Travel; New Appointee Relocation Allowances; "Last Move Home" Benefits; and Certain Editorial Clarifications; Correction

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule; correction.

SUMMARY: This action corrects errors in a document amending the Federal Travel Regulation which was published October 29, 1993 (58 FR 58234).

EFFECTIVE DATE: October 29, 1993.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

Accordingly, the following corrections are made to FR Doc. 93–26394 in the issue of October 29, 1993.

1. On page 58239, in the first column, in § 301–3.3(d)(4)(iii)(C), in the third line, the punctuation following "packages" is corrected from a comma to a period, and the phrase "and premium-class other than first-class airline accommodations are not available." is removed.

2. On page 58239, in the second column, in § 301–3.3(d)(4)(ix), the last sentence is corrected in the next to the last line by removing the comma following the word "site".

3. On page 58242, in the second column, in § 301–16.4(a)(1), in the eleventh line, the sentence is corrected by adding the word "generally" before the words "should avoid".

Dated: November 5, 1993.

Larry A. Tucker,

Chief, Regulatory Policy Branch.

[FR Doc. 93–28048 Filed 11–15–93; 8:45 am]

BILLING CODE 6820–24–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–265; FCC 93–457]

Cable Act of 1992—Program Distribution and Carriage Agreements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Second Report and Order adopts rules to implement section 12 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), which adds a new section 616 to the Communications Act of 1934 governing agreements between cable operators—or other multichannel video programming distributors—and the programming services they distribute. This action is taken in order to comply with the 1992 Cable Act.

EFFECTIVE DATE: January 10, 1994. If OMB approval is not granted by that date, FCC will publish a document concerning the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: James R. Coltharp, Mass Media Bureau, (202) 632–6302 or Diane L. Hofbauer, Office of Legislative Affairs, (202) 632–6405.

SUPPLEMENTARY INFORMATION: Public reporting burden for this collection of information § 76.1302) is estimated to average 20 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 Federal Communications Commission, Office of Managing Director, AMD-PIRS, Records Management Division, Washington, DC 20554, and to the Office of Management and Budget, Paperwork Reduction Project (3060–XXXX), Washington, DC 20503.

This is a synopsis of the Commission's Second Report and Order in MM Docket No. 92–265, FCC 93–457, adopted September 23, 1993, and released October 22, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M Street, NW., Washington, DC and also may be purchased from the Commission's copy contractor, International Transcription Service (ITS), at (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Second Report and Order

1. This Second Report and Order adopts rules to implement section 12 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), which adds a new section 616 to the Communications Act of 1934 governing agreements between cable operators—or other multichannel video programming distributors—and the programming services they distribute. Section 616 is intended to prevent cable systems and other multichannel video programming distributors ("multichannel distributors") from taking undue advantage of programming vendors through various practices, including coercing vendors to grant ownership interests or exclusive distribution rights to multichannel distributors in exchange for carriage on their systems. The implementing rules for program carriage agreements that we adopt are intended to prohibit those activities specified by Congress in the statute without unduly interfering with legitimate negotiating practices between multichannel video programming distributors and programming vendors. As a result, in this Second Report and Order, we adopt general rules that are consistent with the statute's specific prohibitions regarding actions between distributors and program vendors in forming program carriage agreements, and we will enforce these regulations through a process that will focus on the specific facts pertaining to each negotiation.

Implementation of Carriage Agreement Provisions

2. Section 616(a)(1) of the 1992 Cable Act provides that the Commission must adopt rules to prevent a cable operator or other multichannel distributor from requiring a financial interest in a program service as a condition for carriage on the operator's systems. Given that the statute does not prohibit multichannel distributors from holding a financial interest in a programming service, the Notice 58 FR 328 (January 5, 1993) stated that it may not always be clear whether a cable operator has "required" the programming vendor to provide financial interest as a condition of carrying a particular programming service. Therefore, we sought comment on the factors we should use to determine whether such a requirement for carriage has occurred.

3. Second, section 616(a)(2) directs the Commission to adopt rules that prohibit a cable operator or other multichannel distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage. In this regard, we sought comment on (1) the types of activities that should constitute indicia of coercion; (2) how we might distinguish between "coercion" and "negotiation"; and (3) whether our implementing rules

for section 616 might preclude as "coercion" certain mutually acceptable arrangements that would otherwise comply with section 628. Further, the statute clearly states that exclusive arrangements may exist other than as a condition of carriage. Therefore, we also sought comment on our interpretation that section 616 does not prohibit exclusive arrangements, but that section 616 must be read together with section 628(c), which precludes certain exclusive arrangements and establishes standards for determining whether other exclusive contracts are in the public interest.

4. Third, section 616(a)(3) provides that the new rules must prevent a multichannel distributor from engaging in conduct that unreasonably restrains the ability of an unaffiliated video programming vendor to compete fairly, by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms or conditions for carriage of video programming. In the Notice, we sought comment on the specific conduct that we should consider a violation of this section. We also proposed that an "unaffiliated video programming vendor" would be a video programming vendor or service in which the multichannel distributor does not have an attributable interest, which could be defined by the broadcast attribution criteria of § 73.3555 of the Commission's Rules. In addition, we observed that section 616(a)(3) prohibits multichannel distributors from "discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors." We stated our belief that a practice of discriminating in the context of carriage agreements involves different activities than those discussed with respect to section 628 regarding programming access, and we sought comment on how we should define "discrimination" in the context of section 616.[1]

5. Specific prohibitions of section 616. In implementing the provisions of section 616, we believe that our regulations must strike a balance that prescribes behavior prohibited by the specific language of the statute, but preserves the ability of affected parties to engage in legitimate, aggressive negotiations. Because the statute does not prohibit distributors from acquiring exclusivity rights or financial interests from programming vendors, we believe that resolution of section 616 complaints will necessarily require case-by-case evaluation of the specific behavior involved, and the manner in which those rights were obtained, in order to determine whether a violation has, in fact, occurred. Accordingly, we adopt general rules that are consistent with the statute's specific prohibitions regarding actions between distributors and program vendors in forming program carriage agreements. With respect to the prohibitions set forth in section 616(a) (1)–(3), we will define terms such as "coercion" and "discrimination" progressively through the case law developed by resolving section 616 complaints, because the practices at issue will necessarily involve behavior that must be evaluated within the context of specific facts pertaining to each negotiation. In addition, we observe that section 616(a)(3) prohibits only that conduct "the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly." Thus, the implementing regulations for section 616 will require that any complainant alleging a violation of section 616(a)(3) must demonstrate that the effect of the conduct that prompts the compliant is to unreasonably restrain the ability of the complainant to compete fairly.

6. We believe that this approach complies with the expressed congressional intent of the program access and carriage agreement provisions of the 1992 Cable Act, by preserving the legitimate aspects of negotiations for multichannel video programming that result in greater availability of programming to the multichannel video marketplace. Indeed, we believe that these regulations will follow the statute's directive to "rely on the marketplace, to the maximum extent feasible, to achieve greater availability" of the relevant programming. Furthermore, as suggested in the Notice, the flexibility that is inherent in this approach will be important in our overall effort to resolve both carriage agreement and program access complaints, so that our implementing rules for section 616 do not preclude as "coercion" any mutually acceptable arrangements that would otherwise comply with the program access provisions of section 628. We remind vendors and distributors, however, that our program access regulations prohibit exclusivity in areas unserved by a cable operator, and require prior Commission approval of any exclusivity rights provided in areas served by a cable operator before such rights may be enforced.

7. At the same time, we believe that this method will preclude opportunities for distributors to restrain the ability of certain program vendors to sell programming and compete fairly through attempts to (1) require financial interests in program services as conditions for carriage, (2) coerce exclusive rights or retaliate against vendors that fail to provide such rights, or (3) discriminate among affiliated or nonaffiliated vendors in the selection, terms or conditions of carriage of multichannel video programming. Thus, after reviewing the facts of individual negotiations involved in carriage agreement disputes, the Commission will be able to identify behavior that, in context, is prohibited under section 616.

8. We also observe that the record on this aspect of the 1992 Cable Act has been extremely limited. In the absence of more explicit input, we believe that it is neither helpful nor necessary to develop specific indicia of "coercion" at this time. Also, while we believe that it is unnecessary to provide further illustrative guidelines, we believe that behavior such as that described above, can provide useful guidelines. Such examples may be used by complainants to develop facts to support their complaints, thus serving as models for specific allegations pertaining to unfair program carriage agreements. We also reject the suggestions for alternative tests for identifying "coercion" or "discrimination", because we believe that the unique aspects of individual negotiations will require a more direct examination and evaluation of the facts pertaining to each complaint situation. We emphasize that the statute does not explicitly prohibit multichannel distributors from acquiring a financial interest or exclusive rights that are otherwise permissible. Thus, in the context of good faith, arms-length discussions, multichannel distributors may negotiate for, but may not insist upon, such benefits in exchange for carriage on their systems. We believe that ultimatums, intimidation, conduct that amounts to the exertion of pressure beyond good faith negotiations, or behavior that is tantamount to an unreasonable refusal to deal with a vendor who refuses to grant financial interests or exclusivity rights in exchange for carriage, should be considered examples of behavior that

[1] We note that with respect to these carriage agreement rules, the House Report indicates that "the term 'discrimination' is to be distinguished from how that term is used in connection with actions by common carriers subject to title II of the Communications Act." The House Report further provides that the Commission is to define discrimination with respect to the extensive body of law addressing discrimination in normal business practices. House Report at 110. We sought comment on the appropriate interpretation of this language, particularly with respect to developing standards for identifying "discrimination" governed by sections 616 and 628.

violates the prohibitions set forth in section 616.

9. Finally, we reject the suggestion that we should require evidence of explicit threats, because we believe that actual threats may not always comprise a necessary condition for a finding of coercion. Requiring such evidence would establish an unreasonably high burden of proof that could undermine the intent of section 616 by allowing multichannel distributors to engage in bad faith negotiations that apparently would not violate the statute and our regulations simply because explicit threats were not made during such negotiations. In contrast, we believe that section 616(a)(2) was intended to prohibit implicit as well as explicit behavior that amounts to "coercion." We also agree with the contention that section 616 is sufficiently different from antitrust law in its intent due to the absence of alternative distributors.

10. With respect to the prohibitions set forth in section 616(a)(3), in order to distinguish between programming vendors that are "affiliated" or "nonaffiliated" with particular distributors, we adopt the attribution standard as applied in the program access rules. Specifically; we will consider a vendor to be "affiliated" with respect to a multichannel distributor if the distributor holds five percent or more of the stock of the programmer, whether voting or non-voting. As in the First Report and Order 58 FR 27658 (May 11, 1993) on program access, we will not adopt the single majority shareholder aspect of the broadcast attribution rule. In addition, all officer and director positions and general partnership interests will be attributable, as will limited partnership interests of five percent or greater, regardless of insulation. While certain aspects of this attribution standard may be subject to reconsideration in the program access context, we will adopt a parallel standard in the absence of a detailed rationale that would distinguish the relationships in section 616 from the vertical integration issues in the program access provisions of section 628.

Complaint and Enforcement Procedures

11. The Notice also sought comment on the procedures to be established for review of complaints, and on the appropriate penalties and remedies to be ordered. Section 616(a)(4) provides for expedited review of any complaints made by a video programming vendor pursuant to this section. We sought comment on: (1) Whether we should follow the same review process as was discussed with respect to section 628(d), or rather, adopt different complaint procedures; and (2) whether we should afford carriage agreements confidential treatment in full, or rather, only permit confidential or proprietary information to be redacted. Section 616(a)(5) provides that the Commission must adopt appropriate penalties and remedies for violations of this subsection, including requiring the multichannel video programming distributor to carry the unaffiliated program vendor.[2] Accordingly, we sought comment on: (1) Procedures that we should establish for mandatory carriage; (2) the appropriate duration for mandatory carriage, given that we do not intend to require the multichannel distributor to carry the aggrieved programming service indefinitely; (3) guidelines that we should use to determine forfeiture amounts assessed against violators; (4) whether we should also consider ordering remedies other than forfeiture or mandatory carriage, such as establishment of prices, terms and conditions of sale, similar to the remedies specified in section 628(e)(1). In addition, section 616(a)(6) provides that the Commission must delineate penalties to be assessed against any person filing a frivolous complaint pursuant to this section. We proposed to assess monetary forfeitures for frivolous complaints and we asked for comment on (1) the factors that should determine whether a complaint is frivolous; (2) guidelines to determine forfeiture amounts; and (3) whether we should base the forfeiture amount on the resources expended by the Commission in considering the claim and by the party defending against the claim.

12. General procedures. We believe that a complaint process derived from the process we established for adjudicating undue influence complaints filed pursuant to section 628(c)(2)(A) of the program access provisions of the 1992 Cable Act will provide the most flexible and expeditious means of enforcing the carriage agreement provisions of section 616. Thus, we hereby adopt a system that promotes resolution of as many cases as possible on the basis of a complaint, answer and reply. Given the statute's explicit direction to the Commission to handle program carriage complaints expeditiously, additional pleadings will not be accepted or entertained unless specifically requested by the reviewing staff. Discovery will not necessarily be permitted as a matter of right in all cases, but only as needed on a case-by-case basis, as determined by the staff. Cases that require a relatively contained amount of discovery (limited to written interrogatories and document production) will be resolved at the staff level and shall be subject to review directly by the Commission. Interlocutory review shall be permitted only after the staff has ruled on the merits. The ex parte rules governing restricted proceedings will be applied.

13. As a practical matter, however, given that alleged violations of section 616, especially those involving potentially "coercive" practices, will require an evaluation of contested facts and behavior related to program carriage negotiations, we believe that the staff will be unable to resolve most program carriage complaints on the sole basis of a written record as described above. Rather, we anticipate that resolution of most program carriage complaints will require an administrative hearing to evaluate contested facts related to the parties' specific negotiations. In such cases, after reviewing the complaint, answer and reply, the staff will inform the parties of its determination that resolution of the complaint will require a hearing before an administrative law judge (ALJ). The parties will be given the opportunity to resolve the dispute through the Commission's alternative dispute resolution process (ADR). If ADR is not selected or is unsuccessful, the case will be designated for hearing before an ALJ. Interlocutory applications for review in such cases will be similarly limited, and any decision rendered by an ALJ shall be directly appealable to the Commission. The ex parte rules governing restricted proceedings will be applied.

14. We will require that prior to filing a program carriage complaint, an aggrieved programming vendor must first inform the multichannel distributor of its belief that a violation of Section 616 of the 1992 Cable Act has occurred. Such notice must be sufficiently detailed so that the multichannel distributor can determine the specific nature of the potential complaint. This will give the multichannel distributor a final opportunity to resolve the dispute without involving the Commission. If the parties still cannot reach resolution, the aggrieved program vendor should file its complaint along with evidence (an affidavit or copy of a certified letter) that the required notice to the multichannel distributor has been given. Complaints failing to include such evidence will be dismissed. At this

[2] We note that the House Report states that "[t]his legislation provides new FCC remedies and does not amend, and is not intended to amend, existing antitrust laws. All antitrust and other remedies that can be pursued under current law by video programming vendors are unaffected by this section." House Report at 111.

time, rather than establish a specific time period for the parties to attempt to resolve the dispute before an aggrieved party may file a complaint at the Commission, we will allow the aggrieved programming vendor to determine the appropriate duration of negotiations. At a minimum, however, the programming vendor must provide the potential defendant ten (10) days to respond to the notice, and allow a reasonable time thereafter—which will vary given the particular circumstances of each case—for negotiations. Finally, a one year statute of limitations will apply to carriage agreement complaints. Thus, a complaint filed pursuant to section 616 must be filed within one year of the date on which one of the following occurs:

(a) The complainant enters into a carriage agreement with an multichannel distributor, which the complainant alleges involves a violation of section 616;

(b) The multichannel distributor offers to carry a vendor's programming pursuant to terms that the complainant alleges to violate section 616; or

(c) The complainant notifies an multichannel distributor that it intends to file a complaint based on a request to carry programming that has been denied for reasons that allegedly involve a violation of section 616.

15. Remedies. We note that the record offers very little guidance on the subject of remedies, and in particular, provides little insight on the appropriate scope and duration of relief in the form of mandatory carriage of the complainant's programming. Thus, we do not believe that it is possible to prescribe specific requirements for such relief at this time. Instead, we will determine the appropriate relief for program carriage violations on a case-by-case basis. Complainants will be expected to include a request for relief in their complaint, along with any relevant evidence and arguments in support of the relief requested. Available remedies and sanctions include forfeitures, mandatory carriage, or carriage on terms revised or specified by the Commission. For example, if the Commission finds that a carriage agreement includes a coerced financial interest or exclusivity requirement in violation of section 616, the appropriate remedy may simply be to determine that such terms are unenforceable by the multichannel distributor, and to revise the existing agreement, ordering carriage on the same terms negotiated in that agreement without the coerced financial interest provisions or coerced promise of exclusivity.

16. If a complainant seeks mandatory carriage, it should propose specific terms for such carriage, as well as an explanation of its rationale for proposing those terms, such as the existence of comparable terms in other program carriage agreements to which either the complainant or the defendant is a party, or comparable terms that have been approved by the Commission in other program carriage complaint cases. The defendant may oppose the proposed relief in its answer, and may offer alternative remedies without prejudice to any defenses it may raise or responses to the complainant's allegations. Given the wide range of behavior that may potentially give rise to a violation of the rules adopted herein to implement section 616, we believe that a case-by-case determination of the appropriate remedies based on the specific behavior involved in a particular violation provides the only reasonable and meaningful method of enforcing section 616.

17. With respect to forfeitures, we disagree that the forfeiture amount must be related to the alleged harm to the programming vendor, or that it should be limited to the vendor's "lost profits." Such a standard has not provided the basis for FCC forfeitures in other contexts, nor is it set forth in the statute. Rather, the Commission will reply upon its forfeiture guidelines to determine the appropriate penalty.

Complaint Process

18. Complaint. When filing a complaint, the burden of proof will be on the programming vendor to establish a prima facie showing that the defendant multichannel distributor has engaged in behavior that is prohibited by section 616. The complaint must identify the relevant Commission regulation allegedly violated, and must describe with specificity the behavior constituting the alleged violation. The complainant must establish that it is a video programming vendor, as defined in § 76.1300(d) of the Commission's rules, and that the defendant is a multichannel distributor as defined in § 76.1300(c). For complaints alleging discriminatory treatment that favors "affiliated" programming vendors, the complainant must provide evidence that the defendant has an attributable interest in the allegedly favored programming vendor, as set forth in § 76.1300(a). The complaint must be supported by documentary evidence of the alleged violation, or by an affidavit (signed by an authorized representative or agent of the complaining programming vendor) setting forth the basis for the complainant's allegations. If the complaint involves a specific written program carriage agreement, that agreement should be included with the complaint with proprietary information redacted. We agree that the availability of disputed carriage agreements with redacted proprietary terms will contribute to the body of precedent concerning prohibited conduct, and will assist parties in future negotiations by deterring violations and minimizing the instance of unsuccessful or frivolous complaints. As stated, a one-year statute of limitations will be applied to program carriage complaints. Finally, the complaint should specify the relief requested. If the complainant seeks mandatory carriage, the complaint should specify the desired duration and terms of such carriage, and should include the rationale and any documentary evidence supporting such request. If the complainant seeks modification of an existing carriage agreement, it should specify the terms it seeks to change and should propose specific substitute provisions.

19. Answer and Reply. The defendant will be given thirty (30) days to file its answer responding to the complainant's allegations. The answer should be supported by documentary evidence, or an affidavit (signed by an officer of the defendant) that refutes each allegation made by the complainant or supports any affirmative defenses the defendant may raise. The answer should also include the defendant's response to the relief requested by complainant, as well as any documentary evidence that supports defendant's position. The complainant will be given (20) days to respond to the defendant's answer. As stated above, unless specifically requested by the Commission or its staff, additional pleadings such as motions to dismiss or motions for summary judgment will not be considered. We intend to keep pleadings to a minimum to comply with the statutory directive for an expedited adjudicatory process.

20. Staff Determination. After reviewing the complaint, answer and reply, the staff will make what, for the purposes of these proceedings, we will deem a prima facie determination. If the complainant has not made a prima facie case of a violation of our carriage agreement regulations the complaint will be dismissed. If the staff determines that the complainant has made a prima facie showing, the staff will so rule, and will determine whether it can grant relief on the basis of the existing record. If the record is not sufficient to resolve the complaint and grant relief, the staff will determine and outline the appropriate procedures for discovery, or

will refer the case to an ALJ for an administrative hearing.

21. Discovery. The staff will determine what additional information is necessary to resolve the complaint, and will develop a discovery process and timetable to resolve the dispute expeditiously. Given the complexity of the issues that may be raised in such cases, as well as the likely need to resolve factual disputes, we do not believe that it is practicable or advisable to add to the administrative burdens already placed on the FCC staff by the 1992 Cable Act by imposing, at the outset, a uniform requirement on the staff to dispose of these cases within 90 days. Wherever possible, to avoid discovery disputes and arguments pertaining to relevance, the staff will itself conduct discovery by issuing appropriate letters of inquiry or requiring that specific documents be produced. The staff will determine whether the materials ordered to be produced to the opposing party should also be filed with the Commission. The staff may order that any documents or answers to such inquiries will be submitted to the Commission and to the opposing party within a specified time period. Any information exchanged through discovery may be subjected to a protective order upon an appropriate showing by the relevant party that the information is proprietary. If the staff cannot readily determine what additional information is needed to resolve the dispute, it should refer the complaint to an ALJ. The staff may also hold a status conference to conduct discovery, and is authorized to issue oral rulings at the status conference which will be confirmed to the parties in writing. The parties will be required to take reasonable steps to prevent unauthorized access to protected documents and information. See 47 CFR 76.1302(h).

22. Upon the conclusion of any discovery, the staff may direct the parties to submit briefs, together with proposed findings of fact, conclusions of law and proposed remedies on a specified date. Reply briefs should be filed within the following fifteen (15) days. The parties will be given an additional five (5) days in which to file redacted copies of briefs and reply briefs for the public record when they contain confidential or proprietary information that is subject to a protective order. After a ruling on the merits, either party may file an application for review of the staff's determinations directly to the Commission. Such ruling will include a timetable for compliance, and will become effective upon release. In the absence of a stay, any relief or remedies imposed therein, with the exception of an order requiring mandatory carriage that would require the defendant to delete other programming carried on its distribution system in order to carry complainant's programming, will remain in effect pending appeal. Stays will not be routinely granted. If the staff orders mandatory carriage of the complainant's programming, and such carriage would necessitate deletion of other programming from the defendant's distribution system, the defendant need not carry the programming until the Commission has issued a final ruling on the application for review. In such cases, however, if the Commission upholds in its entirety the relief granted by the staff ruling, the defendant will be required to carry the complainant's programming for an additional time period, beyond that originally ordered by the staff, equal to the amount of time that elapsed between the staff order and the Commission's final decision, on the terms ordered by the staff and upheld by the Commission.

23. Referral to ALJ. If the staff determines that the complainant has established a prima facie case, and that disposition of the complaint will require the resolution of factual disputes or other extensive discovery, it will so advise the parties in writing. If both parties agree, they may elect to resolve the dispute through ADR. If the parties do not agree to ADR, or if ADR is unsuccessful, the staff will refer the complaint to an ALJ for an administrative hearing. As stated above, we anticipate that the majority of the program carriage complaints filed will require an administrative hearing to resolve factual disputes related to the negotiations between the parties. ALJs are expected to resolve program carriage complaints expeditiously, and should hold an immediate status conference to establish timetables for discovery, hearing and submission of briefs and proposed findings of fact and conclusions of law. Interlocutory appeals shall be permitted only after a ruling on the merits. A ruling on the merits by the ALJ must be appealed directly to the Commission. Such a ruling will include the relief granted, a timetable for compliance, and will become effective upon release. In the absence of a stay, any relief or remedies imposed therein, with the exception of an order for mandatory carriage that would require deletion of other programming, will remain in effect pending appeal. Stays will not be routinely granted. If the ALJ orders mandatory carriage of the complainant's programming, and such carriage would necessitate deletion of other programming from the defendant's distribution system, the defendant need not carry the programming until the Commission has issued a final ruling on the appeal. As in the case of a staff order, if the Commission upholds the relief granted by the ALJ in its entirety, the defendant will be required to carry the complainant's programming for an additional time period, beyond that originally ordered by the ALJ, equal to the amount of time that elapsed between the ALJ's decision and the Commission's ruling on the appeal, pursuant to the terms ordered by the ALJ and upheld by the Commission.

Frivolous Complaints

24. The regulations we have adopted to implement the proscriptions contained in section 616 of the 1992 Cable Act are intended to avoid constraining aggrieved programming vendors from filing legitimate complaints, but at the same time must afford the statutory protection to multichannel distributors from frivolous complaints. In the case of program access complaints filed under section 628 of the 1992 Cable Act, we adopt herein a regulation prohibiting the filing of frivolous complaints alleging a violation of section 616. Our regulations will also require that all complaints alleging violations of section 616 must be accompanied by an affidavit signed by an authorized officer or agent of the complainant. To enforce the prohibition against filing frivolous complaints, we will assess monetary forfeitures in accordance with section 503 of the Communications Act and our forfeiture regulations and policies. For purposes of section 503(b)(5), one finding that a non-licensee complainant has filed a frivolous complaint under any provision of section 616 will be sufficient to fulfill the citation requirements of the forfeiture provisions.

25. With respect to the type of complaints that the Commission will deem frivolous, we believe that complaints filed without any effort to ascertain or review the underlying facts should be considered frivolous. We expect that the requirement adopted herein that complaints be accompanied by affidavit should assure that such complaints are based on specific and substantiated facts. When this is not the case, the complainant will be liable for sanctions for violating our rule against frivolous complaints. Similarly, complainants will be liable for sanctions for filing a frivolous complaint when that complaint is based on arguments that have been specifically rejected by the Commission in other proceedings, or

for filing a complaint that has no plausible basis for relief. We expect that further standards with respect to frivolous complaints will develop as specific cases are adjudicated.

26. In this Second Report and Order, we adopt rules to implement the new section 616 of the Communications Act regarding program carriage agreements. Given the program access regulations previously adopted, we recognize that enhanced availability of multichannel programming to the public will also depend upon the ability of program vendors to sell their services without becoming subject to coercive or discriminatory practices. Therefore, we week to establish regulations that prevent multichannel programming distributors from entering into carriage agreements that are conditioned on concessions of various rights, including financial interests or exclusivity. By adopting this process to identify prohibited conduct in negotiating program carriage agreements, we believe that the implementing regulations remain consistent with the general approach in this proceeding to serve the congressional intent to prohibit unfair and anticompetitive actions without restraining the amount of multichannel programming available by precluding legitimate business practices common to a competitive marketplace.

Administrative Matters

Final Regulatory Flexibility Analysis

27. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need and purpose of this action: This action is taken to implement section 12 of the Cable Television Consumer Protection and Competition Act of 1992.

II. Summary of the issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis: There were no comments submitted in response to the Initial Regulatory Flexibility Analysis.

III. Significant alternatives considered: We have analyzed the comments submitted in light of our statutory directives and have formulated regulations which, to the extent possible, minimize the regulatory burden placed on entities covered by the program carriage agreement provisions of the Cable Act. Different entities will be affected in different ways. Some programming distributors may be forced to alter their policies for negotiating for program carriage, while other vendors may receive benefits in increased flexibility in selling their program services.

IV. Federal Rules which overlap, duplicate or conflict with these rules. None.

28. The Secretary shall cause a copy of the Second Report and Order, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Public Law No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

Ordering Clauses

29. Accordingly, *It is ordered* That, pursuant to Sections 2(a), 4(i), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152(a), 154(i), and 303(r), part 76 of the Commission's Rules, 47 CFR part 76, is amended as set forth below, effective January 10, 1994, subject to the Office of Management and Budget approval. (See the **EFFECTIVE DATE** paragraph of this document.)

30. *It is further ordered* That MM Docket No. 92–265 is terminated.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Amendatory Text

Part 76 of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for part 76 is revised to read as follows:

Authority: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309, 532, 533, 535, 536, 542, 543, 552.

2. Subpart P is added and reserved and subpart Q is added to part 76 to read as follows:

Subpart Q—Regulation of Carriage Agreements

Sec. 76.1300	Definitions
Sec. 76.1301	Prohibited Practices
Sec. 76.1302	Adjudicatory Proceedings
Sec. 76.1303	[RESERVED]
Sec. 76.1304	[RESERVED]
Sec. 76.1305	[RESERVED]

Subpart Q—Regulation of Carriage Agreements

§ 76.1300 Definitions.

As used in this subpart:

(a) *Affiliated.* For purposes of determining whether a video programming vendor is "affiliated" with a multichannel video programming distributor, as used in this subpart, the definitions for "attributable interest" contained in the notes to § 76.501 shall be used, provided, however that:

(1) The single majority shareholder provisions of Note 2(b) to § 76.501 and the limited partner insulation provisions of Note 2(g) to § 76.501 shall not apply; and

(2) The provisions of Note 2(a) to § 76.501 regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more.

(b) *Buying groups.* The term "buying group" or "agent," for purposes of the definition of a multichannel video programming distributor set forth in paragraph (e) of this section, means an entity representing the interests of more than one entity distributing multichannel video programming that:

(1) Agrees to be financially liable for any fees due pursuant to a satellite cable programming, or satellite broadcast programming, contract which it signs as a contracting party as a representative of its members or whose members, as contracting parties, agree to joint and several liability; and

(2) Agrees to uniform billing and standardized contract provisions for individual members; and

(3) Agrees either collectively or individually on reasonable technical quality standards for the individual members of the group.

(c) *Multichannel video programming distributor.* The term "multichannel video programming distributor" means an entity engaged in the business of making available for purchase, by subscribers or customers, multiple channels of video programming. Such entities include, but are not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, a television receive-only satellite program distributor, and a satellite master antenna television system operator, as well as buying groups or agents of all such entities.

(d) *Video programming vendor.* The term "video programming vendor" means a person engaged in the production, creation, or wholesale distribution of video programming for sale.

§ 76.1301 Prohibited practices.

(a) *Financial interest.* No cable operator or other multichannel video programming distributor shall require a financial interest in any program service as a condition for carriage on one or

more of such operator's/provider's systems.

(b) *Exclusive rights.* No cable operator or other multichannel video programming distributor shall coerce any video programming vendor to provide, or retaliate against such a vendor for failing to provide, exclusive rights against any other multichannel video programming distributor as a condition for carriage on a system.

(c) *Discrimination.* No multichannel video programming distributor shall engage in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or non-affiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors.

§ 76.1302 Adjudicatory proceedings.

Any video programming vendor aggrieved by conduct that it alleges to constitute a violation of the regulations set forth in this subpart may commence an adjudicatory proceeding at the Commission.

(a) *Notice required.* Any aggrieved video programming vendor intending to file a complaint under this section must first notify the defendant multichannel video programming distributor that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in § 76.1301. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

(b) *General pleading requirements.* Carriage agreement complaint proceedings are generally resolved on a written record consisting of a complaint, answer and reply, but may also include other written submissions such as briefs and written interrogatories. All written submissions, both substantive and procedural, must conform to the following standards:

(1) Pleadings must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy should be pleaded fully and with specificity.

(2) Pleadings must contain facts which, if true, are sufficient to constitute a violation of the Act or Commission order or regulation, or a defense to such alleged violation.

(3) Facts must be supported by relevant documentation or affidavit.

(4) Legal arguments must be supported by appropriate judicial, Commission, or statutory authority.

(5) Opposing authorities must be distinguished.

(6) Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies.

(7) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner at any time before a decision is rendered on the merits of the complaint.

(c) *Complaint.*

(1) A carriage agreement complaint shall contain:

(i) The name of the complainant and defendant;

(ii) The address and telephone number of the complainant, the type of multichannel video programming distributor that describes the defendant, and the address and telephone number of the defendant;

(iii) The name, address and telephone number of complainant's attorney, if represented by counsel;

(iv) Citation to the section of the Communications Act and/or Commission regulation or order alleged to have been violated;

(v) A complete statement of facts, which, if proven true, would constitute such a violation;

(vi) Any evidence that supports the truth or accuracy of the alleged facts, including, when relevant, any written carriage agreement between the complainant and the defendant, with proprietary information redacted;

(vii) Evidence that supports complainant's belief that the defendant, where necessary, meets the attribution standards for application of the carriage agreement regulations;

(viii) For complaints alleging a violation of § 76.1301(c), evidence that supports complainant's claim that the effect of the conduct complained of is to unreasonably restrain the ability of the complainant to compete fairly;

(ix) The specific relief sought, and the rationale and any evidence in support of the relief sought.

(2) Every complaint alleging a violation of the carriage agreement requirements shall be accompanied by a sworn affidavit signed by an authorized officer or agent of the complainant. This affidavit shall contain a statement that the affiant has read the complaint and that to the best of the affiant's knowledge, information and belief formed after reasonable inquiry it is well grounded in fact and is warranted under Commission regulations and policies or is a good faith argument for the extension, modification or reversal of such regulations or policies, and it is not interposed for any improper purpose. If the complaint is signed in violation of this rule, the Commission upon motion or its own initiative shall impose upon the complainant an appropriate sanction.

(3) The following format may be used in cases to which it is applicable, with such modifications as the circumstances may render necessary:

Before the Federal Communications Commission, Washington, DC 20554

In the matter of Complainant, v. Defendant.
File No. (To be inserted by the Commission) [Insert Subject/Nature of Violation]

Carriage Agreement Complaint

To: The Commission.

The complainant (here insert full name of complainant, and if a corporation, the corporate title of such complainant).

1. (Here state the complainant's post office address and telephone number.)

2. (Here insert the name, defendant's method of multichannel video distribution, address and telephone number of defendant.)

3. (Here insert fully and clearly the specific act or thing complained of, together with such facts as are necessary to give full understanding of the matter, including relevant legal and documentary support.)

Wherefore, complainant asks (here state specifically the relief desired, including rationale and relevant legal and documentary support for such relief).

(Date)
(Name of complainant)
(Name, address, and telephone number of attorney, if any)

(4) The complaint must be accompanied by appropriate evidence demonstrating that the required notification pursuant to paragraph (a) of this section has been made.

(d) *Answer.*

(1) Any multichannel video programming distributor upon which a carriage agreement complaint is served under this section shall answer within thirty (30) days of service of the complaint, unless otherwise directed by the Commission.

(2) The answer shall advise the parties and the Commission fully and completely of the nature of any and all defenses, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Any defendant failing to file and serve an answer within the time

and in the manner prescribed by these rules may be deemed in default and an order may be entered against defendant in accordance with the allegations contained in the complaint.

(3) The answer shall state concisely any and all defenses to each claim asserted and shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the answer shall specify so much of it as is true and shall deny only the remainder. The defendant may make its denials as specific denials of designated averments or paragraphs, or may generally deny all the averments except such designated averments or paragraphs as the defendant expressly admits. When the defendant intends to controvert all averments, the defendant may do so by general denial.

(4) Averments in a complaint are deemed to be admitted when not denied in the answer.

(5) The answer shall also address the relief requested in the complaint, including legal and documentary support for such response, and may include an alternative relief proposal without prejudice to any denials or defenses raised.

(e) *Reply.* Within twenty (20) days after service of an answer, the complainant may file and serve a reply which shall be responsive to matters contained in the answer and shall not contain new matters. Failure to reply will not be deemed an admission of any allegations contained in the answer, except with respect to any affirmative defenses set forth therein.

(f) *Motions.* Except as provided in this section, or upon a showing of extraordinary circumstances, additional motions or pleadings by any party will not be accepted.

(g) *Discovery.*

(1) The Commission staff may in its discretion order discovery limited to the issues specified by the Commission. Such discovery may include answers to written interrogatories or document production.

(2) The Commission staff may in its discretion hold a status conference with the parties, pursuant to paragraph (j) of this section, to determine the scope of discovery.

(3) If the Commission staff determines that extensive discovery is required or that resolution of the complaint will require resolution of disputed facts, the staff will advise the parties that the proceeding will be referred to an administrative law judge in accordance with paragraph (m) of this section.

(h) *Confidentiality of proprietary information.*

(1) Any materials generated or provided by a party in the course of adjudicating a carriage agreement complaint under this subpart may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality will have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in the FOIA.

(2) Materials marked as proprietary may be disclosed solely to the following persons, only for use in prosecuting or defending a party to the complaint action, and only to the extent necessary to assist in the prosecution or defense of the case:

(i) Counsel of record representing the parties in the complaint action and any support personnel employed by such attorneys;

(ii) Officers or employees of the opposing party who are named by the opposing party as being directly involved in the prosecution or defense of the case;

(iii) Consultants or expert witnesses retained by the parties;

(iv) The Commission and its staff; and

(v) Court reporters and stenographers in accordance with the terms and conditions of this section. These individuals shall not disclose information designated as proprietary to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense in the case before the Commission. Each individual who is provided access to the information by the opposing party shall sign a notarized statement affirmatively stating, or shall certify under penalty of perjury, that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(3) No copies of materials marked proprietary may be made except copies to be used by persons designated in paragraph (h)(2) of this section. Each party shall maintain a log recording the number of copies made of all proprietary material and the persons to whom the copies have been provided.

(4) Upon termination of the complaint proceeding, including all appeals and petitions, all originals and reproductions of any proprietary materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the complaint proceeding, any notes or other work product derived in whole or in part from the proprietary materials of an opposing or third party shall be destroyed

(i) *Other required written submissions.*

(1) The Commission may, in its discretion, require the parties to file briefs summarizing the facts and issues presented in the pleadings and other record evidence. These briefs shall contain the findings of fact and conclusions of law which that party is urging the Commission to adopt, with specific citations to the record, and supported by relevant authority and analysis.

(2) The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including copies of all contracts and documents reflecting arrangements and understandings alleged to violate the carriage agreement requirements set forth in the Communications Act and § 76.1301, as well as affidavits and exhibits.

(3) Any briefs submitted shall be filed concurrently by both the complainant and defendant at such time as is designated by the staff. Such briefs shall not exceed fifty (50) pages.

(4) Reply briefs may be submitted by either party within twenty (20) days from the date initial briefs are due. Reply briefs shall not exceed thirty (30) pages.

(5) Briefs containing information which is claimed by an opposing or third party to be proprietary under paragraph (h) of this section shall be submitted to the Commission in confidence pursuant to the requirements of § 0.459 of this chapter, and shall be clearly marked "Not for Public Inspection." An edited version removing all proprietary data shall be filed with the Commission for inclusion in the public file within five (5) days from the date the unedited version is submitted and served on opposing parties.

(j) *Status conference.*

(1) In any carriage agreement complaint proceeding, the Commission

staff may in its discretion direct the attorneys and/or the parties to appear for a conference to consider:

(i) Simplification or narrowing of the issues;

(ii) The necessity for or desirability of amendments to the pleadings, additional pleadings, or other evidentiary submissions;

(iii) Obtaining admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(iv) Settlement of the matters in controversy by agreement of the parties;

(v) The necessity for and extent of discovery, including objections to interrogatories or requests for written documents;

(vi) The need and schedule for filing briefs, and the date for any further conferences; and

(vii) Such other matters that may aid in the disposition of the complaint.

(2) Any party may request that a conference be held at any time after the complaint has been filed.

(3) Conferences will be scheduled by the Commission at such time and place as it may designate, to be conducted in person or by telephone conference call.

(4) The failure of any attorney or party, following reasonable notice, to appear at a scheduled conference will be deemed a waiver and will not preclude the Commission from conferring with those parties or counsel present.

(5) During a status conference, the Commission staff may issue oral rulings pertaining to a variety of interlocutory matters relevant to the conduct of a carriage agreement complaint proceeding including, inter alia, procedural matters, discovery, and the submission of briefs or other evidentiary materials. These rulings will be promptly memorialized in writing and served on the parties. When such rulings require a party to take affirmative action not subject to deadlines established by another provision of this subpart, such action will be required within ten (10) days from the date of the written memorialization unless otherwise directed by the staff.

(k) *Specifications as to pleadings, briefs, and other documents; subscriptions.*

(1) All papers filed in a carriage agreement complaint proceeding must be drawn in conformity with the requirements of §§ 1.49 and 1.50 of this chapter.

(2) All averments of claims or defenses in complaints and answers shall be made in numbered paragraphs. The contents of each paragraph shall be limited as far as practicable to a statement of a single set of circumstances. Each claim founded on a separate transaction or occurrence and each affirmative defense shall be separately stated to facilitate the clear presentation of the matters set forth.

(3) The original of all pleadings and submissions by any party shall be signed by that party, or by the party's attorney. Complaints must be signed by the complainant. The signing party shall state his or her address and telephone number and the date on which the document was signed. Copies should be conformed to the original. Except when otherwise specifically provided by rule or statute, pleadings need not be verified. The signature of an attorney or party shall be a certification that the attorney or party has read the pleading, motion, or other paper; that to the best of his or her knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for any improper purpose. If any pleading or other submission is signed in violation of this provision, the Commission shall upon motion or upon its own initiative impose upon the party an appropriate sanction. Where the pleading or submission is signed by counsel, the provisions of §§ 1.52 and 1.24 of this chapter shall also apply

(l) *Copies; service.*

(1) The complainant shall file an original plus three copies of the complaint with the Commission.

(2) An original plus two copies shall be filed of all pleadings and documents other than the complaint.

(3) The complainant shall serve the complaint on each defendant at the same time that it is filed at the Commission.

(4) All subsequent pleadings and briefs, as well as all letters, documents or other written submissions, shall be served by the filing party on all other parties to the proceeding, together with proof of such service in accordance with the requirements of § 1.47 of this chapter.

(5) The parties to any carriage agreement complaint proceeding brought pursuant to this section may be required to file additional copies of any or all papers filed in the proceeding.

(m) *Referral to administrative law judge.*

(1) After reviewing the complaint, answer and reply, and at any stage of the proceeding thereafter, the Commission staff may, in its discretion, designate any carriage agreement complaint proceeding for an adjudicatory hearing before an administrative law judge.

(2) Before designation for hearing, the staff shall notify, either orally or in writing, the parties to the proceeding of its intent to so designate, and the parties shall be given a period of ten (10) days to elect to resolve the dispute resolution procedures, or to proceed with an adjudicatory hearing. Such election shall be submitted in writing to the Commission.

(3) Unless otherwise directed by the Commission, or upon motion by the Mass Media Bureau Chief, the Mass Media Bureau Chief shall not be deemed to be a party to a carriage agreement complaint proceeding designated for a hearing before an administrative law judge pursuant to this paragraph (m).

(n) *Petitions for reconsideration.* Petitions for reconsideration of interlocutory actions by the Commission's staff or by an administrative law judge will not be entertained. Petitions for reconsideration of a decision on the merits made by the Commission's staff should be filed in accordance with §§ 1.104 through 1.106 of this chapter.

(o) *Interlocutory review.*

(1) Except as provided in paragraph (o)(2) of this section, no party may seek review of interlocutory rulings until a decision on the merits has been issued by the staff or administrative law judge.

(2) Rulings listed in this paragraph are reviewable as a matter of right. An application for review of such ruling may not be deferred and raised as an exception to a decision on the merits.

(i) If the staff's ruling denies or terminates the right of any person to participate as a party to the proceeding, such person, as a matter of right, may file an application for review of that ruling.

(ii) If the staff's ruling requires production of documents or other written evidence, over objection based on a claim of privilege, the ruling on the claim of privilege is reviewable as a matter of right.

(iii) If the staff's ruling denies a motion to disqualify a staff person from participating in the proceeding, the ruling is reviewable as a matter of right.

(p) *Expedited review.*

(1) Any party to a carriage agreement complaint proceeding aggrieved by any decision on the merits issued by the staff pursuant to delegated authority may file an application for review by the Commission in accordance with § 1.115 of this chapter.

(2) Any party to a carriage agreement complaint proceeding aggrieved by any decision on the merits by an administrative judge may file an appeal

of the decision directly with the Commission in accordance with § 1.276(a) and §§ 1.277 (a) through (c) of this chapter, except that unless a stay is granted by the Commission, the decision by the administrative law judge will become effective upon release and will remain in effect pending appeal.

(q) *Frivolous complaints.* It shall be unlawful for any party to file a frivolous complaint with the Commission alleging any violation of this subpart. Any violation of this paragraph shall constitute an abuse of process subject to appropriate sanctions.

(r) *Statute of limitations.* Any complaint filed pursuant to this section must be filed within one year of the date on which one of the following events occurs:

(1) The multichannel video programming distributor enters into a contract with the complainant that the complainant alleges to violate one or more of the rules contained in this subpart; or

(2) The multichannel video programming distributor offers to carry the complainant's programming pursuant to terms that the complainant alleges to violate one or more of the rules contained in this subpart; or

(3) The complainant has notified a multichannel video programming distributor that it intends to file a complaint with the Commission based on a request for carriage or to negotiate for carriage of its programming on defendant's distribution system that has been denied or unacknowledged, allegedly in violation of one or more of the rules contained in this subpart.

(s) *Remedies for violations.*

(1) *Remedies authorized.* Upon completion of such adjudicatory proceeding, the Commission shall order appropriate remedies, including, if necessary, mandatory carriage of complainant's programming on defendant's video distribution system, or the establishment of prices, terms, and conditions for the carriage of complainant's programming. Such order shall set forth a timetable for compliance, and shall become effective upon release, unless any order of mandatory carriage would require the defendant multichannel video programming distributor to delete existing programming from its system to accommodate carriage of complainant's programming. In such instances, if the defendant seeks review of the staff or administrative law judge decision, the order for carriage of complainant's programming will not become effective unless and until the decision of the staff or administrative law judge is upheld by the Commission. If the Commission upholds the remedy ordered by the staff or administrative law judge in its entirety, the defendant will be required to carry the complainant's programming for an additional period of time equal to the time elapsed between the staff or administrative law judge decision and the Commission's ruling, on the terms and conditions approved by the Commission.

(2) *Additional sanctions.* The remedies provided in paragraph (s)(1) of this section are in addition to and not in lieu of the sanctions available under title V or any other provision of the Communications Act.

[FR Doc. 93-27880 Filed 11-15-93; 8:54 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89-26; Notice 4]

RIN 2127-AD24

Federal Motor Vehicle Safety Standard; Convex Cross View Mirrors on School Buses

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

ACTION: Technical amendment, response to petition for reconsideration.

SUMMARY: This notice responds to Ford Motor Company's petition for reconsideration of a final rule amending Standard No. 111, *Rearview Mirrors* (49 CFR 571.111), with respect to the field-of-view around school buses. This notice denies the petition in most respects. However, this notice does amend the mounting requirements in section S9.3(b)(4). In addition, it redesignates certain sections related to the school bus mirror test procedures, which were incorrectly numbered in the final rule.

DATES: Effective Date: The amendment becomes effective December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Hott, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 366-0247.

SUPPLEMENTARY INFORMATION:

I. Final Rule

On December 2, 1992, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 111, *Rear-View Mirrors*, to ensure that a school bus provides adequate field-of-view around a stopped school bus, thus reducing the risk of school buses striking students who board or leave the vehicle. (57 FR 57015, December 2, 1992) More specifically, the final rule amended the standard to require a school bus to be designed so that the driver is able to see, either directly or through mirrors, certain specified areas in front of and along each side of the bus. To this end, the final rule addressed a number of issues related to school bus mirror systems, including the field-of-view performance requirements and testing procedures.

II. Petition for Reconsideration

NHTSA received a petition for reconsideration of the final rule from Ford Motor Company (Ford). Ford raised issues relating to the definition of "effective mirror surface," the field-of-view required of system A mirrors, and the mirror mounting requirements. Ford also raised several test procedure questions, i.e., test cylinder color, the test manikin eye location, and camera placement.

III. Agency's Response to the Petition

As explained below, the agency has decided to deny Ford's petition in most respects. The only provisions that the agency has decided to amend are the mirror mounting requirements in section S9.3(b)(4).

A. Definition of "Effective Mirror Surface"

The final rule adopted a requirement that certain images in a required mirror must be a minimum distance from the edge of the mirror's "effective mirror surface" (S9.4(a)). The rule defined "effective mirror surface" as "the portions of a mirror that reflect images, excluding the mirror rim or mounting brackets" (S4, § 571.111).

Ford argued that the definition is ambiguous and fails to be objective as required by section 103(a) of the National Traffic and Motor Vehicle Safety Act ("Safety Act"). It contended that the definition could be interpreted to include portions of a mirror housing whose surface has some degree of reflective properties. Ford requested that the agency adopt the following definition for *Effective mirror surface:* "Those portions of a mirror designed to reflect images."

NHTSA denies Ford's request. The agency believes the term "mirror surface" is adequately defined and that misunderstandings about its meaning are unlikely to occur. Moreover, Ford's requested definition would not make

the standard any more objective. Mirror housings would be excluded from the definition of "mirror surface" under both Ford's suggested definition and the standard's definition in S4.

B. System A Field-of-view Requirements

The final rule requires each school bus to be equipped with two mirror systems on each side of the bus: (1) "System A," which consists of a flat driving mirror of unit magnification and typically a convex driving mirror; and (2) "System B," which consists of convex cross view mirrors for student detection during loading and unloading. The System A mirror system must provide, among other things, a view of the area of the ground extending rearward from an area below the mirror surface. System B (convex cross view mirrors) must provide, among other things, a view of the ground that overlaps with the view of the ground provided by System A. The areas viewable along each side of the bus via the Systems A and B mirrors are required to provide the driver with a view of the ground in front of and along both sides of the bus and extending at least 200 feet rearward from the driving mirror.

Ford stated that requiring System A mirrors to provide a view of the ground immediately beneath them fails to meet the need for safety and may make currently designed flat unit magnification mirrors impracticable. Ford stated that inclusion of a ground view requirement results in a "de facto" design requirement since System B supplemental convex mirrors are the only type of mirrors that are capable of providing the ground view. It claimed that the only way a System A unit magnification mirror could comply with this ground view requirement would be to tilt the mirror downward, an action that would compromise the accident avoidance characteristics of the System A mirror. Ford also stated that the ground view requirement for System A mirrors was redundant because System B mirrors already provide a view of the ground immediately beneath the System A mirrors.

Ford requested that NHTSA amend the requirement in Standard 111 that System A mirrors provide an extended rearward view of the ground starting from the area beneath the mirror (S9.2(b)(1), (2)). Ford suggested amending the starting point for the rearward view to be "that area of the ground which extends rearward *from the rearward vertical edge of the driver's left (or right) side window * * *"* (emphasis added).

The agency has decided not to adopt Ford's suggested revision. The requirement that System A mirrors must provide a view of the ground immediately beneath them is justified by a safety need. The rule is intended to ensure that the System A mirrors detect student pedestrians along most of the length of the vehicle, and not just by the rear wheels, as Ford suggests. Ford's suggested System A mirrors would have possible blind spots in the area of the ground directly below the driver's mirrors and forward of the rear edge of the side windows. Ford is correct that the System B mirrors could detect the blind spots, but NHTSA believes requiring both the System A and B mirrors to reflect all areas around the school bus optimizes driver visibility and reduces to the greatest degree possible the likelihood of the school bus striking a student pedestrian. Additionally, a convex portion of a System A mirror would typically have a lower radius of curvature than a System B mirror, and thus would provide a larger and more readily recognizable image of a child directly under the System A mirror. For these reasons, this part of Ford's petition is denied.

In any event, NHTSA wishes to clarify Ford's understanding about manufacturers using flat unit magnification mirrors as System A mirrors. In discussing this issue in the final rule, the agency explained that it is permissible to use a combination of convex and flat mirrors to meet the System A requirements, and that the convex portion of the mirror system can be used for the view beneath the System A mirror. 57 FR at 57005.

Based on docket comments and information about common school bus practices, NHTSA believes that manufacturers will in all likelihood install System A mirrors that include a flat mirror and a convex mirror. However, NHTSA has kept open what types of mirrors could be used to meet the field-of-view requirements for System A mirrors by issuing performance oriented, not design oriented requirements. Therefore, manufacturers can choose whatever mirror system they believe is best. Avoiding unnecessary restrictions facilitates the introduction of future technological improvements in mirror systems.

C. Mounting Requirements

Section S9.3(b)(4) requires each mirror system to be "installed with a stable support designed to dampen vibration." Ford objected to the requirement pertaining to dampening mechanisms.

After reviewing this issue, NHTSA realizes there was an oversight in the final rule relating to S9.3(b)(4). The agency stated in the preamble to the rule that it was not adopting the "designed to dampen vibration" text of the proposed S9.3(b)(4). 57 FR at 57007. However, the text was inadvertently adopted. Today's document corrects the error by revising S9.3(b)(4) to read "Each mirror shall be installed with a stable support."

D. Test Cylinder Color

Section 13.1 of the final rule requires that the test cylinders "be a color which provides a high contrast with the surface on which the bus is parked."

In its petition for reconsideration, Ford stated that the requirement about cylinder color should be deleted because it has no apparent relationship to any motor vehicle safety need. Ford stated that it is not necessary to specify that the cylinders be colored or that they have a high degree of visual contrast with the surface upon which they are placed. It believed that it is meaningless to require cylinders to be colored merely for purposes of compliance test conditions, when the photographic demonstration process does not call for images to be on color film.

NHTSA does not believe Ford's objection has merit. The compliance test procedure was developed by NHTSA at the agency's Vehicle Research and Test Center (VRTC) and discussed in "Ergonomic Research on School Bus Cross View Mirror Systems," DOT–HS–807–676, August 1990. (This report is discussed at 57 FR at 57002 in the final rule document). As discussed in the report, NHTSA found that the provision for the visual appearance of the cylinders facilitates compliance testing because the cylinders can be better seen on the test film. Cylinders that are of a color that is of high contrast with the background pavement are easier to see even on black and white film. Further, while commenters to the NPRM offered varying views about the test cylinder's color, the commenters generally agreed that the test cylinder should contrast with the background.

In any event, S13 does not require that manufacturers test their school bus mirrors in the manner described therein. Manufacturers may test their buses in any manner they choose, and may choose not to highlight their cylinders against the background pavement. However, the specification in S13 means that NHTSA's cylinders will be of high contrast with the background, to ensure that the cylinders can be

accurately viewed through the mirrors in a compliance test.

For the reasons stated above, this part of Ford's petition is denied.

E. Camera Placement Related to Test Manikin Eye Location

The final rule specifies that the camera is to be placed at the center point of the eye location for a 25th percentile adult female in the driver's seat. That point is specified as the point located 27 inches vertically above the intersection of the seat cushion and seat back.

Ford stated that this requirement fails to set an objective standard, claiming that the location of the specified line is imprecise for many conventional seats and practically impossible to determine for contoured seats. Ford recommended that a manikin H point (or its shoulder point) should be used as a reference point for locating the eye point location instead of the seat back/seat cushion intersection.

NHTSA disagrees with Ford's objection to the procedures for establishing the correct camera placement. The agency based the camera placement on the driver eye location of a 25th percentile adult female, as represented by a two-dimensional manikin. The final rule provides sufficient dimensional information for locating the center point of the driver's eye location. The agency notes that the NPRM requested comments about whether the driver's eye location could be established for each type of seat, and no commenter stated that there would be a problem establishing the driver's eye location. In fact, Blue Bird (a school bus manufacturer) stated that the procedures to establish eye location would allow precise determination of the driver's eye location in any school bus. Based on the agency's research at VRTC and comments to the NPRM, NHTSA believes that the requirements for establishing the driver's eye location are sufficiently precise to establish this point for all driver seats in school buses. The agency notes that the correct height above the seat can easily be established on a contoured seat with the procedure specified in new section 13.4. Bus manufacturers do not have a problem establishing this location. In simple terms, this location is 27 inches above the lowest point of a contoured seat cushion. Accordingly, this part of Ford's petition is denied.

F. Camera Image

The second sentence of 13.5(b) specifies that the image of each cylinder is to be photographed in the appropriate mirror with the camera located so as to ensure "that the image of the mirror and comparison chart fill the camera's view finder to the extent possible." In its petition for reconsideration, Ford suggested changing the quoted text to state that the photograph is taken such that "complete images of the mirror and comparison chart are included in the photograph." Ford believed it is unnecessary to specify that the image of the mirror and chart must fill the camera's view finder; any photograph of the mirror and chart could simply be enlarged to a size large enough for analysis. In addition, Ford believed that for many cameras, the view finder might see a slightly different scene than is presented to the imaging lens (this phenomenon is referred to as "optical parallax").

The agency does not agree that the specification should be amended. The specification ensures that the photographed image is as large and as clear as possible. The definition of an object (such as the image of the test cylinder) can be diminished greatly when the image on the film is small and has to be enlarged. Without adequate definition, the images can appear blurred and could be unusable for measurement purposes. Moreover, the agency did not experience any problems regarding optical parallax in the NHTSA test program developing the test procedure for school bus mirrors, and has no reason to believe optical parallax will become a problem. Accordingly, that part of the petition is denied.

IV. Corrections

This document redesignates certain sections related to the school bus mirror test procedures in S13, which were incorrectly numbered in the final rule. Specifically, on page 57019 of the document, the sections should have been numbered beginning with "S13.4" instead of "S13.2."

V. Rulemaking Analyses and Notices

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

NHTSA has analyzed this rulemaking and determined that it is neither "major" within the meaning of Executive Order 12866 nor "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. The agency believes that a full regulatory evaluation is not required because the rule will have only minimal economic impacts. The amendment is a technical amendment to make the regulatory text consistent with the agency's intent, as explained in the preamble to the final rule.

Regulatory Flexibility Act

NHTSA has considered the effects of this action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. School bus manufacturers are generally not small businesses within the meaning of the Regulatory Flexibility Act. Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new school buses. However, any impact on small entities from this action will be minimal since the amendment makes a minimal change in the final rule that will not impose additional costs. Accordingly, the agency has determined that preparation of a regulatory flexibility analysis is unnecessary.

Executive Order 12612 (Federalism)

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

National Environmental Policy Act

NHTSA has also analyzed this rulemaking action for purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

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 (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 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.

§ 571.111 [Amended]

2. In § 571.111, S9.3(b)(4) is revised to read as follows, and on pages 57019 and 57020 of Volume 57 of the **Federal Register** (December 2, 1992), S13.2 through S13.6 are redesignated as S13.4 through S13.8.

S9.3 * * *

(4) Each mirror shall be installed with a stable support.

* * * * * * *

Issued on: November 10, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–28132 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

RIN 1018–AB79

Marine Mammals; Incidental Take During Specified Activities

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is issuing final regulations that will authorize and govern the incidental, unintentional take of small numbers of polar bears and walrus during oil and gas industry operations (exploration, development, and production) year-round in the Beaufort Sea and adjacent northern coast of Alaska.

Under provisions of the Marine Mammal Protection Act, the taking of these marine mammals may be allowed only if the Director of the Service finds, based on the best scientific evidence available, that the cumulative total of such taking over a 5-year period will have a negligible impact on these species and will not have an unmitigable adverse impact on the availability of these species for subsistence uses by Alaskan Natives. If these findings are made, the Service is required to establish specific regulations for the activity that set forth: Permissible methods of taking; means of effecting the least practicable adverse impact on the species and their habitat and on the availability of the species for subsistence uses; and requirements for monitoring and reporting.

Through the preparation of an Environmental Assessment, the Service has found that the total expected takings of polar bear and walrus during oil and gas industry exploration, development, and production activities will have a negligible impact on these species, and there will be no unmitigable adverse impacts on the availability of these species for subsistence uses by Alaskan Natives.

This rulemaking does not authorize the actual activities associated with oil and gas industry operations; the Department of the Interior's Minerals Management Service is responsible for permitting activities associated with such operations. Instead, this rulemaking authorizes the issuance of Letters of Authorization (LOA) that will permit the unintentional takes of small numbers of polar bears and walruses incidental to oil and gas exploration, development, and production activities.

DATES: *Effective Date:* This rule is effective beginning December 16, 1993 through June 16, 1995.

The regulations will apply for a period of 18 months beginning December 16, 1993 for entities conducting oil and gas industry activities. Certain conditions will apply as explained in the **SUPPLEMENTARY INFORMATION.** If these conditions are met, the regulations will be extended pursuant to notice and opportunity for public comment, for an additional 42 months, for a total of 5 years.

Comments: Comments on the final rule must be received by December 16, 1993.

ADDRESSES: Written comments should be submitted by mail to Supervisor, Office of Marine Mammals Management, Fish and Wildlife Service, 4230 University Drive, Suite 310, Anchorage, Alaska 99508. Comments may also be hand delivered to the same address. Comments and materials received in response to this action will be available for public inspection at this address during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: John Bridges, Office of Marine Mammals Management, Fish and Wildlife Service, 4230 University Drive, suite 310, Anchorage, Alaska 99508, (907) 271–2343.

SUPPLEMENTARY INFORMATION:

Need for Action

In Alaska, the Service is responsible for the management of three marine mammal species: Polar bear (*Ursus maritimus*), sea otter (*Enhydra lutris*) which is not covered by this rule and the Pacific walrus (*Odobenus rosmarus divergens*). These species are not listed as threatened or endangered and, therefore, are not provided protection by the Endangered Species Act. However, they are protected under the Marine Mammal Protection Act of 1972, hereafter referred to as the Act. Additional protection is also accorded by the 1973 international Agreement on the Conservation of Polar Bears (Polar Bear Agreement). The United States, Canada, Denmark, Norway, and the former Union of Soviet Socialist Republics are signatories to this treaty; the United States ratified the treaty on November 1, 1976.

The Act placed a general moratorium on the taking of any marine mammal. "Take" as defined by the Act means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture, or kill any marine mammal. The Act was amended in 1981 to include section 101(a)(5) which gave the Secretary of the Interior authority to allow, on request by U.S. citizens (as defined in 50 CFR 18.27(c)), the incidental, but not intentional, take of small numbers of marine mammals in a specified activity (other than commercial fishing) within a specified geographical area. Specific authorizing regulations may be issued for a period of up to 5 years; LOAs may be issued upon request subsequent to issuance of specific authorizing regulations.

The taking of marine mammals may be allowed only if the Service finds, based on the best scientific evidence available, that such takes will have a negligible impact on the species or stock and will not have an "unmitigable adverse impact" on the availability of the species or stock for subsistence uses. Also, regulations must be published that include permissible methods of taking and other means to ensure the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses. These regulations must include requirements for monitoring and reporting. After final regulations are established, LOAs may be issued, upon request, to individual entities to conduct activities pursuant to the regulations.

As a result of 1986 amendments to the Act, the Service on September 29, 1989, published a final rule (54 FR 40338)

amending 50 CFR 18.27 (i.e., regulations governing small takes of marine mammals incidental to specified activities) that included, among other things, a revised definition of "negligible impact" and a new definition for "unmitigable adverse impact." Negligible impact is now defined as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." 50 CFR 18.27(c). Unmitigable adverse impact means "an impact resulting from the specified activity (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met." Ibid.

Oil and gas exploration, development and production activities conducted in marine mammal habitat risk violating the moratorium on the taking of marine mammals and therefore violating the terms of the Act. Although there is no legal requirement for the oil and gas industry to obtain incidental take authority, they have chosen to seek authorization to avoid potential conflicts between their activities and the requirements of the Act.

Summary of Request

On December 17, 1991, BP Exploration (Alaska), Inc., for itself and on behalf of Amerada Hess Corporation, Amoco Production Company, ARCO Alaska, Inc., CGG American Service, Inc., Conoco Inc., Digicon Geophysical Corp., Exxon Corporation, GECO Geophysical Co., Halliburton Geophysical Services, Inc., Mobil Oil Corporation, Northern Geophysical of America, Texaco Inc., Unocal Corporation, and Western Geophysical Company (collectively referred to as "Industry" throughout the remainder of this document), petitioned the Service to promulgate regulations pursuant to section 101(a)(5) of the Act. The regulations sought would allow the incidental, but not intentional, take of small numbers of polar bear (*Ursus maritimus*) and Pacific walrus (*Odobenus rosmarus divergens*) in the event that such a taking occurs in the course of oil and gas exploration, development, or production activities during year-round operations in the Beaufort Sea, in Alaskan State waters, and Outer Continental Shelf (OCS) waters and the adjacent northern coast of Alaska.

Specifically, the offshore geographic region addressed by this action is defined by a north/south line at Barrow, Alaska, including all Alaska State waters and the OCS waters and east of that line to the Canadian border. The onshore region is defined as that same north/south line at Barrow, 25 miles inland and east to the Canning River. Industry excluded the Arctic National Wildlife Refuge from its petitions.

A proposed rule was published by the Service on December 30, 1992 (57 FR 62283), with a 75-day comment period that ended on march 15, 1993. Public meetings were held in Anchorage, Barrow, Nuiqsut, and Kaktovik, Alaska. More than 50 persons attended the public meetings, and 12 entities, including conservation groups, Federal, State, and local government agencies, private industry, Native organizations and other interested parties, commented on the proposed rule. These comments are summarized along with responses in the discussions below.

The Service prepared an Environmental Assessment on this action and found that there would be no significant impacts on populations of walruses and polar bears and that there would be no unmitigable adverse impacts on the availability of these species for subsistence uses by Alaska Natives. A Finding of No Significant Impact (FONSI) has been made on the Environmental Assessment. A copy of the Environmental Assessment and FONSI are available on request from the persons listed above in the section entitled, FOR FURTHER INFORMATION CONTACT.

The Service hereby is issuing, at the request of the Industry, regulations to allow the incidental take of small numbers of polar bears and walrus. Oil and gas exploration, development, and production activities conducted in proximity to marine mammals risk violating the provisions of the Act if those activities result in "takes" of polar bears or walrus. The regulations along with the LOAs will allow the Industry to operate within the law in the event an incidental take occurs during the course of normal operations.

The final regulations allow the issuance of LOAs that will permit the incidental, unintentional take of polar bears and Pacific walrus in the Beaufort Sea and northern coast of Alaska. The regulations will be in effect for a period of 18 months beginning 30 days after the publication date of this document in the **Federal Register** for entities conducting oil and gas industry activities. Certain conditions will apply as explained below. If these conditions are met, the regulations will be extended pursuant to notice and opportunity for public comment, for an additional 42 months, for a total of 5 years.

These regulations do not authorize the intentional harassment, hunting, capturing, or killing of polar bears or walrus. They are designed to allow Industry operations to continue while working under the provisions of the Act.

These regulations do not permit the actual activities associated with oil and gas exploration, development and production, but rather allow the incidental, unintentional take of the two marine mammal species. The Department of the Interior's Minerals Management Service and the Bureau of Land Management are responsible for permitting activities associated with oil and gas activities in Federal waters and on Federal lands, respectively, and the State of Alaska is responsible for activities on State lands and in State waters.

In addition to its responsibilities under the Act, the Department of the Interior has further responsibilities under the 1973 multilateral Polar Bear Agreement. Specifically, Article II of this Agreement requires that:

> Each Contracting Party shall take appropriate action to protect the ecosystems of which polar bears are a part, with special attention to habitat components such as denning and feeding sites and migration patters. * * *

In comport with, and to meet more fully the intent of the Agreement, under this final rulemaking, within 18 months of its effective date, the Service has been directed by the Secretary of the Interior to develop and begin implementing a strategy for the identification and protection of important polar bear habitats. Development of such strategy will be done as part of the Service's management plan process pursuant to section 115 of the Act, and in cooperation with signatories to the Polar Bear Agreement, the Department of State, the State of Alaska, Alaskan Natives, Industry, conservation organizations, and academia.

For the regulations to be extended beyond the initial 18 months from their effective date for a total 5-year period, the Service must develop and begin implementing the Polar Bear Habitat Conservation Strategy. The extension of these regulations, and further authorizations under the provisions of this rule beyond 18 months, will be contingent upon the following:

(1) Within a period of 18 months from the effective date of this rulemaking, the Service will develop and begin implementing a Polar Bear Habitat Conservation Strategy, pursuant to the management planning process in section 115 of the Act, and in furtherance of the goals on Article II of the 1973 international Agreement on the Conservation of Polar Bears;

(2) The identification and designation of special considerations or closures of any polar habitat components to be further protected;

(3) Public notice and comment on those considerations or closures;

(4) Affirmative findings of the Secretary of the Interior; and

(5) Public notice and comment on the Secretary's intention to extend the term of the incidental take regulations for a period not to exceed a total of 5 years.

The authorizations for incidental take pursuant to provisions of this rule (i.e., LOAs) will be for periods of no more than one year. However, for the second year, LOAs could be subject to a 6-month limit.

Further, concern has been expressed regarding polar bear encounters where human life is in jeopardy. When human activity occurs in polar bear habitat, polar bear/human encounters are possible. However, in over 20 years of industry activity in this area, only one polar bear has been killed in defense of human life. Polar bear interaction training and knowledge of polar bear interaction plans will be required of each person operating under these regulations. In cases where polar bears must be deterred or killed for the protection of human life or welfare, the Service has authority to allow such action under section 109(h)(1) of the Act.

The authorization to take polar bear and walrus is directed to incidents that occur between Industry activities and the two species that cause minor disturbances to those marine mammals. However, minor disturbances of marine mammals, especially those that may occur in the absence of any negligence or intentional action by a person carrying out an otherwise lawful activity, may not constitute a "take."

The regulations include requirements for monitoring and reporting and measures to effect the least practicable adverse impact on these species and their habitat and on the availability of these species for subsistence uses. These regulations are based on the assumption that exploration, development, and production activities in this area may involve the taking of polar bears and walrus. The Service has found that the total impact of the takings will have a negligible impact on these species and on their availability for subsistence uses.

These regulations may be extended for a total term of 5 years, subject to public notice and comment, only if a Polar Bear Habitat Conservation Strategy has been developed and implementation begun by the Service by the end of the 18-month period following the effective date of the final rule.

An LOA will be required to conduct activities pursuant to these regulations. An LOA may be requested by each group or individual conducting an oil and gas Industry related activity where there is the likelihood of taking polar bear or walrus. The regulations require those who request an LOA to submit a polar bear awareness and interaction plan and a plan to monitor the effects on polar bear and walrus that are present during the authorized activities. Also, an applicant for an LOA must identify, in a plan of cooperation, what measures have been taken to minimize adverse impacts on the availability of marine mammals for subsistence uses if the activity takes place in or near a subsistence hunting area. Each request for an LOA will be evaluated on the specific activity and the specific location, and each LOA will be specifically conditioned for that activity and location.

LOAs will be issued annually by the Service. However, for the second year LOAs could be limited to 6 months contingent upon the Service developing and beginning implementation of the Polar Bear Habitat Conservation Strategy.

Continuation of the regulations and issuance of LOAs beyond the 18-month period are dependent upon events, developments, and achievements during the 18 months that regulations are in effect. If the regulations are extended for the total 5-year period, LOAs for the out-years will be issued annually by the Service; reissuance will be contingent upon submission of reports of monitoring activities for the previous year, evaluation by the Service, and subsequent determination that reissuance is justified. Because oil and gas development and production are continuous long-term activities, upon initial approval, LOAs for development and production would be issued for the life of the activity or until expiration of the regulations, whichever occurs first. However, submission by Industry of monitoring results associated with development and production activities would still be required annually for review by the Service; continued operation under such an LOA would be based upon annual approval by the Service of the monitoring results. If activities exceeded the standards established in section 101(a)(5)(B) of the Act and implemented in 50 CFR 18.27(f), or any subsequent polar bear habitat protection provisions and standards imposed as a result of the Service's Polar Bear Habitat Conservation Strategy, the Service could withdraw or suspend the authorizing regulations (after notice and opportunity for public comment, or in an emergency without notice and opportunity for public comment). For example, if review of monitoring data indicated that activities were having unforeseen negative impacts to polar bear or walrus populations or their availability for subsistence purposes, mechanisms exist in 50 CFR 18.27(f) to revoke incidental take authorization conferred through LOAs. The regulations in 50 CFR 18.27(f) state, in part:

> (5) Letters of Authorization shall be withdrawn or suspended, either on an individual or class basis, as appropriate, if, after notice and opportunity for public comment, the Director determines: (i) The [specific] regulations prescribed are not being substantially complied with, or (ii) the taking allowed is having, or may have, more than a negligible impact on the species or stock, or where relevant, an unmitigable adverse impact on the availability of the species or stock for subsistence uses.

Regulations in 50 CFR 18.27(f) also provide for revoking incidental take authorization in emergency situations by stating:

> (6) The requirement for notice and opportunity for public review in paragraph (f)(5) of this section shall not apply if the Director determines that an emergency exists which poses a significant risk to the well-being of the species or stocks of marine mammals concerned.

Description of Activity

In accordance with 50 CFR 18.27, Industry submitted three separate written petitions for the promulgation of incidental take regulations pursuant to section 101(a)(5) of the Act covering:

(1) Polar bear for exploration operations during the ice-covered period in coastal arctic Alaska and the Beaufort Sea,

(2) Polar bear and walrus for open-water exploration operations in the Beaufort Sea, and

(3) Polar bear and walrus for oil and gas development and production in arctic Alaska.

Activities covered in the petition are exploration activities such as geological and geophysical surveys which include: Geotechnical site investigation, reflective seismic exploration, vibrator seismic data collection, airgun and

watergun seismic data collection, explosives seismic data collection, and geological surveys and drilling operations. The latter include: drillships, floating drill platforms such as the Kulluk, ice pads, artificial islands, caisson-retained islands, and two types of bottom-founded structures: (1) Concrete island drilling system, and (2) single steel drilling caisson.

Industry documents indicate that exploratory activities for the open-water periods of 1993 through 1998 are primarily located in an area defined by a north/south line at Barrow and include all Alaska State waters and the OCS waters east of the line to the Canadian border. Estimates of the activities are approximately 28,200 vessel miles of seismic exploration, with as many as 10 vessels acquiring seismic data in the authorized area in any one year. From 3 to 12 geotechnical/geochemical programs are projected to be conducted over the time span that the regulations could be in effect. Exploratory drilling is estimated to be conducted at 2 to 19 locations over the 5 year period, utilizing drillships at 2 to 8 locations and bottom-founded structures at 3 to 11 locations.

Industry documents indicate that exploratory activities for the ice-covered periods of 1993 through 1998 are in the geographic area defined by a north/south line at Barrow and include all Alaska coastal areas, State waters and OCS waters east to the Canadian border. Industry estimates approximately 35 seismic programs (covering 7,400 to over 10,000 line miles), 7 geotechnical/geochemical programs, and 5 to 15 exploratory drilling operations over the next 5 years.

The petitions also include development and production activities of nine separate oil and gas fields in a region of 88,280 square miles. The nine fields are Prudhoe Bay, Kuparuk, Endicott, Lisburne, Milne Point, Niakuk, Point McIntyre, West Sak, and Ugnu and are collectively known as the Production Area. The Production Area extends from Barrow on the west to the Canning River on the east and 25 miles inland from the coast. The Arctic National Wildlife Refuge is specifically excluded from this action. The Production Area is operated year-round. The Prudhoe Bay Unit, discovered more than 20 years ago, is in decline and no major development activities are planned with the exception of a gas handling facility. New development is anticipated to be small and would use existing facilities and infrastructure.

Exploration, development, and production activities similar to those discussed in the petitions are currently being conducted. Operations of this type have been ongoing since the discovery of the Prudhoe Bay oil field in 1968. Because of many variable influencing Industry activities, predictions as to the exact dates, duration and location are speculative. However, specific dates, duration and locations will be required when applications for LOAs are submitted.

To reduce duplication of time, effort, and documentation, and since the three petitions submitted by Industry are similar activities in one specific geographical area, the Service determined, in accordance with section 101(a)(5) of the Act and 50 CFR 18.27, the three petitions could be combined into one rulemaking authorizing a specified activity within a specified geographical region.

Biological Information

The geographical area covered by this action is the land and water area east of a north/south line through Barrow, Alaska. The onshore area is 25 miles inland and east to the Canning River. The Arctic National Wildlife Refuge is outside of the authorized area. Offshore the area extends through Alaska State waters and into the OCS waters of the Beaufort Sea from Barrow east to the Canadian border.

Walrus

The Pacific walrus primarily occurs in the waters of the Bering and Chukchi Seas along the western coast of Alaska. Most of the population congregates near the ice edge of the Chukchi Sea pack ice during the summer. The primary summer range of the walrus does not extend east of Point Barrow. In the winter, walrus occur in areas where there are polynyas, open leads or thin ice in which they can create and maintain breathing holes. Major concentrations in the winter are located in the northwestern Bering Sea and the southeastern Bering Sea. Walrus do occur in the Beaufort Sea but only in small numbers.

Polar Bear

Polar bears occur only in the Northern Hemisphere, where their distribution is circumpolar, and they live in close association with polar ice. In Alaska, their distribution extends from south of the Bering Strait to the U.S.-Canada border. The world population has been estimated at 10,000–20,000, with possibly as many as 5,000 bears in Alaska. The Beaufort Sea population (from Point Barrow to Cape Bathurst, Northwest Territories) is estimated to be 1,300 to 2,500 bears. The most extensive north-south movements of polar bears occur with the ice in the spring and fall.

Females without dependent cubs breed in the spring and enter maternity dens by late November. Females with cubs do not mate. An average of two cubs, sometimes one and rarely three, are usually born in December and the family group emerges in late March or early April. Only pregnant females den for an extended period during the winter. Other polar bears may burrow out depressions to escape harsh winter winds. Polar bears become sexually mature at 4–8 years old and the average reproduction interval for polar bear is 3–4 years. The maximum reported age of reproduction in Alaska is 18 years. Based on these conditions, a polar bear may produce about 10 cubs in her lifetime.

Ringed seals are the primary prey species of the polar bear. Occasionally bearded seals and walrus calves may be hunted. Polar bears have been known to eat nonfood items such as styrofoam, plastic, car-batteries, anti-freeze and lubricating fluids.

The fur and blubber of the polar bear provide vital protection from the cold air and frigid water. Newly emerged cubs may not have a sufficient layer of blubber to maintain body heat when immersed in water for long periods of time. For this reason the mother is very protective of the cubs. It has been suggested that cubs abandoned prior to the normal weaning age of 2.5 years will likely not survive.

Polar bears have no natural predators, and they do not appear to be prone to death by diseases or parasites. The most significant source of mortality is man. Since 1972, with the passage of the Act, only Alaskan Natives have been allowed to hunt polar bears for their subsistence needs, handicrafts and clothing items. The Native harvest occurs without restrictions on sex, age, number or season, providing it is non-wasteful. From 1980–1991, the total annual harvest averaged 125 bears. The majority of this harvest (71 percent) came from the Chukchi Sea area.

Effects of Oil and Gas Industry Activities on Marine Mammals and on Subsistence Uses

Walrus

Oil and gas industry activities such as air and vessel traffic, noise from air traffic, seismic surveys, ice breakers, supply ships and drilling may frighten or displace walrus. However, as previously stated in this document, the primary range of the Pacific walrus is west of Point Barrow and the likelihood of many walrus being in the Beaufort

Sea is small. Therefore, it is unlikely that Industry activities will result in more than a negligible impact on the species. Likewise, activities during the ice-covered periods and the onshore development and production activities should not impact the walrus.

In the early spring, females and calves may become concentrated in the limited amount of open water between the shorefast ice and the pack ice, or the shear zone. These areas of congregation or preferred habitat result primarily because of the presence of open water. This congregation activity makes the walrus vulnerable to early arriving industry-related traffic. Air and vessel traffic may cause the animals to stampede off the ice which may result in trampling and separation of cow-calf pairs.

Stationary drilling structures may affect the movement of walrus. Walrus may be attracted to the activity or repelled by noise or smell. In the 1989 drilling season, an incident occurred in a Chukchi Sea operation where a young walrus surfaced in the center hole (moonpool) of the drillship. The walrus was removed from the drilling area by the use of a cargo net. The walrus left the scene of the incident and was not seen again.

Seismic surveys generally take place on solid ice or open water. Since most walrus activity occurs near the ice edge, interactions with walrus and the seismic activity are unlikely.

Subsistence

Compared to the overall harvest of walrus by Alaskan Natives, few are harvested in the Beaufort Sea along the northern coast of Alaska. The walrus constitutes a small portion of the harvest for the villages of Barrow and Nuiqsut. Annual harvest data of subsistence resources averaged for the period of 1962–1982 shows that the village of Barrow averaged 55 walrus per year, Nuiqsut averaged 3 walrus per year and Kaktovik shows no harvest. The majority of kills by the village of Barrow occurred to the southwest in the Chukchi Sea. Therefore, oil and gas exploration, development and production activities should have a negligible impact on walrus subsistence activities.

Polar Bear

Oil and gas exploration, development and production activities in the Beaufort Sea and adjacent northern coast of Alaska may affect the polar bear. Drillships and icebreaker activity may be physical obstructions to their normal movement. Noise, sights, and smells produced by activities may attract or repel bears. These disruptions may introduce changes in the bears' natural behavior that may be detrimental.

Exploration activities during the open-water season are not likely to impact upon the movements or natural behavior of the polar bear. Although polar bears have been documented in open water, miles from the ice edge or ice floes, normally the polar bear is found near the ice edge. Therefore, it is unlikely that exploration activities in the open-water season will have more than a negligible impact on the polar bear.

Winter oil and gas activities have a far greater possibility of having a detrimental impact on the polar bear. Since the polar bear continues to move over the ice pack throughout the year, interaction with industry activities are likely. Curious polar bears are likely to investigate drillships and artificial or natural islands where drilling operations occur. Any on-ice activity creates an opportunity for industry/bear interactions.

Offshore drillsites within the pack ice may modify the habitat by creating open water leads down current from the activity. These open water leads may create temporary niches for subadult or non-breeding ringed seals, the primary prey species for the polar bear. Should this occur, polar bears would likely be attracted, thereby creating a possibility of industry/polar bear encounters. However, most offshore drilling operations are conducted from raised platforms which isolate the drilling operation and industry employees from the ice and polar bears.

Polar bear interaction plans are developed for each operation. Industry personnel are required to participate in a polar bear interaction training program while on-site. These training programs and interaction plans are designed to ensure that the activity and possible interactions have the least detrimental effect on industry personnel and the polar bear. Occasionally, work may be required on the ice adjacent to elevated drillships or platforms. In such cases, work areas are well-lighted and open to reduce the likelihood that a polar bear would approach the work area undetected.

Winter seismic activity (survey crews) has a potential of disturbing denning females. Denning females are sensitive to noise disturbances and may be discouraged from seeking a preferred denning site, or may abandon dens, thereby risking the lives of the offspring. Prior to initiating seismic survey activity, Industry provides the Service with its proposed survey route(s). Through satellite observations of radio collared bears the Service is able to information Industry of known denning sites, and from knowledge of the geographical area the Service identifies areas of probable denning sites. Once sites are identified, Industry cooperates with the Service to alter survey routes to pass within no less than one mile of the denning sites. This on-going cooperative operating procedure ensures that known den sites are avoided within all practicable limits and every effort is made to keep at least one mile from known denning sites.

Subsistence

The polar bear is not a primary subsistence species of the villages of Barrow, Nuiqsut, or Kaktovik. Preliminary data from the Service's Marking, Tagging, and Reporting Program indicate that from July 1, 1989, to June 30, 1991, a total of 27 polar bears were killed by the Natives of Barrow. No polar bears were harvested by the Natives of the villages of Nuiqsut or Kaktovik. Hunting success varies considerably from year to year because of variable ice and weather conditions.

Industry works with the local Native groups to achieve a cooperative relationship between oil and gas activities and subsistence activities. Oil and gas exploration, development and production will not have more than a negligible impact on subsistence activities.

Oil Spills

The accidental discharge of oil into the environment during industry activities could result from operational spills during refueling, handling of lubricants and liquid products, and during general maintenance. These spills are projected to be small in quantity, generally less than a barrel of oil per incident. Drilling units maintain onboard cleanup equipment and train personnel to handle operational spills. These spills are not expected to pose a threat to polar bear or walrus.

A blowout (i.e., the loss of control of a well during drilling) is a potentially more serious type of spill accident. Based on data calculated by the Minerals Management Service, the probability of a blowout in the Beaufort Sea is extremely low. Data compiled by that agency verify that blowouts have occurred in the Canadian Beaufort Sea; however, in the course of exploratory drilling on the Alaska OCS, no blowouts have occurred.

The Service acknowledges that there is a low probability of oil spills connected with a blowout but the potential effects to polar bears or their habitats by oil spills may be significant.

Polar bears may be directly impacted by a spill by swimming in oil-contaminated waters. Bears which have been fouled by oil may suffer thermo-regulatory problems, ingest oil, and may exhibit other detrimental effects such as inflammation of the nasal passages or central nervous system. Bears that contact oil are likely to die.

An investigative study, Effects of Crude Oil on Polar Bears (Environmental Studies No. 24), was designed by N.A. Oritsland to simulate an arctic oil spill and determine its effect on polar bears experimentally exposed to the crude oil. The report states:

A general conclusion which may be drawn from this study is that the polar bear is a potentially greatly impacted species when exposed to oil spills. An initial effect of coating with oil is that thermoregulatory and metabolic stresses develop which may cause serious disability if protracted in the wild. Oil fouling of the fur led to grooming and licking of the oil from the fur, with consequent ingestion of the oil, and absorption into the body from the gut. Residence of oil in the fur may be expected to be long if the animal is not cleaned completely, prolonging exposure by grooming/ingestion activities. Uptake of petroleum hydrocarbons and their distribution to body tissues led to behavioral abnormalities, including anorexia, as well as to tissue damage. A wide range of tissues were found to be affected, much of the effect related to uremia and severe dehydration. Peripheral hemolysis and a lack of bone marrow erythropoietic response resulted in an acute anemia in all oiled bears. The systemic toxicity effects were latent, not becoming pronounced until weeks after the initial exposure. Renal changes were the most serious under the laboratory conditions and can be assessed as the direct cause of death of two of the three oil exposed polar bears" (Oritsland et al., 1981).

A study by Derocher and Stirling (1990) documented a significantly oiled bear which appeared to have completely recovered from an oiling episode four years after it was originally sighted.

The probability of an oil spill must be balanced with the potential severity of harm to the species or stock when determining negligible impact. Even if the potential effects of a spill may be significant, if the probability of occurrence is low, a finding of negligible impact may be appropriate.

Due to the small number of walrus in the Beaufort Sea area, impacts to walrus resulting from oil spills are foreseen as negligible.

Conclusions

Based on the previous discussion, the Service makes the following findings regarding this action.

Impact on Species

The Service finds, based on the best scientific information available, that the effects of oil and gas related exploration, development and production activities for the next 5 years in the Beaufort Sea and adjacent northern coast of Alaska will have a negligible impact on the polar bear and the Pacific walrus and their habitat and on the availability of these species for subsistence uses if certain conditions are met. Oil and gas activities have occurred in the Beaufort Sea and the northern coast of Alaska for many years. To date, there has been only one documented case of a lethal take of a polar bear in defense of life at an exploratory drill site. Amstrup (1989) reported a case in which a bear died after eating ethylene glycol colored with rhodamine B. This chemical combination is used for making runway center lines on snow and ice. Other incidents, including harassment as defined by the Act, may have occurred, but no reports or legal action have verified such an incident.

Liability for illegal discharges of toxic materials into the environment is described in the Clean Water Act and other statutes such as the Resource Conservation and Recover Act (RCRA). In the event of a catastrophic spill, the Service would reassess the impacts to the polar bear and/or walrus populations and reconsider the appropriateness of authorizations for taking through section 101(a)(5) of the Act.

This finding of "negligible impact" applies to exploration, development, and production activities related to oil and gas activities. The following are generic conditions to eliminate interference with normal breeding, feeding, and possible migration patterns to ensure that the effects to the species remain negligible. These conditions will be site specific and species specific and may be expanded in the first year LOAs. Specific to polar bears, based on the results of the activities conducted under the first 1-year LOAs, information and protection provided under the Service's Polar Bear Habitat Conservation Strategy, and the Secretary's findings at the conclusion of the 18-month period of this rule, these conditions could be modified substantially or additional conditions developed in the event that, after public notice and comment, this rule was extended for the full 5-year term.

(1) No intentional taking of polar bear or walrus will be authorized. Should a situation arise where an intentional take (e.g., harassment associated with deterrent activities and/or lethal take) is required for the protection of human life or welfare, the Service may authorize such action under the authority of section 109(h)(1) and 112(c) of the Act.

(2) For the protection of pregnant polar bears during denning activities (selection, birthing, and maturation) in known and confirmed denning area, Industry will be restricted from activities in specific locations during certain specific times of the year. These restrictions will be applied on a case-by-case basis in response to a request for an LOA. In possible denning areas, pre-activity surveys, as determined by the Service, will be required to determine the presence or absence of denning activity.

(3) Each activity authorized by an LOA will require a site-specific plan of operation, a site-specific monitoring and reporting plan, a polar bear awareness and interaction plan and where relevant, a plan of cooperation. The purpose of the required plans is to ensure that the levels of activity and possible takes are consistent with the finding that the cumulative total of takes will have a negligible impact on polar bear and Pacific walrus, their habitat, and where relevant, on the availability of the species for subsistence uses.

Impact on Subsistence

Polar bear and Pacific walrus contribute a small amount of the total subsistence harvest for the villages of Barrow, Nuiqsut, and Kaktovik. However, this does not mean that the harvesting of these species is not important to Alaskan Natives. To ensure that the impact of oil and gas activity on the availability of the species or stock for subsistence uses is negligible, prior to receipt of an LOA, when working in a subsistence hunting or fishing area, Industry will be required to provide evidence to the Service that a plan of cooperation has been presented to the subsistence communities, the Eskimo Walrus Commission and the North Slope Borough. This plan of cooperation will provide the procedures on how Industry will work with the affected Natives communities and what actions will be taken to avoid interference with subsistence hunting of polar bear and walrus. The Service will review the plan to ensure that potential effects on the availability of the species are negligible.

If there is evidence that oil and gas activities will affect, or in the future may affect, the availability of polar bear or walrus for subsistence, the Service will reevaluate its findings regarding limits of incidental take and the measures required to ensure continued subsistence hunting opportunities.

Monitoring and Reporting

The purpose of monitoring programs is to determine short-term and long-term direct, indirect and cumulative effects of authorized oil and gas activities on polar bear and walrus in the Beaufort Sea and the northern coast of Alaska. Plans must identify the methods that will be used to determine and assess the effects on the movements, behavior and habitat use of polar bear and walrus in response to Industry activity. The results of the monitoring activity will be summarized and reviewed each year. Objectives for each year will be based on the previous year's monitoring results.

A service-approved plan for monitoring and reporting the effects of Industry exploration, development and production activities on polar bear and walrus will be required of all applicants prior to issuance of an LOA. For exploratory activities, a monitoring and reporting plan must be submitted each year, at least 90 days prior to initiation of planned activities, except that this 90-day requirement is waived for the first year. Monitoring results must be submitted, in final form, to the Service 90 days after completion of the activity. Since development and production activities are continuous long-term activities, upon approval, LOAs and their required monitoring and reporting plans would be issued for the life of the activity or until expiration of the regulations, whichever occurs first. Monitoring results associated with LOAs for development and production activities will be submitted by Industry annually for review by the Service. Continued operation under the LOA will be based upon annual approval of the monitoring results.

Discussion of Comments on the Proposed Rule

Comment: Several commenters believed the proposed action would violate the intent of the 1973 international Polar Bear Agreement and does not go far enough to protect important polar bear habitat components.

Response: This Final Rule is authorized by section 101(a)(5) of the Act and the Service sees no conflict between the rule and the Polar Bear Agreement. Article I of the Agreement states that "the taking of polar bears shall be prohibited * * *"; and the term "taking" is defined in Article I as including "hunting, killing and capturing," none of which is authorized by this final rule. As the resource agency responsible for polar bears, the Service is concerned about polar bear habitat and intends to ensure that polar bear habitat remains healthy and intact. However, in comport with, and to meet more fully the intent of the Polar Bear Agreement, under this final rulemaking, within 18 months of its publication, the Service will develop and begin implementing a strategy for the identification and protection of important polar bear habitats. Issuance of the rule beyond its 18-month effectiveness will be subject to public notice and comment, and will be contingent upon the development and implementation of this Habitat Conservation Strategy, special considerations or closures of any polar bear habitat components to be protected such as denning and feeding sites and migration routes, and affirmative findings of the Secretary of the Interior. Based on the results of the activities conducted under LOAs during the 18-month period of this final rule, information and protection provided under the Service's Habitat Conservation Strategy, and the Secretary's findings at the conclusion of the 18-month period, conditions specific to polar bears could be modified substantially or additional conditions developed. Pursuant to the development and implementation of the Polar Bear Habitat Conservation Strategy, additional measures could include the designation of special protective areas (e.g., "sanctuaries"), to ensure that important denning and feeding sites, migration routes, or other components have a high degree of protection. The Service will require and evaluate monitoring programs that will report the effects of the activity on polar bears and their habitat. The analysis of these monitoring reports may result in the modification of regulations or the conditions of operation, as necessary, to assure that the activity is having no more than a negligible effect upon polar bear rates of recruitment and survival. The Service may suspend or withdraw authorization for incidental take if monitoring programs indicate that the taking is having a greater than negligible effect on the population.

Comment: The Service has failed to "estimate the numbers of each species of marine mammal that may be taken and fully explain its rationale for determining that those numbers are appropriately characterized as 'small'."

Response: The regulations implementing the 1986 amendments to section 101(a)(5) of the Act define "small numbers" to mean "a portion of a marine mammal species, or stock, whose taking would have a negligible impact on that species or stock" (50 CFR 18.27(c)). The Service declines to prescribe actual numbers for taking levels. Such numerical limits do not take into account the effect of the type of taking such as harassment versus mortality. Congress recognized the imprecision of the term "small numbers," but "was unable to offer a more precise formulation because the concept is not capable of being expressed in absolute numerical limits." H.R. Rep. No. 228, 97th Cong., 1st Sess. 20 (1981).

Comment: There is no justification for establishing a 5-year period for the duration of the regulations.

Response: The suggestion that the Service consider issuing incidental take regulations for a period shorter than the 5 years allowed in section 101(a)(5) of the Act may be based on an assumption that a lack of information would justify issuing the regulations for only a "trial" period. The mechanisms are already in place to withdraw incidental take authority should the impacts demand such action. Each specific activity covered by these regulations will be required to obtain an LOA prior to beginning that activity. Monitoring and reporting are requirements of the LOA. Therefore, upon annual review of the monitoring and reporting data, should the need arise, the Service has the authority to revoke incidental take authorization. (50 CFR 18.27(f)). However, in consideration of the 1973 international Agreement on the Conservation of Polar Bears and its intent to protect and conserve habitat components, the Service will develop and begin implementation of a Polar Bear Habitat Conservation Strategy. Because special considerations or closures of any polar bear habitat components may be identified as needing further protection (e.g., denning and feeding sites and migration routes), the Secretary of the Interior has decided to make this rule effective for 18 months only, during which time the Strategy will be developed and implementation begun. Extension of the rule for the full 5-year period will be contingent upon not only development and beginning implementation of the Strategy, but also the Secretary's findings at the conclusion of the 18-month period, which would include consideration of the results of activities conducted under LOAs. The rule would not be extended for the full 5-year term without public notice and opportunity for comment. Pursuant to the development and implementation of the Polar Bear Habitat Conservation Strategy and a decision to extend the rule, additional protective measures could include the designation of special protective areas (e.g., "sanctuaries"), to ensure that

important denning and feeding sites, migration routes, or other habitat components have a high degree of protection. During the 18-month period of this rule, the Service will require and evaluate monitoring programs that will report the effects of Industry activity on polar bears and their habitat components. If the decision is made to extend the rule to the full 5-year term, the analysis of these monitoring reports also may result in the modification of those regulations or the conditions of operation, as necessary, to assure that an activity is having no more than a negligible effect upon polar bear habitat components or rates of recruitment and survival. The Service may suspend or withdraw authorization for incidental take if monitoring programs indicate that the taking is having a greater than negligible effect on the population.

Comment: Commenters believed that the Service should prepare a full Environmental Impact Statement (EIS).

Response: Through the preparation of an Environmental Assessment (EA), the Service found that the action will not significantly affect the quality of the human environment, thereby resulting in a "Finding Of No Significant Impact (FONSI)." Therefore, in accordance with the National Environmental Policy Act, no EIS is required. The EA publicly disclosed the Service's analysis of whether the proposed activity has only a negligible impact on a species or stock and does not have an unmitigable adverse impact on subsistence users.

Commenters appeared to confuse the potential impacts resulting from the incidental take of polar bear and walrus and the potential impacts resulting from oil and gas exploration, development, and production activities. The Service does not authorize the actual oil and gas activities. Those activities are authorized by other State and Federal agencies. The Service is confident in its position that the regulation does not significantly affect the quality of the human environment and, therefore, the preparation of an EIS is not required.

Comment: The EA and the Preamble of the Proposed Rule do not adequately address the need for the proposed action.

Response: Additional information has been added to the EA and the Final Rule's Preamble stating the need for the regulations.

Comment: Commenters stated that the annual review of monitoring and reporting plans is not adequate.

Response: Section 101(a)(5) of the Act does not outline specific monitoring and reporting requirements. Monitoring and reporting requirements will be specifically designed and approved for each specific activity authorized by an LOA. Monitoring and reporting requirements will be different depending upon whether the activity will be taking place on land, on ice, or in open water. An LOA will require the submission of a monitoring and reporting plan to be reviewed and approved by the Service prior to initiation of the activity. A report to the Service of monitoring and reporting activities will be required to be submitted 90 days after completion of exploration activities. The 90-day submittal time prior to the activity, the 90-day submittal time after completion of the activity and the time required for the actual activity make review of the monitoring and reporting plans more often than annually unrealistic. However, the Service is made aware of all sightings as soon as possible during the on-going activity. Therefore, if needed, the monitoring and reporting plans could be modified to meet the current situation.

Comment: One commenter pointed out an apparent inconsistency between the Service's BPX Proposed Rule (December 30, 1992, 57 FR 62284) and the Service's Shell Western E & P, Inc. (SWEPI), Final Rule (June 14, 1991, 56 FR 27453) over the issue of whether "minor disturbances" are takes. The commenter expressed confusion over our interpretation between the two rules and questioned if the Service's standard for takes had changed from the SWEPI Final Rule to the BPX Proposed Rule.

Response: The Service's standard as established in the SWEPI Final Rule has not changed. In developing that rule, the Service presented (at 56 FR 27453, column 2, last paragraph) the following rationale to clarify confusion over the term "take." That rationale still stands.

> The term "take" as defined in 50 CFR 18.3 means to harass, hunt, capture, collect, or kill any marine mammal including, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal. It is true that proof of "take" need not involve a showing of death or physical injury. However, minor disturbances of marine mammals, especially those that may occur in the absence of any negligence or intentional action by a person carrying out an otherwise lawful activity, may not constitute a "take."

The argument presented in our BPX Proposed Rule related specifically to the issue of bear/human encounters where human life is in jeopardy and whether, in such instances, the regulation could be used to authorize intentional nonlethal or lethal takings of polar bears. The rationale presented in the BPX Proposed Rule was intended as an argument against use of the regulation to authorize intentional takes of any sort; it was not intended as an argument for redefining and expanding the definition of take to include "minor disturbances."

Comment: The Proposed Rule's Preamble and the EA contain an extensive and detailed listing of objectives sought to be achieved through monitoring programs. Some appear to go far beyond what may legally and realistically be expected of an LOA holder. Research is not the responsibility of an LOA holder.

Response: The Secretary of the Interior is directed to prescribe regulations requiring the monitoring and reporting of incidental takes. The monitoring and reporting is to help the Service make the decision that the total taking during the 5-year period will have a negligible impact on the species or stock. It is the responsibility of the applicant to provide the required information and to demonstrate negligible impact. The monitoring is to determine and report when, where, how, and how many marine mammals, by species, age/size, and sex are taken in the course of the authorized activity. Monitoring methods which may accomplish these tasks include shipboard observations, aerial surveys, and possible monitoring of radio tagged walruses and polar bears in the vicinity of the authorized activity. Long-term population monitoring programs should be developed to detect possible changes in abundance, distribution, and productivity. Programs which address these basic biological questions are not necessarily the responsibility of the applicant. Basically, the Service will not specifically define what information gathering will be required. Flexible monitoring and reporting requirements, developed by the Service, in cooperation with other interested agencies and groups, will be most beneficial to the Service and the species of concern.

Comment: There seems to be a misunderstanding of the proposed area. Several commenters said "regulations do not exclude ANWR," and "the proposed regulations include ANWR."

Response: The EA, the Preamble and the actual regulations are clear in this regard. The Industry petitions for incidental take regulations specifically excluded the Arctic National Wildlife Refuge (ANWR). The regulations do not include the ANWR.

Comment: The regulations should provide an opportunity for public review and comment on LOA applications.

Response: The Act does not require a public comment period for applications for LOAs. The Service's general implementing regulations in 50 CFR 18.27 state that once specific regulations are effective, LOAs will be processed, to the maximum extent possible, within 30 days from the date they are received. The Service will notify interested parties, such as the closest coastal community, State of Alaska, and the Marine Mammal Commission regarding the receipt and content of the LOA application. Notice of issuance of LOAs will be published in the **Federal Register.** Generally speaking, the public has had the opportunity to comment on all activities that the Industry will likely conduct in the next 5 years. The regulations and the determination of "negligible" impact are based on Industry petitions which presented activities likely to be conducted for the next 5 years. Also, the public will have an opportunity to review and comment on activities during development and implementation by the Service of the Polar Bear Habitat Conservation Strategy.

Comment: Some commenters disagreed that the total impact of the takings will have a negligible effect on the species and on their availability for subsistence uses. Furthermore, they stated that issuance of these regulations violates the rights of the Native people.

Response: The regulations authorize the incidental take of polar bear and walrus associated with Industry activities. The regulations do not authorize the actual oil and gas activities. Lethal take of the species are not authorized by the regulations. Only the "incidental," by chance, or unexpected take is authorized under the regulations. Industry activities were present on the North Slope prior to the enactment of the "small take" provisions of the Act. Likewise, these activities have been conducted since the enactment of the Act. During that period of time, all known lethal takes of polar bears have been extremely small (possible 2–3). Takes of polar bears due to "harassment" possibly have been numerous, but there is no way to document such actions. Once the LOA process is in place and monitoring and reporting are required, the Service will have documentation on the non-lethal interactions with polar bears. The Service is confident that the authorized activities will have a negligible impact on the species and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. Further assurance that coastal Alaskan Natives will not be adversely impacted is in the requirement that a holder of an LOA cooperate with the affected Native community. Prior to authorization, applicants must assure the Service that they have met with the local affected villages and agreed upon a plan of action that will not have an unmitigable adverse impact on subsistence uses. Further, once the Service completes the development and begins implementing the Polar Bear Habitat Conservation Strategy, any additional protection provided to polar bear denning and feeding sites and migration patterns should further ensure that an unmitigable adverse impact on subsistence uses will not occur.

Comment: In § 18.126, "Measures to ensure the availability of species for subsistence," the word "traditional" should be deleted. Traditional subsistence hunting areas or areas where subsistence hunting "historically" took place may no longer be utilized as subsistence hunting areas.

Response: The Service agrees. The purpose of § 18.126 is to ensure that Industry activities do not conflict with subsistence hunting activities. To ensure a dialogue between Industry and subsistence Native hunters, this section has been changed to require that a plan of cooperation be submitted with each application for an LOA as evidence of agreement between Industry and the Native community. This procedure will allow the Native subsistence community to have input concerning possible adverse effects.

Required Determinations

The Service has prepared an Environmental Assessment (EA) in conjunction with this rulemaking. The Service has concluded in a Finding of No Significant Impact (FONSI) that this is not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Therefore, preparation of an Environmental Impact Statement is not required. A copy of the EA and FONSI may be obtained from the individual identified above in the section entitled, FOR FURTHER INFORMATION CONTACT.

This rule has been reviewed under Executive Order 12866. Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it has been determined that this rule will not have a significant economic effect on a substantial number of small entities. Oil companies and their contractors, conducting exploration, development, and production activities in Alaska, have been identified as the only likely applicants under the regulations. These potential applicants have not been identified as small businesses.

This final rule is not expected to have a potential takings implication under Executive Order 12630 because it authorizes incidental, but not intentional, take of polar bear and walrus by oil and gas industry companies and thereby exempts them from civil and criminal liability. The rule also does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

The collections of information contained in this rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1018–0070.

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Imports, Indians, Marine mammals, Transportation.

For the reasons set forth in the preamble, part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations is amended as set forth below:

PART 18—MARINE MAMMALS

1. The authority citation for 50 CFR part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. A new subpart J is added as follows:

Subpart J—Taking of Marine Mammals Incidental to Oil and Gas Exploration, Development, and Production Activities in the Beaufort Sea and Adjacent Northern Coast of Alaska

Sec.

18.121 Specified activity and specified geographical region.
18.122 Effective dates.
18.123 Permissible methods.
18.124 Prohibitions.
18.125 Level of activity.
18.126 Measures to ensure availability of species for subsistence.
18.127 Requirements for monitoring and reporting.
18.128 Letters of Authorization.
18.129 Information collection requirements.

Subpart J—Taking of Marine Mammals Incidental to Oil and Gas Exploration, Development, and Production Activities in the Beaufort Sea and Adjacent Northern Coast of Alaska

§ 18.121 Specified activity and specified geographical region.

Regulations in this subpart apply to the incidental, but not intentional, take of polar bear and walrus by U.S. citizens (as defined in § 18.27(c)) engaged in oil and gas exploration, development, and production activities in the Beaufort Sea and adjacent northern coast of Alaska. The specified geographical area is defined by a North/South line at Barrow, Alaska, and includes all Alaska State waters, and Outer Continental Shelf waters each of that line to the Canadian border and an area 25 miles inland from Barrow on the west to the Canning River on the east. The Arctic National Wildlife Refuge is excluded.

§ 18.122 Effective dates.

Regulations in this subpart are effective for an 18-month period, from December 16, 1993 through June 16, 1995 for oil and gas exploration, development, and production activities. Within the 18 month effective period of this rulemaking, the Service will develop and begin implementing a Polar Bear Habitat Conservation Strategy, pursuant to the management planning process in section 115 of the Marine Mammal Protection Act and in furtherance of the goals of Article II of the 1973 international Agreement on the Conservation of Polar Bears. This Polar Bear Habitat Conservation Strategy may identify and designate special considerations or closures of any polar bear habitat components to be further protected; public notice and comment will be sought on those considerations or closures. By June 16, 1995, pursuant to notice and opportunity for public comment, the regulations in this subpart may be extended for the full 5-year term authorized by the Act, contingent upon the Service developing and beginning to implement this Polar Bear Habitat Conservation Strategy, review of monitoring reports submitted by holders of Letters of Authorization, and an affirmative finding by the Secretary of the Interior.

§ 18.123 Permissible methods.

(a) The incidental, but not intentional, take of polar bear and walrus by U.S. citizens holding a Letter of Authorization (see § 18.128) is permitted for takes resulting from:

(1) Activities associated with conducting geological and geophysical surveys;

(2) Activities associated with drilling exploratory wells and associated activities; and

(3) Activities associated with drilling production wells and performing production support operations.

(b) The methods and activities identified in § 18.123(a) must be conducted in a manner that minimizes to the greatest extent practicable adverse impacts on polar bear and walrus, their habitat and on the availability of these marine mammals for subsistence uses. Subsequent to implementation by the Service of its Polar Bear Habitat Conservation Strategy, no adverse impacts will be authorized in those identified polar bear habitat areas afforded special protection through implementation of that strategy.

(c) The Service will evaluate each request for a Letter of Authorization based on the specific activity and the specific geographical location. Each Letter of Authorization will identify allowable conditions or methods that are specific to the activity and location.

§ 18.124 Prohibitions.

(a) Intentional takes of polar bear or walrus are not authorized by the regulations in this subpart. (Note: Pursuant to section 109(h)(1) of the Marine Mammal Protection Act, the Service may authorize the intentional take (e.g., harassment associated with deterrent activities and/or lethal take) for the protection of human life or welfare.)

(b) Any take that fails to comply with the terms and conditions of the specific regulations in this subpart or of the Letters of Authorization is prohibited.

§ 18.125 Level of activity.

When Letters of Authorization are requested, the Service will determine whether the level of activity identified in the request exceeds that considered by the Service in making a finding of negligible impact on the species and a finding of no unmitigable adverse impact on the availability of the species for subsistence. If the level of activity is greater, the Service will re-evaluate its findings to determine if those findings continue to be appropriate based on the greater level of activity. Depending on the results of the evaluation, the Service may allow the authorization to stand as is, add further conditions, or withdraw or suspend the authorization.

§ 18.126 Measures to ensure availability of species for subsistence.

When applying for a Letter of Authorization, the applicant must submit a plan of cooperation that identifies what measures have been, and will be, taken to minimize adverse effects on the availability of polar bear and walrus for subsistence uses. The applicant must contact affected subsistence communities to discuss potential conflicts with the location, timing, and methods of planned operations. The applicant must make reasonable efforts to assure that activities do not interfere with subsistence hunting or that adverse effects on the availability of polar bear or walrus are properly mitigated.

§ 18.127 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization are required to cooperate with the Service and other designated Federal, State, or local agencies to monitor the impacts of oil and gas exploration, development and production activities on polar bear and walrus.

(b) Holders of Letters of Authorization must designate a qualified individual or individuals to observe and record the effects of the activities on polar bear and walrus.

(c) When applying for a Letter of Authorization, the applicant must include a site-specific plan to monitor the effects of the activity on the populations of polar bear and walrus that are present during the on-going activities. This plan, which must be approved by the Service's Alaska Regional Director, must identify the survey techniques that will be utilized to determine the actions of the polar bear and walrus in response to the on-going activity. The monitoring program must document the actions of these marine mammals and estimate the actual level of take. The monitoring requirements will vary depending on the activity, the location, and the time.

(d) If the activity is planned in polar bear habitat, the operator must develop a polar bear awareness and interaction plan subject to approval by the Service. For the protection of human life and welfare, each employee on site must complete a basic polar bear encounter training course.

(e) At its discretion, the Service may place an observer on site of the activity, on board drillships, drill rigs, aircraft, icebreakers, or other support vessels or vehicles to monitor the impact of the activity on polar bear and walrus.

(f) The holder of the Letter of Authorization must submit a report to the Service's Alaska Regional Director within 90 days after completion of activities. For development and production activities, the annual monitoring report must be submitted no later than 15 days after completion of the previous year's activities. The report

must include, at a minimum, the following information:

(1) Dates and time of activity;

(2) Dates and locations of polar bear or walrus activity related to monitoring the effects of the activity; and

(3) Results of the monitoring activities including an estimate of the actual level of take.

§ 18.128 Letters of Authorization.

(a) Each person or entity conducting an oil and gas exploration, development, or production activity in the geographical area described in § 18.121, that may take a polar bear or walrus in execution of those activities, should apply for a Letter of Authorization for each exploration activity or a Letter of Authorization for each development and production area. The application for authorization must be submitted to the Service's Alaska Regional Director at least 90 days prior to the start of the proposed activity.

Note: The requirement that an application for a Letter of Authorization be filed at least 90 days before an activity is scheduled to begin becomes effective March 6, 1994. The final regulations in this subpart become effective December 16, 1993.

(b) When an application for a Letter of Authorization is submitted, it must include the following information:

(1) A description of the activity, the dates and duration, the specific location and the estimated area affected by that activity;

(2) A plan to monitor the behavior and effects of the activity on polar bear and walrus; and

(3) A polar bear awareness and interaction plan.

(4) Where relevant, a cooperation plan that describes the measures to be taken to mitigate potential conflicts between the proposed activity and subsistence hunting.

(c) In accordance with § 18.27(f), decisions made concerning withdrawals of Letters of Authorization, either on an individual or class basis, with regard to factors other than the term of Letters of Authorization, will be made only after notice and opportunity for public comment.

(d) The requirement for notice and public comment in § 18.128(c) will not apply should the Service determine that an emergency exists that poses a significant risk to the well-being of the species or stock of polar bear or walrus.

§ 18.129 Information collection requirements

(a) The collections of information contained in this subpart have been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and assigned clearance number 1018–0070. It is necessary to collect the information in order to describe the activity and estimate the cumulative impacts of potential takings by all persons conducting the activity. The information is used to evaluate the application and determine whether to issue specific regulations and, subsequently, Letters of Authorization.

(b) The public burden associated with the 5-year period potentially covered by this is estimated at 5,802 hours including 1,002 hours to complete the three applications for specific regulations (334 hours each), 720 hours to complete 90 applications for Letters of Authorization (8 hours each), 2,880 hours to comply with recordkeeping requirements associated with 90 Letters of Authorization, and 1,200 hours to complete 150 required annual reports (8 hours each). Direct comments regarding the burden estimate or any other aspect of this requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, Department of the Interior, Mail Stop 224 ARLSQ, 1849 C Street, NW., Washington, DC 20240, and the Office of Management and Budget, Paperwork Reduction Project (1018–0070), Washington, DC 20503.

Dated: July 22, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–28053 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 58, No. 219
Tuesday, November 16, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Chapter 1

Issuance of Quarterly Report on the Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) has issued the NRC Regulatory Agenda for the third quarter, July through September, of 1993. This agenda provides the public with information about NRC's rulemaking activities. The Regulatory Agenda is a quarterly compilation of all rules on which the NRC has recently completed action, or has proposed action, or is considering action, and of all petitions for rulemaking that the NRC has received that are pending disposition. Issuance of this publication is consistent with section 610 of the Regulatory Flexibility Act.

ADDRESSES: A copy of this report, designated NRC Regulatory Agenda (NUREG–0936) Vol. 12, No. 3, is available for inspection, and copying for a fee, at the Nuclear Regulatory Commission's Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

In addition, the U.S. Government Printing Office (GPO) sells the NRC Regulatory Agenda. To purchase it, a customer may call (202) 512–2303 or (202) 512–2249 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013–7082.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492–7758, toll-free number (800) 368–5642.

Dated at Bethesda, Maryland, this 8th day of November 1993.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 93–28145 Filed 11–15–93; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–160–AD]

Airworthiness Directives; SAAB-SCANIA Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain SAAB-SCANIA Model SAAB 340B series airplanes. This proposal would require replacement of the existing actuator assembly on the motor operated fuel valve assembly with a new, improved actuator assembly. This proposal is prompted by electromagnetic interference (EMI) tests, which indicate that the actuator assemblies of certain fuel shut-off valves may fail to function after exposure to EMI, such as lightning or high intensity radiated fields. The actions specified by the proposed AD are intended to prevent loss of function of the fuel shut-off valves, which could result in unchecked fuel leakage or fuel imbalance after fuel system failure.

DATES: Comments must be received by January 18, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–160–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 SAAB-SCANIA AB, Product Support, S581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–160–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–160–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket, which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain SAAB-SCANIA Model SAAB 340B series airplanes. The Luftfartsverket advises that electromagnetic interference (EMI) tests indicate that the actuator assemblies of certain fuel shut-off valves may fail to function after exposure to EMI, such as lightning or high intensity radiated fields (HIRF). (During EMI testing, the intensity of exposure was within the range of intensity that the design is required to withstand under the applicable airworthiness requirements.) To date, however, no service difficulties related to this potential problem have been reported on any of these airplanes. Loss of function of the fuel shut-off valves, if not detected and corrected in a timely manner, could result in unchecked fuel leakage or fuel imbalance after fuel system failure.

SAAB-SCANIA AB has issued SAAB Service Bulletin SAAB 340–28–016, dated October 21, 1992, that describes procedures for accomplishment of Modification No. 2423, which entails modifying the configuration for the motor operated fuel valve assemblies. This modification includes replacement of the existing actuator assembly with a new, improved actuator assembly, and performance of a functional test of the engine fuel shutoff valve. The new, improved actuator assembly incorporates an electromagnetic relay that is less susceptible to EMI than the hybrid circuit in the existing actuator. Additionally, this actuator assembly meets current type design requirements for EMI. The Luftfartsverket classified this service bulletin as mandatory and issued Swedish Airworthiness Directives (SAD) No. 1–056, dated October 22, 1992, in order to assure the continued airworthiness of these airplanes in Sweden.

The motor operated fuel valve assemblies have a different configuration on airplanes having serial numbers 301 through 307 inclusive and are not affected by the addressed problem. The manufacturer has installed the new, improved actuator assembly prior to delivery on airplanes having serial numbers 308 and subsequent.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require replacement of the existing actuator assembly on the motor operated fuel valve assembly with a new, improved actuator assembly, and performance of a functional test of the engine fuel shutoff valve. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 6 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided by SAAB-SCANIA AB at no cost to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $990, or $165 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:

SAAB-SCANIA: Docket 93–NM–160–AD.

Applicability: Model SAAB 340B series airplanes; serial numbers 271, and 275 through 300 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of function of the fuel shut-off valves, which could result in unchecked fuel leakage or fuel imbalance after fuel system failure, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the engine left- and right-hand fuel shutoff valve, the interconnect valve, the crossfeed valve, and the de-fuel shutoff valve from a part number (P/N) AV16B2117B–2 (SAAB P/N 9303149–002) configuration to a P/N AV16B2117B–4 (SAAB P/N 9303149–004) configuration, by removing the existing actuator assembly, P/N 130001C, and installing a new, improved actuator assembly, P/N 130003N; and perform a functional test of the modified valves once they are installed; in accordance with SAAB Service Bulletin SAAB 340–28–016, dated October 21, 1992.

(b) As of the effective date of this AD, no person shall install a fuel shutoff valve assembly having P/N AV16B2117B–2 (SAAB P/N 9303149–002) on any airplane.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

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

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the

requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 9, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-28141 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-146-AD]

Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737-300, -400, and -500 series airplanes. This proposal would require modification of the leading edge slat access panel and internal structure at Front Spar Station (FSS) 250.663. This proposal is prompted by reports that fuel leaking from the fuel line at FSS 250.663 flowed through a drain hole in a slat access panel and leaked into the turbine exhaust area. The actions specified by the proposed AD are intended to prevent such a fuel leak, which could cause an external fire under the wing.

DATES: Comments must be received by January 18, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-146-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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

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-146-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-146-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The strut drain system installed on certain Boeing Model 737-300, -400, and -500 series airplanes is designed to divert fuel leakage to a point five feet from the turbine exhaust area. However, there have been several incidents in which fuel leaking from the fuel line at Front Spar Station (FSS) 250.663 flowed through a drain hole in a slat access panel and leaked into the turbine exhaust area. One of these incidents caused an external fire under the wing. Typically, such a fire could occur on the ground after the engines have been shut down. The resultant fire could spread from the turbine exhaust area to the strut and, subsequently, could ignite fuel within the strut. This condition, if not detected and corrected, could cause an external fire under the wing.

The FAA has reviewed and approved Boeing Service Bulletin 737-57-1221, dated August 6, 1992, that describes procedures for modifying the leading edge slat access panel and internal structure at FSS 250.663. Incorporation of this modification entails sealing the drain hole in Slat Access Panels 6307L and 6407R, changing the internal structure of the leading edge panel by creating a drain path to the strut drain system, and sealing the slat access panel and the internal structure of the leading edge panel to keep fuel leakage within the new drain path.

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 modification of the leading edge slat access panel and internal structure at FSS 250.663. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 950 Boeing Model 737-300, -400, and -500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 400 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. The cost of required parts would be negligible. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $220,000, or $550 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:

Boeing: Docket 93–NM–146–AD.

Applicability: Model 737–300, –400, and –500 series airplanes, line position 1001 through 1976 inclusive, 1978 through 2183 inclusive, 2185 through 2186 inclusive, and 2188 through 2193 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel from leaking into the turbine exhaust area, which could cause an external fire under the wing, accomplish the following:

(a) Within 12 months after the effective date of this AD, modify the leading edge slat access panel and internal structure at Front Spar Station (FSS) 250.663 in accordance with Boeing Service Bulletin 737–57–1221, dated August 6, 1992.

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

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

(c) 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 9, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–28142 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–13–P

UNITED STATES INFORMATION AGENCY

22 CFR Part 503

Freedom of Information Act Regulations

AGENCY: United States Information Agency.

ACTION: Notice of proposed rule.

SUMMARY: This proposed Regulation revises the Agency's current regulation implementing the Freedom of Information Act (FOIA), and we are soliciting comments on the proposed rule.

DATES: Comments on the rule will be accepted until November 16, 1993. All written communications received on or before the closing date will be considered by the Agency before taking action on a final rule.

ADDRESSES: Written comments to the Freedom of Information Office, United States Information Agency, Room M–10, 301 4th Street, SW., Washington, DC 20547, telephone (202) 619–5499. Comments received may be seen in the office by appointment between 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lola L. Secora, Freedom of Information Officer (202) 619–5499.

List of Subjects in 22 CFR Part 503

Freedom of information.

Accordingly, 22 CFR part 503 is proposed to be amended by revising §§ 503.1 through 503.6 and removing § 503.9 as set forth below.

PART 503—FREEDOM OF INFORMATION ACT REGULATION

1. The authority citation for Part 503 is revised to read as follows:

Authority: 5 U.S.C. 552 Reform Act of 1986 as amended by Pub. L. 99–570 Sec. 1801–1804; 22 U.S.C. 2658; 5 U.S.C. 301; 13 U.S.C. 8; E.O. 10477, as amended; 47 FR 9320, Apr. 2, 1982, E.O. 12356. 5 U.S.C. Sec. 552 (1988 & Supp. III 1991) *as amended by* Freedom of Information Reform Act of 1986, Pub. L. No. 99–570, title I, Sections 1801–1804, 100 Stat. 3207, 3207–48–50 (1986) (codified at 5 U.S.C. Sec. 552 (1988)); 22 U.S.C. Sec. 2658 (1988); 5 U.S.C. Sec. 301 (1988); 13 U.S.C. Sec. 8 (1988); Executive Order No. 10477, 3 CFR 958 (1949–1953) *as amended by* Executive Order No. 10822, 3 CFR 355 (1959–1963), Executive Order No. 12292, 3 CFR 134 (1982), *reprinted in* 22 U.S.C. Sec. 1472 (1988); Executive Order No. 12356, 3 CFR 166 (1983), *reprinted in* 50 U.S.C. Sec. 401 (1988).

2. Sections 503.1 through 503.6 are revised to read as follows:

503.1 Introduction and definitions.

(a) *Introduction.* The FOIA and this part apply to all records of the United States Information Agency, including all of its foreign posts. As a general policy, USIA follows a balanced approach in administering the FOIA. We recognize the right of public access to information in the possession of the Agency, but we also protect the integrity of the Agency's internal processes. This policy calls for the fullest possible disclosure of records consistent with those requirements of administrative necessity and confidentiality which are recognized by the Freedom of Information Act.

(b) *Definitions.*

Access Appeal Committee or *Committee,* means the Committee delegated by the Agency Director for making final Agency determinations regarding appeals from the initial denial of records under the FOIA. This Committee also revises final appeal denials of documents made by the National Endowment for Democracy (NED) for its records.

Agency or *USIA* means the United States Information Agency. It includes all components of USIA in the U.S. and all foreign posts abroad (known as the U.S. Information Service or USIS). (See 22 CFR part 504, chapter V—Organization.)

Commercial use, when referring to a request, means that the request is from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or of a person on whose behalf the request is made. Whether a request is for a commercial use depends on the purpose of the request and the use to which the records will be put. The identity of the requester (individual, non-profit corporation, for-profit corporation), or the nature of the records, while in some cases indicative of that purpose or use, is not necessarily determinative. When a request is from a representative of the news media, the request shall be deemed not to be for commercial use.

Department means any executive department, military department, government corporation, government controlled corporation, any independent regulatory agency, or other establishment in the executive branch of the Federal Government. A private

organization is not a department even if it is performing work under contract with the Government or is receiving Federal financial assistance. Grantee and contractor records are not subject to the FOIA unless they are in the possession and control of USIA.

Duplication means the process of making a copy of a record and sending it to the requester, to the extent necessary to respond to the request. Such copies include paper copy, microform, audiovisual materials, and magnetic tapes, cards and discs.

Educational institution means a preschool, elementary or secondary school, institution of undergraduate or graduate higher education, or institution of professional or vocational education.

FOIA means section 552 of title 5, United States Code, as amended.

Freedom of Information Officer means the USIA official who has been delegated the authority to release or withhold records and assess, waive, or reduce fees in response to FOIA requests.

Non-commercial scientific institution means an institution that is not operated substantially for purposes of furthering its own or someone else's business, trade, or profit interests, and that is operated for purposes of conducting scientific research whose results are not intended to promote any particular product or industry.

Post or *USIS* means all overseas offices of the USIA.

Records means any handwritten, typed or printed documents (such as memoranda, books, brochures, studies, writings, drafts, letters, transcripts, and minutes) and documentary material in other forms (such as punchcards; magnetic tapes, cards, or discs; paper tapes; audio or video recordings; maps; photographs; slides, microfilm; and motion pictures). It does not include objects or articles such as exhibits, models, equipment, and duplication machines or audiovisual processing materials. Nor does it include books, magazines, pamphlets, or other reference material in formally organized and officially designated USIA libraries, where such materials are available under the rules of the particular library.

Representative of the news media means a person actively gathering news for an entity organized and operated to publish or broadcast news to the public. "News" means information that is about current events or that would be of current interest to the public. News media entities include television and radio broadcasters, publishers of periodicals (to the extent they publish "news") who make their products available for purchase or subscription by the general public, and entities that may disseminate news through other media (e.g., electronic dissemination of text). Freelance journalists shall be considered representatives of a news media entity if they can show a solid basis for expecting publication through such an entity. A publication contract or a requester's past publication record may show such a basis.

Request means asking in writing for records whether or not the request refers specifically to the Freedom of Information Act.

Review means examining the records to determine which portions, if any, may be released, and any other processing that is necessary to prepare the records for release. It includes only the first examination and processing of the requested documents for purposes of determining whether a specific exemption applies to a particular record or portion of a record.

Search means looking for records or portions of records responsive to a request. It includes reading and interpreting a request, and also page-by-page and line-by-line examination to identify responsive portions of a document. However, it does not include line-by-line examination where merely duplicating the entire page would be a less expensive and a quicker way to comply with the request.

§ 503.2 Making a request.

(a) *How to request records.* All requests for documents shall be made in writing. Requests should be addressed to the United States Information Agency, Freedom of Information Officer, GC/FOI, room M–10, 301 4th Street, SW., Washington, DC 20547. Write the words "Freedom of Information Act Request" on the envelope and letter.

(b) Details in your letter. Your request for documents should provide as many details as possible that will help us find the records you are requesting. If there is insufficient information, we will ask you for more. Include your telephone number(s) to help us reach you if we have questions. If you are not sure how to write your request or what details to include, you may call the FOIA Office. The more specific the request for documents, the faster the Agency will be able to respond to your requests.

(c) *Requests not handled under FOIA.* We will not provide documents requested under the FOIA and this part if the records are currently available in the National Archives, subject to release through the Archives, or commonly sold to the public by it or another agency pursuant to statutory authority (for example, records currently available from the Government Printing Office or the National Technical Information Service). Agency records that are normally freely available to the general public, such as USIA World, are not covered by the FOIA. Also requests from Federal departments and court orders for documents are not FOIA requests, nor are requests from Chairmen of Congressional committees or subcommittees.

(d) *Referral of requests outside the agency.* If you request records that were created by or provided to us by another Federal department, we may refer your request to or consult with that department. We may also refer requests for classified records to the department that classified them. In cases of referral, the other department is responsible for processing and responding to your request under that department's regulation. When possible, we will notify you when we refer your request to another department.

(e) *Responding to your request.*

(1) *Retrieving records.* The Agency is required to furnish copies of records only when they are in our possession and control. If we have stored the records you want in a records retention center, we will retrieve and review them for possible disclosure. However, the Federal Government destroys many old records, so sometimes it is impossible to fill requests. The Agency's record retention policies are set forth in the General Records Schedules of the National Archives and Records Administration and in USIA's Records Disposition Schedule, which establish time periods for keeping records before they may be destroyed.

(2) *Furnishing records.* The Agency is only required to furnish copies of records which we have or can retrieve; we are not compelled to create new records. For example, if the requested information is maintained in computerized form and we can, with minimal computer instructions, produce the information on paper, we will do so—if this is the only way to respond to a request. We are not, however, required to write a new computer program in order to print documentary material in a format you might prefer. On the other hand, we may decide to conserve government resources and at the same time supply the records you need by consolidating information from various records rather than coping them all. The Agency is required to furnish only one copy of a record. If we are unable to make a legible copy of a record to be released, we will not attempt to reconstruct it. Rather we will furnish the best copy possible and note its poor quality in our reply or on the copy. If material exists in different forms, we

will provide the record in the form that best conserves government resources. For example, if it requires less time and expense to provide a computer record as a paper printout rather than on tape, we will provide the printout.

§ 503.3 Availability of agency records.

(a) *Release of records.* If we have released a record or part of a record to others in the past, we will ordinarily release it to you also. This principle does not apply if the previous release was an unauthorized disclosure. However, we will not release it to you if a statute forbids this disclosure and we will not necessarily release it to you if an exemption applies in your situation and did not apply or applied differently in the previous situations.

(b) *Denial of requests.* All denials are in writing and described in general terms the material withheld and state the reasons for the denial, including a reference to the specific exemption of the FOIA authorizing the withholding or deletion. The denial also explains your right to appeal the decision and it will identify the official to whom you should send the appeal. Denial letters are signed by the person who made the decision to deny all or part of the request, unless otherwise noted.

(c) *Unproductive searches.* We make a diligent search for records to satisfy your request. Nevertheless, we may not be able always to find the records you want using the information you provided, or they may not exist. If we advise you that we have been unable to find the records despite a diligent search, you will nevertheless be provided the opportunity to appeal the adequacy of the Agency's search. However, if your request is for records that are obviously not connected with this Agency or your request has been provided to us in error, a "no records" response will not be considered an adverse action and you will not be provided an opportunity to appeal.

(d) *Appeal of denials.* You have the right to appeal a partial or full denial of your FOIA request. To do so, you must put your appeal in writing and address it to the official identified in the denial letter. Your appeal letter must be dated and post marked within 30 calendar days from the date of the Agency's denial letter. Because we have some discretionary authority in deciding whether to release or withhold records, you may strengthen your appeal by explaining your reasons for wanting the records. However, you are not required to give any explanation. Your appeal will be reviewed by the Agency's Access Appeal Committee which consists of senior Agency officials. When the Committee responds to your appeal, that constitutes the Agency's final action on the request. If the Access Appeal Committee grants your appeal in part or in full, we will send the records to you promptly or set up an appointment for you to inspect them. If the decision is to deny your appeal in part or in full, the final letter will state the reasons for the decision, name the officials responsible for the decision, and inform you of the FOIA provisions for judicial review.

§ 503.4 Time limits.

(a) *General*—The FOIA sets certain time limits for us to decide whether to disclose the records you requested, and to decide appeals. If we fail to meet the deadlines, you may proceed as if we had denied your request or your appeal. Since requests may be misaddressed or misrouted, you should call or write to confirm that we have the request and to learn its status if you have not heard from us in a reasonable time.

(b) *Time allowed.*

(1) We will decide whether to release records within 10 working days after your request reaches the appropriate area office that maintains the records you are requesting. When we decide to release records, we will actually provide the records at that time, or as soon as possible after that decision, or let you inspect them as soon as possible thereafter.

(2) We will decide an appeal within 20 working days after the appeal reaches the appropriate reviewing official.

(3) The FOI Officer or appeal official may extend the time limits in unusual circumstances for initial requests or appeals, up to 10 working days. We will notify you in writing of any extensions. "Unusual circumstances" include situations where we: search for and collect records from field facilities, records centers or locations other than the office processing the records; search for, collect, or examine a great many records in response to a single request; consult with another office or department that has substantial interest in the determination of the request; and/or conduct negotiations with submitters and requesters of information to determine the nature and extent of non-disclosable proprietary materials.

§ 503.5 Records available for public inspection.

(a) To the extent that they exist, we will make the following records of general interest available for your inspection and copying:

(1) Orders and final opinions, including concurring and dissenting opinions in adjudications. (See § 503.8(e) of this part for availability of internal memoranda, including attorney opinions and advice.)

(2) Statements of policy and interpretations that we have adopted but have not published in the **Federal Register**.

(3) Administrative staff manuals and instructions to staff that affect the public. (We will not make available, however, manuals or instructions that reveal investigative or audit procedures as described in § 503.8 (b) and (g) of this part.)

(4) In addition to such records as those described in paragraph (a) of this section, we will make available to any person a copy of all other Agency records, unless we determine that such records should be withheld from disclosure under subsection (b) of the Act and § 503.8 of this part.

(b) Before releasing these records, however, we may delete the names of people, or information that would identify them, if release would invade their personal privacy to a clearly unwarranted degree. (See § 503.8(f).)

(c) This Agency does not publish an FOIA index because it is impracticable to do so.

503.6 Restriction on some agency records.

Under the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1461, as amended), the USIA is prohibited from disseminating within the United States information about the U.S., its people, and its policies when such materials have been prepared by the Agency for audiences abroad. This includes films, radio scripts and tapes, video tapes, books, and similar materials produced by the Agency. However, this law does provide that upon request, such information shall be made available at USIA for examination only by representatives of the press, magazines, radio systems and stations, research students or scholars and available for examination only to Members of Congress.

3. Section 503.9 is removed.

§ 503.9 [Removed].

R. Wallace Stuart,

Acting General Counsel.

[FR Doc. 93–27950 Filed 11–15–93; 8:45 am]

BILLING CODE 8230–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL-9801-6]

Wood Furniture Manufacturing Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Environmental Protection Agency.

ACTION: Meeting.

SUMMARY: The Wood Furniture Manufacturing Negotiated Rulemaking Advisory Committee will meet to attempt to reach consensus on a proposed rule covering Hazardous Air pollutant emissions and a Control Techniques Guideline covering volatile organic compound emissions associated with wood furniture manufacturing.

DATES: The meeting will take place on November 30 and December 1. On November 30 it will start at 9 a.m. and run until completion. On December 1, it will start at 8 a.m. and end by 5 p.m.

ADDRESSES: The meeting will take place at the Valet Cloak, 1505 Hillsborough St., Raleigh, NC 27605, (919) 828-0333.

FOR FURTHER INFORMATION CONTACT: For additional information on substantive aspects of the meeting, please contact Madeline Strum of EPA's Office of Air Quality Planning and Standards, (919) 541-2383. For additional information on procedural or administrative matters please contact Susan Wildau or John Lingelbach, EPA's coconvenors, at (303) 442-7367.

Dated: November 9, 1993.

Chris Kirtz,

Director, Consensus and Dispute Resolution Program.

[FR Doc. 93-27986 Filed 11-15-93; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 68

[A-91-73; FRL-4801-9]

Risk Management Programs for Chemical Accidental Release Prevention

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing.

SUMMARY: On October 20, 1993 (58FR 54190) the Environmental Protection Agency proposed regulations that would require development and implementation of risk management programs at facilities that manufacture, process, use, store, or otherwise handle regulated substances in quantities that exceed specified thresholds. EPA has proposed a list of regulated substances and thresholds separately. Risk management programs provide facilities with an integrated approach to identifying and managing the hazards posed by these regulated substances. The risk management plans developed under such programs would be registered with EPA, provided to the Chemical Safety and Hazard Investigation Board, state governments, and local planning authorities, and made available to the public. The proposed rule would assist facilities and communities in efforts to lessen the number and severity of serious chemical accidents. This notice schedules two additional public hearings.

DATES: Comments must be submitted on or before February 16, 1994. Public hearings will be held in Washington, DC on November 30, 1993, from 9 a.m. to 5 p.m.; in Chicago, IL on December 8, 1993, from 9 a.m. to 5 p.m.; in San Francisco, CA on December 15, 1993, from 9 a.m. to 5 p.m. Persons interested in appearing at the Washington public hearing should register with EPA at (703) 218-2570 by November 23, 1993. Persons interested in appearing at the Chicago public hearing should register with EPA at (312) 886-1964 by December 3, 1993. Persons interested in appearing at the San Francisco public hearing should register with EPA at (415) 744-2100 by December 10, 1993. A copy of the testimony should be submitted by the appropriate registration date, to Dr. Lyse Helsing (see the **ADDRESSES** section) and two copies to the docket.

Docket: Supporting documentation used in developing this proposed rule is contained in Docket No. A-91-73. This docket is available for public inspection and copying between 8:30 a.m. and 12 noon, and between 1:30 and 3:30 p.m. Monday through Friday, at the address listed below. A reasonable fee may be charged for copying.

ADDRESSES: Comments should be mailed or submitted to: Environmental Protection Agency, Air Docket (LE-131), Attn: Docket No. A-91-73, Waterside Mall, 401 M Street, SW., Washington, DC 20460. Comments must be submitted in duplicate. In addition, testimony for the Washington hearing should be mailed to Dr. Lyse Helsing, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency, 5101, 401 M St SW., Washington, D.C. 20460. Testimony for the Chicago hearing should be mailed to Mail code HSC-9J, The Lake Michigan Room, #77 W. Jackson Blvd. Ralph H. Metcalfe Bldg., Chicago, IL 60604. Testimony for the San Francisco hearing should be mailed to Attn: RMP Hearing, Office of Health and Emergency Planning, Mail Code H-8-5, EPA Region 9, 75 Hawthorne St., San Francisco, CA 94105. The public hearings will be held at: Temple Micah, 600 M Street SW., Washington, DC; The Lake Michigan Room—12th Floor, #77 W. Jackson Blvd., Ralph H. Metcalfe Bldg., Chicago, IL; Berkeley Marina Marriott, 200 Marina Blvd., Berkeley, CA.

FOR FURTHER INFORMATION CONTACT: Dr. Lyse Helsing, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency, 5101, 401 M St. SW., Washington, DC 20460, (202) 260-6128; or the Emergency Planning and Community Right-to-Know Hotline, (800) 535-0202; in northern Virginia and Alaska (703) 920-9877.

Jim Makris,

Director, Chemical Emergency Preparedness and Prevention Office.

[FR Doc. 93-28119 Filed 11-15-93; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 552, 554, 573, 576, and 577

[Docket No. 93-68; Notice 2]

RIN 2127-AD83

Petitions for Rulemaking, Defect and Noncompliance Orders; Standards Enforcement and Defect Investigations; Defect and Noncompliance Reports; Record Retention; and Defect and Noncompliance Notification

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: In response to a petition submitted by the American Automobile Manufacturers Association (AAMA), this notice extends the comment period on a notice of proposed rulemaking to amend several provisions of NHTSA's regulations that pertain to its enforcement of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Safety Act), and manufacturers' obligations to provide notification and remedy without charge to owners of motor vehicles or items of motor vehicle equipment that have been determined not to comply with a

Federal motor vehicle safety standard or to contain a defect related to motor vehicle safety. In view of the breadth of the proposed amendments, NHTSA agrees with petitioner that it is appropriate to allow additional time for commenters to prepare their responses. Accordingly, the agency has decided to extend the comment period from November 12, 1993 to December 3, 1993.

DATES: Comments on the notice of proposed rulemaking, Docket 93–68, Notice 1, must be received on or before December 3, 1993.

ADDRESSES: Comments should refer to Docket 93–68, Notice 1, and be submitted to the following: Docket Section, room 5109, NHTSA, 400 Seventh Street SW., Washington, DC 20590. The docket room hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jonathan D. White, Office of Defects Investigation, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202–366–5227).

SUPPLEMENTARY INFORMATION: On September 27, 1993, NHTSA published a notice of proposed rulemaking (NPRM) in the **Federal Register**, 58 FR 50314, in which it proposed to amend several provisions of its regulations pertaining to manufacturers' obligations to provide notification and remedy without charge to owners of motor vehicles or items of motor vehicle equipment that have been determined not to comply with a Federal motor vehicle safety standard or to contain a defect related to motor vehicle safety.

Several of the amendments would implement provisions added to the Safety Act by the Intermodal Surface Transportation Efficiency Act of 1991 regarding notification of defects or noncompliances to vehicle lessees and for a second notification to owners of recalled vehicles. The remaining provisions would amend existing regulations related to NHTSA's consideration of petitions for rulemaking or for an investigation of an alleged safety-related defect or noncompliance (49 CFR part 552); NHTSA's procedures following an initial determination that a safety-related defect exists (49 CFR part 554); the form and content of defect and noncompliance reports submitted to NHTSA by manufacturers (49 CFR part 573); the form and content of notification letters that manufacturers must send to owners and dealers following a determination that a vehicle or item of equipment contains a safety-related defect or noncompliance (49 CFR part 577); the record retention requirements applicable to motor vehicle manufacturers (49 CFR part 576); and a clarification that NHTSA's reporting and recordkeeping regulations (49 CFR parts 573 and 576) apply to electronically generated or communicated materials.

The NPRM requested comments on the proposed amendments and specified that comments had to be submitted on or before November 12, 1993, a comment period of 45 days.

The AAMA has petitioned the agency to extend the comment period for an additional 45 days, until December 27, 1993. It noted that the proposed amendments could have a significant effect on original equipment manufacturers, suppliers, dealers and consumers. The petitioner also stated that its members needed to consider the wide variety of issues in the notice to determine the effects of such amendments on their operations.

After reviewing the petition, NHTSA agrees with the AAMA that extending the comment closing date is appropriate. Although the NPRM does not raise issues of technical complexity it does cover a wide variety of areas that are of importance to all aspects of the motor vehicle industry. An extension of the comment period will allow the petitioner and other commenters more time to better address the issues covered in the NPRM.

However, the agency believes that an additional 45 days is not required. Therefore, the agency has decided that there is good cause to extend the comment period an additional three weeks (21 days) and that this decision is consistent with the public interest.

Accordingly, the agency has decided to extend the comment period until December 3, 1993.

Issued on: November 10, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–28134 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 58, No. 219
Tuesday, November 16, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Region; Exemption From Appeal of the Decision for Suppression of Southern Pine Beetle Infestation on the Pedlar Ranger District of the George Washington National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice; exemption of decision from administrative appeal.

SUMMARY: Pursuant to 36 CFR 217(a)(11), the Regional Forester for the Southern Region has determined that good cause exists and notice is hereby given to exempt from administrative appeal the decision to suppress infestations of the southern pine beetle (SPB) on the Pedlar Ranger District of the George Washington National Forest by the cut and remove method. The SPB populations have increased dramatically, resulting in damage to susceptible southern yellow and white pines on approximately 130 acres in 2 areas. The primary purpose of removing trees in these areas is to slow the spread of SPB and rapidly salvage infested merchantable trees prior to excessive loss of value due to stain and decay. Approximately 480 MBF (Thousand Board Feet) would result from this cut and remove operation. The treatment would involve the removal of all infested yellow pines and white pines (*Pinus strobus*) in the stands. The species of yellow pine include Virginia pine (*P. virginiana*), shortleaf pine (*P. echinata*), and pitch pine (*P. rigida*). The two areas will be harvested as stands due to the number and activity level of SPB infestations within the surrounding them.

The treatments will resemble heavy thinnings, as the stands contain a significant hardwood species component and are not expected to be totally cleared. Compartment/stands that fall into this category are 1236/14 (approximately 90 acres) and 1241/37 (approximately 40 acres).

EFFECTIVE DATE: November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this exemption should be directed to Jean P. Kruglewicz, Appeals and Litigation Group Leader, Southern Region, Forest Service—USDA, 1720 Peachtree Road, NW., Atlanta, GA 30367 (404) 347–4867.

SUPPLEMENTARY INFORMATION: The purpose of the SPB suppression treatments is twofold; (1) to slow the spread of this insect pest in the immediate area of the infestations and (2) to capture any value left in the dead and dying trees. Southern yellow pines are the preferred host of the SPB, but with rapidly building populations the SPB moves into nearby white pines (*Pinus strobus*). While white pines are generally less susceptible to SPB attacks, they are at risk when mixed with, or in close proximity to, infested yellow pines. Most of the major yellow pine stands on the Pedlar Ranger District are on steep and inaccessible mountain slopes that are typically unsuitable for timber production. These yellow pine stands, however, provide breeding grounds for the SPB, which then infest white pine trees in the adjacent valleys that are suitable for timber production. It is the white pine which we are the most concerned about protecting.

It is imperative that infested trees be removed as soon as possible to slow the spread of SPB. The adult beetles emerge in early spring, fly to new trees, bore into the new host trees and create galleries in the trees cambium, which eventually girdles and kills the tree. Blue stain fungi are also introduced by the beetles and accelerate tree death by blocking the vascular system of the tree. Beetle broods complete their development in about a month during the summer months and resulting in 5 to 7 generations per year. The warm summer temperatures also promote the rapid loss of timber value due to stain and decay.

This cut and remove treatment would involve the removal of all yellow pines and white pines in the stands. The two areas proposed for treatment are located on lands identified as suitable for timber production (Management Areas 11 and 16), per the approved, revised George Washington National Forest Land and Resource Management Plan.

Only areas with easy access have been proposed for treatment, which should enable these areas to be logged economically. Rehabilitation practices will be disclosed in the environmental documents and may include practices such as site preparation, slash disposal, and reforestation, depending on stand conditions and resource objectives.

The District Ranger is the responsible official. The environmental analysis is currently being done. The decision will likely be documented in either a Decision Memo (per the Forest Service Environmental Policy and Procedures Handbook, Section 31.2) or Decision Notice. The analysis will include methods of harvest, mitigation measures, and any post salvage rehabilitation practices.

Time is of the essence for this project. It is imperative that identified SPB infested areas be treated and the trees removed as soon as possible to slow the spread of SPB to adjacent pine trees and stands of pine trees, and expedite the salvage of merchantable timber.

Dated: November 9, 1993.

Ralph F. Mumme,

Acting Regional Forester.

[FR Doc. 93–28054 Filed 11–15–93; 8:45 am]
BILLING CODE 3410–11–M

Southern Region; Exemption From Appeal of the Decision for Suppression of Southern Pine Beetle Infestation on the Glenwood and New Castle Ranger Districts of the Jefferson National Forest

AGENCY: Forest Service, USDA.

ACTION: Notice; exemption of decision from administrative appeal.

SUMMARY: Pursuant to 36 CFR 217.4(a)(11), the Regional Forester for the Southern Region has determined that good cause exists and notice is hereby given to exempt from administrative appeal the decision to suppress infestations of the southern pine beetle (SPB) on the Glenwood and New Castle Ranger Districts of the Jefferson National Forest by the cut and remove method. The SPB populations have increased dramatically, resulting in damage to southern yellow and white pines on approximately 135 acres in 29 areas on the Glenwood Ranger District

and 20 acres in 6 areas, (an area may involve two or more adjacent stands). The primary purpose of removing trees in these areas is to slow the spread of SPB, reduce public safety risks, and rapidly salvage infested merchantable trees prior to excessive loss of value due to stain and decay.

Approximately 1100 MBF (Thousand Board Feet), 900 MBF on the Glenwood district and 200 MBF on the New Castle District, would result from this cut and remove operation. The treatment would involve the removal of all infested yellow pines and white pines (*Pinus strobus*) in the stands. The species of yellow pine include Virginia pine (*P. virginiana*), shortleaf pine (*P. echinata*), and pitch pine (*P. rigida*). Additionally, an area of unattacked pines (approximately 100 to 200 feet) around the infested trees will be removed. Removal of this "buffer strip" ensures the removal of freshly attacked pines that were overlooked or became infested after the spot was marked. The treatments are referred to as patch cuts, but will equate to group selections or small clearcuts in the areas dominated by pine. These patch cut areas will still contain a hardwood species component and are not expected to be totally cleared. Compartment/stands that fall into this category include: 3001/17; 3008/12, 13, 14 and 15; 3010/1 and 8; 3018/1, 3, 6 and 23; 3019/3 and 4; 3023/4 and 11; 3025/10; 3026/2 and 3; 3027/1 and 22; 5073/24; 5086/3; 5088/25; 5089/6; and 5090/84. The largest patch cut areas will be approximately six acres on the Glenwood and four acres on the New Castle. Some areas contain a mix of hardwoods and pines. Treatments in these areas will resemble partial cuts, similar to a shelterwood cut or thinning. Compartment/stands that fall into this category include: 3001/3; 3002/5, 7, 17, and 30; 3003/8 and 9; 3006/7, 22 and 28; 3012/53 and 54; 3013/19 and 21; 3021/17 and 24, and 5087/16. The largest partially cut area will be approximately 10 acres.

EFFECTIVE DATE: November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Questions about this exemption should be directed to Jean P. Kruglewicz, Appeals and Litigation Group Leader, Southern Region, Forest Service-USDA, 1720 Peachtree Road, NW., Atlanta, GA 30367 (404) 347–4867.

SUPPLEMENTARY INFORMATION: The purpose of the SPB suppression treatments is threefold; (1) to slow the spread of this insect pest in the immediate area of the infestations; (2) reduce public safety risks where infested areas are adjacent to roads; and (3) to capture any value left in the dead and dying trees. Southern yellow pines are the preferred host of the SPB, but with rapidly building populations the SPB moves into nearby white pines (*Pinus strobus*). While white pines are generally less susceptible to SPB attacks, they are at risk when mixed with, or in close proximity to, infested yellow pines. Yellow pine is not a large species component on the Glenwood and New Castle Ranger Districts; it exists most extensively on poor dry sites on mountain ridges which are typically unsuitable for timber production. These yellow pine stands, however, provide breeding grounds for the SPB, which then infest white pine trees in the adjacent valleys that are suitable for timber production. It is the white pine which we are the most concerned about protecting.

It is imperative that infested trees be removed as soon as possible to slow the spread of SPB. As the adult beetles emerge they fly to new trees, bore into the new host trees and create galleries in the trees cambium, which eventually girdles and kills the tree. Blue stain fungi are also introduced by the beetles and accelerate tree death by blocking the vascular system of the tree. Beetle broods complete their development in about a month during the warm months of the year. Reproductive activity during the fall and winter months is ongoing, but reduced depending on day time temperatures. The beetle is capable of 5 to 7 generations per year.

This cut and remove treatment would involve the removal of all yellow pines and infested white pines in the stands. All twenty-nine (29) areas on the Glenwood and six (6) areas on the New Castle, which are proposed for treatment, are located on lands identified as suitable for timber production (Management Area 7), per the approved Jefferson National Forest Land and Resource Management Plan (as amended).

One area proposed for suppression on both the Glenwood and the New Castle Districts is located within, or contains, riparian areas. The purpose for suppression in these areas would be strictly limited to protection of the riparian dependent resource of visual quality and reduction of public safety hazards. Appropriate mitigations as outlined in the Forest Land and Resource Management Plan (Forest Plan) regarding riparian areas will be followed. This proposal regarding riparian areas is consistent with Forest Plan direction found on pages IV–102–103, IV–79, appendix I, and IV–96.

Only areas with easy access have been proposed for treatment which should enable these areas to be logged economically. Rehabilitation practices will be disclosed in the environmental documents and may include practices such as, site preparation, slash disposal, and reforestation, depending on stand conditions and resource objectives. The respective District Ranger is the responsible official. The environmental analyses are currently being done. The decisions will likely be documented in either a Decision Memo (per the Forest Service Environmental Policy and Procedures Handbook, Section 31.2) or Decision Notice. The analyses will include methods of harvest, mitigation measures, and any post salvage rehabilitation practices.

Time is of the essence for this project. It is imperative that all identified SPB infested areas be treated and the trees removed as soon as possible to slow the spread of SPB to adjacent pine trees and stands of pine trees, and expedite the salvage of merchantable timber.

Dated: November 9, 1993.

Ralph F. Mumme,

Acting Regional Forester.

[FR Doc. 93–28055 Filed 11–15–93; 8:45 am]

BILLING CODE 3410–11–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development (A.I.D.) submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry. Comments may also be addressed to, and copies of the submissions obtained from the Records Management Officer, Renee Poehls, (202) 736–4748, M/AS/ISS/RM, Room 930B, N.S., Washington, DC 20523.

Date Submitted: October 25, 1993

Submitting Agency: Agency for International Development

OMB Number: 0412–0506

Form Number: AID 1420–50

Type of Submission: Renewal

Title: Information Collection Elements in the A.I.D. Consultant Registry Information System (ACRIS).

Purpose: A.I.D.'s procuring activities are required to establish bidders mailing lists "to assure access to sources and to obtain meaningful competition," (CFR 1–2.205). In compliance with this requirement, A.I.D.'s Office of

Small and Disadvantaged Business Utilization/Minority Resource Center has responsibility for "developing and maintaining a Contractor's Index of bidders/offerors capable of furnishing services for use by the A.I.D. procuring activities" (AIRDPR 7–1.704–2(b)(4)).

Annual Reporting Burden: Respondents: 2,000, annual responses: 1; average hours per response: .5; annual burden hours: 1,000

Reviewer: Jeffery Hill (202) 395–7340, Office of Management and Budget, room 3201, New Executive Office Building, Washington, DC 20503.

Dated: October 30, 1993.

Elizabeth Baltimore,

Information Support Services Division.

[FR Doc. 93–28020 Filed 11–15–93; 8:45 am]

BILLING CODE 6116–01–M

[RFA: OP/A/EE–94–A–003]

Cooperative Agreements Competition for Training Programs for Central and Eastern Europe

The Bureau for Europe and Newly Independent States within the Agency for International Development, through Partners for International Education and Training (PIET), is soliciting applications for (no fee) cooperative agreements exclusively addressing training needs in Central and Eastern Europe (CEE). These awards will be made to institutions who propose to offer quality short-term (average 3–5 months but could be from one month to one year) technical training programs to Europeans from the following CEE countries: Albania, Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic, and the Former Yugoslav Republics of Croatia, Slovenia, and Macedonia.

Proposed programs MUST focus on SEED Act Legislation priority training areas: Economic Restructuring, Democratic Institution Building, and Quality of Life. Sharing costs will be a critical element of awards, and must include a minimum of 50% cost-sharing of total program costs (participant and/or administrative) for applications to be considered. Historically Black Colleges and Universities (HBCUs) must cost-share a minimum of 25% of the total program costs.

Funding will be for training programs held either in the United States or in U.S. institutions of higher education with campuses abroad. Programs must demonstrate linkages with CEE institutions and include demonstrated ability to: select/recruit participants, meet *A.I.D. Handbook 10—Participant Training* requirements, guarantee financial accountability, and provide program reports.

The applications packet will be available in early November without fee on FEDIX/MOLIS on-line database by modem at 1–800–783–3349 (toll free) or 301–258–0953 (local) using parameters 8–N–1; or by Internet at address: fedix.fie.com. The packet is available in the A.I.D. downloadable filename PTPE.*. FEDIX helpline telephone: (301) 975–0103. Application packets are also available upon request from Bev Frannea, Competition Director, or Colin Davies, Partners for International Education and Training, Tel: (202) 223–4291. Fax: (202) 223–4289. Closing date for responding to the solicitation will be stated in the Request for Applications, but is approximately forty-five (45) calendar days from the RFA's issuance date. Only one copy of the RFA will be provided to each organization requesting it, but it may be reproduced. Issuance of this notice does not constitute an award commitment on the part of the Government, nor does it commit the Government to pay for costs incurred by the applicant in the preparation and submission of the application.

Dated: November 3, 1993.

Mary Anne Walker,

Assistant Project Officer, Bureau for Europe and Newly Independent States.

[FR Doc. 93–27899 Filed 11–15–93; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of the Census.

Title: 1994 Long–Term Care Survey.

Form Number(s): LTC–1, 2, 3, 4, 7, 9(L1), 9(L2).

Agency Approval Number: None.

Type of Request: New collection.

Burden: 9,437 hours.

Number of Respondents: 21,573.

Avg Hours Per Response: 19 minutes.

Needs and Uses: The National Institute on Aging has awarded a grant to the Center for Demographic Studies, Duke University, to conduct the 1994 Long–Term Care Survey (LTC). Duke University has contracted with the Bureau of the Census to conduct the sampling, data collection, processing, and estimation operations. The purpose of the LTC is to obtain information about health conditions that affect older Americans' everyday activities, any special health care needs or services required, and the persons and organizations that may provide care. Planners will use the information to determine the health care needs of people 65 years and over.

Affected Public: Individuals or households.

Frequency: One–time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

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

Dated: November 8, 1993.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 93–28139 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–07–F

Bureau of the Census

[Docket No. 931195–3295]

Motor Freight Transportation and Warehousing Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of Determination.

SUMMARY: In accordance with title 13, United States Code, sections 131, 182, 224, and 225, I have determined that 1993 operating revenue and expenses are needed for the for-hire trucking and public warehousing industries to provide a sound statistical basis for the formation of policy by various governmental agencies, and that these data also apply to a variety of public and business needs. These data are not publicly available from nongovernment or other governmental sources.

FOR FURTHER INFORMATION CONTACT: Thomas E. Zabelsky, Chief, Current Services Branch, on (301) 763–5528.

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to take surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United

States Code. This survey will provide continuing and timely national statistical data on motor freight transportation and warehousing services. The data collected in this survey will be within the general scope and nature of those inquiries covered in the economic censuses. The Census Bureau will select a probability sample of trucking and warehousing firms in the United States (with revenue size determining the probability of selection) to report in the 1993 Motor Freight Transportation and Warehousing Survey. The sample will provide, with measurable reliability, national level statistics on operating revenue and expenses for these industries. We will mail report forms to the firms covered by this survey and require their submission within thirty days after receipt.

This survey has been submitted to the Office of Management and Budget (OMB), in accordance with the Paperwork Reduction Act, Public Law 96–511, as amended, and was approved under OMB Control No. 0607–0510. We will provide copies of the forms upon written request to the Director, Bureau of the Census, Washington, DC 20233.

Based upon the foregoing, I have directed that an annual survey be conducted for the purpose of collecting these data.

Dated: November 8, 1993.

Harry A. Scarr,

Acting Director, Bureau of the Census.

[FR Doc. 93–28082 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–588–804]

Antifriction Bearings From Japan; Notice of Court of International Trade Decision

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

SUMMARY: On October 8, 1993, the United States Court of International Trade (the Court) rejected the Department of Commerce's (the Department's) final results of the third administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Japan (58 FR 39729, July 26, 1993). *NSK Ltd. and NSK Corp.* v. *United States,* (Slip Op. 93–195, October 8, 1993) (*NSK*). Specifically, the Court rejected the Department's determination to deduct direct selling expenses incurred in the United States from exporter's sale price transactions. The Court entered final judgment on this issue. The results covered the period May 1, 1991 through April 30, 1992.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1993, the Court in *NSK Ltd. and NSK Corp.* v. *United States,* (Slip Op. 93–195, October 8, 1993) ruled upon an issue contained in the Department's final results of the third administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from Japan (58 FR 39729, July 26, 1993). Specifically, the Court reviewed the Department's determination to deduct direct selling expenses incurred in the United States from exporter's sale price transactions. In its decision, the Court rejected this determination and ordered the Department to add such direct selling expenses to foreign market value. The Court also entered final judgment on this issue.

In its decision in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The Court's decision in *NSK* on October 8, 1993, which rejected the Department's determination to deduct direct selling expenses incurred in the United States from exporter's sale price transactions, constitutes a decision not "in harmony" with the Department's final results.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise. Further, absent an appeal, or, if appealed, upon a "conclusive" court decision affirming the Court's opinion, the Department will amend the final affirmative results of antifriction bearings (other than tapered roller bearings) and parts thereof from Japan to reflect the Court's order that the Department must add direct selling expenses incurred in the United States to foreign market value.

Dated: November 5, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–28137 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–412–801]

Antifriction Bearings From the United Kingdom; Notice of Court of International Trade Decision

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

SUMMARY: On October 14, 1993, the United States Court of International Trade (the Court) rejected the Department of Commerce's (the Department's) redetermination on remand of the final results of the first administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from the United Kingdom (56 FR 31769, July 11, 1991). *The Torrington Company and Federal-Mogul Corp.* v. *United States,* (Slip Op. 93–199, October 14, 1993) (*Torrington*). Specifically, the Court rejected the Department's methodology in the redetermination for calculating the amount of the tax adjustment that was added to United States price (USP). The Court entered final judgement on this issue. The results covered the period November 9, 1988 through April 30, 1990.

EFFECTIVE DATE: October 25, 1993.

FOR FURTHER INFORMATION CONTACT: Joanna Schlesinger or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC, 20230; telephone (202) 482–5287.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1993, the Court in *Torrington Co.* v. *United States,* Slip Op. 93–103 (June 9, 1993), remanded the final results of the first administrative review of the antidumping duty order on antifriction bearings (other than tapered roller bearings) and parts thereof from the United Kingdom (56 FR 31769, July 11, 1991) to the Department. The Court ordered the Department to determine the exact monetary amount of the value-added tax (VAT) paid on each sale in the home market, to make certain that the amount of the VAT adjustment added to the comparable U.S. sale is less than or equal to this amount, and to add the full amount of the VAT in the home market to foreign market value (FMV)

without adjustment. On July 23, 1993, the Department submitted to the Court its redetermination on remand. On October 14, 1993, the Court ruled upon the Department's redetermination in *Torrington*. In this decision, the Court rejected the Department's redetermination methodology for calculating the amount of the VAT adjustment added to USP.

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish a notice of a court decision which is not "in harmony" with a Department determination, and must suspend liquidation of entries pending a "conclusive" court decision. The Court's decision in *Torrington* on October 14, 1993, which rejected the Department's redetermination methodology for calculating the amount of the VAT adjustment added to USP, constitutes a decision not in harmony with the Department's final results.

Accordingly, the Department will continue the suspension of liquidation of the subject merchandise. Further, absent an appeal, or, if appealed, upon a "conclusive" court decision affirming the Court's opinion, the Department will amend the final affirmative results of antifriction bearings (other than tapered roller bearings) and parts thereof from the United Kingdom to reflect the change in the VAT adjustment calculation methodology which was ordered by the Court.

Dated: November 5, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–28138 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology (NIST) Visiting Committee on Advanced Technology will meet on Tuesday, December 7, 1993, from 8:30 a.m. to 5 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. The following presentations are scheduled: Technology Administration Update, NIST Management Update, Electronics and Electrical Engineering Laboratory Strategic Planning, Manufacturing Extension Partnership's Role in the Technology Reinvestment Program, Facilities Construction and Renovation, and laboratory tours. The discussion on NIST Budget, scheduled to begin at 4:15 p.m. and end at 5 p.m. on December 7, 1993, will be closed.

DATES: The meeting will convene December 7, 1993, at 8:30 a,.m. and will adjourn at 5 p.m.

ADDRESSES: The meeting will be held in Lecture Room A, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Dale E. Hall, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2158.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 1, 1992, that portions of the meeting of the Visiting Committee on Advanced Technology which involve examination and discussion of the budget for the Institute may be closed in accordance with section 552(b)(9)(B) of title 5, United States Code, since the meeting is likely to disclose financial information that may be privileged or confidential.

Dated: November 8, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–28156 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–13–M

[Docket No. 931057–3257]

RIN 0693–AA98

Proposed Withdrawal of Federal Information Processing Standard 71, Advanced Data Communication Control Procedures (ADCCP)

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The purpose of this notice is to announce the proposed withdrawal of Federal Information Processing Standard (FIPS) 71, Advanced Data Communication Control Procedures (ADCCP), which adopts ANSI X3.66–1979(R1990). This standard is proposed for withdrawal because commercial products supported by this technology are no longer needed by the Federal government. If FIPS 71 is withdrawn, FIPS 78, Guideline for Implementing Advanced Data Communication Control Procedures (ADCCP), will be withdrawn at the same time.

Prior to the submission of this proposed withdrawal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may obtain a copy of this standard from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, telephone (703) 487–4650.

DATES: Comments on this proposed withdrawal must be received on or before February 14, 1994.

ADDRESSES: Written comments concerning the withdrawal should be sent to: Director, Computer Systems Laboratory, ATTN: Withdrawal of FIPS 71, Technology Building, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Radack, National Institute of Standards and Technology, Gaithersburg, MD 20899, telephone (301) 975–2833.

Dated: November 8, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–28158 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–CN–M

[Docket No. 931064–3264]

Notice of a Trial Period for a Test Method and a Validation Test Service for the Federal Information Processing Standards Publication (FIPS PUB) 150 and the Department of Defense (DoD) MIL–R–28002B Military Specification

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: NIST invites interested members of the public to participate in a one-year trial period for the NIST raster graphics validation test service for the validation of raster graphics files for conformance to FIPS PUB 150, Facsimile Coding Schemes and Coding Control Functions for Group 4 Facsimile Apparatus, and MIL–R–28002B, Requirements for Raster Graphics Representation in Binary Format. NIST will use the trial test service period to verify the accuracy and completeness of the raster graphics test procedures. The one-year trial period will help NIST to assess the suitability of the test method and the test procedures for testing conformance to the FIPS and Military Specification.

DATES: The test service trial period started October 1, 1993, and will continue through September 1994.

ADDRESSES: Those wishing to participate in the trial period for the test method and the establishment of the raster graphics test service should write to: National Institute of Standards and Technology, Attn: Raster Graphics Test Service, Technology Building, Room A266, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Spielman, National Institute of Standards and Technology, Technology Building, Room A266, Gaithersburg, MD 20899, telephone (301) 975–3257, E-mail "spielman@nist.gov".

SUPPLEMENTARY INFORMATION:

Background

The purpose of the raster graphics standard is to facilitate the interchange of raster graphics images between different computer information systems and different computer installations.

FIPS PUB 150 was approved on November 4, 1988. It adopts Electronic Industries Association (EIA) Standard EIA–538–1988, which defines the facsimile coding schemes and their control functions for Group 4 facsimile apparatus. The EIA–538 standard defines exactly the same compression algorithm as is defined in ITU–T (formerly CCITT) Recommendation T.6.

MIL–R–28002B (Version "B") was approved December 14, 1992. It specifies the DoD requirements for raster graphics images including the compression algorithm to be used, and references FIPS PUB 150.

Federal agencies may require conformance to FIPS PUB 150 and MIL–R–28002B whether raster graphics systems are developed internally, acquired as part of an ADP system procurement, acquired by separate procurements, used under an ADP leasing arrangement, or specified for use in contracts for computer processing services. Testing may be required in order for agencies to determine if raster graphics files conform to FIPS PUB 150 and MIL–R–28002B. The Raster Graphics Validation Summary Report provided from the NIST trial validation test service will be a source of information for Federal agencies to use in making this determination. The Raster Graphics Validation Summary Report will be listed in a NIST publication, Validated Products List, available from the National Technical Information Service (NTIS), order number PB93–937303, telephone (703) 487–4650.

Updates to the Test Method and Procedures

NIST will use the Raster Graphics Validation Test Software as the test method for validating raster graphics files. This software was developed by the Federal government at NIST in cooperation with Continuous Acquisition and Life-Cycle Support (CALS) Test Network (CTN).

The Raster Graphics Validation Test Software and test procedures will be periodically updated and used as the basis for validating raster graphics files formatted according to FIPS PUB 150 and MIL–R–28002B. The update process will be used to correct errors identified in the Raster Graphics Validation Test Software and to introduce new or modified programs as appropriate. Modification to the software is also intended to ensure that raster graphics files are being formatted and encoded according to the technical specifications of the standards. Should an interpretation of the FIPS or Military Specification be made that would affect the test software, these changes would also be reflected during the update process.

Obtaining Validation Services

NIST provides the validation test service on a cost-reimbursable basis. These services are available to both the producers (generators) and users (receivers) of raster files. Upon request, NIST will supply the client with a Raster Graphics Information Pack which will include information on the test service and procedures for conducting raster graphics tests.

Dated: November 9, 1993.

Samuel Kramer,

Associate Director.

[FR Doc. 93–28157 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

Marine Mammals

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

ACTION: Receipt of application for a scientific research permit (P557).

SUMMARY: Notice is hereby given that Scripps Institution of Oceanography, Institute for Geophysics and Planetary Physics, Acoustic Thermometry of Ocean Climate Program, 9500 Gilman Drive, La Jolla, CA 92093–0225, has applied in due form for a permit to take marine mammals for scientific research.

DATES: Written comments must be received on or before December 16, 1993.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213 (310/980–4016); and

Coordinator, Pacific Area Office, NMFS, NOAA, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/955–8831).

Written data or views, or requests for a public hearing on this request should be submitted to the Assistant Administrator for Fisheries, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the

Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and its Committee on Scientific Advisors.

SUPPLEMENTARY INFORMATION: Scripps Institution of Oceanography, Institute for Geophysics and Planetary Physics, Acoustic Thermometry of Ocean Climate Program, 9500 Gilman Drive, La Jolla, CA 92093–0225, has applied in due form for a permit to take the following marine mammals for purposes of scientific research; humpback whale (*Megaptera novaeangliae*), sperm whale (*Physeter macrocephalus*), pygmy sperm whale (*Kogia breviceps*), short-finned pilot whale (*Globicephala macrorhynchus*), Cuvier's beaked whale (*Ziphius cavirostris*), Baird's beaked whale (*Berardius bairdii*), Blainville's beaked whale (*Mesoplodon densirostris*), spinner dolphin (*Stenella longirostris*), spotted dolphin (*Stenella attenuata*), false killer whale (*Pseudorca crassidens*), rough-toothed dolphin (*Steno bredanensis*), bottlenose dolphin (*Tursiops truncatus*), and monk seal (*Monachus schauinslandi*).

The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species ACt of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

This permit application is to incidentally harass marine mammals by a low frequency (70 Hz) sound source which will be located north of Haena, off the northern coast of Kauai, Hawaii, at a depth of 850–950m. This sound source is part of the Acoustic Thermometry of Ocean Climate (ATOC) program, and will be operated from February 1994 through December 1995, with a maximum duty cycle of 8%, to conduct research on the effects of this source on marine mammals. The transmission bandwidth is 20 Hz with a level of 195 dB (re 1 uPa at 1m), and the spectrum level for the peak frequency (70 Hz) is 182 dB. The effects of these transmissions on marine mammals will be monitored through passive acoustic tracking of Mysticetes, shore-based visual observations of marine mammals, and aerial observations and surveys of marine mammals. (The aerial components of this research will be included in a separate permit request.)

Dated: November 9, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 93–28056 Filed 11–15–93; 8:45 am]

BILLING CODE 3510–22–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will be held Monday, December 13, 1993, at the Radisson Inn, 800 South Third Street, Bismarck, North Dakota 58504. The purpose of the meeting is to conduct orientation, review Committee policies and procedures, and approve the project proposal on civil rights enforcement in North Dakota.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Betty L. Mills, 701–223–4643 or William F. Muldrow, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 5, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–28076 Filed 11–15–93; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will hold a factfinding meeting on employment discrimination in Utah on Thursday, December 9, 1993, from 9 a.m. to 8:30 p.m. and Friday, December 10, 1993 from 9 a.m. to 4:30 p.m. at the Red Lion Hotel, 255 South West Temple, Salt Lake City, Utah 84101.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Mary E. Stovall, 801–378–6138 or William F. Muldrow, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 5, 1993.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 93–28077 Filed 11–15–93; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of committee: Army Science Board (ASB).

Date of meeting: 30 November 1993.

Time of meeting: 0800–1700 hours.

Place: Pentagon, Washington.

Agenda: The Army Science Board's C3I Issue Group will commence their Director of Information Systems for Command, Control, Communication, and Computers (DISC4) initiated Issue Group study on Moving Army Tactical Command and Control System (ATCCS) from a Character-Oriented Message System to a Data-Oriented Message System. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–28148 Filed 11–15–93; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting

Name of committee: Army Science Board (ASB).

Date of meeting: 1 & 2 December 1993.

Time of meeting: 1 December, 0830–0915 Hours (Open), 0915–1100 Hours (Closed), 1100–1200 Hours (Open), 1300–1700 Hours (Closed); 2 December, 0830–1230 Hours (Closed).

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board's ad hoc study on "Small Arms Industrial Base" will conduct an initial meeting to agree to a study approach and to receive briefings responding to an initial call for data. This meeting will be closed to the public (where indicated) in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) and (4) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The proprietary and classified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting.

The open portion of the meeting will be open to the public. Any person may attend, appear before or file statement with the committee at the time and in the matter permitted by the committee. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 93–28149 Filed 11–15–93; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Privacy Act of 1974; Notice to Alter a System of Records

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter one existing record system in the DLA inventory of systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 16, 1993, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Administrative Management Division, Office of Planning and Resource Management, Defense Logistics Agency Administrative Support Center, Room 5A120, Cameron Station, Alexandria, VA 22304–6100.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 617–7583.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the Federal Register and may be obtained from the address above.

An altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on November 5, 1993, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated June 25, 1993 (58 FR 36075, July 2, 1993). The specific changes to the record system are set forth below followed by the system notice as altered in its entirety.

Dated: November 10, 1993

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S255.01 DLA-G

SYSTEM NAME:

Fraud and Irregularities *(February 22, 1993, 58 FR 10867).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'S100.50 DLA-GC.'

* * * * *

SYSTEM LOCATION:

In the first sentence, replace 'HQ DLA-G' with 'Headquarters Defense Logistics Agency.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 136, Assistant Secretaries of Defense; Pub. L 95–521, Ethics in Government Act; DoD Directive 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities; and DLA Regulation 5500.10, Combating Fraud in DLA Operations.'

* * * * *

PURPOSE(S):

Delete last sentence.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete first sentence.

* * * * *

RETENTION AND DISPOSAL:

Replace 'ten years' with 'six years.'

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100; and the offices of counsel at the DLA Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.'

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with 'Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the system manager of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.'

* * * * *

RECORD ACCESS PROCEDURES:

Delete entry and replace with 'Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the system manager of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.'

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with 'Portions of this system may be exempt under the scope of 5 U.S.C. 552a(k)(2) and (k)(5), as applicable.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and is published at 32 CFR part 323. For more information, contact the system manager.'

* * * * *

S100.50 DLA-GC

SYSTEM NAME:

Fraud and Irregularities.

SYSTEM LOCATION:

Office of the General Counsel, Headquarters Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100, and the offices of counsel of the Defense Logistics Agency Primary Level Field Activities (DLA PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual or group of individuals or other entity, involved in or suspected of being involved in any fraud, criminal conduct or antitrust violation relating to DLA procurement, property disposal, or contract administration, or other DLA activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative reports, complaints, pleadings and other court documents, litigation reports, working papers, documentary and physical evidence, contractor suspensions and debarments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Pub. L 95–521, Ethics in Government Act; DoD Directive 7050.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities; and DLA Regulation 5500.10, Combating Fraud in DLA Operations.

PURPOSE(S):

Information is used in the investigation and prosecution of criminal or civil actions involving fraud, criminal conduct and antitrust violations and is used in determinations to suspend or debar individuals or other entities from DLA procurement and sales.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in combination of paper and automated files.

RETRIEVABILITY:

Filed alphabetically by the name of the subject individual or other entity.

SAFEGUARDS:

Records, as well as computer terminals, are maintained in areas accessible only to DLA personnel. In addition, access to and retrieval for computerized files is limited to authorized users and is password protected.

RETENTION AND DISPOSAL:

Records are destroyed six years after all aspects of the case are closed.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100; and the offices of counsel at the DLA PLFAs. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the system manager of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the system manager of the particular DLA activity involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Federal, state and local investigative agencies; other federal agencies; DLA employees; and individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system may be exempt under the provisions of 5 U.S.C. 552a(k)(2) and (k)(5), as applicable.

An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and is published at 32 CFR part 323. For more information, contact the system manager.

[FR Doc. 93–28072 Filed 11–15–93; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before [insert the 30th day after publication of this notice].

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., Room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: November 10, 1993.

Cary Green,

Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Revision.

Title: Training Assessment Form—Title IV Student Financial Assistance Programs.

Frequency: One time.

Affected Public: Individuals or households.

Reporting Burden: Burden Hours: 1,600.

Responses: 20,000.

Recordkeeping Burden: Burden Hours: 0

Recordkeepers: 0.

Abstract: The information collected will aid in the monitoring of contractors and non-Federal trainers. It will also measure the effectiveness of training offered to financial aid administrators, counselors, fiscal officers, and other administrators participating in student financial aid and other Federal aid programs.

Type of Review: Reinstatement.

Title: Income Contingent Loan Program Subpart E—Due Diligence (Reporting/Disclosure and Recordkeeping).

Frequency: On occasion.

Affected Public: Individuals or households; Businesses and other for-profit; Non-profit institutions.

Reporting Burden: Burden Hours: 52.

Responses: 563.

Recordkeeping Burden: Burden Hours: 9.

Recordkeepers: 563.

Abstract: Under the Income Contingent Loan Program, Institutions of higher education may receive Federal Funds to make loans to students. The regulations establish proper administrative standards and loan collection procedures which protect the Federal fiscal interest and stipulate disclosure and recordkeeping requirements for institutions of higher education.

[FR Doc. 93-28135 Filed 11-15-93; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP93-613-000, CP93-673-000, CP93-751-000, and CP94-29-000]

Northwest Pipeline Corp. and Paiute Pipeline Co., Intent To Prepare a Draft Environmental Impact Statement for the Proposed Northwest and Paiute Expansion II Projects and Request for Comments on Environmental Issues

November 10, 1993

The staff of the Federal Energy Regulatory Commission (FERC or the Commission) will prepare an environmental impact statement (EIS) that will discuss environmental impacts of the construction and operation of facilities proposed in the Northwest and Paiute Expansion II Projects.[1] This EIS will be used by the Commission in its decision-making process (whether or not to approve the individual projects).

The Bureau of Land Management (BLM) will be cooperating with us in the preparation of the EIS because of the amount of BLM-managed land that would be affected by the proposals. The other Federal agencies being asked to cooperate (see Appendix 1) my choose to participate once they have evaluated each proposal relative to their agencies' responsibilities.[2]

Summary of the Proposed Projects

Northwest Pipeline Corporation (Northwest) has an existing natural gas pipeline system consisting of various diameter pipe that extends from the Washington-Canadian border south and east across Washington, Oregon, Idaho, Wyoming, Utah, and Colorado to northwestern New Mexico. Northwest wants Commission authorization to transport an additional 360,488 thousand cubic feet of natural gas per day (Mcf/d) for 27 local gas distribution companies, electric generation companies, and other commercial and industrial customers, and to construct and operate the following facilities needed to transport those additional volumes:

- 115.9 miles of loop and new lateral pipeline in 15 segments;[3]
- Two new compressor stations with a total of 8,303 horsepower (hp) of compression, and 77,793 hp of additional compression at 12 existing compressor stations;
- Five new meter stations, and modifications to 36 existing meter stations; and
- A new microwave communication site.

Northwest would abandon some minor facilities at 24 of the meter stations and one of the compressor stations which will be replaced by the proposed upgraded facilities.

Paiute Pipeline Company's (Paiute) existing natural gas pipeline facilities are in northern Nevada. Paiute currently wants Commission authorization to expand and modify its facilities to transport an additional 14,886 Mcf/d to various commercial and industrial customers and Southwest Gas Corporation (a local distribution company), and to provide some general system benefits to customers on its Reno Lateral. The necessary facilities are:

- 61.3 miles of loop pipeline in 8 segments;
- Two new compressor stations with a total of 2,139 hp of compression; and
- Minor modifications at other existing meter, compressor, and pressure reduction stations.

The general locations of the facilities proposed by Northwest and Paiute are shown in appendices 2 through 4. A detailed listing of the facilities is in Appendix 5.

Several of the customers receiving gas from Northwest and Paiute as part of these projects will need to build pipelines to take the gas delivered to them. Although these facilities aren't under the jurisdiction of the FERC, they will be discussed in the EIS and are included in Appendix 5.

Land Requirements for Construction

The proposed loops would generally be built parallel and adjacent to Northwest's and Paiute's existing pipelines, using as much of the existing rights-of-way as possible. Most of Northwest's easements for existing rights-of-way allow the installation of additional pipelines. The majority of the proposed pipeline segments would be adjacent to an existing pipeline or within highway rights-of-way.

Typically, Northwest would use a construction right-of-way ranging from 55 to 95 feet wide; while Paiute's construction right-of-way would range from 25 to 95 feet wide, depending on the diameter of the proposed pipeline. After construction, the disturbed area would be restored, and a 50- or 75-foot-wide right-of-way would be permanently maintained. Where the new pipe is built adjacent to an existing pipe, there would be no change in the total width of the permanent right-of-way. The remainder of the land would revert to its preconstruction use.

Northwest would purchase the land necessary to build the new Tumwater Compressor Station (11 acres) and the Huntington Compressor Station (10 acres). The communication site associated with the Huntington Compressor Station would require an additional 2,500 square feet. Paiute

[1] Northwest Pipeline Corporation's and Paiute Pipeline Company's applications were filed with the Commission pursuant to section 7 of the Natural Gas Act and part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference Branch, room 3104, 941 North Capitol Street, NE., Washington, DC 20426 or call (202) 208-1371. Copies of the appendices were sent to all those receiving this notice in the mail.

[3] A loop is a segment of pipeline which is usually installed adjacent to an existing pipeline and connected to it at both ends. The loop allows more gas to be moved through the pipeline system at the location in which the loop is installed. A lateral is a pipeline that branches off the mainline delivery system and serves to transport gas to an outlying region.

would acquire 4 acres of land for each of its two new compressor stations.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from a major Federal action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. The EIS we are preparing will give the Commission the information it needs to do that. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping" The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues, and to separate these from issues that are insignificant and do not require detailed study.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed projects under these general subject headings:

- Geology and paleontology
- Endangered and threatened species
- Visual resources
- Water resources
- Vegetation
- Land use
- Air quality and noise
- Wetland and riparian habitat
- Cultural resources
- Fish and Wildlife
- Socioeconomics
- Soils

We will also evaluate possible alternatives to the projects, or portions of the projects, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will result in the publication of a Draft EIS which will be mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for these proceedings. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and review the document, as necessary, before issuing a Final EIS. The Final EIS will include our response to each comment received.

Currently Identified Environmental Issues

We have already identified a number of issues that we think deserve attention, based on a preliminary review of the proposed facilities and the environmental information provided by Northwest and Paiute. These issues are presented in Appendix 6. Keep in mind that this is a preliminary list; the list of issues will be added to, subtracted from, or changed based on your comments and our own analysis.

Public Participation and Scoping Meetings

You can make a difference by sending a letter with your specific comments or concerns about the projects. You should focus on the potential environmental effects of the proposals, alternatives to the proposals (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, DC 20426;
- Reference Docket No. CP93–613–000, et al.;
- Send a copy of your letter to: Ms. Lauren O'Donnell, EIS Project Manager, Federal Energy Regulatory Commission, 825 North Capitol St., NE., room 7312, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before December 16, 1993.

In addition to asking for written comments, we invite you to attend any of the scoping meetings listed on page 6. The meetings will be designed to provide you with more detailed information and another opportunity to offer your comments on the proposed projects. Anyone wanting to speak at the meetings can call the EIS Project Manager to pre-register their names on the speakers' list. Those people on the speakers' list prior to the date of the meeting will be allowed to speak first. A second speakers' list will be available at the meeting. Priority will be given to people representing groups. A transcript of each meeting will be made so that your comments will be accurately recorded.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceedings or an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a Motion to Intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) which is attached as appendix 7.

Schedule for EIS Scoping Meetings

Eugene, Oregon, November 30, 1993, 7 p.m. Lane Community College, Forum Building, room 308, 4000 East 30th Avenue, (503) 747–4501, ext. 2558

Gresham, Oregon, December 2, 1993, 7 p.m., Gresham City Hall, City Council Chambers, 1333 NW. Eastman Parkway, (503) 669–2589

Longview, Washington, December 1, 1993 7 p.m., R.A. Long High School, Auditorium, 2903 Nichols Boulevard, (206) 577–2731

Montpelier, Idaho, December 14, 1993, 7 p.m., Bear Lake Middle School Auditorium, 633 Washington, (208) 847–2255

Incline Village, Nevada, December 15, 1993, 7 p.m., The Chateau, 955 Fairway, (702) 832–1310

Environmental Mailing List

If you don't want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EIS's, please return the Information Request (appendix 8). If you don't return the Information Request you will be taken off the mailing list.

Additional information about the proposed projects is available from Ms. Lauren O'Donnell, EIS Project Manager, at (202) 208–0874.

Lois D. Cashell,

Secretary.

[FR Doc. 93–28096 Filed 11–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ES94–6–000, *et al.*]

Central Illinois Public Service Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 5, 1993.

Take notice that the following filings have been made with the Commission:

1. Central Illinois Public Service Co.

[Docket No. ES94–6–000]

Take notice that on November 1, 1993, Central Illinois Public Service Company filed an application under section 204 of the Federal Power Act seeking authorization to issue not more than $150 million of unsecured notes or commercial paper on or before December 31, 1995, with a maturity date no later than December 31, 1996.

Comment date: December 1, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. New York State Electric & Gas Corp.

[Docket No. ES94-4-000]

Take notice that on November 1, 1993, New York State Electric & Gas Corporation filed an application under section 204 of the Federal Power Act seeking authorization to issue not more than $275 million of notes, commercial paper and other short-term indebtedness prior to January 1, 1996, with a maturity of one year or less.

Comment date: December 1, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Maine Electric Power Company, Inc.

[Docket No. ES94-5-000]

Take notice that on November 1, 1993, Maine Electric Power Company, Inc. filed an application under section 204 of the Federal Power Act seeking authorization to issue not more than $15 million of unsecured notes or other unsecured short-term obligations on or before December 31, 1995, with a maturity of one year or less after date of issuance.

Comment date: December 1, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Central Maine Power Co.

[Docket No. ES94-3-000]

Take notice that on November 1, 1993, Central Maine Power Company filed an application under section 204 of the Federal Power Act seeking authorization to issue not more than $175 million of unsecured bank notes and commercial paper on or before December 31, 1995, maturing one year or less after the date of issuance.

Comment date: December 1, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Potomac Electric Co.

[Docket No. ER94-111-000]

Take notice that on November 2, 1993, the Potomac Electric Power Company (Pepco) tendered for filing a Sixth Amendment to the 1982 agreement for electric service to its full requirements customer, Southern Maryland Electric Cooperative, Inc. (Smeco), including revised rates increasing in steps for the years 1994-through 1996, provisions for QF's and small customer-owned generation on the Smeco system, and a revised fuel clause. These revisions to the Pepco-Smeco electric service agreement are the result of extensive negotiations and are supported by both parties. An effective date of January 1, 1994 for the revised rates and other terms is requested.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Heartland Energy Services, Inc.

[Docket No. ER94-108-000]

Take notice that on October 29, 1993, Heartland Energy Services, Inc. (HES) petitioned the Commission for acceptance of HES Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations. HES is a subsidiary of WPL Holdings, Inc. which is the parent company of Wisconsin Power and Light Company, a public utility. HES seeks an effective date of January 1, 1994.

Comment date. November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. WestPlains Energy, a division of UtiliCorp United, Inc.

[Docket No.ER94-106-000]

Take notice that on November 1, 1993, WestPlains Energy, a division of UtiliCorp United, Inc. (WestPlains) tendered for filing an amendment to the Municipal Interconnection Contract dated October 17, 1989, between WestPlains and the City of Russell Kansas. The amendment obligates WestPlains to install and construct a 30 MVA, 115/34.5 KV transformer with tap changer and associated switch gear for a new 115/34.5 KV Interconnection Facility for Russell. In light of WestPlains' agreement to install the new facilities, Russell agreed to a new contract demand for Service Schedule 90-P-1 System Participation Power. For the period January 1, 1995 through December 31, 1998, Russell's Contract Demand shall be 6,000 kilovolts. Thereafter, on a month by month basis until December 31, 2004, Russell's Contract Demand will be the actual metered demand of the new wheat gluten plant load up to 6,000 Kilowatts.

An effective date of January 1, 1995, is requested. In light of the substantial investment in facilities WestPlains must make prior to the effective date of the revised contract demand, WestPlains requests waiver of § 35.3 of the Commission's regulations.

A copy of the filing was served upon the Kansas Corporation Commission and the City of Russell.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Power & Light Co.

[Docket No. ER94-107-000]

Take notice that Pennsylvania Power & Light Company (PP&L) tendered for filing on November 1, 1993, as a Supplement to its Rate Schedule FERC No. 84 an executed agreement dated as of October 29, 1992, between PP&L and Jersey Central Power & Light Company (JCP&L). The agreement reduces the rate of return on common equity in the formula rate from 12.74% to 11%. A Certificate of Concurrence executed by JCP&L accompanied PP&L's filing.

Copies of PP&L's filing have been served upon JCP&L, the Pennsylvania Public Utility Commission and the New Jersey Board of Regulatory Commissioners.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER94-95-000]

Take notice that PacifiCorp, on November 1, 1993, tendered for filing a rate for PacifiCorp Rate Schedule FERC No. 258.

This filing establishes the rate, as determined under the current contract, pursuant to the pricing methodology for power purchased under this rate schedule for calendar year 1994.

Copies of this filing were supplied to the Public Utility Commission of Oregon, the Utah Public Service Commission and the Public Service Commission of Nevada.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Arizona Public Service Co.

[Docket No. ER93-656-000]

Take notice that on November 1, 1993, Arizona Public Service Company (APS) tendered for filing supplemental information in response to a staff request for supplemental information related to APS' filings in this Docket.

Copies of this filing have been served upon the Yuma Cogeneration Associates and the Arizona Corporation Commission.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Kentucky Power Co.

[Docket No. ER94-61-000]

Take notice that Kentucky Power Company on October 28, 1993, tendered for filing proposed amendments to its FERC Electric Tariff MRS for service to the City of Olive Hill, Kentucky (Olive Hill). The proposed changes would decrease Kentucky Power's revenues from Olive Hill by approximately $36,646 based upon the 12 month period ended September 30, 1992. Kentucky Power proposes an effective date of January 1, 1994.

Kentucky Power states that a copy of its filing was served upon Olive Hill and the Kentucky Public Service Commission.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Portland General Electric Co.

[Docket No. ER93–133–000]

Take notice that on October 29, 1993, Portland General Electric Company (PGE) tendered for filing a Supplement to Filing No. 76 in Docket No. ER93–133–000: Amendment to the Valley Line Agreement Between Portland General Electric Company and PacifiCorp. This is an amendment to an interconnection agreement between PGE and Pacific necessitated by a change in ownership of some facilities. Copies of this filing have been served on the parties included in the distribution list defined in the filing letter.

PGE requests waiver of prior notice requirements, to allow the amendment to take effect November 1, 1993.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power & Light Co.

[Docket No. ER94–98–000]

Take notice that Florida Power & Light Company (FPL), on November 1, 1993, tendered for filing the Scheduling Service Agreement between Florida Power & Light Company and Florid Keys Electric Cooperative Association, Inc. FPL requests that the agreement be made effective January 1, 1994.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Co.

[Docket No. ER94–2–000]

Take notice that on October 1, 1993, New England Power Company (NEP) tendered for filing a Notice of Cancellation of Supplement No. 4 to Service Agreement No. 11 under NEP's Tariff No. 3.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Kentucky Power Co.

[Docket No. ER94–121–000]

Take notice that Kentucky Power Company on October 28, 1993, tendered for filing proposed FERC Tariff MRS-T and a proposed Service Agreement for service to the City of Vanceburg, Kentucky (Vanceburg). Kentucky Power proposes an effective date of January 1, 1994.

The proposed Tariff and Service Agreement are filed in accordance with an agreement entered into in 1988 between Kentucky Power and Vanceburg and accepted for filing by the Commission in Docket No. ER88–408–000.

Kentucky Power states that a copy of its filing was served upon Vanceburg and the Kentucky Public Service Commission.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Entergy Services, Inc.

[Docket No. ER93–912–000]

Take notice that on October 27, 1993, Entergy Services, Inc. (Entergy Services), filed Amendment No. 1 to Service Schedule RE—Replacement Energy and Amendment No. 1 to Service Schedule E—Economy Energy. Service Schedule RE and Service Schedule E are service schedules to the Interchange Agreement between Municipal Electric Authority of Georgia and Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company, New Orleans Public Service Inc., and Entergy Services (collectively "Entergy"), which was filed with the Commission in this docket on August 26, 1993. The purpose of Amendment No. 1 to Service Schedule RE is to change the adder specified in Section IV—Compensation where Entergy is the Supplying Party. The purpose of Amendment No. 1 to Service Schedule E is to limit the markup on energy that Entergy may purchase from a third party to supply to MEAG as Economy Energy.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER94–104–000]

Take notice that on November 1, 1993, Entergy Services, Inc. (Entergy Services), on behalf of Arkansas Power & Light Company (AP&L), filed the Contract Between the United States of America, represented by the Secretary of Energy, acting by and through the Administrator, Southwestern Power Administration, an Administration within the Department of Energy (SPA) and AP&L (Contract) which will supersede the August 20, 1954 Blakely Agreement (Rate Schedule FERC No. 138) and the May 14, 1971, DeGray Contract (Rate Schedule FERC No. 139), as amended. Entergy Services states that the Contract extends the term of service to December 31, 2002, but otherwise retains the same terms and conditions as in the Blakely Agreement and the DeGray Contract. According to Entergy, the Contract provides for the disposition of hydroelectric power and energy generated at the Blakely Mountain Dam Reservoir Project and the DeGray Dam Reservoir Project.

Comment date: November 19, 1993, in accordance with Standard Paragraph E at the end of this notice.

18. Sierra Pacific Power Co.

[Docket No. ER94–119–000]

Take notice that on November 3, 1993, Sierra Pacific Power Company (Sierra) tendered for filing pursuant to section 205 of the Federal Power Act (the Act) and 18 CFR 35 *et seq.* the "Interconnection Agreement Between Sierra Pacific Power Company and Plumas Sierra Rural Electric Cooperative" dated October 29, 1993, ("Interconnection Agreement").

Sierra states that the central purpose of the Interconnection Agreement is to make emergency service available to Plumas Sierra Rural Electric Cooperative during the immediate winter season and thereafter.

In order to be in strict compliance with the Commission's notice requirements, Sierra proposes that the filing be made effective on January 2, 1994 that being the date 60 days after the date of the filing. However, Sierra requests that the Commission (1) review the filing on an expedited basis and (2) make the filing effective as soon as possible. Sierra requests waiver of the 60-day notice requirement of section 205 of the Act and any regulation to allow for an immediate effective date.

Comment date: November 17, 1993, in accordance with Standard Paragraph E at the end of this notice.

19. Public Service Company of New Mexico

[Docket No. EL94–6–000]

Take notice that on October 28, 1993, Public Service Company of New Mexico (PNM) tendered for filing a Petition to Permit Deviation from Fuel Cost and Purchased Economic Power Adjustment Clauses. In the Petition, PNM seeks such waivers of the Commission's regulations and notice requirements as are or may be necessary to permit PNM's fuel cost and purchased economic power adjustment clauses (FAC) applicable to its firm-requirements wholesale customers City of Gallup, New Mexico (Gallup), City of Farmington, New Mexico (Farmington), Texas-New Mexico Power Company (TNP) and Plains Electric Generation and Transmission Cooperative, Inc. (Plains) to deviate from the applicable filed FAC tariffs for the period of July 1985 through January 1993 and to accept

PNM's re-initiation of FAC billings under filed FERC FAC tariffs effective for fuel and purchased power expenses incurred on and after February 1, 1993.

Copies of the Petition have been served upon Gallup, Farmington, Plains, TNP and the New Mexico Public Utility Commission.

Comment date: November 22, 1993, in accordance with Standard paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28098 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. ER93-640-000, et al.]

Consolidated Edison Co. of New York, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 9, 1993.

Take notice that the following filings have been made with the Commission:

1. Consolidated Edison Company of New York, Inc.

Docket No. ER93-640-000

Take notice that on November 2, 1993, Consolidated Edison Company of New York, Inc., in its capacity as a member system of the New York Power Pool, filed supplemental information and clarifications in response to Staff's requests regarding the PARS Facilities Agreement, which was filed with the Commission on May 10, 1993, as amended on September 3, 1993, in this docket. Con Edison renews its request for an effective date of August 1, 1988. Con Edison states further that it served copies of this filing on the entities which were served with the May 10, 1993 application in this docket.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. PSI Energy, Inc.

Docket No. ER93-712-000

Take notice that PSI Energy, Inc. (PSI) and The City of Logansport, Indiana on November 2, 1993, tendered for filing amended Service Schedules in the FERC filing in Docket No. ER93-712-000. In addition, PSI is requesting a deferral of action to comply with a FERC Staff request.

Copies of the filing were served on The City of Logansport, Indiana and the Indiana Utility Regulatory Commission.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Niagara Mohawk Power Corporation

Docket No. ER93-937-000

Take notice that on November 3, 1993, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing with the Commission an amendment to its agreement between Niagara Mohawk and Vermont Public Power Supply Authority (VPPSA) and its representatives; The Town of Hardwick Electric Department, The Village of Hyde Park Electric Department, The Village of Ludlow Electric Light Department, The Village of Stowe Water & Light Department and The Village of Swanton Electric Department for sales of system capacity and energy. The amendment is a letter waiving the requirement that the Commission act on its filing within 60 days so that Niagara Mohawk can submit additional information in support of the agreement.

A copy of this filing has been served upon VPPSA and the New York State Public Service Commission.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Power Company

Docket No. ER94-105-000

Take notice that on October 29, 1993, Consumers Power Company (Consumers) tendered for filing two supplemental agreements which extend the term of agreements under which Consumers provides service to the City of Holland (Holland). One supplemental agreement extends the term of Supplement No. 1 to Consumers Rate Schedule FERC No. 66, an interruptible wholesale agreement. The other extends the term of Consumers Rate Schedule FERC No. 66, a firm wholesale agreement, and also provides for rate increases effective January 1 of each of the next three years for firm service to Holland.

Copies of the filing were served upon the Michigan Public Service Commission and Holland.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

Docket No. ER94-109-000

Take notice that on November 1, 1993, Southern Company Services, Inc., acting as agent for Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as the Operating Companies), submitted for filing Amendment No. 4 to The Southern Company System Intercompany Interchange Contract dated October 31, 1988. The amendment reflects modifications in the process used to determine the capability of the Operating Companies' capacity for use under the Intercompany Interchange Contract. In addition, the amendment incorporates the revisions necessary to implement Statement of Financial Accounting Standards No. 109 (SFAS No. 109) in a manner that does not impact billings under the Intercompany Interchange Contract. The Operating Companies request an effective date of January 1, 1994 for the capacity rating revisions and an effective date of January 1, 1993 for the SFAS No. 109 revisions.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Company

Docket No. ER94-110-000

Take notice that New England Power Company (NEP), on November 2, 1993, tendered for filing a proposed amendment to its FERC Electric Tariff Original Volume No. 1, Schedule III-B, Terms and Conditions Governing All Requirements Service—Integrated Facilities. The proposed amendment would allow the cost of removal expenditures associated with the South Street Station to be adjusted annually to reflect the actual expenditures incurred by The Narragansett Electric Company (Narragansett).

NEP requests that the proposed amendment be permitted to become effective on January 1, 1994.

A copy of the filing has been served upon Narragansett, the Rhode Island Public Utilities Commission and the Attorney General of the State of Rhode Island.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Northern States Power Company (Minnesota Company)

[Docket No. ER94–112–000]

Take notice that on November 2, 1993, Northern States Power Company (Minnesota) (NSP) tendered for filing Supplement No. 1 to the System Control and Load Dispatch Agreement between NSP and Cooperative Power Association (CPA). Under the present System Control and Load Dispatch Agreement, NSP schedules CPA's power and energy requirements on a specifically defined integrated transmission system.

Supplement No. 1 will expand NSP's service to CPA by making NSP a host control area for CPA. NSP will perform scheduling and interchange accounting and reporting for CPA's system, including that portion of CPA's system outside of the integrated transmission system. NSP requests that Supplement No. 1 be accepted for filing effective January 1, 1994.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER94–113–000]

Take notice that on November 2, 1993, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) jointly tendered for filing the existing Exhibit VII and revised Exhibits VIII and IX to the Agreement in Coordinate Planning and Operations and Interchange Power and Energy Between Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin).

Exhibit VII sets forth the specification of the rate of return on common equity to determine the overall cost of capital. The return on common equity for calendar year 1994 is the FERC generic rate of return effective November 1, 1991.

Exhibit VIII sets forth the specification of average monthly coincident peak demands for calendar year 1994 for each of the Companies. A statement of the impacts of these coincident peak demands on each company has been filed. These coincident peak demands were determined upon three year data consisting of 18 months actual and 18 months projected. The change from the use of the average of the 12 monthly peak demand allocation method to the use of the 36 months was approved in Docket No. ER87–279–000.

Exhibit IX sets forth a specification of depreciation rates certified by the Wisconsin Public Service Commission (PSCW) and the depreciation rates currently proposed to and pending before the Minnesota Public Utilities Commission (MPUC). A statement of the impact of the depreciation rates on each company has been filed.

The NSP Companies request an effective date of January 1, 1994, for this filing. Copies of the filing letter and Exhibits VII, VIII and IX have been served upon the wholesale and wheeling customers of the Companies. Copies of the filing have been mailed to the State Commissions of Michigan, Minnesota, North Dakota, South Dakota and Wisconsin.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER94–114–000]

Take notice that on November 2, 1993, Idaho Power Company (IPC) tendered for filing the Exchange Agreement between Idaho Power Company and Montana Power Company, dated August 18, 1993. Deliveries under the Agreement are scheduled to commence January 1, 1994.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of New Mexico

[Docket No. ER94–116–000]

Take notice that on November 3, 1993, Public Service Company of New Mexico (PNM) tendered for filing four letters between PNM and Texas-New Mexico Power Company (TNP) that decrease the amount of power PNM will supply at wholesale to TNP in calendar years 1994 and 1995 pursuant to the Amended and Restated Contract for Electric Service between PNM and TNP. PNM requests that the Commission accept for filing the four letters to be effective as of January 1, 1994 and requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon TNP and the New Mexico Public Utility Commission, as well as PNM's other firm requirements wholesale customers, the Cities of Gallup and Farmington, New Mexico and Plains Electric Generation and Transmission Cooperative, Inc.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER94–115–000]

Take notice that on November 2, 1993, Southern California Edison Company (Edison) tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreements with the parties listed below as embodied in their respective FERC Rate Schedules. Edison requests that the revised rate for these services be made effective January 1, 1994.

Entity	Rate schedule FERC No.
1. City of Anaheim	130, 164, 241, 246.
2. City of Azusa	160, 242, 247.
3. City of Banning	159, 243, 248.
4. City of Colton	162, 244, 249.
5. City of Riverside	129, 245, 250.
6. City of Vernon	149, 154, 172, 207, 257, 263, 272, 276.
7. Arizona Electric Power Cooperative.	132, 161.
8. Arizona Public Service Company.	185.
9. California Department of Water Resources.	112, 113, 181.
10. City of Burbank ...	166.
11. City of Glendale ..	143.
12. City of Los Angeles.	102, 118, 140, 141, 163, 188.
13. City of Pasadena	158.
14. Imperial Irrigation District.	259.
15. M–S–R Public Power Agency.	153.
16. Northern California Power Agency.	240.
17. Pacific Gas and Electric Company.	117, 147, 256.
18. San Diego Gas and Electric Company.	151, 232, 274.
19. Western Area Power Administration.	120.
20. PacifiCorp	275.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Iowa Electric Light and Power Company

[Docket No. ER94–117–000]

Take notice that Iowa Electric Light and Power Company (Iowa Electric), on November 1, 1993, tendered for filing Resale Electric Service Agreements with 23 Rate Schedule RES–3 customers, as follows: Cities of Hopkinton, Ogden, Tipton, Anita, Burt, Dike, Dysart, Grand Junction, Long Grove, Maquoketa,

Preston, Story City, Stanhope, Traer, Vinton, State Center, Whittemore, Sibley, Marathon, Westpoint and West Liberty; Farmers Electric Cooperative of Kalona and the Amana Society Service Company.

Copies of this filing have been sent to the Iowa State Utilities Board and to Iowa Electric's jurisdictional customers.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. San Diego Gas & Electric Company

[Docket No. ER94-118-000]

Take notice that on November 1, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing corrections to its original filing under Docket Nos. ER93-542-000 and ER93-543-000, requesting a change in rates for service under the Agreements with Southern California Edison for: (1) Short-Term Firm Transmission Service, FERC Rate Schedule 58; (2) Interruptible Transmission Service, FERC Rate Schedule 59; and (3) Firm Transmission Service, FERC Rate Schedule 60, accepted for filing October 25, 1993.

SDG&E respectfully requests, pursuant to § 35.11, waiver of prior notice requirements specified in § 35.3 of the Commission's regulations, and an effective date of January 1, 1993.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Edison.

Comment date: November 24,1993, in accordance with Standard Paragraph E at the end of this notice.

14. Oklahoma Gas and Electric Company

[Docket No. ER94-120-000]

Take notice that on November 1, 1993, Oklahoma Gas and Electric Company (OG&E) tendered for filing a Letter Agreement dated October 25, 1993 for the sale of replacement energy to Arkansas Electric Cooperative Corporation.

OG&E requests an effective date of August 7, 1991 for the service to commence and OG&E further requests an effective termination date of August 9, 1991.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Public Service Company of Colorado

[Docket No. ER94-122-000]

Take notice that on November 4, 1993, Public Service Company of Colorado tendered for filing an amendment to its FERC Electric Service Rate Schedule, FERC No. 53. Under the proposed amendment Public Service is seeking to add two new delivery points for power and energy delivered to Grand Valley Rural Power Lines, Inc. This amendment will have no impact on the rates or revenues collected for service under this agreement.

Public Service requests an effective date of November 1, 1993 for the proposed amendment.

Copies of the filing were served upon Grand Valley Rural Power Lines, Inc. and state jurisdictional regulators which include the Public Utilities Commission of the State of Colorado and the State of Colorado Office of Consumer Counsel.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power Corporation

[Docket No. ER94-123-000]

Take notice that on November 4, 1993, Florida Power Corporation (FPC) submitted for filing a Service Agreement For Transmission Service Resale Rate Schedule T-1 between FPC and Polk Power Partners, L.P., dated October 28, 1993, including Supplemental Service Specifications For Transmission Service Resale Rate Schedule T-1 for Polk Power Partners, L.P., dated October 26, 1993, a Service Agreement For Transmission Service Resale Rate Schedule T-1 between FPC and Orange Cogeneration Limited Partnership, dated October 28, 1993, including Supplemental Service Specifications For Transmission Service Resale Rate Schedule T-1, for Orange Cogeneration Limited Partnership, dated October 26, 1993, and a Letter Agreement between Mulberry Polk Power Partners, L.P. and FPC, dated October 28, 1993. The October 28, 1993 letter agreement relates to the two transmission service agreements.

According to FPC the Polk Power Partners transmission service agreement is to provide transmission service under FPC's existing tariff for 23 megawatts (MW) from the Mulberry cogeneration plant in Polk County, Florida to Tampa Electric Company. The purpose of the Orange Cogeneration Limited Partnership transmission service agreement is to provide transmission service under FPC's existing tariff for essentially the 23 MW from the Orange cogeneration plant also in Polk County, when the Orange plant comes in-service.

FPC requests waiver of the Commission's notice requirements in to allow both of these service agreements to become effective on December 1, 1994.

According to FPC, copies of this filing have been served upon Polk Power Partners, L.P. and Orange Cogeneration Limited Partnership.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

17. San Diego Gas & Electric Company

[Docket No. ER94-124-000]

Take notice that on November 4, 1993, San Diego Gas & Electric Company (SDG&E) tendered for filing and acceptance, pursuant to 18 CFR 35.12, the Power Sales Agreement between SDG&E and the City of Vernon, executed on October 27, 1993.

The Agreement provides the terms and conditions whereby SDG&E shall make available and City of Vernon shall purchase a minimum of 40 MW and a maximum of 60 MW during 1994.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Vernon.

Comment date: November 24, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28097 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP94-57-000, et al.]

Columbia LNG Corporation, et al.; Natural Gas Certificate Filings

November 5, 1993.

Take notice that the following filings have been made with the Commission:

1. Columbia LNG Corporation

[Docket No. CP94-57-000]

Take Notice that on November 3, 1993, Columbia LNG Corporation

("Columbia LNG") filed an application pursuant to section 7(b) of the Natural Gas Act ("NGA"), 15 U.S.C. 717f(b), and § 157.7 of the Commission's regulations, 18 CFR 157.7 (1993), to: (i) Abandon its service obligation to Columbia Gas Transmission Corporation ("Columbia Transmission") under Rate Schedule LNG of Columbia LNG's FERC Gas Tariff, Original Volume No. 1; (ii) abandon its certificated transportation service to Washington Gas Light Company ("WGL") under Rate Schedule X-2 of Columbia LNG's FERC Gas Tariff, Original Volume No. 2; [1] and (iii) abandon by transfer to Cove Point LNG Company, L.P. ("Cove Point LNG") all of Columbia LNG's certificated facilities located at Cove Point, Calvert County, Maryland (the "Cove Point Facilities") and the pipeline extending from the Cove Point Facilities to a point of interconnection with Columbia Transmission and CNG Transmission Corporation in Loudoun County, Virginia (the "Cove Point Pipeline").[2]

Columbia LNG states that it has entered into an agreement with PEPCO Enterprises, Inc., pursuant to which Columbia LNG and Cove Point Energy Company, a subsidiary of PEPCO Enterprises, Inc., have formed Cove Point LNG, a limited partnership, to acquire all of Columbia LNG's jurisdictional facilities. In an application filed concurrently with Columbia LNG's application, Cove Point LNG is seeking authorization to acquire these facilities in order to provide open-access peaking and transportation services. Columbia LNG states that the requested abandonment authorizations are necessary in order to permit the proposed transfer to and acquisition by Cove Point LNG of the jurisdictional facilities. Columbia LNG states that the proposed abandonment of service obligations to Columbia Transmission and WGL will have no adverse impact on the respective companies since: (i) Columbia Transmission no longer requires imported LNG under Rate Schedule LNG to meet its service obligations, and (ii) WGL will have alternative firm and interruptible transportation services available to it under an open-access transportation tariff that Cove Point LNG is proposing to implement pursuant to Subpart G of Part 284 of the Commission's Regulations.

Columbia LNG states that it has filed concurrently with the application a notice of withdrawal of its certificate application filed on February 26, 1993, in Docket No. CP93-226-000, in which Columbia LNG proposed to offer various peaking, terminaling and transportation services.

Finally Columbia LNG requests that its application be consolidated with the application being filed concurrently by Cove Point LNG.

Comment date: November 26, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Cove Point LNG Company, L.P.

[Docket No. CP94-59-000]

Take notice that on November 3, 1993, Cove Point LNG Company, L.P. ("Cove Point LNG"), 20 Montchanin Road, Wilmington, Delaware 19803, filed in Docket No. CP94-59-000 an application pursuant to section 7(c) of the Natural Gas Act ("NGA"), 15 U.S.C. 717f(c), subpart A of part 157 of the Commission's regulations, 18 CFR 157.5, *et seq.* (1993), Subpart F of Part 157 of the Commission's regulations, 18 CFR 157.201, *et seq.* (1993), and Subpart G of Part 284 of the Commission's regulations, 18 CFR 284.221, *et seq.* (1993), for: (i) Authorization to acquire all the liquefied natural gas ("LNG") facilities currently owned by Columbia LNG Corporation ("Columbia LNG") located at Cover Point, Calvert County, Maryland (the "Cove Point Facilities") and the pipeline extending from the Cove Point Facilities to a point of interconnection with Columbia Gas Transmission Corporation ("Columbia Transmission") and CNG Transmission Corporation ("CNG") in Loudoun County, Virginia (the "Cove Point Pipeline"); (ii) authorization to construct a liquefaction unit at the Cove Point Facility to liquefy natural gas for storage; (iii) authorization to recommission the Cove Point Facilities; (iv) issuance of a blanket certificate with pre-granted abandonment to operate the Cove Point Facilities and Pipeline in order to provide firm peaking services and firm and interruptible transportation services; and (v) issuance of a blanket construction certificate for the Cove Point Pipeline and the Cove Point Facility. Finally, Cover Point LNG requests that its application be consolidated with the abandonment application that is being filed concurrently herewith by Columbia LNG pursuant to which Columbia LNG is seeking to abandon the Cove Point Facilities and Cove Point Pipeline by transfer to Cove Point LNG.

Cove Point LNG states in its application that it is a limited partnership that has been formed with Columbia LNG as the general partner and Cove Point Energy Company ("Cove Point Energy") as a limited partner. Cove Point Energy is a wholly-owned subsidiary of PEPCO Enterprises, Inc., which, in turn, is a wholly-owned subsidiary of Potomac Electric Power Company.

Cove Point LNG further states that the partnership was formed pursuant to an agreement entered into by Columbia LNG and PEPCO Enterprises, Inc. Under this agreement, Columbia LNG has agreed, in recognition of Cove Point Energy's payment of a cash contribution to the partnership, to transfer the Cove Point Facilities and Cove Point Pipeline to Cove Point LNG and assign to Cove Point LNG certain precedent agreements executed by Columbia LNG with successful bidders for services offered during the second open season held by Columbia LNG pursuant to its application in Docket No. CP93-226-000. The transfer is subject to the receipt of all necessary regulatory approvals including approval by the Commission. Cove Point LNG states that Columbia LNG or an affiliate thereof will operate the facilities and pipeline pursuant to an operating agreement to be entered into by Cove Point LNG and Columbia LNG.

Upon the acquisition of the Cove Point Pipeline and Facilities, Cove Point LNG is proposing to provide 3-day, 5-day and 10-day peaking services and firm and interruptible open access transportation services using such facilities. In order to provide the peaking service, Cove Point LNG is also proposing to construct a liquefaction unit at Cove Point capable of liquefying approximately 15,000 Mcf of gas per day and to recommission certain onshore facilities at Cove Point in order to store and vaporize LNG.

Under the proposed peaking services, customers will provide natural gas for liquefaction and storage during an injection season (April 15 through December 14) pursuant to a delivery schedule to be established prior to the beginning of each injection season. During the withdrawal season (December 15 through April 14) and any other time on a reasonable efforts basis, Cove Point LNG will withdraw the LNG from storage, vaporize it, and deliver the vaporized natural gas to the peaking customers. Each customer will be permitted to withdraw up to its Maximum Daily Peaking Quantity on any day during the withdrawal season,

[1] The abandonment authorization sought in items (i) and (ii) are the same authorizations, among others, that Columbia LNG has previously requested in its pending application filed on February 26, 1993, in Docket No. CP93-226-000. However, Columbia LNG has advised the Commission that it is filing, concurrently herewith, a notice withdrawing the February 26 application.

[2] Cove Point LNG is seeking authorization to acquire and operate these facilities in an application filed concurrently with Columbia LNG's application.

provided however, that the 10-day peaking service customers will be limited to withdrawing not more than 70 percent of their Maximum Contract Peaking Quantity during any consecutive 10-day period. All receipts from and deliveries to the peaking customers will be at points along the Cove Point pipeline. Cove Point LNG will charge market-based rates for the peaking services.

Cove Point LNG also proposes to offer firm and interruptible transportation service on the Cove Point Pipeline. The rates to be charged for the transportation services will be cost based.

Cove Point LNG states that all services will be provided on an open-access, non-discriminatory basis and that it has structured its services to be in compliance with Order No. 636. Cove Point LNG is requesting blanket certificate authorization under subpart G of part 284 of the Commission's regulations to provide the services. Capacity for the firm peaking and transportation services was allocated under two open seasons held by Columbia LNG pursuant to its application in Docket No. CP93–226–000.

The proposed services are discussed more fully in the Application and in the *pro forma* tariff sheets included with the filing.

Comment date: November 26, 1993, in accordance with Standard Paragraph F at the end of this notice.

3. Sea Robin Pipeline Company

[Docket No. CP94–49–000]

Take notice that on October 28, 1993, Sea Robin Pipeline Company (Sea Robin) P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP94–49–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service provided pursuant to Sea Robin's Rate Schedules X–10 and X–21 on behalf of Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin states that it has provided firm transportation service of up to 10,000 Mcf of natural gas per day on behalf of Natural pursuant to Sea Robin's Rate Schedule X–10 from South Marsh Island Block 127 and Eugene Island Block 330, offshore Louisiana, to delivery points onshore at Erath, Louisiana by order issued April 14, 1978 in Docket No. CP77–239.

Sea Robin states further that it also provided firm transportation service of up to 7,327 Mcf of natural gas per day on behalf of Natural pursuant to Sea Robin's Rate Schedule X–21 from Eugene Island Block 333, offshore Louisiana, to delivery points onshore at Erath, Louisiana by order issued November 23, 1977 in Docket No. CP77–606.

Natural, it is said, has requested abandonment of service under Sea Robin's X–10 and X–21 Rate Schedules and conversion of such service to Part 284 service under Sea Robin's Rate Schedule FT with the same terms and conditions contained in the certificated service. Natural, it is further said, has executed service agreements for self-implementing transportation service under Part 284–G of the Commission's Regulations pursuant to Sea Robin's Rate Schedule FT with effective dates of July 22, 1993 and November 1, 1993.

Sea Robin therefore requests abandonment of Rate Schedules X–10 and X–21, effective July 22, 1993 and November 1, 1993 respectively.

No facilities are proposed to be abandoned herein.

Comment date: November 26, 1993, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–28099 Filed 11–15–93; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. TM94–2–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 3, 1993, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Second Revised Sheet No. 40, with a proposed effective date of December 1, 1993.

Algonquin states that this tariff sheet is being filed pursuant to Commission order issued May 13, 1993 in Docket No. RS92–28–000 and pursuant to Section 32, Fuel Reimbursement Quantity (FRQ), contained in the General Terms and Conditions of Algonquin's FERC Gas Tariff. Section 32 provides that Algonquin will periodically track changes in its requirements to retain gas in-kind in compensation for the quantities of Company Use Gas used to provide services to Algonquin's customers.

Algonquin states that copies of the filing were mailed to all customers of Algonquin and interested state commissions shown on Algonquin's system.

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 17, 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 a file with the

Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28113 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-58-000]

Carnegie Natural Gas Co.; Request Under Blanket Authorization

November 9, 1993.

Take notice that on November 3, 1993, Carnegie Natural Gas Company (Carnegie), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, filed in Docket No. CP94-58-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to add a transportation service tap which would serve as a new delivery point for providing interruptible transportation service to The Peoples Natural Gas Company (Peoples) under Carnegie's blanket certificate issued in Docket No. CP88-248-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Carnegie states that it proposes the addition of a transportation service tap under an interruptible transportation service agreement with Peoples. Carnegie further states that the proposed tap would be located at the terminus of Carnegie's M-83 pipeline in Allegheny County, Pennsylvania. Carnegie says that its tariff permits the addition of the tap and the assignment of the delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28100 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP94-62-000]

Columbia Gas Transmission Corp. Request Under Blanket Authorization

November 9, 1993.

Take notice that on November 4, 1993, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, failed in Docket No. CP94-62-000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon two pipelines under Columbia's blanket certificate issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Columbia proposes to abandon by sale to Vandermark Exploration, Inc. (Vandermark), transmission pipelines A-1 and A-2,[1] and all appurtenances and rights-of-way associated with the lines, which are located in Allegheny and Cattaraugus Counties, New York. Columbia describes pipeline A-1 as consisting of 14.4 miles of 8-, 6-, and 4-inch pipe; and pipeline A-2 as consisting of 6.3 miles of 6-, and 2-inch pipe. Columbia states that Vandermark also has agreed to purchase additional related facilities: (a) The Gilbert Storage Field facilities abandoned under authorization issued December 11, 1985, in Docket No. CP85-517-000 (33 FERC 61,335), and (b) non-jurisdictional production facilities: line G-1 (3.9 miles of 4-inch pipe), line G-4 (0.6 mile of 4-inch pipe), and line W-5 (0.03 mile of 2-inch pipe). Columbia states that all the facilities would be sold for $52,800 less $7,000 for expenses of metering facilities. Columbia advises that there are no pay gas customers on the facilities and Columbia has no purchase gas agreements associated with the facilities. Columbia states that the pipelines are old and deteriorating and there is no economic or operational justification to replace them.

Columbia explains that pipelines A-1 and A-2 formerly were used to move gas in and out of Gilbert Storage Field, and currently are being used to move a small amount of local interruptible transportation service (ITS) volumes for Vandermark and Bannon Energy Incorporated (Bannon). Columbia included in its application a letter dated September 13, 1993, whereby Bannon states it has no objection to the sale of pipelines A-1 and A-2 to Vandermark.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28102 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[1] The pipelines were authorized under the "grandfather" certificate issued in Docket No. G-345 on January 5, 1943 (3 FPC 695), to Home Gas Company, predecessor to Columbia.

[Docket No. CP94-61-000]

Florida Gas Transmission Co. Request Under Blanket Authorization

November 5, 1993.

Take notice that on November 4, 1993, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP94-61-000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new meter station, in Orange County, Florida to accommodate gas deliveries to Orlando CoGen (II), Inc. and Orlando CoGen Fuel, Inc., collectively referred to as (Orlando CoGen) under FGT's blanket certificate issued in Docket No. CP82-553-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

FGT proposes to construct and operate a turbine meter tube, approximately 100 feet of connecting pipe, and related appurtenant facilities to measure gas delivered to Orlando CoGen. FGT states that the transportation service will be provided under FGT's blanket certificate issued in Docket No. CP89-555, pursuant to § 284.221 of the Commission's Regulations. It is stated that the construction of the proposed meter station is included as part of FGT's Phase III Expansion Facilities. However,

Orlando CoGen requires the facilities, authorized by order of the Commission issued September 15, 1993 in Docket No. CP92-182-004, et al., be constructed prior to the projected in-service date of the Phase III Expansion Facilities. The application further states, that the primary purchaser of power from the Orlando CoGen facility has stated that by December 10, 1993, the facility must be served by firm transportation, and that the facilities sought in this proceeding will enable FGT to service Orlando CoGen directly.

It is stated that the proposed gas quantity that FGT will deliver through the subject meter stations is: Up to 23,600 MMBtu per day; and up to 5,509,580 MMBtu per year. FGT states that Orlando CoGen shall reimburse it for all construction costs; estimated to be $196,980. It is further stated that the end-use will be cogeneration.

In addition, FGT requests that the Commission waive the regulation set forth in § 157.205 and set a 30-day deadline for the filing of protests or interventions on this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 93-28101 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1746-003]

Four Rent, Inc.; Expiration of License and of Dismissal of Application to Transfer License

November 9, 1993.

On May 16, 1966, a minor license was issued to E.L. Cord for the Leidy Creek Project No. 1746, located in Esmeralda County, Nevada, partially on lands of the United States in the Inyo National Forest, and partially on Cord's ranch.[1] The license was issued for a term of twenty-five years, with an expiration date of September 30, 1991. The license waived application to the project of the relicense provisions of sections 14 and 15 of the Federal Power Act (FPA).

The project dam was damaged during a flood in 1967 and was further damaged in a flood in 1975. In 1977, the Leidy Creek Project ceased operation.

On July 2, 1985, the Director, Office of Hydropower Licensing, issued an order approving transfer of the license to Four Rent, Inc.[2] Although Four Rent, which purchased the project and the ranch from Cord, investigated the possibility of restoring generation at the project, it never performed the necessary repairs.[3] In 1987, Four Rent sold the ranch and the project to Connecticut General Life Insurance Company (Company).[4] Four Rent did not, however, file an application to transfer the license to the Company.[5] The ranch and the project were resold twice, with the present owners, James and Christine Boyce, purchasing the ranch and the project in 1989.

By letter dated February 5, 1990, the Director, Division of Project Review, notified Four Rent that it and the current project owner must jointly file a transfer application by April 5, 1990, and that Four Rent's failure to do so would constitute a violation of the FPA. No transfer application was filed; Four Rent thus remained the licensee.

As previously noted, the license for the Leidy Creek Project was due to expire September 30, 1991. Four Rent did not file an application to surrender its license, a notice of intent to file an application for a subsequent license, or an application for a subsequent license prior to the expiration date of the license,[6] nor did the Commission issue an order requiring Four Rent to continue to operate its project.[7] None of these actions having been taken, the existing license expired on September 30, 1991.[8]

On September 30, 1992, one year after expiration of the license for Project No. 1746, Four Rent and the Boyces filed an application to transfer the license from Four Rent to the Boyces.[9] Because the license has expired, it cannot be transferred, and the transfer application is therefore dismissed.[10]

Lois D. Cashell,

Secretary.

[FR Doc. 93-28105 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-4-001]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 5, 1993, Northern Natural Gas Company (Northern), tendered for filing as part of its FERS Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1993:

Substitute First Revised Sheet No. 50
Substitute First Revised Sheet No. 51
Substitute First Revised Sheet No. 53

Northern states that in compliance with the Commission's order dated October 29, 1993, in the captioned docket, the filing revises the pagination of Sheet Nos. 50, 51, and 53 originally filed in this docket on October 1, 1993, and removes the charges related to the Stranded Account No. 858 and Gas Supply Realignment (GSR) filings made on the same date in Docket Nos. RP94-6 and RP94-7, respectively.

Northern states that copies of this filing were served upon Northern's 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 17, 1993. Protests will be considered by the Commission in determining the appropriate proceeding, but will not

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[1] 35 FPC 742. The effective date of the license was October 1, 1966.

[2] 32 FERC ¶ 62,004.

[3] See October 7, 1991 letter from the Director, Division of Project Compliance and Administration (Division Director), to James Boyce, current co-owner of the ranch and project.

[4] See December 12, 1986 letter from Erica Michaels, acting on behalf of Four Rent, to Ronald A. Corso, Director, Division of Dam Safety and Inspections.

[5] Under section 8 of the FPA, 16 U.S.C. 801, and part 9 of the Commission's regulations, 18 CFR part 9, license transfers require prior written approval of the Commission.

[6] A subsequent licuense is a license issued after expiration of a minor license that is not subject to the relicensing provisions of sections 14 and 15 of the FPA. See 18 CFR 16.2(d). Under section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and 18 CFR 16.21(a), had Four Rent timely filed an application for subsequent license before its license expired, the existing license would be deemed to not expire until the Commission took final action on the subsequent license application.

[7] See 18 CFR 16.21(b).

[8] See October 7, 1991 letter to the Boyces, *supra* n. 3, in which the Division Director explains to the Boyces that the hydroelectric facilities located on their property are not under license, and that, should the Boyces decide to rebuild the project, they will have to first obtain a license from the Commission.

[9] According to the filing, the Boyces plan to reactivate the project and file a license application.

[10] The Boyces may file an application for preliminary permit, license, or exemption for the site, as appropriate.

serve to make protestant a party to the proceedings. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28107 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-4-001]

Northern Natural Gas Co; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 5, 1993, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1993:

Substitute First Revised Sheet No. 50
Substitute First Revised Sheet No. 51
Substitute First Revised Sheet No. 53

Northern states that in compliance with the Commission's order dated October 29, 1993, in the captioned docket, the filing revises the pagination of Sheet Nos. 50, 51, and 53 originally filed in this docket on October 1, 1993, and removes the charges related to the Stranded Account No. 858 and Gas Supply Realignment (GSR) filings made on the same date in Docket Nos. RP94-6 and RP94-7, respectively.

Northern states that copies of this filing were served upon Northern's 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 17, 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. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Chashell,

Secretary.

[FR Doc. 93-28108 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OR94-1-000]

Sinclair Oil Corp. v. Phillips Pipeline Co.; Complaint

November 9, 1993.

Take notice that on October 28, 1993, pursuant to section 13(1) of the Interstate Commerce Act (49 App. U.S.C. 13 (1988)), and Rule 206 of the Commission Rules of Practice and Procedure (18 CFR 385.206), Sinclair Oil Corporation (Sinclair) filed a complaint against Phillips Pipeline Company (Phillips). In its complaint, Sinclair asks the Commission to declare the practice of using the cost of leasing an oil pipeline to justify a rate increase to be improper, unjust and unreasonable, and to reject the rate increase proposed by Phillips in FERC Tariff No. 459, filed September 28, 1993.

In support of its complaint, Sinclair alleges that Phillips has leased capacity on the ARCO crude oil pipeline system, and has then filed rates for use of the pipeline space it has leased that are 38 percent above those that ARCO established. Sinclair states that the alleged basis of the rates are the costs Phillips has chosen to incur in leasing pipeline throughput from ARCO. Phillips further states that this "lease-and-raise" tariff has become a manipulative device to artificially increase pipeline rates in violation of the established rules of the Commission.

Any persons desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before December 9, 1993. Protests will be considered by the Commission in determining the 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. Answers to this complaint are due on or before December 9, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28103 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT94-6-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 4, 1993, Texas Eastern Transmission Corporation (Texas Eastern) submitted for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A of the filing.

Texas Eastern states that this filing is submitted in light of the Commission's September 17, 1993 "Second Order on Compliance Filing and Order on Rehearing" for CNG Transmission Corporation (CNG) in Docket No. RS92-14 et al., (September 17 Order) and the Commission's August 2, 1993 "Order on Compliance With Restructuring Rule, Granting Clarification, and Granting and Denying Rehearing" for Carnegie Natural Gas Company (Carnegie) in Docket No. RS92-30 *et al.*, (August 2 Order).

Texas Eastern states that it is filing the tariff sheets on Appendix A for the purpose of reflecting that, pursuant to the September 17 Order and August 2 Order, certain customers of CNG and Carnegie became direct customers of Texas Eastern ("Converting Customers")[1], effective October 1, 1993, by taking assignment of their respective service rights attributable to CNG and Carnegie's service agreements as of September 30, 1993 with Texas Eastern under Texas Eastern's Rate Schedules CDS and FT-1.

Texas Eastern states that in order to reflect the decrease in CNG and Carnegie's entitlements under their affected service agreements and to reflect the relevant entitlements of the Converting Customers, it is submitting Third Revised Sheet Nos. 546-548, 549-551, 553-555, 556-558, 560-562, 563-565, 567-569, 570-572, 575-577, 578-580, 581-583 and 599-601 and Original Sheet Nos. 548A, 551A, 555A, 558A, 562A, 565A, 569A, 572A, 577A, 580A, 583A and 601A to reflect modifications to Sections 9.2, 9.3, 9.4, 9.5, 9.9 and 14.4 of the General Terms and Conditions of its FERC Gas Tariff, Sixth Revised Volume No. 1.

The proposed effective date of the tariff sheets is October 1, 1993, the effective date of assignment of CNG and Carnegie's entitlements to the respective

[1] The Converting Customers from CNG are: Baltimore Gas and Electric Company; Boston Gas Company; Bristol and Warren Gas Company; The Brooklyn Union Gas Company; City of Richmond, Virginia; Colonial Gas Company; Commonwealth Gas Company; Corning Natural Gas Corporation; The East Ohio Gas Company; Elizabethtown Gas Company; Long Island Lighting Company; Town of Middleborough, Massachusetts; National Fuel Gas Distribution Company; New Jersey Natural Gas Company; New York State Electric and Gas Corporation; Niagara Mohawk Power Corporation; North Attleborough Gas Company; The Peoples Natural Gas Company; The Providence Gas Company; Public Service Electric and Gas Company; Public Service Company of North Carolina, Inc.; The River Gas Company; Rochester Gas and Electric Corporation; Southern Connecticut Gas Company; Virginia Natural Gas, Inc.; Washington Gas Light Company and Yankee Gas Services Company. The Converting Customers from Carnegie are: Columbia Gas of Ohio, Inc.; New Jersey Natural Gas Company and UGI Utilities, Inc.

Converting Customers. Copies of the filing were served on firm customers of Texas Eastern 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 17, 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. 93–28104 Filed 11–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–192–004]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 4, 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 sheet:

2nd Sub Original Sheet No. 253F

Texas Eastern states that the Commission's October 1, 1993 Order in Docket No. RP93–192 (October 1 Order) accepted the tariff sheets filed in Docket No. RP93–192 on September 3, 1993, as supplemented September 16, 1993, to be effective October 3, 1993, subject to Texas Eastern filing certain revisions as required by ordering paragraph (B) of the October 1 Order. Texas Eastern filed in compliance with ordering paragraph (B) of the October 1 Order on October 18, 1993 in Docket No. RP93–192–002. However, Texas Eastern inadvertently omitted tariff revisions necessary to reflect the Commission's requirement in the October 1 Order that "* * * if Texas Eastern adds VKFT shippers in between quarterly GSR [Gas Supply Realignment] filings such that the GSR surcharge is not calculated based on the new shippers' MDQ, the GSR surcharge should be collected from those shippers and the revenues should be credited against future GSR costs * * *".

Accordingly, Texas Eastern states that it supplements its October 18, 1993 compliance filing with the submission of 2nd Sub Original Sheet No. 253F to reflect the Commission's requirement concerning the addition of VKFT shippers between GSR filings. Texas Eastern states that such tariff sheet provides that Texas Eastern will collect the GSR Demand Surcharge from customers under Rate Schedule VKFT executing a Rate Schedule VKFT Service Agreement whose effective date occurs in between quarterly GSR filings and the revenues so collected will be credited against future GSR Costs.

The proposed effective date of the above-captioned tariff sheet is October 3, 1993, which is the same date approved by the Commission in the October 1 Order. Copies of the filing were served on firm customers of Texas Eastern and interested state commissions. Copies of this filing have also been served on Santa Fe Energy Resources, Inc. and Murphy Exploration and Production Company.

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 16, 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. 93–28106 Filed 11–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–47–000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 5, 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 5, 1993:

Original Sheet No. 174
Sheet Nos. 175–199

Texas Eastern states that the above tariff sheets are filed pursuant to the Commission's April 28, 1993 order issued in Docket No. RP85–177–102, et al. (April 28 Order).

Texas Eastern states that in the April 28 Order, the Commission placed customers on notice that they may be liable for future direct bills by Texas Eastern to recover costs related to claims applicable to the period prior to November 1, 1992, the date of termination of Texas Eastern's Gas Supply Inventory Reservation Charge (GSIRC). Texas Eastern states that the proposed direct bill of GSIRC costs is allocated to those customers who were recipients of the refund of $6,072,700.97 pursuant to the April 28 Order. Texas Eastern submits such allocation methodology is appropriate for the instant filing, however Texas Eastern reserves its rights to propose a different allocation methodology to be applicable to any future filing to recover additional gas supply inventory costs.

Texas Eastern states that at each customer's individual option, payment of these direct bill amounts may be amortized over as much as a twelve month period with carrying charges calculated, net of deferred taxes, pursuant to § 154.305 of the Commission's Regulations on amounts uncollected. Texas Eastern states that the total GSIRC costs to be recovered by this filing is $2,008,377.35.

Texas Eastern states that copies of its filing have been served on all firm customers of 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 17, 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 a file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93–28110 Filed 11–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94-2-17-001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 4, 1993, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheets, with a proposed effective date of December 1, 1993:

Seventeenth Revised Sheet No. 1J
Seventeenth Revised Sheet No. 1K
Third Revised Sheet No. 1M

Texas Eastern states that the tariff sheets listed above are being filed pursuant to Section 15.6, Applicable Shrinkage Adjustment (ASA), contained in the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

Texas Eastern states that on October 29, 1993, Texas Eastern files its first regular annual ASA filing under Section 15.6 of the General Terms and Conditions. Texas Eastern states that Appendix A attached to the October 29, 1993 filing reflected the Original Volume No. 2 sheets listed above, however, Texas Eastern has since discovered that the Original Volume No. 2 tariff sheets listed above were inadvertently excluded from the October 29, 1993 filing.

Texas Eastern states that a copy of this filing was served on all firm customers of Texas Eastern and interested state commission. This filing is also being served on current shippers under Rate Schedules IT-1, PTI and ISS-1.

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 17, 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. Copies of this filing are on file with the Commission and are available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28112 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-46-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 1, 1993, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets listed on Appendix A attached to the filing. The proposed effective date of such tariff sheets is December 1, 1993.

TGPL states that the instant filing is for the limited purpose of revising TGPL's Rate Schedule FT reservation rates and Rate Schedule ESS (Eminence Storage Service) demand and capacity charges in order to provide for the recovery of certain costs attributable to the expansion of TGPL's Eminence Storage Field. The revision to the Rate Schedule FT reservation charges will necessarily result in revisions to charges under Rate Schedules FT-R, FTN, FTN-R and FT-G; similarly, the revisions to the Rate Schedule ESS charges necessarily result in revisions to the Rate Schedule ESS-R charges. Moreover, the reservation rate surcharge applicable to Incremental Leidy Line Annual Firm Transportation service which has been assigned and converted from section 7(c) to service under part 284 has been reduced in order to offset the increase in the Rate Schedule FT reservation rate such that the total reservation rate for such service remains unchanged.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

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 17, 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 a file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28109 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-48-000]

Williston Basin Interstate Pipeline Co. Proposed Changes in FERC Gas Tariff

November 9, 1993.

Take notice that on November 5, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed in Appendix A to the filing.

Williston Basin states that the revised tariff sheets are being filed pursuant to Order No. 636, *et seq.*, to implement the recovery of $13,445,226.34 of Gas Supply Realignment Transition costs. Under the filing, Williston Basin is proposing to recover ninety percent of the costs through a reservation charge surcharge of 112.716¢ per equivalent dkt of Maximum Daily Delivery Quantity applicable to service under Rate Schedules FT-1 and ST-1 and ten percent of such costs through a base rate surcharge of 5.942¢ per dkt applicable to service under Rate Schedule IT-1.

Williston Basin has requested that the Commission accept this filing to become effective December 1, 1993.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 17, 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 the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-28111 Filed 11-15-93; 8:45 am]

BILLING CODE 6717-01-M

Financial Assistance Award: Columbia Basin College

AGENCY: Richland Operations Office, U.S. Department of Energy (DOE).

ACTION: Notice of intent to make a noncompetitive grant award.

SUMMARY: The DOE Richland Operations Office, in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to award a noncompetitive grant to Columbia Basin College, a two year

community college located in Pasco, Washington, near the Hanford Site. Under the terms of the grant, the college will establish an environmental science endowment fund. The proceeds from the endowment will be used to provide scholarships to qualified students intent on completing one or two year programs in environmental science. This action is relevant to DOE's environmental restoration and waste management/ remediation mission in that it will encourage students to pursue careers in environmental science, which in turn should increase the pool of trained persons available to participate in the mission. It also supports the Secretary of Energy's position that on-going clean up activities depend on the availability of a well educated, well trained cadre of potential employees.

Funds for this award are a part of moneys set aside for a penalty assessed against Richland Operations Office and the Westinghouse Hanford Company for violation of the Washington State Hazardous Waste Management Act. The settlement agreement, which has been approved by the Washington State Pollution Control Hearings Board Administrative Appeals Judge, is in lieu of payment of the penalty to the Washington State Treasury. One of the terms of the agreement provides that "DOE shall make a grant of $40,000 to Columbia Basin College Foundation to establish a scholarship fund * * *." Competition for the award is not an option.

The duration of the grant shall be one year from the date of award.

FOR FURTHER INFORMATION CONTACT: Marji W. Parker, U.S. Department of Energy, Richland Operations Office, P.O. Box 550, Richland, WA 99352, Telephone: (509) 376–2029.

Dated: November 5, 1993.

G.L. Amidan,

Acting Director, Procurement Division, Richland Operations Office.

[FR Doc. 93–28136 Filed 11–15–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[Docket No. FRL–4801]

Gulf of Mexico Program Management Committee Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of meeting of the management Committee of the Gulf of Mexico program.

SUMMARY: The Gulf of Mexico Program's Management Committee will hold a meeting on December 7–8, 1993 at the Holiday Inn Crowne Plaza Hotel in New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A meeting of the Management Committee of the Gulf of Mexico Program will be held on December 7–8, 1993, at the Holiday Inn Crowne Plaza Hotel in New Orleans, Louisiana. The committee will meet from 8:30 a.m. to 4:30 p.m. on December 7 and from 8:30 a.m. to 12 noon on December 8. Agenda items will include: proposed revision to the Action Agenda process; issue committee co-chair reports; strategic assessment capability; federal associate director positions; development of a regional consortium of minority colleges and universities; 1995 symposium; Business Council resolution; budget; and legislation update. The meeting is open to the public.

Douglas A. Lipka,

Acting Director, Gulf of Mexico Program.

[FR Doc. 93–28120 Filed 11–15–93; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 8, 1993.

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: 3060–0107

Title: Private Radio Application for Renewal, Reinstatement and/or Notification of Change to License Information

Form Number: FCC Form 405–A

Action: Revision of a currently approved collection

Respondents: Individuals or households, state or local governments, non-profit institutions and businesses or other for-profit (including small businesses)

Frequency of Response: On occasion reporting requirement

Estimated Annual Burden: 2,700 responses; .33 hours average burden per response; 891 hours total annual burden

Needs and Uses: In accordance with FCC Rules, radio station licensees are required to apply for renewal of their radio station authorization every five years. The Commission issues computer-generated renewal notices, however, this form will serve as a short form alternative for licensees who fail to receive that notice for whatever reason. This form is also provided for Land Mobile licensees who wish to reinstate their authorization, change the number of mobiles and/or pagers at time of renewal; for Land Mobile General Mobile licensees who wish to cancel their authorization, or file a name and/or address change. This form is revised to exclude applicants in the Maritime and Aviation Radio Services under 47 CFR parts 80 and 87. In accordance with those Rules, they are not eligible to use this form for renewal. FCC staff will use the data to determine eligibility for an authorization renewal or reinstatement, and issue a radio station license. Data is also used by Compliance personnel in conjunction with field engineers for enforcement purposes and for authorization cancellations.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–28067 Filed 11–15–93; 8:45 am]

BILLING CODE 6712–01–M

Travel Reimbursement Program; July 1, 1993—September 30, 1993; Summary Report

Total Number of Sponsored Events: 19
Total Number of Sponsoring Organizations: 19
Total Number of Different Commissioners/Employees Attending: 22
Total Amount of Reimbursement Expected:
Transportation: $8,369.10
Subsistence: 6,711.52

Other Expenses: 1,138.15
Total: $16,218.77
Sponsoring Organization:
Arkansas Broadcasters Association (ABA), 2024 Arkansas Valley Drive, Suite 201, Little Rock, Arkansas 72212.
Date of the Event:
August 15–17, 1993
Description of the Event:
ABA's Annual Convention, Little Rock, Arkansas.
Commissioners Attending:
None
Other Employees Attending:
Roy Stewart—Chief, Mass Media Bureau.
Amount of Reimbursement:
Transportation: $290.00
Subsistence: 104.50
Other Expenses: 44.00
Total: $438.50
Sponsoring Organization:
American Petroleum Institute, Keller & Heckman, 1001 G Street, NW., Suite 500 West, Washington, DC 20001
Date of the Event:
August 24–26, 1993
Description of the Event:
American National Standards Institute (ANSI), Government Subcommittee X–12G, Task Group 5, Seattle, Washington.
Commissioners Attending:
None
Other Employees Attending:
John A. Chudovan—Chief, Data Services Branch, Private Radio Bureau.
Peggy J. Frank—Legal Instructor Examiner, Private Radio Bureau.
Amount of Reimbursement:
Transportation: $886.00
Subsistence: 520.00
Other Expenses: 52.52
Total: $1,458.52
Sponsoring Organization:
Advertising Research Foundation (ARF), 641 Lexington Avenue, New York, New York 10022.
Date of the Event:
July 21, 1993
Description of the Event:
ARF Children's Research Workshop, New York, New York
Commissioners Attending:
None
Other Employees Attending:
Barbara A. Kreisman—Chief, Video Service Div. Mass Media Bureau
Amount of Reimbursement:
Transportation: $145.00
Subsistence: .00
Other Expenses: 104.75
Total: $249.75
Sponsoring Organization:
Bienstock & Clark, First Union Financial Center, Suite 3180, 200 South Biscayne Boulevard, Miami, Florida 33131.
Date of the Event:
August 22–24, 1993
Description of the Event:
Coping with Re-Regulation Part III: FCC Implementation of 1992 Cable Act Seminar Miami, Florida
Commissioners Attending:
None
Other Employees Attending:
Diane Hofbauer—Legal Advisor, Office of Legislative Affairs
Amount of Reimbursement:
Transportation: $306.00
Subsistence: 271.24
Other Expenses: 102.79
Total: $680.03
Sponsoring Organization:
Cardiff Publishing Company, Inc., 214 Massachusetts Avenue NE., Suite 350, Washington, DC 20002.
Date of the Event:
September 20–22, 1993
Description of the Event:
International Wireless Communications Expo, Philadelphia, Pennsylvania
Commissioners Attending:
None
Other Employees Attending:
Daniel Abeyta—General Attorney, Common Carrier Bureau
Ralph A. Haller—Chief, Private Radio Bureau
Robert H. McNamara—Chief, Special Services Division, Private Radio Bureau
Frank R. Netro—Electronics Engineer, Private Radio Bureau
Amount of Reimbursement:
Transportation: $347.00
Subsistence: 823.00
Other Expenses: 54.59
Total: $1,224.59
Sponsoring Organization:
California Broadcasters Association, 1127 11th Street, Suite 730, Sacramento, California 95814.
Date of the Event:
July 18–20, 1993
Description of the Event:
Summer Convention, "The New FCC and Your Station", Monterey, California
Commissioners Attending:
None
Other Employees Attending:
Roy J. Stewart—Chief, Mass Media Bureau
Amount of Reimbursement:
Transportation: $546.00
Subsistence: 366.50
Other Expenses: 49.08
Total: $961.58
Sponsoring Organization:
Brian Kidney, Cellular Carriers Association of California, California Public Utilities Commission, 2999 Oak Street, MS 1050, Walnut Creek, California 94596.
Date of the Event:
July 20–22, 1993
Description of the Event:
Cellular Transceiver Facilities, Informational Workshop, San Francisco, California
Commissioners Attending:
None
Other Employees Attending:
Robert F. Cleveland—Physical Scientist, Office of Engineering & Technology
Amount of Reimbursement:
Transportation: $468.00
Subsistence: 296.50
Other Expenses: 72.00
Total: $836.50
Sponsoring Organization:
Cable Television Administration and marketing Society (CTAM), 635 Slaters Lane, Suite 250, Alexandria, Virginia 22314.
Date of the Event:
July 20–21, 1993
Description of the Event:
National Marketing Conference, CTAM ATLANTA: The Customer Speaks Atlanta, Georgia
Commissioners Attending:
None
Other Employees Attending:
Byron F. Marchant—Legal Advisory, to Commr. Andrew C. Barrett
Amount of Reimbursement:
Transportation: $260.00
Subsistence: 147.50
Other Expenses: 34.59
Total: $442.09
Sponsoring Organization:
Georgia Association of Broadcasters, Inc. (GAB), 8010 Roswell Road, Suite 260, Atlanta, Georgia 30350.
Date of the Event:
August 7–8, 1993
Description of the Event:
GAB's 59th Annual Convention, Amelia Island, Florida
Commissioners Attending:
None
Other Employees Attending:
Robert L. Corn-Revere—Senior Advisor to Chairman James H. Quello
Amount of Reimbursement:
Transportation: $.00
Subsistence: 120.00
Other Expenses: .00
Total: $120.00
Sponsoring Organization:
IEEE Standard Seminars, 445 Hoes Lane, P.O. Box 1331, Piscataway, New Jersey 08855.
Date of the Event:
August 13–18, 1993
Description of the Event:
Measurement of Radio-Noise Emissions, Dallas, Texas

Commissioners Attending:
None
Other Employees Attending:
Leslie A. Wall—Chief, Sampling & Measurements Branch, Office of Engineering & Technology
Amount of Reimbursement:
Transportation: $555.00
Subsistence: 622.10
Other Expenses: .00
Total: $1,177.10
Sponsoring Organization:
International Teleproduction Society (ITS), 350 Fifth Avenue, Suite 2400, New York, New York 10118.
Date of the Event:
July 9–11, 1993
Description of the Event:
ITS Annual Forum, Los Angeles, California
Commissioners Attending:
None
Other Employees Attending:
Brian F. Fontes—Chief of Staff for Chairman James H. Quello
Amount of Reimbursement:
Transportation: $437.00
Subsistence: 299.00
Other Expenses: 105.13
Total: $841.13
Sponsoring Organization:
Michigan Association of Broadcasters (MAB), Craig Benton, Financial Manager, 819 North Washington, Lansing, Michigan 48906.
Date of the Event:
August 4–10, 1993
Description of the Event:
MAB Annual Convention, Harbor Springs, Michigan
Commissioners Attending:
James H. Quello–Chairman
Other Employees Attending:
None
Amount of Reimbursement:
Transportation: $424.40
Subsistence: 435.14
Other Expenses: 60.04
Total: $919.58
Sponsoring Organization:
National Association of Broadcasters, 1771 N Street, NW., Washington, DC 20036.
Date of the Event:
September 8–11, 1993
Description of the Event:
NAB's Radio Convention, Dallas, Texas
Commissioners Attending:
None
Other Employees Attending:
Larry D. Eads—Chief, Audio Services Division, Mass Media Bureau
Charles W. Kelley—Chief, Enforcement Division, Mass Media Bureau
Amount of Reimbursement:
Transportation: $699.00
Subsistence: 784.50
Other Expenses: 88.00
Total: $1,571.50
Sponsoring Organization:
New England Cable Television Association, Inc., NECTA, 100 Grandview Road, Suite 202, Braintree, Massachusetts 02184.
Date of the Event:
July 11–14, 1993
Description of the Event:
NECTA's Annual Convention, Newport, Rhode Island
Commissioners Attending:
None
Other Employees Attending:
Byron F. Marchant—Legal Advisor to Commr. Andrew C. Barrett
Amount of Reimbursement:
Transportation: $438.00
Subsistence: 432.04
Other Expenses: 86.48
Total: $956.52
Sponsoring Organization:
Southwestern Bell Corporation-Washington, Inc., 1657 K Street, NW., Suite 1000, Washington, DC 20006.
Date of the Event:
July 20–22, 1993
Description of the Event:
Address the Southwestern Bell, Executive Staff on "Network Reliability," Dallas, Texas
Commissioners Attending:
None
Other Employees Attending:
Gregory Lipscomb—General Attorney, Common Carrier Bureau
Amount of Reimbursement:
Transportation: $475.20
Subsistence: 223.50
Other Expenses: 35.30
Total: $734.00
Sponsoring Organization:
Systematics Telecommunications Services, 4001 Rodney Parham Road, Little Rock, Arkansas 72212.
Date of the Event:
August 22–25, 1993
Description of the Event:
Telecommunications Conference, Hilton Head, South Carolina
Commissioners Attending:
None
Other Employees Attending:
Stephen L. Markendorff—Chief, Cellular Radio Branch, Common Carrier Bureau
Amount of Reimbursement:
Transportation: $282.50
Subsistence: 185.00
Other Expenses: 2.00
Total: $469.50
Sponsoring Organization:
Tri-State Committee, Exchange Carriers of Utah, P.O. Box 417, Centerville, Utah 84014.
Date of the Event:
August 3–6, 1993
Description of the Event:
Tri-State Telecommunications Conference, Park City, Utah
Commissioners Attending:
None
Other Employees Attending:
Brian F. Fontes—Chief of Staff to Chairman James H. Quello
Amount of Reimbursement:
Transportation: $.00
Subsistence: 60.00
Other Expenses: 57.38
Total: $117.38
Sponsoring Organization:
Robert Creighton, United States Telephone Association (USTA), 900 19th Street, NW., Suite 800, Washington, DC 20036.
Date of the Event:
September 27–30, 1993
Description of the Event:
1993 USTA Depreciation Seminar, Charleston, South Carolina
Commissioners Attending:
None
Other Employees Attending:
Fatina K. Frankling—Chief, Depreciation Rates Branch, Common Carrier Bureau
Amount of Reimbursement:
Transportation: $402.00
Subsistence: 304.50
Other Expenses: 57.25
Total: $763.75
Sponsoring Organization:
Utilities Telecommunications Council (UTC), 1140 Connecticut Avenue NW., Suite 1140, Washington, DC 20036.
Date of the Event:
June 30–July 2, 1993
Description of the Event:
UTC Annual Meeting, San Antonio, Texas
Commissioners Attending:
None
Other Employees Attending:
Doron Fertig—Industry Economist, Private Radio Bureau
Ralph A. Haller—Chief, Private Radio Bureau
Amount of Reimbursement:
Transportation: $934.00
Subsistence: 413.50
Other Expenses: 61.25
Total: $1,408.75
Sponsoring Organization:
Wireless Cable Association International Inc., WCA, 2000 L Street, NW., Suite 702, Washington, DC 20036.
Date of the Event:
August 1–3, 1993
Description of the Event:
1993 International Exposition and Convention, Orlando, Florida
Commissioners Attending:
None
Other Employees Attending:

Charles P Gratch—Electronics Engineer, Common Carrier Bureau

Amount of Reimbursement:
Transportation: $474.00
Subsistence: 303.00
Other Expenses: 71.00
Total: $848.00

FCC REIMBURSEABLE TRAVEL REPORT
[070193 through 093093]

Event sponser	Last name	Travel auth No.	Date event beg	Date event end	Date TV rec	Trans cost	Subsit cost	Other cost	Total cost
ABA	Stewart	3CS21180644G2	08/16/93	08/17/93	08/25/93	$290.00	104.50	44.00	438.50
Total event ABA.						290.00	104.50	44.00	438.50
ANSI	Chudovan	3CS21176254G2	08/24/93	08/26/93	09/07/93	468.00	260.00	52.52	780.52
	Frank	3CS21176264G2	08/24/93	08/26/93	09/07/93	418.00	260.00	.00	678.00
Total event ANSI.						886.00	520.00	52.52	1,458.52
ARF	Kreisman	3CS21180544G2	07/21/93	07/21/93	08/03/93	145.00	.00	104.75	249.75
Total event ARF.						145.00	.00	104.75	249.75
Cable act	Hofbauer	3CS21070074G2	08/20/93	08/24/93	09/22/93	306.00	271.24	102.79	680.03
Total event Cable Act.						306.00	271.24	102.79	680.03
Cardiff	Abeyta	3CS21163124G2	09/22/93	09/22/93	10/07/93	53.00	34.00	11.00	98.00
	Haller	3CS21170094G2	09/20/93	09/22/93	09/24/93	98.00	263.00	26.50	387.50
	McNamara	3CS21170104G2	09/20/93	09/22/93	09/29/93	98.00	263.00	6.00	367.00
	Netro	3CS21170114G2	09/20/93	09/22/93	09/24/93	98.00	263.00	11.09	372.09
Total event Cardiff.						347.00	823.00	54.59	1,224.59
CBA	Stewart	3CS21180614G2	07/19/93	07/20/93	07/26/93	546.00	366.50	49.08	961.58
Total event CBA.						546.00	366.50	49.08	961.58
CPUC	Cleveland	3CS21130443G2	07/20/93	07/22/93	08/17/93	468.00	296.50	72.00	836.50
Total event CPUC.						468.00	296.50	72.00	836.50
CTAM	Marchant	3CS21BA0334G2	07/20/93	07/21/93	07/26/93	260.00	147.50	34.59	442.09
Total event CTAM.						260.00	147.50	34.59	442.09
GAB	Corn-Revere	3CS21SI044G2	08/07/93	08/08/93	09/10/93	.00	120.00	.00	120.00
Total event GAB.						.00	120.00	.00	120.00
IEEE	Wall	3CS21130424G2	08/16/93	08/17/93	09/24/93	555.00	622.10	.00	1,177.10
Total event IEEE.						555.00	622.10	.00	1,177.10
ITS	Fontes	3CS21SI0394G2	07/09/93	07/11/93	07/16/93	437.00	299.00	105.13	841.13
Total event ITS.						437.00	299.00	105.13	841.13
MAB	Quello	3CS21SI0404G2	08/03/93	08/09/93	09/14/93	424.40	435.14	60.04	919.58

FCC REIMBURSEABLE TRAVEL REPORT—Continued

[070193 through 093093]

Event sponser	Last name	Travel auth No.	Date event beg	Date event end	Date TV rec	Trans cost	Subsit cost	Other cost	Total cost
Total event MAB.						424.40	435.14	60.04	919.58
NAB	Eads	3CS21180648G2	09/08/93	09/12/93	09/23/93	315.00	441.00	58.50	814.50
	Kelley	3CS21180674G2	09/08/93	09/11/93	09/23/93	384.00	343.50	29.50	757.00
Total event NAB.						699.00	784.50	88.00	1,571.50
Necta	Marchant	3CS21BA0324G2	07/11/93	07/13/93	07/26/93	438.00	432.04	86.48	956.52
Total event Necta.						438.00	432.04	86.48	956.52
SW Bell	Lipscomb	3CS21163014G2	07/21/93	07/21/93	09/02/93	475.20	223.50	35.30	734.00
Total event SW Bell.						475.20	223.50	35.30	734.00
Systematic	Markendorff	3CS21163044G2	08/22/93	08/26/93	09/02/93	282.50	185.00	2.00	469.50
Total event Systematic.						282.50	185.00	2.00	469.50
Tri-State	Fontes	3CS21SI0424G2	08/03/93	08/06/93	08/19/93	.00	60.00	57.38	117.38
Total event Tri-State.						.00	60.00	57.38	117.38
USTA	Franklin	3CS21163034G2	09/27/93	09/30/93	10/15/93	402.00	304.50	57.25	763.75
Total event USTA.						402.00	304.50	57.25	763.75
UTC	Fertig	3CS21170064G2	06/30/93	07/02/93	07/22/93	467.00	195.50	23.25	685.75
	Haller	3CS21170054G2	06/27/93	07/01/93	07/13/93	467.00	218.00	38.00	723.00
Total event UTC.						934.00	413.50	61.25	1,408.75
WCA	Gratch	3CS21163024G2	08/01/93	08/03/93	09/02/93	474.00	303.00	71.00	848.00
Total event WCA.						474.00	303.00	71.00	848.00
Total						$8,369.10	$6,711.52	$1,138.15	$16,218.77

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-28066 Filed 11-15-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOUSING FINANCE BOARD

[No. FHFB 93-37]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added a new section 10(g) to the Federal Home Loan Bank Act of 1932 requiring that members of the Federal Home Loan Bank (FHLBank) System meet standards for community investment or service in order to maintain continued access to long-term FHLBank System advances. In compliance with this statutory change, the Federal Housing Finance Board (Finance Board) promulgated Community Support regulations (12 CFR part 936) that were published in the **Federal Register** on November 21, 1991 (56 FR 58639). Under the review process established in the regulations, the Finance Board will select a certain number of members for review each quarter, so that all members will be reviewed once every two years. The purpose of this Notice is to announce the names of the members selected for the eighth quarter review under the regulations. The Notice also conveys the dates by which members need to comply with the Community Support regulation review requirements and by which comments from the public must be received.

DATES: *Due Date For Member Community Support Statements for Members Selected in Eighth Quarter Review:* December 31, 1993.

Due Date For Public Comments on Members Selected in Eighth Quarter Review: December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Sylvia C. Martinez, Director, Housing Finance Directorate, (202) 408–2825, or Kathleen S. Brueger, Associate Director, Housing Finance Directorate, (202) 408–2821, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION:

A. Selection for Community Support Review

The Finance Board intends to review the entire FHLBank System membership once every two years. Approximately one-eighth of the FHLBank members in each district will be selected for review by the Finance Board each calendar quarter. Only members with post-July 1, 1990 CRA Evaluations will be selected for review in the first two years following the effective date of the regulation. In selecting members, the Finance Board will follow the chronological sequence of the members' CRA Evaluations, to the greatest extent practicable, selecting one-eighth of each District's membership for review each calendar quarter. However, the Finance Board will postpone review of new members until they have been in the System for one full year.

Selection for review is not, nor should it be construed as, any indication of either the financial condition or Community Support performance of the institutions listed.

B. List of FHLBank Members To Be Reviewed in Eighth Quarter, Grouped by FHLBank District.

Member	City	State
Federal Home Loan Bank of Boston—District 1, Post Office Box 9106, Boston, Massachusetts 02205–9106		
Hudson National Bank	Hudson	MA
City Savings Bank	Pittsfield	MA
Mutual Federal Savings Bank of Plymouth County	Whitman	MA
Ledyard National Bank	Hanover	NH
Community National Bank	Derby	VT
Federal Home Loan Bank of New York—District 2, One World Trade Center, 103rd Floor, New York, New York 10048		
Covenant Bank for Savings	Haddonfield	NJ
Tinton Falls State Bank	Tinton Falls	NJ
Central National Bank, Canajoharie	Canajoharie	NY
Community Bank, N.A.	Dewitt	NY
Lake Shore Savings and Loan Association	Dunkirk	NY
Sunrise Federal Savings Bank	Farmingdale	NY
Savings Bank of the Finger Lakes, FSB	Geneva	NY
Geddes Federal Savings and Loan Association	Syracuse	NY
Federal Home Loan Bank of Pittsburgh—District 3, 625 West Ridge Pike, Suite B–107, Conshohocken, Pennsylvania 19428		
Ambassador Bank of the Commonwealth	Allentown	PA
The First National Bank of Berwick	Berwick	PA
Central Savings Bank, PASA	Columbia	PA
Merchants National Bank of Kittanning	Kittanning	PA
Lebanon Valley National Bank	Lebanon	PA
Peoples-Thrift Savings Bank	Norristown	PA
Spring Hill Savings Bank, FSB	Pittsburgh	PA
The Miners National Bank	Pottsville	PA
First Federal of Western Pennsylvania	Sharon	PA
Bank of Charles Town	Charles Town	WV
Federal Home Loan Bank of Atlanta—District 4, Post Office Box 105565, Atlanta, Georgia 30348		
West Alabama Bank & Trust	Reform	AL
First National Bank of S.W. Florida	Cape Coral	FL
Bank of North America	Ft. Lauderdale	FL
Bartow County Bank	Cartersville	GA
First Community Bank & Trust	Cartersville	GA
The Bank of Ellijay	Ellijay	GA
Talbot State Bank	Woodland	GA
United Bank of Pike	Zebulon	GA
The Harbor Bank of Maryland	Baltimore	MD
Enfield Savings Bank, SSB	Enfield	NC
Four Oaks Bank & Trust Company	Four Oaks	NC
Kenly Savings Bank, S.S.B.	Kenly	NC
Triangle Bank & Trust Company	Raleigh	NC
Roanoke Rapids Savings Bank, SSB	Roanoke Rapids	NC
Summit Savings Bank, SSB	Sanford	NC
Tarboro Savings Bank, SSB	Tarboro	NC
Federal Home Loan Bank of Cincinnati - District 5, Post Office Box 598, Cincinnati, Ohio 45201		
Auburn Banking Company	Auburn	KY
Farmers State Bank	Booneville	KY
Bowling Green Bank & Trust Company, N.A.	Bowling Green	KY

Member	City	State
Heritage Bank, Inc.	Burlington	KY
Farmers Bank	Clay	KY
Bank of Crittenden	Crittenden	KY
Elkton Bank & Trust Company	Elkton	KY
First Federal Savings Bank of Frankfort	Frankfort	KY
The First National Bank of Grayson	Grayson	KY
Hebron Deposit Bank	Hebron	KY
First City Bank and Trust Company	Hopkinsville	KY
Horse Cave State Bank	Horse Cave	KY
The Peoples Bank of Hustonville	Hustonville	KY
Hyden Citizens Bank	Hyden	KY
Peoples Bank	Lebanon	KY
The London Bank & Trust Company	London	KY
First State Bank & Trust Company	Manchester	KY
Liberty Bank and Trust Company	Mayfield	KY
The Paducah Bank and Trust Company	Paducah	KY
Bourbon Agricultural Deposit Bank & Trust Company	Paris	KY
Richmond Bank and Trust Company	Richmond	KY
Peoples Bank	Sandy Hook	KY
Mutual Federal Savings Bank	Somerset	KY
First National Bank & Trust Company—Woodford County	Versailles	KY
Bank of the Mountains, Inc.	West Liberty	KY
Winchester Federal Savings Bank	Winchester	KY
The Andover Bank	Andover	OH
The Sutton State Bank	Attica	OH
State Home Savings Bank, F.S.B.	Bowling Green	OH
Park View Federal Savings & Loan Association	Cleveland	OH
First Federal Savings & Loan Association	Delta	OH
The Ohio Valley Bank Company	Gallipolis	OH
The Bank of Leipsic Company	Leipsic	OH
The Peoples Banking & Trust Company	Marietta	OH
The Marion Bank	Marion	OH
Farmers State Bank and Trust Company	New Madison	OH
The Sherwood State Bank	Sherwood	OH
First Bank of Ohio	Tiffin	OH
Woodsfield Savings and Loan Company	Woodsfield	OH
People's Bank and Trust Company of Pickett County	Byrdstown	TN
First Exchange Bank	Dyersburg	TN
Franklin National Bank	Franklin	TN
Merchants State Bank	Humboldt	TN
First National Bank of Knoxville	Knoxville	TN
Financial Federal Savings Bank	Memphis	TN
Nashoba Bank	Memphis	TN
Union Planters National Bank	Memphis	TN
Farmers Union Bank	Ripley	TN
The Hardin County Bank	Savannah	TN
Bank of Trenton and Trust Company	Trenton	TN

Member	City	State
Federal Home Loan Bank of Indianapolis—District 6, P.O. Box 60, Indianapolis, IN 46205-0060		
Citizens Banking Company	Anderson	IN
First Bank and Trust Company of Clay County	Brazil	IN
Salin Bank	Camden	IN
Peoples State Bank of Francesville	Francesville	IN
Goodland State Bank	Goodland	IN
First Bank of Huntingburg	Huntingburg	IN
The German American Bank	Jasper	IN
Orange County Bank	Paoli	IN
The Veedersburg State Bank	Veedersburg	IN
Southern Michigan National Bank	Coldwater	MI
First State Bank	Decatur	MI
Bank of Hudsonville	Hudsonville	MI
The Miners State Bank of Iron River	Iron River	MI
Arcadia Bank—Kalamazoo	Kalamazoo	MI
Sault Bank	Sault Saint Marie	MI
The Peoples State Bank of St. Joseph	St. Joseph	MI
Federal Home Loan Bank of Chicago—District 7, 111 East Wacker Drive, Suite 700, Chicago, Illinois 60601		
State Bank of Aviston	Aviston	IL
Beardstown Savings Bank	Beardstown	IL
St. Anthony Bank, a FSB	Cicero	IL

Member	City	State
American Savings and Loan Association of Danville	Danville	IL
The Bank of Edwardsville	Edwardsville	IL
C.P. Burnett & Sons, Bankers	Eldorado	IL
First State Bank of Eldorado	Eldorado	IL
Farmers State Bank of Ferris	Ferris	IL
Heritage Glenwood Bank	Glenwood	IL
LaSalle Bank of Lisle	Lisle	IL
Clay County State Bank	Louisville	IL
Community Savings Bank	Marion	IL
First Federal Savings Bank of Mascoutah	Mascoutah	IL
First Federal Savings Bank of Moline	Moline	IL
Mt. Morris Savings and Loan Association	Mt. Morris	IL
First Federal Bank, FSB	Paris	IL
Bank of Rantoul	Rantoul	IL
Northwest Bank of Rockford	Rockford	IL
Sterling Federal Bank, F.S.B.	Sterling	IL
Streator Home Building and Loan Association	Streator	IL
Thomson State Bank	Thomson	IL
Tiskilwa State Bank	Tiskilwa	IL
Tempo Bank, a FSB	Trenton	IL
First Banking Center—Burlington	Burlington	WI
De Forest-Morrisonville Bank	De Forest	WI
Grafton State Bank	Grafton	WI
The Bank of Kaukauna	Kaukauna	WI
Marshfield Savings Bank	Marshfield	WI
United Bank	Osseo	WI
Owen-Curtiss State Bank	Owen	WI
Prairie City Bank	Prairie du Chien	WI
Bank of Turtle Lake	Turtle Lake	WI
Federal Home Loan Bank of Des Moines—District 8, 907 Walnut Street, Des Moines, Iowa 50309		
Iowa State Bank	Algona	IA
First State Bank	Britt	IA
First Central State Bank	De Witt	IA
Decorah State Bank	Decorah	IA
First Security State Bank	Evansdale	IA
Pioneer Bank	Sergeant Bluff	IA
First State Bank	Stuart	IA
American Savings Bank	Tripoli	IA
Stearns County National Bank of Albany	Albany	MN
Community First National Bank—Benson	Benson	MN
Americana Bank	Edina	MN
The First National Bank of Elk River	Elk River	MN
Security State Bank of Fergus Falls	Fergus Falls	MN
First State Bank of Finlayson, Inc.	Finlayson	MN
First National Bank of Hawley	Hawley	MN
Security State Bank of Mankato	Mankato	MN
Community First National Bank of Marshall	Marshall	MN
First National Bank of Sauk Centre	Sauk Centre	MN
Eastwood Bank	St. Charles	MN
The Highland Bank	St. Paul	MN
Farmers Bank of Upsala	Upsala	MN
Signal Bank, Inc	West St. Paul	MN
Farmers State Bank	Cameron	MO
First State Bank and Trust Company	Caruthersville	MO
Citizens Bank & Trust Company	Chillicothe	MO
First National Bank of Clinton	Clinton	MO
First State Bank of Joplin	Joplin	MO
Security Pacific Bank	Pacific	MO
Irondale Bank	Potosi	MO
Phelps County Bank	Rolla	MO
Farmers & Merchants Bank of St. Clair	St. Clair	MO
Osage Valley Bank	Warsaw	MO
The First State Bank of La Moure	La Moure	ND
Community First National Bank of Vermillion	Vermillion	SD
Federal Home Loan Bank of Dallas—District 9, 5605 N. MacArthur Boulevard, 9th Floor, Irving, Texas 75038		
Citizens Bank	Beebe	AR
Bank of Bentonville	Bentonville	AR
Citizens Bank & Trust	Carlisle	AR
Danville State Bank	Danville	AR
First State Bank of Dermott	Dermott	AR

Member	City	State
Farmers Bank	Hamburg	AR
The Citizens National Bank of Hope	Hope	AR
Union State Bank	Junction City	AR
Peoples State Bank & Trust Company	Mountain Home	AR
First State Bank	Plainview	AR
Portland Bank	Portland	AR
The Scott County Bank	Waldron	AR
Bank of Morehouse	Bastrop	LA
Louisiana Central Bank	Ferriday	LA
National Bank of Commerce of Lake Charles	Lake Charles	LA
The Louisiana Delta Bank	Lake Providence	LA
Omni Bank	Metairie	LA
Gulf Coast Bank & Trust Company	New Orleans	LA
Community Bank of LaFourche	Raceland	LA
First Republic Bank	Rayville	LA
Ruston State Bank & Trust Company	Ruston	LA
American Security Bank of Ville Platte	Ville Platte	LA
Louisiana Bank of Ouachita Parish	West Monroe	LA
Farmers and Merchants Bank	Baldwyn	MS
First Columbus National Bank	Columbus	MS
Copiah Bank, N.A.	Hazlehurst	MS
Planters Bank & Trust Company	Indianola	MS
First American National Bank	Iuka	MS
National Bank of Commerce of Mississippi	Starkville	MS
Western Bank	Alamogordo	NM
Western Bank	Artesia	NM
Bank of Los Alamos	Los Alamos	NM
Los Alamos National Bank	Los Alamos	NM
Cattlemen's State Bank	Austin	TX
First Texas Bank	Azle	TX
The First National Bank of Bay City	Bay City	TX
Corsicana National Bank	Corsicana	TX
U.S. Trust Company of Texas, N.A.	Dallas	TX
Fidelity Bank	Ft. Worth	TX
University National Bank	Galveston	TX
First National Bank of Grapevine	Grapevine	TX
Citizens National Bank	Houston	TX
Queststar Bank, N.A.	Houston	TX
Sterling Bank	Houston	TX
Huntington State Bank	Huntington	TX
The Jacksboro National Bank	Jacksboro	TX
South Texas National Bank of Laredo	Laredo	TX
Bank of Commerce	McLean	TX
The Royall National Bank of Palestine	Palestine	TX
Southwest Bank of San Angelo	San Angelo	TX
First American Bank Sulphur Springs	Sulphur Springs	TX
Wallis State Bank	Wallis	TX

Federal Home Loan Bank of Topeka—District 10, Post Office Box 176, Topeka, Kansas 66601

First National Bank at Burlington	Burlington	CO
The Morrill and Janes Bank & Trust Company	Hiawatha	KS
Citizens Bank & Trust Company	Manhattan	KS
Morrill State Bank & Trust Company	Sabetha	KS
Sunflower Bank, NA	Salina	KS
Union National Bank of Wichita	Wichita	KS
First National Bank & Trust Company	Aurora	NE
Nebraska State Bank	Cozad	NE
Johnson County Bank	Elk Creek	NE
American National Bank	Omaha	NE
Northern Bank	Omaha	NE
American National Bank of Sarpy County	Papillion	NE
Exchange National Bank & Trust Company	Ardmore	OK
Peoples State Bank	Blair	OK
Union National Bank of Chandler	Chandler	OK
The First National Bank of Coweta	Coweta	OK
The Security National Bank & Trust Company	Duncan	OK
Community Bank and Trust Company	Oklahoma City	OK
Frontier State Bank	Oklahoma City	OK
Home Savings & Loan Association	Oklahoma City	OK
Quail Creek Bank, NA	Oklahoma City	OK
Rockwell Bank, N.A.	Oklahoma City	OK
Bank of Oklahoma, N.A.	Tulsa	OK
Tulsa National Bank	Tulsa	OK

Member	City	State
Federal Home Loan Bank of San Francisco—District 11, 307 East Chapman Avenue, Orange, California 92666		
Arizona Bank	Tucson	AZ
Tri Counties Bank	Chico	CA
Cupertino National Bank	Cupertino	CA
Sears Savings Bank	Glendale	CA
Frontier Bank, N.A.	La Palma	CA
Westside Bank, a FSB	Los Angeles	CA
Bank of the Sierra	Porterville	CA
Marin Community Bank, N.A.	San Rafael	CA
California Thrift & Loan	Santa Barbara	CA
Union Safe Deposit Bank	Stockton	CA
Kaweah Thrift & Loan	Visalia	CA
Windsor Oaks National Bank	Windsor	CA
Federal Home Loan Bank of Seattle—District 12, 1501 4th Avenue, Seattle, Washington 98101–1693		
Rainbow Financial Corporation	Honolulu	HI
Bank of Eastern Idaho	Idaho Falls	ID
Valley Bank of Ronan	Ronan	MT
Enterprise Bank of Bellevue, N.A.	Bellevue	WA
Citizens First Bank	Elma	WA
Redmond National Bank	Redmond	WA
Washington Trust Bank	Spokane	WA
Mid State Bank	Waterville	WA
The Columbia Bank	Wenatchee	WA
First Interstate Bank of Commerce	Sheridan	WY

C. Due Dates

Members selected for review must submit completed Community Support Statements to their FHLBank no later than December 31, 1993.

All public comments concerning the Community Support performance of selected members must be submitted to the member's FHLBank no later than December 31, 1993.

D. Notice to Members Selected

Within 15 days of this Notice's publication in the **Federal Register**, the individual FHLBanks will notify each member selected to be reviewed that the member has been selected and when the member must return the completed Community Support Statement. At that time, the FHLBank will provide the member with a Community Support Statement form and written instructions and will offer assistance to the member in completing the Statement. The FHLBank will only review Statements for completeness, as the Finance Board will conduct the actual review.

E. Notice to Public

At the same time that the FHLBank members selected for review are notified of their selection, each FHLBank will also notify community groups and other interested members of the public. The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

By the Federal Housing Finance Board.

Dated: November 9, 1993.

Daniel F. Evans, Jr.,

Chairman.

[FR Doc. 93–27999 Filed 11–15–93; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; NLL/BHP–IMTL Space Charter Agreement

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 should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217—011317–001.

Title: NLL/BHP–IMTL Space Charter Agreement.

Parties: Nedlloyd Lijnen, B.V. BHP International Marine Transport Inc.

Synopsis: The proposed amendment expands the scope of the Agreement to include ports and points in the U.S. Atlantic and Gulf, and ports and points in British Columbia, Australia, New Zealand, Chile, Peru, and Panama. The parties have requested a shortened review period.

Agreement No.: 224–200164–008.

Title: Port of Oakland/Norsul Internacional S.A. Terminal Agreement

Parties: Port of Oakland Norsul International S.A.

Synopsis: The proposed amendment extends the term of the Agreement to December 31, 1993.

Agreement No.: 224–200806.

Title: Port of Oakland/China Ocean Shipping (Group) Company Terminal Agreement.

Parties: Port of Oakland ("Port") China Ocean Shipping (Group) Company ("User").

Synopsis: The proposed Agreement permits User the non-exclusive rights to certain premises of the Port's Charles P. Howard Terminal. Subject to Agreement provisions, User will pay to the Port up to ninety percent of dockage tariff charges and eighty percent of wharfage tariff charges.

Agreement No.: 224–200807.

Title: Stevedoring, Terminal, CFS and Maintenance and Repair Services Agreement between Matson Terminal,

Inc./Blue Star (North America) Ltd. (Ports of Los Angeles, Oakland and Seattle)

Parties: Matson Terminals, Inc. ("Matson") Blue Star (North America) Ltd. ("Blue Star").

Synopsis: The proposed Agreement permits Matson to furnish Blue Star with stevedoring, terminal, container freight station, and maintenance and repair services, including berth/crane and other service guarantees at the ports of Los Angeles, Oakland and Seattle. Subject to Agreement provisions, the parties have agreed upon other matters relating to terminal services and charges.

Agreement No.: 224–200808.

Title: Stevedoring, Terminal, CFS and Maintenance and Repair Services Agreement between Matson Terminal, Inc./Columbus Line, Inc. (Ports of Los Angeles, Oakland and Seattle)

Parties: Matson Terminals, Inc. ("Matson") Columbus Line, Inc. ("Columbus")

Synopsis: The proposed Agreement permits Matson to furnish Columbus with stevedoring, terminal, container freight station, and maintenance and repair services, including berth/crane and other service guarantees at the ports of Los Angeles, Oakland and Seattle. Subject to Agreement provisions, the parties have agreed upon other matters relating to terminal services and charges.

Dated: November 9, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–28057 Filed 11–15–93; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Applicants; Suntrans International, Inc. et al.

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Suntrans International, Inc., 1120 Tower Lane, Bensenville, IL 60106, Officers: Heang J. Ahn, President/Director/Stockholder, Young M. Hong, Secretary/Director/Stockholder

ANR Freight Services, 1927 Taraval Street, San Francisco, CA 94116, Ernest Z. Razon, Sole Proprietor

Jamar Shipping Inc., 16511 Hedgecroft, Suite 208, Houston, TX 77060, Officers: Byron Albright, President, Melvin Vaughn, Secretary/Treasurer/Director

Kenehan International Services, Inc., 6020 S. Spencer, Suite A–1, Las Vegas, NV 89119, Officers: John W. Kenehan, III, President/Director/Stockholder, DeNeice Kenehan, Director, James L. Kinney, Director, Nancy Elaine Mitchell, Director

Orler Cargo, Inc., 3100 NW 72nd Ave., 108, Miami, FL 33122, Officers: Hector Orlansky, President, Eduardo Orlansky, Director, Peter Stanham, Director

Unlimited Freight Consultants, Inc., 7845 C NW 57 Street, Miami, FL 33166, Officer: Marcos A. Niebla, President

Van Esch Trading and Shipping B.V., 6033 West Century Blvd., #1222, Los Angeles, CA 90045, Officers: H. van Esch, Sr., President, J. Groenendijk, proxy holder, W. van Esch, Managing Director

Patrick Gallagher Customhouse Brokerage, 2515 East Evergreen Blvd., Vancouver, WA 98661, Patrick Gallagher, Sole Proprietor

W–C Ventures, Inc. d/b/a Worldwide Cargo Specialties, 2724 So. 3600 West, Ste. B&C, West Valley City, UT 84119, Officers: Patricia S. Williams, President, Ron Williams, Director, Derek Williams, Director

Marino Transportation Services, Inc., 2199 Eisenhower Blvd., Port Everglades, FL 33316, Officers: Gerard J. Donovan, President, Aram Bakallan, Director

Triple F. Cargo, Inc., 7966 NW 14th Street, Miami, FL 33126, Officers: Isaac F. Fonseca, President, Patricia A. Scherrer, Vice President, Nestor Llanos, Director

Tejas Freight Forwarding, Inc., 22118 Gosling Rd., Spring, TX 77389, Officers: Nimia Del Rosario Rodriguez, President, Tammy Ramirez, Vice President, Norma Neil, Secretary/Treasurer

M&M Shipping, 8058 W. 95th Street, #3E, Hickory Hills, IL 60457, Mohammad Sayyed, Sole Proprietor

Ben Odihirin Company, Inc., 690 Wainwright Street, Union, NJ 07083, Officers: Ben Odihirin, President/Director, Brian Charles, Vice President

Eagle Express Inc., 6998 N.W. 25th Street, Miami, FL 33122, Officers: Martha Rodriguez, President, Edgar F. Lara, Vice President

A&M International Corporation, 7233 N.W. 54th Street, Miami, FL 33166, Officers: Carlos Maguina, President, Rosa C. Molina, Secretary, Jesus Ardiles, Vice President

Dated: November 9, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–28021 Filed 11–15–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

First Midwest Bancorp, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 commence or to engage *de novo*, either directly or through a subsidiary, 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 6, 1993.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Midwest Bancorp, Inc., Naperville, Illinois; to engage *de novo* through its subsidiary, First Midwest Mortgage, Inc., Joliet, Illinois, in making, acquiring, selling, and servicing residential mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–28058 Filed 11–15–93; 8:45 am]

BILLING CODE 6210–01–F

United Bancshares, 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 10, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. United Bancshares, Inc., Philadelphia, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of United Bank of Philadelphia, Philadelphia, Pennsylvania.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Carlisle Bancshares, Inc., Little Rock, Arkansas; to acquire at least 68.5 percent of the voting shares of Hazen First State Bank, Hazen, Arkansas.

2. Union Planters Corporation, Memphis, Tennessee; to acquire 100 percent of the voting shares of First National Bancorp of Shelbyville, Inc., Shelbyville, Tennessee, and thereby indirectly acquire First National Bank of Shelbyville, Shelbyville, Tennessee.

Board of Governors of the Federal Reserve System, November 9, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–28059 Filed 11–15–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Dental Products Panel of the Medical Devices Advisory Committee

Date, time, and place. December 1, 2, and 3, 1993, 8 a.m., Grand Ballroom, Washingtonian Marriott, 9751 Washingtonian Blvd., Gaithersburg, MD.

Type of meeting and contact person. Open public hearing, December 1, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; open committee discussion, December 2, 1993, 8 a.m. to 5 p.m.; open public hearing, December 3, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 1 p.m.; Carolyn A. Tylenda, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20892, 301–594–3090.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 24, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On December 1 and 2, 1993, the committee will discuss classification of bone filling and augmentation materials. On December 3, 1993, the committee will discuss dental amalgam and dental product ingredient labeling.

Oncologic Drugs Advisory Committee

Date, time, and place. December 15, 1993, 8 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4:30 p.m.; Adele S. Seifried, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 10, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) New drug application (NDA) 20–388, Navelbine® for injection (vinorelbine tartrate, Burroughs Wellcome Co.), for use as a single agent or in combination for the treatment of unresectable advanced

nonsmall cell lung cancer; and (2) NDA 20–262, Taxol® for injection concentrate (paclitaxel, Bristol-Myers Squibb), for use after failure of first line chemotherapy or subsequent chemotherapy for treatment of metastatic carcinoma of the breast.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 8, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–28074 Filed 11–15–93; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Blood Products Advisory Committee

Date, time, and place. December 2, 1993, 8 a.m., and December 3, 1993, 8:30 a.m., Ramada Inn, Embassy Ballroom, 8400 Wisconsin Ave., Bethesda, MD 20814.

Type of meeting and contact person. Open committee discussion, December 2, 1993, 8 a.m. to 11 a.m.; open public hearing, 11 a.m. to 11:30 a.m., unless public participation does not last that long; closed committee deliberations, 11:30 a.m. to 12 m.; open committee discussion, 12 m. to 4:30 p.m.; open public hearing, 4:30 p.m. to 5 p.m., unless public participation does not last that long; open committee discussion, 5 p.m. to 6 p.m.; open committee discussion, December 3, 1993, 8:30 a.m. to 9:30 a.m.; open public hearing, 9:30 to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 2 p.m.; open public hearing, 2 p.m. to 2:30 p.m., unless public participation does not last that long; open committee discussion, 2:30 p.m. to 3:30 p.m.; Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–300), Food and Drug Administration, 1401 Rockville Pike, Bethesda, MD 20852–1448, 301–594–6700.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 22, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On December 2, 1993, the committee will review and discuss: (1) The product license application for Respiratory Syncytial Virus Immune Globulin Intravenous (Human) submitted by the Massachusetts Public Health Biologic Laboratories to reduce the incidence of severe Respiratory Syncytial Virus infection in infants with premature gestation and children with chronic pulmonary disease, and (2) the reentry algorithm for donors deferred due to a repeatedly reactive screening test for human immunodeficiency virus (HIV). On December 3, 1993, the committee will discuss and provide recommendations on blood and plasma donation issues of "Lookback" regarding product retrieval and recipient notification when repeat donors have repeatedly reactive screening tests for antibody to Hepatitis C Virus (Anti-HCV). The committee will also discuss current practices concerning donor testing and deferral

based on alanine transferase (ALT) testing.

Closed committee deliberations. On December 2, 1993, the committee will discuss trade secret and/or confidential commercial information relevant to the product license application for Respiratory Syncytial Virus Immune Globulin Intravenous (Human). This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Circulatory System Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. December 13 and 14, 1993, 8:30 a.m., Potomac Inn, Ballroom, Three Research Ct., Rockville, MD.

Type of meeting and contact person. Open public hearing, December 13, 1993, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 3 p.m.; closed presentation of data, 3 p.m. to 4 p.m.; open public hearing, December 14, 1993, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 3 p.m.; closed presentation of data, 3 p.m. to 4 p.m.; Wolf Sapirstein or Ramiah Subramanian, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–594–2205.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 30, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss one or more premarket approval applications for a cardiac assist device and one or more interventional cardiology device(s).

Closed presentation of data. The committee may discuss trade secret and/or confidential commercial information regarding medical devices. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Dental Products Panel Plaque Subcommittee (Nonprescription Drugs) of the Medical Devices Advisory Committee

Date, time, and place. December 16 and 17, 1993, 9 a.m., Parklawn Bldg., conference rm. G, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, December 16, 1993, 9 a.m. to 10:45 a.m.; open public hearing, 10:45 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 4 p.m.; closed committee deliberations 4 p.m. to 5 p.m.; open committee discussion, December 17, 1993, 9 a.m. to 10 a.m.; open public hearing, 10 a.m. to 12 m., unless public participation does not last that long; open committee discussion, 12 m. to 3:30 p.m.; closed committee deliberations, 3:30 p.m. to 4 p.m.; Jeanne L. Rippere or Stephanie Mason, Center for Drug Evaluation and Research (HFD–813), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 301–594–1187 or 301–594–1003.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

The Dental Products Panel of the Medical Devices Advisory Committee functions at times as a nonprescription drug advisory panel. As such, the panel reviews and evaluates available data concerning the safety and effectiveness of active ingredients, and combinations thereof, of various currently marketed nonprescription drug products for human use, the adequacy of their labeling, and advises the Commissioner of Food and Drugs on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on the general issues pending before the subcommittee. Those desiring to make formal presentations should notify the contact person before December 10, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On December 16, 1993, the subcommittee will discuss the definitions of various terms and conditions related to dental plaque, e.g., plaque, calculus, and gingivitis. It will also commence a more detailed discussion of dental plaque and other dental accumulations, including discussion of the biochemistry, microbiology, and development of plaque, calculus, pellicle, etc. The subcommittee will also consider the relationship of dental accumulations to oral diseases, such as gingivitis, periodontitis, and dental caries. This information will aid the subcommittee in developing definitions and background discussions for submission to the full panel for recommendations to the agency. On December 17, 1993, the subcommittee will hear and discuss the data and information which has been submitted relating to drug and cosmetic labeling for antiplaque products.

Closed subcommittee deliberations. The subcommittee may discuss trade secret and/or confidential commercial information related to over-the-counter drug products for plaque reduction and/or prevention. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain

limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberations to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 10, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–28159 Filed 11–15–93; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Provider Reimbursement Review Board

[PRRB–001–N]

Medicare Program; Withdrawal of the Provider Reimbursement Review Board Hearing Manual

AGENCY: Provider Reimbursement Review Board (PRRB), HHS.

ACTION: Notice.

SUMMARY: This notice announces that the Provider Reimbursement Review Board (PRRB) Hearing Manual is obsolete in its entirety. The PRRB Hearing Manual is no longer necessary because the applicable procedures for the processing of appeals are contained in chapter 2900 of the Provider Reimbursement Manual.

EFFECTIVE DATE: This notice is effective on December 16, 1993.

FOR FURTHER INFORMATION CONTACT: John Bader (410) 966–2053.

SUPPLEMENTARY INFORMATION: Under section 1878 of the Social Security Act (the Act), the Provider Reimbursement Review Board (PRRB) conducts hearings on appeals of payment determinations for providers of services participating in the Medicare program. Section 1878(e) of the Act authorizes the PRRB to establish the rules and procedures necessary and appropriate to carry out its duties. Regulations regarding provider reimbursement determinations and appeals are found at 42 CFR part 405, subpart R.

In July 1978, the Board published the Provider Reimbursement Review Board Hearing Manual (PRRB Pub. No. 001), which contained PRRB procedural instructions. These procedures are also set forth in chapter 2900 of the Provider Reimbursement Manual (HCFA Pub. No. 15–1), published by the Health Care Financing Administration.

Subsequently, with the introduction of the prospective payment systems for hospital inpatient operating and capital costs, the number, as well as the complexity of appeals, has increased. As a result, the Board has adopted changes to its procedures, not all of which have been reflected timely in either the PRRB Manual or the Provider Reimbursement Manual.

On September 20, 1993, we published revised PRRB appeals procedures in the Provider Reimbursement Manual (sections 2920–2926.6, including Appendix A). These procedures supersede the procedures contained in the PRRB Hearing Manual. Because the procedures in the PRRB Hearing Manual

are no longer up to date, the Board has decided to withdraw the manual in its entirety.

Therefore, this notice is to advise the public that the PRRB Hearing Manual is formally withdrawn and the procedures it contains are no longer in effect. If further modifications to the PRRB appeals procedures become necessary, they will be made through Provider Reimbursement Manual issuances.

Authority: (Section 1878 of the Social Security Act (42 U.S.C. 1395oo))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: November 1, 1993.

Jack Martin,

Chairman, Provider Reimbursement Review Board.

[FR Doc. 93-28029 Filed 11-15-93; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

National Wild and Scenic Rivers System; Westfield River and Tributaries

AGENCY: Office of the Secretary, DOI.

ACTION: Notice of approval.

SUMMARY: The Secretary of the Interior hereby announces approval of an application by the Governor of Massachusetts to include segments of the Westfield River, Massachusetts and tributaries as state administered components of the National Wild and Scenic Rivers System.

FOR FURTHER INFORMATION CONTACT: Drew Parkin, Rivers, Trails and Conservation Program, National Park Service, North Atlantic Region, 15 State Street, Boston, Massachusetts 02109, 617-223-5130 or Bern Collins, Rivers, Trails and Conservation Program, National Park Service, P.O. Box 37127 Washington, DC 20013-7127, 202-343-3765.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted the Secretary of the Interior by section 2 of the Wild and Scenic Rivers Act (Pub. L. 90-542, as amended; 16 U.S.C. 1273, et seq.) and upon proper application of the Governor of the State of Massachusetts, 43.3 miles of the Westfield River's three branches and its tributary Glendale Brook are hereby designated as state-administered components of the National Wild and Scenic Rivers System.

On October 16, 1990, the Governor of Massachusetts petitioned the Secretary of the Interior to add 43.3 miles of the Westfield's three branches and Glendale Brook to the National System. This river had been designated a State Protected River on September 19, 1990 pursuant to the Massachusetts Scenic and Recreational Rivers Act. In response to the Governor's request, the Secretary conducted a complete review of the State application and documents associated with the designation decision. As a result of that review, the Secretary has determined that 43.3 miles of the Westfield and its tributaries should be designated as a State-administered component of the National Wild and Scenic Rivers System, as provided for in section 2(a)(ii) of the Wild and Scenic Rivers Act.

The State of Massachusetts has fulfilled the requirements of the Act by designating these segments as a "State Protected River" and by adopting a program of action that will adequately protect the river from adverse State actions. The National Park Service evaluation of the river concluded that these segments of the Westfield River meet the criteria for scenic and recreational classification under the Act.

Accordingly, the following river segments are classified as scenic or recreational pursuant to section 2(b) of the Act to be administered by State and local government:

West Branch: *Scenic*—From the upstream end of the designated segment at a railway bridge 2000 feet downstream of the Becket town center downstream to the town of Chester (10.0 miles). *Recreational*—From the town of Chester downstream to the Huntington/Chester town line (3.8 miles).

Middle Branch and Glendale Brook: *Scenic*—Glendale Brook (0.4 miles upstream from confluence with Middle Branch). *Recreational*—Peru/Worthington town line downstream to the confluence with Kinne Brook in Chester (12.6 miles).

East Branch: *Recreational*—From the Windsor/Cummington town line 8.0 miles downstream to where Route 9 diverges from the river. *Scenic*—From the downstream end of the recreational segment to the Knightville reservoir (8.5 miles).

This action is taken following public involvement and consultation with the Departments of Agriculture, Army, Energy and Transportation, the Federal Energy Regulatory Commission, and the U.S. Environmental Protection Agency as required by section 4(c) of the Wild and Scenic Rivers Act. A 45-day period for public comment on the State's application and river management plan and on the environmental assessment of the proposed national designation was provided from February 12, 1993, to March 30, 1993. All comments received have been carefully considered.

Notice is hereby given that effective upon this date, the above-described river segments are approved for inclusion in the National Wild and Scenic Rivers System to be administered by the Commonwealth of Massachusetts.

Dated: November 2, 1993.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 93-27616 Filed 11-15-93; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

[WY-060-04-4120-03; WYW124783]

Coal—Eagle Butte Maintenance Tract, WY

AGENCY: BLM, Interior.

ACTION: Notice of public hearing, Eagle Butte Maintenance Tract.

SUMMARY: This Notice corrects typographical errors in the Notice of Public Hearing, Eagle Butte Maintenance Tract, WYW124783, which appeared in the Federal Register on October 26, 1993, (58 FR 57618). These typographical errors occurred in the section titled, **SUPPLEMENTARY INFORMATION**", lines 14, 28, and 32, which appeared in the second column on page 57618. In line 14, the number "158,631,112 million" is corrected to read "159 million". In line 28, the word "to" between the words "The addition" and "the above" is corrected to read "of". In line 32, the number "182,859,470 million" is corrected to read "183 million". The result is that the Section titled, "**SUPPLEMENTARY INFORMATION**", should read as follows (corrections bolded):

SUPPLEMENTARY INFORMATION: AMAX Land Company has filed a coal lease application with the Bureau of Land Management (BLM) pursuant to provisions of 43 CFR 3425.1 as a lease by application (LBA) for the following land located in Campbell County, Wyoming:

T. 51 N., R. 72W., 6th P.M., Wyoming
Sec. 33: Lots 1-3 (All), Lots 6-10 (All) E½ of Lot 11, E½ of Lot 14, Lots 15-16 (All);
Sec. 34: Lots 3-6 (All), Lots 9-16 (All)

Total Applied For: 914.535 acres more or less, containing estimated in-place coal reserves of 159 million tons.

To prevent a potential coal bypass situation in the future, the BLM is considering adding additional land to the tract. The legal description of the land in Campbell County, Wyoming,

proposed for addition to the Eagle Butte LBA tract by the BLM is as follows:

T. 51 N., R. 72 W., 6th P.M., Wyoming
Sec. 28: W½ of Lot 13;
Sec. 33: Lot 4, E½ of Lot 5, W½ of Lot 11, E½ of Lot 12, and W½ of Lot 14.

Total Proposed To Be Added By BLM: 144.645 acres more or less.

The addition of the above land would bring the total acreage in the tract to: 1,059.175 acres more or less, containing estimated in-place reserves of 183 million tons.

The lease application area is contiguous with the Eagle Butte Mine, operated by AMAX Coal West, Inc. AMAX proposes to lease the proposed Eagle Butte tract as a maintenance tract for the Eagle Butte Mine. Written comments will be accepted from the date of publication of this Notice in the **Federal Register** through November 30, 1993. Comments may be submitted in writing or expressed verbally at the hearing. The balance of the Notice of Public Hearing remains unchanged.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger, Casper District Office, (307) 261–7600, or Laura Steele, Wyoming State Office (307) 775–6250.

Lynn E. Rust,

Chief, Branch of Mining Law & Solid Minerals.

[FR Doc. 93–28052 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–22–M

[WY–040–94–4110–03]

Environmental Impact Statement; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare an environmental impact statement (EIS) on the proposed development of the Stagecoach Draw Unit in southwest Wyoming.

SUMMARY: Local scoping has occurred and as a result, a decision has been made to prepare an Environmental Impact Statement on the proposed development of the Stagecoach Draw Unit. Texaco Exploration and Production, Inc. has notified the Bureau of Land Management (BLM), Green River Resource Area of their intent to drill natural gas wells in Sweetwater County, Wyoming. The unit is located in portions of Townships 22, 23, 24 North, Range 107, 108 West, 6th Principal Meridian, an area of approximately 23,574.68 acres. Development would entail drilling up to 60 wells on a 320 acre spacing over a five to seven year period. One exploratory well has been drilled and two confirmation wells have been approved for drilling.

Facilitiies include access roads, well pad sites, natural gas gathering system, electrical distribution system, central or individual well tank battery, and possibly a natural gas processing plant site and compressor site. In addition, a natural gas transmission system will be required. Issues identified during local scoping include potential impacts to Sublette Pronghorn Antelope Herd, White Mountain Wild Horse Herd Management Area, ground and surface water resources including the Big Sandy River and the Green River, fisheries, T&E animal and plant species, and cumulative impacts including potential impacts to Seedskadee National Wildlife Refuge located downstream from the project area.

DATES: Comments and requests to be placed on the mailing list will be accepted on or before December 16, 1993.

ADDRESSES: Comments and mailing requests should be sent to Teresa Deakins, Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, WY 82902.

FOR FURTHER INFORMATION CONTACT: Teresa Deakins 307–382–5350, Bill LeBarron or Don Judice 307–362–6422.

SUPPLEMENTARY INFORMATION: The action to be analyzed in the EIS consists of the construction, operation and maintenance of a natural gas field development project. In addition to the proposed action of a 320 acre spacing drilling program, one alternative will address impacts of a 160 acre spacing drilling scenario.

Dated: November 9, 1993.

F. William Eikenberry,

Associate State Director.

[FR Doc. 93–28154 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–84–M

[CA–050–02–4333–05, CACA 32730]

Realty Action; Exchange of Public and Private Lands, Shasta County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public and private lands in Shasta County, California.

SUMMARY: The following described public lands and mineral estates are being exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The subject lands will be exchanged under case file CACA 32730 and not under exchange case CACA 30114.

Shasta County

Selected Lands

M.D.M., T. 31N., R. 5 W.,
Sec. 5, Lots 12, 14, 15. 32N., R. 5W.,
Sec. 32, Lots 184, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 218, 219, 220, 221, 222, 223, 224, 225, 226.

Totaling 127.2± acres.

In exchange for all or a portion of the above land the United States will acquire the following described land in Shasta County from David Woodfill, 1707 Placer Street, Redding, California 96001.

Offered Private Land

Shasta County

M.D.M., T.31N., R.6W.,
Section 11, E2, 319.6± acres.

DATES: This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands proposed for exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, upon publication in the **Federal Register** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to acquire non-Federal lands which have value for recreation and are located between Bureau of Land Management and National Park Service lands.

The value of lands to be exchanged will be approximately equal. Full equalization of values will be achieved by adjustment of selected land acreage and/or payment to the United States by David Woodfill in an amount not to exceed 25 percent of the total value the lands to be transferred out of public ownership. Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A right-of-way for ditches or canals constructed by the authority of the United States under the Act of August 30, 1980 (43 U.S.C. 945).

2. Authorized pipelines, power lines, roads, highways, telephone lines, mineral leases, and any other authorized land uses will be identified as prior existing rights.

3. Reservation to protect the riparian corridor of Salt Creek and its tributaries per Executive Orders 11988 and 11990.

4. All necessary clearances for archaeology, rare plants and animals, and hazardous materials shall be obtained prior to conveyance of title.

FOR FURTHER INFORMATION CONTACT: Information concerning this exchange is available from Howard Matzat at the Redding Resource Area Office, 355 Hemsted Dr., Redding, California 96002; (916) 224–2100. For a period of forty-five (45) days interested parties may submit comments to Mark Morse, Area Manager, at the above listed address. Comments on exchange parcels should be written and identify the subject parcel.

Mark T. Morse,

Redding Resource Area Manager.

[FR Doc. 93–28018 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–40–M

[CO–050–4210–04; COC–55783]

Realty Action; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public land in Boulder County, Colorado; correction.

SUMMARY: The following described land has been found suitable for disposal by exchange under sec. 206 of the Federal Land Policy and Management Act of 1976 (43 USC 1716):

T.1N, R.71W, Sixth P.M., CO
Sec. 18: Lot 45
Containing 4.12 acres.

This parcel was inadvertently omitted from **Federal Register** Document 92–1769, page 2925, published Friday, January 24, 1992.

FOR FURTHER INFORMATION CONTACT: Stu Parker at (719) 275–0631.

Donnie R. Sparks,

District Manager.

[FR Doc. 93–28019 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–JB–M

[CA–050–4333–02]

Occupancy and Camping Stay Limits; Ukiah District, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This occupancy and camping stay limit applies to designated campgrounds, and to undeveloped Bureau of Land Management administered public lands (that are not closed to camping) within the Ukiah District, California. Persons may camp on these public lands for a period of not more than 14 days during any calendar year, in each of the District's three Resource Area—Redding, Clear Lake and Arcata. The 14 day limit may be reached either through a number of separate visits, or through 14 days of continuous occupation. After the 14th day of occupation, campers will not be permitted to camp within that Resource Area for the remainder of the calendar year. Under special circumstances and upon request, the authorized officer may given written permission for extension of the 14 day limit.

Camping is defined as the use of tents or shelters of natural or synthetic material, preparing a sleeping bag or bedding material for use, or mooring of a vessel, or parking a vehicle or trailer for the apparent purpose of occupancy. Occupancy is defined as the taking, maintaining or holding possession of a camp or residence on public land, either by personal presence or by leaving property on the site. Vehicles or property left unattended to hold sites may be subject to impoundment

Unless elsewhere authorized, any vehicle, trailer, camper, or vessel left unattended on public lands for more than 10 days, or at a developed recreation site for more than 72 hours, will be considered abandoned and may be impounded by the Authorized Officer through the use of local towing and impounding services. This property will subsequently be subject to State and/or county laws or ordinances affecting the disposal, sale or destruction of such property.

EFFECTIVE DATE: November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Robert Wick, Recreation Planner, Ukiah District Office, (707) 462–3873.

SUPPLEMENTARY INFORMATION: This occupancy and camping stay limit is being established to provide consistency and uniformity for the camping public on Bureau of Land Management administered lands throughout the Ukiah District, California, and to prevent user conflicts by providing equal opportunities to camp in given areas. Establishment of this length of stay limit is also to assist the Bureau in reducing the incidence of unauthorized occupancy of public lands in the name of recreational camping. These supplementary rules do not supersede camping and occupancy rules developed for special areas or emergency situations.

Authority for this stay is contained in CFR title 43, chapter II, part 8360, subparts 8364.1 and 8365.1–2(a). Violations of the supplementary rules under authority of 43 CFR 8365.1–2 are subject to a fine not exceed $100,000 and/or imprisonment not to exceed 12 months.

David E. Howell,

District Manager.

[FR Doc. 93–28017 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–40–M

[ID–942–04–4060–02]

Filing of Plats of Survey; Idaho

The plat of survey of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., November 4, 1993.

The plat representing the dependent resurvey of portions of the subdivisional lines and Mineral Survey No. 1541, Idahoan Placer, the subdivision of section 25 and a metes-and-bounds survey in section 25, Township 6 North, Range 5 East, Boise Meridian, Idaho, Group No. 833, was accepted November 1, 1993.

This survey was executed to meet certain administrative needs of the USDA Forest Service.

All inquiries concerning the survey of the above-described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

Dated: November 4, 1993.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 93–28016 Filed 11–15–93; 8:45 am]

BILLING CODE 4310–GG–M

Minerals Management Service

[FES 93–25]

Gulf of Mexico Region; Availability of the Final Environmental Impact Statement for Proposed Central and Western Gulf of Mexico Sales 147 and 150

The Minerals Management Service has prepared a final Environmental Impact Statement (EIS) relating to proposed 1994 Outer Continental Shelf (OCS) Oil and Gas Lease Sales 147 and 150 in the Central and Western Gulf of Mexico. The proposed Central Gulf Sale 147 will offer for lease approximately 29 million acres, and the Western Gulf Sale 150 will offer approximately 26 million acres.

Single copies of the final EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office, 1201 Elmwood Park Boulevard, room 114, New Orleans, Louisiana 70123.

Copies of the final EIS will also be available for review by the public in the following libraries:

Texas

Austin Public Library, 402 West Ninth Street, Austin
Houston Public Library, 500 McKinney Street, Houston
Dallas Public Library, 1513 Young Street, Dallas
Brazoria County Library, 410 Brazoport Boulevard, Freeport
LaRatama Library, 505 Mesquite Street, Corpus Christi
Texas Southmost College Library, 1825 May Street, Brownsville
Rosenberg Library, 2310 Sealy Street, Galveston
Texas State Library, 1200 Brazos Street, Austin
Texas A&M University, Evans Library, Spence and Lubbock Streets, College Station
University of Texas, Lyndon B. Johnson School of Public Affairs Library, 2313 Red River Street, Austin
The University of Texas at Dallas Library, 2601 North Floyd Road, Richardson
Lamar University, Gray Library, Virginia Avenue, Beaumont
East Texas State University Library, 2600 Neal Street, Commerce
Stephen F. Austin State University, Steen Library, Wilson Drive, Nacogdoches
University of Texas, 21st and Speedway Streets, Austin
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin
Baylor University Library, 13125 Third Street, Waco
University of Texas at Arlington, 701 South Cooper Street, Arlington
University of Houston-University Park, 4800 Calhoun Boulevard, Houston
University of Texas at El Paso, Wiggins Road and University Avenue, El Paso
Abilene Christian University, Margaret and Herman Brown Library, 1600 Campus Court, Abilene
Texas Tech University Library, 18th and Boston Streets, Lubbock
University of Texas at San Antonio, John Peace Boulevard, San Antonio.

Louisiana

Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston
New Orleans Public Library, 219 Loyola Avenue, New Orleans
University of New Orleans Library, Lakeshore Drive, New Orleans
Louisiana State University Library, 760 Riverside Road, Baton Rouge
Lafayette Public Library, 301 W. Congress Street, Lafayette
Calcasieu Parish Library, 411 Pujo Street, Lake Charles
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles
Nicholls State University, Nicholls State Library, Leighton Drive, Thibodaux
University of Southwestern Louisiana, Dupre Library, 302 E. St. Mary Blvd., Lafayette
LUMCOM, Library, Star Route 541, Chauvin

Mississippi

Harrison County Library, 14th and 21st Avenues, Gulfport
Gulf Coast Research Lab., Gunter Library, 703 East Beach Drive, Ocean Springs

Alabama

Auburn University at Montgomery, Library, Taylor Road, Montgomery
University of Alabama Libraries, 809 University Boulevard East, Tuscaloosa
Mobile Public Library, 701 Government Street, Mobile
Montgomery Public Library, 445 South Lawrence Street, Montgomery
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores
Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island
University of South Alabama, University Boulevard, Mobile

Florida

University of Florida Libraries, University Avenue, Gainesville
Florida A&M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee
Florida Atlantic University, Library, 20th Street, Boca Raton
University of Miami Library, 4600 Rickenbacker Causeway, Miami
University of Florida, Holland Law Center Library, Southwest 25th Street and 2nd Avenue, Gainesville
St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg
West Florida Regional Library, 200 West Gregory Street, Pensacola
Northwest Regional Library System, 25 West Government Street, Panama City
Leon County Public Library, 127 North Monroe Street, Tallahassee
Lee County Library, 3355 Fowler Street, Fort Myers
Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte
Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa
Key Largo Public Library, 99551 No. 3 Overseas Highway, Key Largo
Selby Public Library, 1001 Boulevard of the Arts, Sarasota
Collier County Public Library, 650 Central Avenue, Naples
Marathon Public Library, 3152 Overseas Highway, Marathon
Monroe County Public Library, 700 Fleming Street, Key West.

Dated: November 10, 1993.

Thomas Gernhoser,
Associate Director for Offshore Mineral Management.
Approved:
Jonathan P. Deason,
Director, Office of Environmental Affairs.

[FR Doc. 93–28083 Filed 11–15–93; 8:45 am]
BILLING CODE 4310–MR–P

Outer Continental Shelf Advisory Board, Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92–463). The Gulf of Mexico RTWG meeting will be held December 13, 1993, at the Hotel Inter-Continental, 444 St. Charles, New Orleans, Louisiana.

The meeting will be held beginning at 1 p.m., December 13, 1993. Agenda items are as follows:

- Roundtable Discussion.
- Shell's Mars Discovery.
- Status of Environmental Studies Program.
- National Park Service Presentation on Beach Debris.
- MMS Bonding Requirements.

FOR FURTHER INFORMATION CONTACT: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ms. Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736–2589 by December 1, 1993. Written statements should be submitted by December 8, 1993, to Ms. Hanks at 1201 Elmwood Park Boulevard, Jefferson, Louisiana 70123–2394.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG advises the Director of

the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: November 4, 1993.

Chris C. Oynes,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 93-28015 Filed 11-15-93; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 6, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by December 1, 1993.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Huerfano County

Lamme Hospital, 314 S. Main St., La Veta, 93001376

CONNECTICUT

Middlesex County

Starr Mill, Jct. of Middlefield St. and Beverly Heights, Middletown, 93001379

New London County

Cogswell, Edward, House, 1429 Hopeville Rd., Griswold, 93001378

Windham County

Chandler, Capt. Seth, House, 55 Converse St., East Woodstock, 93001380

HAWAII

Honolulu County

Malia (Hawaiian canoe), Jct. of Kapiolani Blvd. and McCully St., SE corner, Honolulu, 93001385

MONTANA

Toole County

Bethany Lutheran Church, 0.25 mi. S of Gus Blaze Rd., Oilmont vicinity, 93001375

NEW HAMPSHIRE

Rockingham County

Higgin Memorial Library, Jct. of Portsmouth Ave. (NH 101) and Stratham Rd., SE corner, Stratham, 93001381

NEW JERSEY

Burlington County

High Street Historic District, Roughly, High St. from Pearl St., to Federal St., Burlington, 93001386

TENNESSEE

Knox County

Russell, Avery, House (Boundary Decrease), 11409 Kingston Pike, Farragut, 93001387

Madison County

Walsh, William Kirby, House, 204 E Deaderick St., Jackson, 93001374

VERMONT

Chittenden County

Burlington Bay Horse Ferry, Address Restricted, Burlington vicinity, 93001384

WYOMING

Fremont County

Twin Pines Lodge and Cabin Camp, 218 W. Ramshorn, Dubois, 93001382

Sweetwater County

Rock Springs Elks' Lodge No. 624, 307 C St., Rock Springs, 93001383

[FR Doc. 93-28155 Filed 11-15-93; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-12; Sub-No. 168X]

Southern Pacific Transportation Co.; Abandonment Exemption; In Merced and Fresno Counties, CA

Southern Pacific Transportation Company (SPT) has filed a notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon the 18.73 mile portion of the West Side Line from milepost 141.17, at or near the Los Banos rail station, in Merced County, to milepost 159.90, at or near the Oxalis rail station, in Fresno County, CA.

SPT 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 (environmental report), 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 16, 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: Gary A. Laakso, General Attorney, Southern Pacific Transportation Company, Southern Pacific Building, One Market Plaza, Room 846, San Francisco, CA 94105.

If the notice of exemption contains false or misleading information, the exemption is void ab initio.

SPT has filed an environmental report which addresses the abandonment's effects, if any, on the environmental 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

[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 before 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 this 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 late-filed trail use statements as long as it retains jurisdiction to do so.

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 5, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-28095 Filed 11-15-93; 8:45 am]

BILLING CODE 7035-01-P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-28,961; TA-W-28,961A]

Betten Manufacturing Co., Inc., Fayette, AL., and Alabama Employee Services, Inc., Fayette, AL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issues a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 26, 1993, applicable to all workers of the subject firms. The certification will soon be published in the **Federal Register**.

At the request of the State Agency, the Department reviewed the certification for workers of Betten Manufacturing Company, Inc., Fayette, Alabama. The findings show that most of the workers were leased from the Alabama Employee Services, Inc., Birmingham, Alabama. The leased workers at Betten Manufacturing in Fayette, Alabama worked exclusively for Betten Manufacturing.

Accordingly, the Department is amending the certification to include the leased workers at Betten Manufacturing who were separated as a result of the adverse impact of imported jackets, raincoats, knit shirts and shorts.

Also, the Department is including a termination date of January 1, 1993 since the Fayette, Alabama plant of Betten Manufacturing ceased operations on October 23, 1992.

The amended notice applicable to TA-W-28,961 is hereby issued as follows:

All workers of Betten Manufacturing Company, Inc., Fayette, Alabama including leased workers of Alabama Employee Services who were employed exclusively for Betten Manufacturing Company, Inc., in Fayette, Alabama and who were engaged in the production of jackets, knit shirts, raincoats and shorts and who became totally or partially separated from employment on or after August 5, 1992 and before January 1, 1993 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this November 2, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-28093 Filed 11-15-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,827]

Carborundum Co., Monofrax Refractories Division, Falconer, NY; Affirmative Determination Regarding Application for Reconsideration

On September 27, 1993, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on August 27, 1993 and published in the **Federal Register** on September 17, 1993 (58 FR 48678).

The petitioner stated that the Department should have investigated fusion cast refractory products instead of refractories.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 2nd day of November 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services, Unemployment Insurance Service.

[FR Doc. 93-28090 Filed 11-15-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,922]

General Electro Mechanical Corp. (GEMCOR), Buffalo, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 27, 1993, applicable to all workers of the subject firm engaged in the production of riveting machines. The certification notice was published in the **Federal Register** on October 21, 1993 (58 FR 54377).

At the request of the company, the Department reviewed the certification for workers of the subject firm. A few workers were laid off prior to the Department's impact date of November 1, 1992. The intent of the Department's certification is to include all workers who were adversely affected by increased imports. Accordingly, the Department is amending the certification with a new impact date of July 20, 1992.

The amended notice applicable to TA-W-28,922 is hereby issued as follows:

All workers of General Electric Mechanical Corporation (GEMCOR), Buffalo, New York engaged in the production of riveting machines who became totally or partially separated from employment on or after July 20, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this November 4, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-28091 Filed 11-15-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,797]

H.F.S. Apparel Manufacturing, Inc., Weissport, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 7, 1993, applicable to all workers of H.F.S. Apparel Manufacturing, Inc., Weissport, Pennsylvania. The notice was published in the **Federal Register** on September 22, 1993 (58 FR 49321).

At the request of the State Agency, the Department reviewed the subject

certification. The investigation findings show that a merger occurred in February between W.F. Hofford, Inc., and Dee Ann Sportswear which were located in the same building in Weissport. The new company became H.F.S. Apparel Manufacturing. The workers at H.F.S. Apparel Manufacturing produced the same products as that produced by W.F Hofford, Inc. and Dee Ann Sportswear.

The Department is also establishing a termination date of November 1, 1993 since H.F.S. Apparel ceased production in mid-1993.

Accordingly, the Department is amending the certification to show the correct worker group and coverage period.

The amended notice applicable to TA-W-28,797 is hereby issued as follows:

All workers of H.F.S. Apparel Manufacturing, Incorporated, Weissport, Pennsylvania also known as (a/k/a) W.F. Hofford, Inc., Weissport, Pennsylvania and a k/a Dee Ann Sportswear, Inc., Weissport, Pennsylvania engaged in the production of ladies' and men's sweatpants, sweatshirts, shorts and t-shirts who became totally or partially separated from employment on or after June 9, 1992 and before November 1, 1993 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this November 8, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-28088 Filed 11-15-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,028; TA-W-27,028A; TA-W-27,028B]

San Patricio Corp., Corpus Christi, TX; Foremost Management Corp., TX; and Westbay Contracting Corp., TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 30, 1992, applicable to all workers of the subject firm.

At the request of the State Agency, the Department reviewed the certification for workers of San Patricio Corporation in Corpus Christi, Texas. The findings show that several of the workers were leased from the Westbay Contracting Corporation and the Foremost Management Corporation. The leased workers at San Patricio Corporation in Corpus Christi, Texas worked exclusively for San Patricio Corporation.

Accordingly, the Department is amending the certification to include the leased workers at San Patricio Corporation who were separated as a result of the adverse impact of imported crude oil and natural gas.

The amended notice applicable to TA-W-27,028 is hereby issued as follows:

All workers of San Patricio Corporation, Corpus Christi, Texas including leased workers from the Westbay Contracting Corporation and Foremost Management Corporation both located in Texas who were employed exclusively for San Patricio Corporation in Corpus Christi, Texas and who became totally or partially separated from employment on or after March 6, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this November 2, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-28092 Filed 11-15-93; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject mater of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 26, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 26, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 1st day of November, 1993.

Marvin, M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Variety Knit (Wkrs)	N. Bensen, NJ	11/01/93	10/18/93	29,167	Ladies garments.
U.S. Vanadium Corp (OCAW)	Niagara Falls, NY	11/01/93	10/15/93	29,168	Ferro vanadium.
Wincup Holdings, Inc (Wkrs)	Tinton Falls, NJ	11/01/93	10/21/93	29,169	Styrofoam cups, containers and straws.
Zenith Wireline Services (Wkrs)	Lindsay, OK	11/01/93	10/14/93	29,170	Oil and gas.
Borg-Warner Automotive (UAW)	Muncie, IN	11/01/93	10/19/93	29,171	Transmissions, transfer cases and hubs.
The Ohio Art Co. (Wkrs)	Bryan, OH	11/01/93	10/19/93	29,172	Etch-A-Sketch Drawing Toy.
Shell Oil Co (Co)	Houston, TX	11/01/93	10/19/93	29,173	Oil and gas.
Shell Western Exploration & Prod. (Co)	.....do	11/01/93	10/19/93	29,174	Do.
Shell Offshore, Inc (Co)	New Orleans, LA	11/01/93	10/19/93	29,175	Do.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Shell Pipe Line Corp. (Co)	Houston, TX	11/01/93	10/19/93	29,176	Do.
Shell Development Co (Co)	.....do	11/01/93	10/19/93	29,177	Do.
Pecten Chemical Co (Co)	.....do	11/01/93	10/19/93	29,178	Do.
Pecten International Co (Co)	.....do	11/01/93	10/19/93	29,179	Do.
Snow Hill Apparel Co (Wkrs)	Snow Hill, NC	11/01/93	10/13/93	29,180	Turtlenecks and rugby tops.
SNS Plastics Co., Inc (Co)	Waldoboro, ME	11/01/93	10/20/93	29,181	Polyester garment buttons.
Fiber Materials, Inc (Wkrs)	Biddleford, ME	11/01/93	10/07/93	29,182	Graphite materials.
Tooling Systems Div., DeVlieg (UAW)	Frankenmuth, MI	11/01/93	10/15/93	29,183	Metal-working machine tools.
American Cyanamid Co (Co)	Bound Brook, NJ	11/01/93	10/21/93	29,184	Piperazine carbonyl chloride.
Library Bureau, Inc (Wkrs)	Herkimer, NY	11/01/93	10/19/93	29,185	Wood library furniture.
McDonnell Douglas Finance Corp (Wkrs)	Long Beach, CA	11/01/93	10/19/93	29,186	Financial services.
E.I. Dupont de Nemours & Co (Wkrs)	Martinsville, VA	11/01/93	10/20/93	29,187	Nylon yarn.
General Automotive Specialty (Wkrs)	North Brunswick, NJ	11/01/93	10/27/93	29,188	Automotive switches.
Four Eleven Sportwear Corp (Wkrs)	Madisonville, TN	11/01/93	10/21/93	29,189	Ladies' suit jackets, skirts and slacks.
Exploration Employment Service (Co)	Livingston, TX	11/01/93	10/22/93	29,190	Oil and gas.
Crawford Home Fashions (ACTWU)	Richmond, VA	11/01/93	10/14/93	29,191	Pillows, beanbags and cushions.
Parsons Footwear, Inc (Wkrs)	Parsons, WV	11/01/93	10/17/93	29,192	Canvas footwear.
Vertical Apparel (Wkrs)	New York, NY	11/01/93	10/15/93	29,193	Ladies' sportswear.
Vertical Apparel/(Addiction) (Wkrs)	.....do	11/01/93	10/15/93	29,194	Do.
Vertical Apparel/(George Simonton) (Wkrs)	.....do	11/01/93	10/15/93	29,195	Do.
Shell Oil Products (Co)	Houston, TX	11/01/93	10/19/93	29,196	Oil and Gas.
Shell Chemical Co (Co)	Houston, TX	11/01/93	10/19/93	29,197	Do.

[FR Doc. 93-28089 Filed 11-15-93; 8:45 am]

BILLING CODE 4510-30-M

LEGAL SERVICES CORPORATION

Designation of Recipient for the Provision of Civil Legal Services in Louisiana

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award grant.

SUMMARY: The Legal Services Corporation hereby announces its intention to designate Kisatchie Legal Services as the regular, annualized provider of civil legal assistance to the LSC-eligible client population in Catahoula, Concordia, and LaSalle Parishes, Louisiana (Tri-Parish area). This will become effective with the 1994 grant year.

The grant awarded will be pursuant to authority conferred by section 1006(a)(1)(A) of the Legal Services Corporation Act of 1974, as amended. This public notice is issued with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice.

DATES: All comments and recommendations must be received by 5 p.m. on or before December 13, 1993.

ADDRESSES: Comments should be sent to the Office of Program Services, Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002-4250.

FOR FURTHER INFORMATION CONTACT: Phyllis Doriot, Manager, Grants & Budget Division, Office of Program Services, (202) 336-8825.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation is the national organization charged with administering federal funds provided for civil legal service to the poor. Kisatchie Legal Services has been providing civil legal services to the Tri-Parish area since January 1, 1993 under a one-time grant with the Corporation.

The amount of the 1994 grant will be consistent with the basic field portion of the 1994 LSC Appropriations Act, which mandates that the grant amount will be based on the service area's poverty population derived from the 1990 census, but no less than the 1993 grant amount ($132,725).

Dated: November 9, 1993.

Ellen J. Smead,

Director, Office of Program Services.

[FR Doc. 93-28031 Filed 11-15-93; 8:45 am]

BILLING CODE 7050-01-P

Designation of Recipients for Legal Services State Support Centers in Hawaii and Missouri

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award grants.

SUMMARY: The Legal Services Corporation hereby announces its intention to designate the Legal Aid Society of Hawaii, Inc. and Legal Services of Eastern Missouri, Inc. as the regular annualized providers of substantive and training support to legal service programs in the states of Hawaii and Missouri, respectively. This will become effective with the 1994 grant year.

The grants awarded will be pursuant to authority conferred by section 1006(a)(3) of the Legal Services Corporation Act of 1974, as amended. This public notice is issued with a request for comments and recommendations within a period of thirty (30) days from the date of publication of this notice.

DATES: All comments and recommendations must be received by 5 p.m. on or before December 13, 1993.

ADDRESSES: Comments should be sent to the Office of Program Services, Legal Services Corporation, 750 First Street, NE., 11th Floor, Washington, DC 20002-4250.

FOR FURTHER INFORMATION CONTACT: Phyllis Doriot, Manager, Grants & Budget Division, Office of Program Services, (202) 336-8825.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation is the national organization charged with administering federal funds provided for civil legal service to the poor. Both of the programs

have been providing the stated services to their state for 1993 under individual one-time grants with the Corporation.

The amount of the 1994 grants will be consistent with the 1994 LSC Appropriations Act, which mandates the formula for allocating state support funds, but no less than the 1993 grant amount ($72,856 each).

Dated: November 9, 1993.

Ellen J. Smead,

Director, Office of Program Services.

[FR Doc. 93-28030 Filed 11-15-93; 8:45 am]

BILLING CODE 7050-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (93-086)]

Fiscal Year 1993 Report of Closed Meeting Activities of Advisory Committees

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of reports.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the NASA advisory committees that held closed or partially closed meetings in Fiscal Year 1993, consistent with the policy of 5 U.S.C. 552b(c), have prepared reports on activities of these meetings. Copies of the reports have been filed and are available for public inspection at the Library of Congress, Federal Advisory Committee Desk, Washington, DC 20540; and the National Aeronautics and Space Administration, Headquarters Information Center, Washington, DC 20546. The names of the committees are: NAC Aerospace Medicine Advisory Committee, NAC Space Science and Applications Advisory Committee, NASA Wage Committee.

FOR FURTHER INFORMATION CONTACT: Mechthild E. Peterson, Code JMC, National Aeronautics and Space Administration, Washington, DC 20546 (202-358-1306).

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 93-28062 Filed 11-15-93; 8:45 am]

BILLING CODE 7510-01-M

[Notice 93-087]

NASA Advisory Council (NAC) Task Force on National Facilities; Aeronautics R&D Facilities Task Group; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NAC Task Force on National Facilities, Aeronautics R&D Facilities Task Group.

DATES: December 1, 1993, 8:30 a.m. to 4:30 p.m.; and December 2, 1993, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Room 107, Building 1218, Hampton, VA 23681.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne McKinney, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681 (804/864-8686).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Facility Working Group Reports
—Facility Charging Policy

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Timothy M. Sullivan,

Advisory Committee Management Officer.

[FR Doc. 93-28061 Filed 11-15-93; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Presidential Libraries Meeting

Notice is hereby given that the Advisory Committee on Presidential Libraries will meet on Thursday, December 2, 1993, 12:30 p.m. to 3 p.m. in room 105 at the National Archives and Records Administration, Washington, DC.

The agenda for the meeting will be to introduce the Advisory Committee to the members of the newly chartered Foundation of the National Archives and to conduct a discussion of common issues between the Committee, the Foundation, and representatives of the individual Library foundations.

The meeting will be open to the public. For further information, call John Fawcett on 202-501-5700.

Dated: November 5, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 93-28049 Filed 11-15-93; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before December 16, 1993.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-606-8494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 606-8494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Extensions

Title: Organizational Survey

Form Number: OMB No. 3136–0124
Frequency of Collection: Once
Respondents: Nonprofit organizations and groups
Use: Application for funding
Estimated Number of Respondents: 30
Frequency of response: Once
Estimated Hours for Respondents to Provide Information: .50 per respondent
Estimated Total Annual Reporting and Recordkeeping Burden: 15 hours

Donald Gibson,

Acting Deputy Chairman.

[FR Doc. 93–28027 Filed 11–15–93; 8:45 am]

BILLING CODE 7535–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302]

Florida Power Corp., Crystal River Unit 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation (FPC, the licensee), for operation of Crystal River, Unit 3, located in Citrus County, Florida.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will amend the Technical Specifications (TS) to reflect currently accepted NRC standards for containment tendon surveillance testing. The proposed action is in accordance with portions of the licensee's amendment request dated August 25, 1989, and letter dated October 25, 1993.

The Need for the Proposed Action

Complete replacement of the TS with Improved Technical Specifications (ITS) was requested by the August 25, 1989, letter, By letter dated October 25, 1993, FPC requested expedited issuance of the containment section of the ITS to support containment tendon testing. Containment tendon surveillance testing was scheduled to begin on November 1, 1993, to prevent exceeding the surveillance interval which expires on January 10, 1994. Issuance of the ITS is likely in this time interval which would create a conflict of requirements since the ITS and the current TS differ in this area. FPC considers it preferable to perform the containment tendon testing to the currently accepted NRC standards contained in the ITS and the NRC agrees.

Description of the Proposed Change

The current TS specify that the structural integrity of the containment shall be maintained at a level consistent with the acceptance criteria specified in the surveillance requirements. If structural integrity is not met, it must be restored within 24 hours or the plant must be taken to cold shutdown. The surveillance requirements specify the details of the testing.

The proposed TS state that the containment structural integrity must be maintained at a level consistent with the acceptance criteria specified in the surveillance program or restored to within the limits. The proposed containment tendon surveillance program, inspection frequency, and acceptance criteria shall be in accordance with Regulatory Guide 1.35, Revision 3, 1989. The proposed TS also require that any abnormal degradation of the containment structure detected during these tests be reported to the NRC within 30 days.

In addition, in the letter dated October 25, 1993, FPC committed to follow Regulatory Guide 1.35, Revision 3, except for the timing of testing tendons deferred as part of the fifth CR–3 tendon surveillance.

Per Regulatory Guide 1.35, Revision 3, tendons that are randomly selected but cannot be tested (due to plant conditions at the time) should be inspected during the following plant shutdown. In the case of the fifth CF–3 tendon surveillance, this would require testing during the next refueling outage in April 1994, in addition to the scheduled testing beginning on November 1, 1993.

Five randomly selected tendons are inaccessible during the November 1993 testing since the testing is being performed with the plant on line. FPC proposed to perform testing on these tendons during the next tendon surveillance currently scheduled for Refuel Outage 10 in April 1996. This is approximately 2 years later than the April 1994 outage, when the testing would normally be conducted per the Regulatory Guide.

FPC stated that previous tendon testing in the area of these five tendons has met the TS requirements. The licensee concluded that operating history indicates that deferral of the testing does not increase the potential for undetected degradation during the time interval.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. The changes will not affect the capability of the containment to perform its design function.

These TS changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed TS amendment.

With regard to potential non-radiological impacts, the proposed amendment involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluent and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the amendment would be to deny the amendment request. Such action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for Crystal River, Unit 3.

Agencies and Persons Consulted

The NRC staff consulted with the State of Florida regarding the environmental impact of the proposed action.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letters dated August 25, 1989, and October 25, 1993. These letters are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the

local public document room located at the Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629.

Dated at Rockville, Maryland this 9th Day of November 1993.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Project Directorate II-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-28152 Filed 11-15-93; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-322]

Long Island Power Authority, Shoreham Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of a schedular exemption from the revised requirements of 10 CFR part 20 to the Code of Federal Regulations to the Long Island Power Authority (LIPA or the licensee) for the Shoreham Nuclear Power Station (SNPS) pursuant to the requirements of 10 CFR 20.2301.

Environmental Assessment

Identification of Proposed Action

As of January 1, 1994, the revised 10 CFR part 20 becomes mandatory. The approval of the schedular exemption would permit LIPA to continue the ongoing decommissioning of SNPS without implementing the revised 10 CFR part 20, and in effect continue decommissioning for 2 years beyond January 1, 1994, under the radiation protection provisions of 10 CFR 20.1 through 20.601. LIPA began dismantlement of SNPS following the NRC's issuance of the Order to Authorize Decommissioning, June 11, 1992. By January 1, 1994, LIPA will have completed approximately 90 percent of the decommissioning of SNPS. LIPA anticipates that the SNPS license will be terminated and the facility released for unrestricted release in late 1995.

The Need for the Proposed Action

A schedular exemption would eliminate the required implementation of the revised 10 CFR part 20 requirements by January 1, 1994, and allows LIPA to continue the decommissioning of SNPS under the current radiation protection provisions of 10 CFR 20.1 through 20.601 for 24 months beyond January 1, 1994. The NRC has determined that granting the proposed schedular exemption would continue to ensure adequate protection of the workers and the public and without unjustifiably increasing the licensee's decommissioning cost. Actual exposures experienced for the 75 percent completed decommissioning of SNPS, using the current SNPS radiation protection program, is 2.7 person-rems, and the total estimated exposure to complete the decommissioning of SNPS is estimated to be 4.5 person-rems, compared with a total estimated exposure in the Decommissioning Plan (DP) of 189 person-rems. The current radiation protection program has proven to be extremely effective in ensuring radiation exposures to workers are maintained at a small fraction of the 10 CFR part 20 limits and the estimated person-rem exposures calculated and provided in the licensee's decommissioning plan. LIPA estimates the 1994 exposure to complete the decommissioning of SNPS will be less than 0.3 person-rem. The maximum exposure received during the decommissioning program to date by any worker was 0.045 rem per quarter. The average individual exposure was 0.00026 rem per quarter. These individual exposures are well within the 10 CFR part 20 quarterly dose limits, and within the revised 10 CFR part 20 limit of 5 rems. Thus, the intent of the revised part 20 would be realized and there would be no apparent benefit to worker and public by requiring the implementation of the revised 10 CFR part 20.

Environmental Impact of the Proposed Action

The proposed action to allow LIPA to continue the decommissioning of SNPS using the provisions of 10 CFR 20.1 through 10 CFR 20.601, through 1995, will have no significant environmental impact. However, if circumstances cause activities related to decommissioning to extend beyond 1995, LIPA will be required to implement the revised 10 CFR part 20. The staff initially evaluated the decommissioning of SNPS before issuing the June 11, 1992, Order to Decommission, and concluded that the decommissioning of SNPS, based on the current radiation protection requirements of 10 CFR 20.1 through 10 CFR 20.601, would have no significant impact on the quality of the human environment. Granting this schedular exemption would not alter that conclusion.

A schedular exemption from the provisions of the revised 10 CFR part 20 will not affect plant non-radiological effluents and thus has no adverse environmental impact. In addition, the proposed schedular exemption will not authorize changes related to licensed activities or effect changes to the Technical Specifications with regard to allowable types or amounts of radiological effluents. With regard to potential radiological and non-radiological impacts, the NRC concludes that there are no measurable radiological or non-radiological impacts associated with this schedular exemption.

Alternatives to the Proposed Action

Since the NRC concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for SNPS.

Agencies and Persons Consulted

The licensee initiated this exemption request. The NRC staff has reviewed their request. The State of New York was notified of the proposed exemption. The State Official declined to comment.

Finding of No Significant Impact

Based upon this environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Therefore, the NRC has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, the licensee's application dated July 6, 1993, and the NRC staff's Safety Evaluation Report are available for public inspection at the NRC's Public Document Room, 2120 L Street, NW., Washington DC 20037, and at the local public document room at the Shoreham Wading River Public Library, Shoreham Wading River High School, Route 25A, Shoreham, NY 11792.

Dated at Rockville, Maryland, this 5th day of November, 1993.

For the Nuclear Regulatory Commission.

John T. Greeves,

Director, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93-28147 Filed 11-15-93; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 50–328]

Tennessee Valley Authority, Sequoyah Nuclear Plant, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50 to the Tennessee Valley Authority, licensee for the Sequoyah Nuclear Plant (SQN), Unit 2. The plant is located at the licensee's site in Hamilton County, Tennessee. The exemption was requested by the licensee in its letter dated September 27, 1993.

Environmental Assessment

Identification of Proposed Action

The action would exempt the licensee from the provisions in sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50 with respect to the requirement to perform Primary Containment Type B and Type C local leak rate tests at intervals no greater than 2 years. The exemption would affect Unit 2 only and allow the tests to be delayed until the Cycle 6 refueling outage. This outage is scheduled to start less than 1 month after the 2-year period ends.

On March 15, 1992, SQN Unit 2 started the Cycle 5 refueling outage. All Type B and Type C local leak rate tests were performed during the outage and the unit was returned to service on May 17, 1992. Between March 1, 1993, and October 19, 1993, Unit 2 was in shutdown because of a steam leak in the secondary system. Due to the length of the shutdown, TVA has delayed the start of the Unit 2 Cycle 6 refueling outage to April 1994. As a result, the expiration of the 2-year time interval for the Type B and Type C tests occurs before the outage starts. To perform the tests in accordance with the requirement would force the unit to shut down in March 1994. To prevent this, the proposed exemption would allow a one-time deferment of the appendix J interval requirement from March 15, 1994 until the shutdown in April 1994, a total of approximately 18 days.

The Need for the Proposed Action

The proposed action is required to exempt the licensee from the requirement to conduct Type B and Type C containment local leak rate tests on SQN Unit 2 at a 2-year frequency so that the tests can be performed during the Cycle 6 refueling outage that is scheduled to start in April 1994.

Environmental Impacts of the Proposed Action

With respect to the requested action, exemption from the above requirement would allow the licensee to delay conducting Type B and Type C local leak rated tests at Unit 2 approximately 18 days beyond the scheduled expiration date of the 2-year period. This relatively small increase in the test interval does not significantly contribute to the total Type B and Type C leakage limits. The intent of sections III.D.2(a) and III.D.3 of appendix J is to ensure that containment leakage is maintained within the prescribed limits. Based on the following information, the exemption will not significantly affect the ability of the individual primary containment components that are subject to Type B or Type C tests to perform this safety function:

1. The valves and components for which the extension of the 2-year interval is being requested have a history of being leak tight and in good condition. The leak-tight condition of these components was last verified by Types B and C local leak rate tests conducted during the Cycle 5 refueling outage in 1992, and, at least for many, by the Type A containment leak rate test conducted on Unit 2 during the same refueling outage. Based on the present containment leakage that accounts for the less than 80 percent of the 0.6 percent La limit, the remaining margin is sufficient to ensure any incremental increase in leakage resulting from the extension would not cause unacceptable as-found test results.

2. Based on historical data, any incremental increase in leakage because of the extension will be small. Improved maintenance practices implemented during the Unit 2 Cycle 5 outage, including motor operated valve testing (MOVATS) of containment isolation valves, provide increased assurance that these components will perform their safety function associated with containment leakage.

3. Many of the components for which the exemption is requested were included in the Type A test performed in April 1992. This test indicated a containment leak rate of 0.15 percent per day, which is below the 0.1875 percent per day limit.

With regard to other potential radiological environmental impacts, the proposed exemption does not increase the radiological effluents from the facility and does not increase the occupational exposure at the facility. Therefore, the Commission concludes that there are no significant radiological impacts associated with the proposed exemption.

With regard to potential nonradiological environmental impacts, the proposed exemption involves systems located within the restricted areas as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other significant nonradiological environmental impacts associated with the proposed exemption.

Therefore, the proposed exemption does not significantly change the conclusions in the licensee's "Final Environmental Statement Related to the Operation of Sequoyah Nuclear Plant Units 1 and 2," (FES) dated February 21, 1974. The Commission concluded that the operation of the Sequoyah units will not result in any environmental impacts other than those evaluated in the FES and its letter to the licensee dated September 15, 1981, which granted the facility operating license DPR–79 for Unit 2.

Alternative to the Proposed Action

Because the staff has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative to this exemption will have either no significantly different environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts as a result of plant operations.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of the Sequoyah Nuclear Plant, Units 1 and 2," dated February 21, 1974.

Agencies and Persons Consulted

The NRC staff has reviewed the licensee's request. The staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For details with respect to this action, see the licensee's request for an exemption dated September 27, 1993, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street,

NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 9th day of November 1993.

For the Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II-4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-28146 Filed 11-15-93; 8:45 am]

BILLING CODE 7590-01-M

Presentations on Draft Regulatory Guides DG-1023 and DG-1025

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission will make presentations, to interested parties on the contents of two draft regulatory guides, DG-1023 and DG-1025, on reactor pressure vessel integrity issues, and answer questions to clarify the positions taken by the staff in those draft guides.

DATES: Thursday, December 9, 1993.

TIME: 9 a.m.-4 p.m.

ADDRESSES: Holiday Inn Bethesda, (301) 652-2000, 8120 Wisconsin Avenue, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Michael E. Mayfield, or Mr. Shah N. Malik, Materials Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3844, or 492-3842.

SUPPLEMENTARY INFORMATION: NRC staff will make presentations on the contents of the two draft guides, DG-1023 (Evaluation of Reactor Pressure Vessels with Charpy Upper-Shelf Energy Less Than 50 Ft-Lb) and DG-1025 (Calculational and Dosimetry Methods for Determining Pressure Vessel Fluence). These two draft guides were published on September 30, 1993. The intent of the meeting is to answer questions and to clarify the regulatory positions described in the two draft guides, to aid the public in preparing focussed comments. The meeting is not an alternative to the public comment process. To be considered, public comments must be submitted in the manner described in the **Federal Register** notice advising the availability of the draft guides (see 58 FR 51392). Comments will be most helpful if received by December 17, 1993.

Dated at Rockville, Maryland, this 5th day of November, 1993.

For the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 93-28151 Filed 11-15-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Initiation of a Review To Consider Redesignation of Romania as a Beneficiary Developing Country Under the Generalized System of Preferences (GSP); Initiation of a Review To Consider Designation of Kazakhstan as a Beneficiary Developing Country Under the GSP; Solicitation of Public Comments Relating to the Designation Criteria

AGENCY: Office of the United States Trade Representative.

ACTION: Solicitation of public comment with respect to the eligibility of Romania and Kazakhstan for the Generalized System of Preferences (GSP) program.

SUMMARY: The purpose of this notice is to announce the initiation of a review to consider redesignation of Romania as a beneficiary developing country under the GSP program, to announce the initiation of a review to consider the designation of Kazakhstan as a beneficiary developing country under the GSP program, and to solicit public comment relating to the designation criteria.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW., room 517, Washington, DC 20506. The telephone number is (202) 395-6971. Public versions of all documents related to this review will be available for review by appointment with the USTR Public Reading Room shortly following filing deadlines. Appointments may be made from 10 a.m. to noon and 1 p.m. to 4 p.m. by calling (202) 395-6186.

SUPPLEMENTARY INFORMATION: The Trade Policy Staff Committee (TPSC) has initiated reviews to determine if Romania and Kazakhstan meet the designation criteria of the GSP law and should be designated as beneficiaries. GSP is provided for in the Trade Act of 1974, as amended (19 U.S.C. 2461-2465). The designation criteria are listed in subsections 502(a), 502(b) and 502(c) of the Act. Interested parties are invited to submit comments regarding the eligibility of Romania and Kazakhstan for designation as GSP beneficiaries. The designation criteria mandate determinations related to participation in commodity cartels, preferential treatment provided to other developed countries, expropriation without compensation, enforcement of arbitral awards, support of international terrorism, and protection of internationally recognized worker rights. Other practices taken into account relate to the extent of market access for goods and services, investment practices and protection of intellectual property rights.

Comments must be submitted in 14 copies, in English, to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, 600 17th Street, NW., room 517, Washington, DC 20506. Comments must be received no later than 5 p.m. on December 15, 1993.

Information and comments submitted regarding Romania and Kazakhstan will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted "business confidential" status pursuant to 15 CFR 2003.6. If the document contains business confidential information, 14 copies of a nonconfidential version of the submission along with 14 copies of the confidential version must be submitted. In addition, the submission should be clearly marked "confidential" at the top and bottom of each and every page of the document. The version which does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each and every page (either "public version" or "non-confidential").

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 93-28060 Filed 11-15-93; 8:45 am]

BILLING CODE 3190-01-M

OFFICE OF MANAGEMENT AND BUDGET

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: OMB.

ACTION: Notice.

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

Title: "Voluntary Customer Surveys of Users of OMB Publications to Implement E.O. 12862."

Type of Request: New.

Annual burden hours: 100.

Needs and uses: The request should indicate the methods to be employed in the data collections, such as focus groups, re-interview techniques, etc. Customer satisfaction questionnaires will be included in OMB publications to improve future products.

Affected public: All.

Frequency: On Occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, room 3235, New Executive Office Building, Washington, DC 20503.

OMB Clearance officer: Mr. John B. Arthur. Written requests for copies of the information collection proposal should be sent to Mr. Arthur, Office of Management and Budget, room 9026, New Executive Office Building, Washington, DC 20503.

John B. Arthur,

Assistant Director for Administration.

[FR Doc. 93–28022 Filed 11–15–93; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF PERSONNEL MANAGEMENT

Historically Black Colleges and Universities (HBCU's) Federal Employment Advisory Group

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of open meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the Historically Black Colleges and Universities (HBCU's) Federal Employment Advisory Group will meet at the time and place shown below:

DATE: November 16, 1993, 9 a.m.

PLACE: Virginia Lacy Jones Exhibition Hall, Woodruff Library, Clark Atlanta University, Atlanta, Georgia.

AGENDA: The focus of the November 16th meeting will be the discussion of continued activities to enhance the employment of students and graduates from HBCU's in the Federal Government and a demonstration of employment information and videoconferencing telecommunications systems.

FOR FURTHER INFORMATION CONTACT: John Kraft, Acting Chief, Recruiting Policy Division, Office of Personnel Management, room 6332, 1900 E Street, NW., Washington, DC 20415.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. If time permits, an opportunity will be provided for members of the public in attendance at the meeting to provide their views. Seating at the videoconferencing telecommunications demonstration will be very limited and will be given out to the public on a first-come, first-served basis.

Persons wishing to address the Advisory Group orally at the meeting should submit a written request no later than the close of business on November 2, 1993. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and the amount of time desired.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 93–28172 Filed 11–12–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33169; File No. SR–NASD–93–63]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to the Guidelines Regarding Communications With the Public About Collateralized Mortgage Obligations (CMOs)

November 9, 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 November 3, 1993, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as one constituting a stated policy, practice or interpretation of an existing rule of the NASD under Section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. 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 NASD is proposing to amend its Guidelines Regarding Communications With the Public About Collateralized Mortgage Obligations (CMOs) at Article III, section 35 of the Rules of Fair Practice[1] (CMO Guidelines) to add a definition of CMOs and to advise members that they should offer educational material on CMOs to their customers. Below is the text of the proposed rule change. Proposed new language is italicized.

Guidelines Regarding Communications With the Public about Collateralized Mortgage Obligations (CMOs)

1. General Considerations

For purposes of these Guidelines and the NASD's Rules, the term "collateralized mortgage obligation" (CMO) refers to a multiclass bond backed by a pool of mortgage pass-through securities or mortgage loans. CMOs are also known as "real estate mortgage investment conduits" (REMICs). As a result of the 1986 Tax Reform Act, most CMOs are issued in REMIC form to create certain tax advantages for the issuer. The terms CMO and REMIC are now used interchangeably.

In order to prevent a communication about CMOs from being false or misleading, there are certain factors to be considered, including, but not limited to, the following.

Product Identification

In order to assure that investors understand exactly what security is being discussed, all communications concerning CMOs should clearly describe the product as a "collateralized mortgage obligation." Member firms should not use proprietary names for CMOs as they do not adequately identify the product.

To prevent confusion and the possibility of misleading the reader, communications should not contain comparisons between CMOs and any other investment vehicle, including Certificates of Deposit.

Educational Material

In order to ensure that customers are adequately informed about CMOs members should offer to customers educational material which covers the following matters:

- *A discussion of CMO characteristics as investments and their attendant risks*

[1] NASD Manual, Rules of Fair Practice, Article III, section 35 (CCH) ¶ 2195.

• *An explanation of the structure of a CMO, including the various types of tranches*

• *A discussion of mortgage loans and mortgage securities*

• *Features of CMOs, including: credit quality, prepayment rates and average lives, interest rates (including effect on values and prepayment rates), tax considerations, minimum investments, transactions costs and liquidity*

• *Questions an investor should ask before investing, and a glossary of terms that may be helpful to an investor considering an investment.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In connection with the NASD's continuing program to enhance the regulation of sales practices in connection with the marketing of CMOs to retail customers, the NASD is proposing to amend its CMO Guidelines following Article III, section 35 of the Rules of Fair Practice to add a definition of the term CMO and to advise members to offer to customers educational material on CMOs which conveys certain important information.

Definition of CMO

The CMO Guidelines adopted in early 1993 [2] did not define the term "collateralized mortgage obligation." The NASD believes that a definition of the term "collateralized mortgage obligation" would aid in the understanding and interpretation of the Guidelines. Accordingly, the NASD is proposing to amend the Guidelines to add a definition of the term. The definition is substantially identical to that used by the Public Securities Association (PSA) in its educational materials. Under the definition a CMO is described as a "multiclass bond backed by a pool of pass-through securities or mortgage loans." The relationship between a CMO and a real estate mortgage investment conduit (REMIC) is also described. For purposes of the NASD's Rules, the terms CMO and REMIC are used interchangeably.

Educating Customers

The NASD believes that the complexity of CMOs mandates that member firms take steps to ensure that their customers are fully educated about CMOs. Accordingly, the NASD is proposing to amend the Guidelines to advise member firms to offer to investors an educational document or material about CMOs. The amendment specifies that the document should: (1) Explain CMOs, including the various types of tranches; (2) discuss mortgage loans and mortgage securities; (3) explain the features of CMOs, including, credit quality, prepayment rates and average lives, interest rates (including effect on values and prepayment rates), tax considerations, minimum investments, transactions costs and liquidity; (4) discuss the questions an investor should ask before investing; and (5) contain a glossary of terms that may be helpful to an investor considering an investment.

The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act in that the amendments to the Guidelines adding a definition will clarify the Guidelines, thereby assisting members in complying with their terms. Further, the proposed rule change relating to educational material will enhance public knowledge and information on a complex securities product and will, therefore, enhance the protection of investors and the public interest by improving the baseline of standards to guide sales practices relating to CMOs.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing with the Commission pursuant to section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b–4 thereunder in that it constitutes a stated policy, practice or interpretation of an existing rule of the NASD.

At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate the 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by December 7, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–28079 Filed 11–15–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19841; 812–8628]

White River Corporation; Notice of Application

November 8, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

[2] Securities Exchange Act Release No. 31783 (Jan. 27, 1993), 58 FR 7016 (Feb. 3, 1993).

[3] 17 CFR 200.30–3(a)(12).

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: White River Corporation ("White River" or "applicant").

RELEVANT ACT SECTIONS Exemption requested under sections 6(c) and 6(e) from all provisions of the Act except sections 9, 17(a) (as modified), 17(d) (as modified), 17(e) (as modified), 17(f), and 36 through 53, and the rules thereunder.

SUMMARY OF APPLICATION: Applicant was created as part of a reorganization of Fund American Enterprises Holdings, Inc. ("FAEH") as a wholly-owned subsidiary of FAEH. As part of the reorganization, FAEH plans to distribute to its shareholders a majority of its holdings in applicant. Because of applicant's asset composition, applicant falls within the definition of an investment company under the Act; however, it plans to engage in a non-investment company business. Accordingly, applicant seeks a conditional order temporarily exempting applicant from most provisions of the Act.

FILING DATE: The Application was filed on October 8, 1993, and amended on November 4, 1993. Applicant has 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 3, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Person who wish to be notified of a hearing should write to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 777 Westchester Avenue, suite 201, White Plains, New York 10604.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, at (202) 272–2190, or Robert A. Robertson, Branch Chief, at (202) 272–3018, (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Delaware corporation organized in 1989, is a wholly-owned subsidiary of FAEH, formerly known as The Fund American Companies, Inc. ("FAC"). FAC was incorporated in Delaware in 1980 as an indirect, wholly-owned subsidiary of the American Express Company ("American Express"), and, until January 1991, conducted a nationwide insurance business through its wholly-owned subsidiary, Fireman's Fund Insurance Company ("FFIC"). In 1986, FFIC acquired substantially all the outstanding shares of a mortgage banking corporation now known as Source One Mortgage Services Corporation ("Source One").

2. In January 1991, FAC sold FFIC to a subsidiary of Allianz Aktiengesellschaft Holding ("Allianz") for approximately $2.9 billion. The sale to Allianz did not include certain investment securities and its Source One stock, together worth approximately $1.6 billion. These securities were transferred to FAC from FFIC shortly before the sale.

3. After the sale of FFIC, a substantial portion of FAC's assets consisted of investment securities. In reliance on section 7 of the Act, FAC did not register as an investment company but commenced a plan of liquidation, approved by FAC's board of directors and shareholders. Between January 1991 and July 1992, FAC paid out approximately $4 billion to its shareholders and creditors. In June 1992, FAC obtained shareholder approval to change its name to FAEH.[1]

4. Thereafter, FAEH focused on its Source One mortgage business and also actively sought to acquire an operating company. FAEH also entered the money management business through Hanover Advisors, Inc. ("Hanover"), an indirect wholly-owned subsidiary. To date, Hanover has established several advisory relationships, the largest with affiliates or affiliates of affiliates (these agreements together with such future agreements are referred to as the "Affiliated Advisory Agreements.")

5. FAEH's management has determined to restructure the company, in part by transferring a significant portion of FAEH's investment securities to applicant and thereafter distributing most of applicant's common stock to FAEH's shareholders as a taxable dividend (the "Distribution"). On September 24, 1993, FAEH and its wholly-owned subsidiary Fund American Enterprises, Inc. ("FAE"), Source One's direct parents, transferred to applicant certain employees, investment securities (the "Investment Securities"), and fixed assets, collectively having an aggregate book value of approximately $231 million, in exchange for a $50 million demand note, approximately 6.4 million shares of its common stock, a class of nonvoting preferred stock and cash.

6. Upon receipt of the requested order of exemption and pursuant to an effective registration statement under the Securities Exchange Act of 1934, FAEH will effect the Distribution and will sell applicant's preferred stock to two institutional investors. FAEH will retain approximately 1.6 million shares of applicant's common stock, most of which will be used to satisfy obligations pursuant to warrants and options to purchase applicant's stock issued by FAEH. John J. Byrne ("Byrne"), the Chairman and CEO of FAEH, will own beneficially 5% or more of applicant's stock. FAEH will issue to Byrne warrants for the purchase of an additional 640,000 shares of applicant's stock, which, if exercised, would give Byrne beneficial ownership of 15.7% of applicant's outstanding common stock.

7. To effect the capitalization, FAEH, FAE and applicant have entered into several agreements that will be void if the Distribution does not occur: (i) The Distribution Agreement, providing for the principal corporate transactions required to effect the Distribution and other matters; (ii) the Securities Purchase Agreements, under which applicant purchased the Investment Securities from FAEH and FAE for cash and stock; and (iii) the Assignment and Assumption Agreements (the "Assignment Agreements"), under which FAEH an FAE assigned to applicant rights and obligations related to certain of the Investment Securities. In addition, FAEH and applicant have entered into certain arrangements relating to the warrants granted to Byrne (the "Warrant Arrangements," and, together with the Distribution, Securities Purchase and Assignment Agreements, the "Transaction Agreements"). Certain of the Investment Securities have associated rights or options to acquire additional securities

[1] FAEH had obtained assurance from the SEC's Division of Investment Management that the Division would not recommend that the Commission take any enforcement action if FAEH proceeded to liquidate and dissolve in the manner described in its requesting letter. *The Fund American Companies, Inc.* (pub. avail. Nov. 16, 1990). Applicant believes that FAEH concluded its plan of liquidation, notwithstanding the fact that FAEH did not sell or other dispose of Source One. The issuance of the requested order does not mean the Division necessarily agrees.

(the "Rights"), which applicant may wish to exercise.

8. Applicant and Hanover have entered into a number of service and advisory agreements with FAEH and its remaining subsidiaries, which will be void if the Distribution is not effected (the "Intercompany Agreements"): (i) The Intercompany Services and Expense Sharing Agreement, pursuant to which applicant will provide certain financial and administrative services to FAEH; (ii) the Investment Management Agreement and Investment Advisory Agreement, pursuant to which Hanover will provide investment management and securities accounting services to FAEH or its subsidiaries; (iii) the Credit Agreement, pursuant to which FAEH will provide applicant with a $50 million, 30-month term loan and an 18-month, $40 million revolving credit facility ("Credit Agreement"); and (iv) the Tax Cooperation and Indemnification Agreement between FAEH and applicant, which provides for information sharing and cooperation on certain tax matters.

9. Applicant's officers and employees will participate in various benefit plans established by applicant to duplicate as closely as possible plans previously established by FAEH. They also will retain benefits previously earned under, and will continue to participate in certain FAEH employee benefit plans (the "Health Plans"). In addition, applicant has adopted Compensation Plans intended to provide its employees benefits similar to those provided by FAEH: (a) the White River 1993 Incentive Compensation Plan ("1993 Incentive Plan"); (b) the White River Voluntary Deferred Compensation Plan; and (c) the White River Deferred Benefit Plan.

10. Applicant expects to engage in certain transactions with affiliates or affiliates of affiliates that would be considered routine for operating companies. Until the date of the Distribution ("Distribution Date"), applicant will have joint arrangements with FAEH for insurance, custody of securities, banking, and professional services. Applicant also intends to enter into certain transactions with FAEH in the ordinary course of business, limited to $5,000 per transaction and $50,000 per annum. Finally, applicant wishes to allocate expenses among itself and various subsidiaries and to have the flexibility to restructure itself as required by business needs.

11. Applicant may engage in joint acquisitions with FAEH, Byrne or certain FAEH down-stream affiliates ("Joint Acquisitions"). A Joint Acquisition would occur only if it, among other things, (i) would result in the acquisition by applicant of a majority or greater ownership interest in an operating company, and (ii) were approved by a majority of applicant's directors, including a majority of the directors with no financial interest in such transaction and a majority of the directors who are not interested persons of applicant as defined in section 2(a)(19) of the Act (the "Required Majority") in accordance with the standards in section 57(f) of the Act.

Applicant's Legal Analysis

1. As of September 24, 1993, the Investment Securities represented approximately 90% of applicant's total assets, exclusive of government securities and cash items, on a consolidated basis. Applicant, therefore, meets the Act's definition of investment company. Of the 27 issues of common stock included among the Investment Securities, applicant owns 5% or more of the voting securities of 10 issuers.

2. Section 6(c) provides that the SEC may conditionally or unconditionally exempt any person, security or transaction from any provision of the Act, or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Section 6(e) permits the SEC to require companies exempted from the registration requirements of the Act to comply with certain specified provisions thereof as though the company were a registered investment company.

3. Applicant contends that the issuance of an order under sections 6(c) and 6(e) is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes of the Act. Applicant has a bona fide intent to be engaged, as soon as reasonably possible, in a business or businesses other than investing, reinvesting, owning, holding or trading securities. The requested order will provide applicant the time needed to achieve this objective in an orderly way by disposing of Investment Securities and acquiring one or more operating companies. Applicant's Investment Securities are largely illiquid, and up to two years will be necessary and appropriate to permit applicant to make an orderly transition to non-investment company status.

4. During the term of the proposed order, applicant will comply with sections (17(a), 17(d) and 17(e) of the Act and the rules thereunder as if it were a registered investment company, modified as follows:

(i) for purposes of sections 17(a), 17(d) and 17(e), the definition of affiliated person will not include any affiliated person or affiliated person of such person (collectively, "Affiliated Persons") who is an affiliated person solely by reason of being an employee who is not also an officer or director of applicant;

(ii) the provisions of section 17(a) shall not apply to actions or transactions occurring on or after the date of the order: (a) Pursuant to the Securities Purchase Agreements; (b) pursuant to the Assignment Agreements; (c) pursuant to the Credit Agreement; (d) pursuant to the 1993 Incentive Plan; (e) pursuant to allocations of costs and expenses among the applicant's controlled group of companies, or reorganizations and transfers of assets among such companies (collectively, "Subsidiary Transactions"); (f) with an Affiliated Person (that is an Affiliated Person solely by reason of applicant's ownership of securities of such person) which are effected by applicant for the purposes of acquiring at least a majority interest in such person, provided that the transaction is approved by the Required Majority in accordance with the standards set forth in section 57(f) of the Act; (g) pursuant to the Rights; (h) pursuant to sales or other dispositions of the Investment Securities in which applicant does not intend to acquire a majority interest, including sales or other dispositions to FAEH or affiliates of the issuers of such Investment Securities, provided that the transaction is approved by the Required Majority in accordance with the standards set forth in section 57(f) of the Act; and (i) between applicant and any Affiliated Person that is an Affiliated Person solely by reason of being a limited or general partner in any limited partnership interest included in the Investment Securities (a "Partnership");

(iii) the provisions of section 17(d) shall not apply to actions and transactions occurring on or after the date of the order: (a) Pursuant to the Affiliated Advisory Agreements; (b) pursuant to the Transaction Agreements; (c) pursuant to the Intercompany Agreements; (d) pursuant to the Health Plans; (e) pursuant to the Compensation Plans; (f) pursuant to Subsidiary Transactions (to the extent that section 17(d) may be deemed to prohibit a transaction that is exempted by rule from section 17(a)); (g) with an Affiliated Person (that is an Affiliated Person solely by reason of applicant's ownership of securities of such person) which are effected by applicant for the

purposes of acquiring at least a majority interest in such person (to the extent that section 17(d) may be deemed to prohibit a transaction that is exempted by rule from section 17(a)), provided that the transaction is approved by the Required Majority in accordance with the standards set forth in section 57(f) of the Act; (h) pursuant to the Rights; (i) pursuant to sales or other dispositions of the Investment Securities in which applicant does not intend to acquire a majority interest, including sales or other dispositions to FAEH or affiliates of the issuers of such Investment Securities, provided that the transaction is approved by the Required Majority in accordance with the standards set forth in section 57(f) of the Act; (j) pursuant to a Joint Acquisition, provided that the transaction is approved by the Required Majority, in accordance with section 57(f) of the Act; (k) pursuant to the insurance, banking and custody arrangements; (l) with respect to the provision of professional services from which both FAEH and applicant benefited; (m) arising in the ordinary course of applicant's business, provided that the transactions are on terms and under conditions that are substantially the same or at least as favorable to applicant as those prevailing at the time for comparable transactions with or involving persons who are not Affiliated Persons of applicant within the meaning of section 2(a)(3) of the Act, and provided further that an individual transaction does not involve more than $5,000 and total annual transactions do not involve more than $50,000; an (n) between applicant and any Affiliated Person that is an Affiliated Person solely by reason of being a limited or general partner in the Partnerships; and

(iv) the provisions of section 17(e) shall not apply to the occasional receipt of food, drink, entertainment or related transportation or gifts that are not excessively lavish from an unaffiliated third party pursuant to the established policies of applicant.

5. Because applicant and its affiliates in their transactions and relations with applicant would be subject to sections 9, 17(a) (as modified), 17(d) (as modified), 17(e) (as modified), 17(f), and 36 through 53 of the Act, as if the applicant were a registered investment company, the interests of investors would be adequately protected during the effective period of the exemptive order.

Applicant's Conditions

Applicant agrees to comply with the following conditions until the earlier of the date on which it no longer meets the definition of investment company or two years from the date of the order:

1. Applicant will not acquire any additional "investment securities" within the meaning of section 3(a)(3) of the Act other than (a) shares of money market mutual funds, or (b) debt securities that are rated investment grade or higher by a nationally recognized statistical rating organization, or, if unrated, deemed to be of comparable quality under guidelines approved by applicant's board of directors, provided that applicant may make equity or debt investments in issuers that are not investment companies, as defined in section 3(a) of the Act (or if such issuer qualifies for a specific exclusion under section 3(c) other than under section 3(c)(1)), in the following circumstances: (i) In connection with the possible acquisition of at least a majority interest in an operating business, as evidenced by a resolution approved by applicant's board of directors, or (ii) in connection with the Rights.

2. Prior to effecting each transaction requiring the approval of a Required Majority of applicant's board of directors: (a) Applicant will (i) make all reasonable and diligent efforts to ascertain the identity of all Affiliated Persons who may have an interest in the transaction; (ii) inform the Directors of the identity of all known Affiliated Persons who are known to be parties to, or who are known to have a direct or indirect financial interest in, the transaction and the known financial interests of such persons in the transaction; and (iii) have a board of directors at least 50% of the member of which are not "interested persons" of applicant as defined in section 2(a)(19) of the Act; and (b) the Required Majority of the Board will find that (i) the terms of the transaction, including the consideration to be paid and received, are reasonable and fair to applicant and do not involve overreaching of the applicant or its shareholders; (ii) the participation of applicant in the proposed transaction will not be on a basis less advantageous to the applicant than that of other participants; and (iii) the proposed transaction is consistent with the interests of applicant's shareholders and with the stated objectives of applicant as recited in its registration statement on Form 10, its reports on Forms 10–Q and 10–K and its reports to shareholders; and (c) the board of directors will record in its minutes and preserve in its records for such periods as if such records were required to be maintained pursuant to section 31(a), a description of such transaction, its findings, the information or materials upon which its findings were based, and the basis therefor.

3. In addition to the conditions set forth in 2 above: (a) any Joint Acquisition will consist of the same class of securities, including the same registration rights (if any), and other rights related thereto, at the same unit consideration, and on the same terms and conditions, and the Joint Acquisition transaction will take place at or about the same time for each affiliated participant; (b) if one of the affiliated participants in Joint Acquisition elects to sell, exchange or otherwise dispose of an interest in a security that is acquired in the Joint Acquisition, notice must be given to the other affiliated participants at the earliest practical time and each affiliated participant must be given the opportunity to participate in such disposition at the same time for the same unit consideration and in amounts proportional to its respective holdings of such securities; (c) any decision relating to such disposition, whether to participate or not, will not be subject to the requirements set forth in 2 above; (d) no director or officer of applicant and no Affiliated Person (other than FAEH, one of FAEH's downstream affiliates or Byrne) shall participate in a Joint Acqusition unless a separate exemptive order is first obtained; and (e) no Joint Acquisition will be made of any company in which applicant or any of its affiliates has previously acquired an interest (other than the Investment Securities or a Joint Acquisition effected in more than one step as permitted by 1 above).

4. Applicant's registration statement on Form 10, its reports on Forms 10–K and 10–Q, proxy statements and its annual reports to shareholders will state that the exemptive order has been granted pursuant to sections 6(c) and 6(e) of the Act and that White River and other persons, in their transactions and relations with White River, are subject to sections 9, 17(a) (as modified), 17(d) (as modified), 17(e) (as modified), 17(f), and 36 through 53 of the Act, and the rules thereunder, as if White River were a registered investment company, except insofar as permitted by the order requested hereby.

5. Applicant will not "hold itself out" as engaged primarily in the business of investing, reinvesting or trading in securities.

6. Applicant will submit an initial report to the Commission's Division of Investment Management within fifteen days of the close of the quarter ended March 31, 1994, and every six months thereafter, setting forth applicant's assets and analyzing applicant's current

status under section 3(a) of the Act. Applicant will submit a final report promptly upon expiration of the Exemption Period (or at such earlier time as the applicant is no longer an investment company).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-28080 Filed 11-16-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended November 5, 1993

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 49234
Date filed: November 1, 1993
Parties: Members of the International Air Transport Association
Subject: TC31 Reso/P 1007 dated October 29, 1993; North & Central Pacific Expedited Resos; r-1-0020 r-2—066y r-3—75rr r-4—075rr
Proposed Effective Date: December 1, 1993

Docket Number: 49236
Date filed: November 3, 1993
Parties: Members of the International Air Transport Association
Subject: Telex COMP Mail Vote 652; Amend Mileage Manual
Proposed Effective Date: December 1, 1993

Docket Number: 49237
Date filed: November 3, 1993
Parties: Members of the International Air Transport Association
Subject: TC31 Reso/P 1008 dated November 2, 1993; North & Central Pacific Expedited Reso 015b
Proposed Effective Date: Expedited March 1, 1994

Docket Number: 49238
Date filed: November 3, 1993
Parties: Members of the International Air Transport Association
Subject: TC12 Reso/P 1527 dated September 24, 1993; South Atlantic-Europe/Middle East r-1 to r-20
Proposed Effective Date: April 1, 1994

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93-28064 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-62-P

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended November 5, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49235.
Date filed: November 1, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 29, 1993.
Description: Application of Kuwait Airways Corporation, pursuant to Section 402 of the Act and Subpart Q of the Regulations, applies for renewal of its foreign air carrier permit authorizing Kuwait Airways to engage in scheduled foreign air transportation of persons, property and mail between a point or points in Kuwait; the intermediate points London, England, and Frankfurt, Germany, and the terminal point New York, New York.

Docket Number: 49242.
Date filed: November 5, 1993.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 3, 1993.
Description: Application of Northwest Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Regulations, requests a certificate of public convenience and necessity to provide scheduled foreign air transportation service between Spokane, Washington, and Vancouver, British Columbia, Canada.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93-28065 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-62-P

Office of the Secretary

[Order 93-11-21]

Fitness Determination of Caribbean International Airlines, Inc.; d/b/a Caribair

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Caribbean International Airlines, Inc. d/b/a CaribAir is fit, willing, and able to provide commuter air service under section 419(a) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with Barbara P. Dunnigan, Air Carrier Fitness Division, P-56, room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 23, 1993.

FOR FURTHER INFORMATION CONTACT: Mrs. Barbara P. Dunnigan, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2342.

Dated: November 8, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93-28025 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-62-P

[Order 93-11-16 and Docket 48742]

Application of Eastwind Capital Partners, Inc. for Issuance of New Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order: (1) Finding Eastwind Capital Partners, Inc., fit, willing, and able, and (2) awarding it a certificate of public convenience and necessity to engage in interstate and overseas scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than November 23, 1993.

ADDRESSES: Objections and answers to objections should be filed in Docket 48742 and addressed to the Documentary Services Division (C-55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet A. Davis, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: November 5, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–28024 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–62–M

[Order 93–11–17 and Docket 49129]

Application of Sky King, Inc. for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Sky King, Inc., fit, willing, and able and award it a certificate of public convenience and necessity to engage in interstate and overseas charter air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than November 23, 1993.

ADDRESSES: Objections and answers to objections should be filed in Docket 49129 and addressed to the Documentary Services Division (C–55, room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Carol A. Szekely, Air Carrier Fitness Division (P–56, room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: November 8, 1993.

Patrick V. Murphy,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 93–28023 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review, Kent County International Airport, Grand Rapids, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed noise compatibility program that was submitted for Kent County International Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) (hereinafter referred to as "the Act") and 14 CFR part 150 by Kent County Department of Aviation. This program was submitted subsequent to a determination by the FAA that associated noise exposure maps submitted under 14 CFR part 150 for Kent County International Airport were in compliance with applicable requirements effective March 4, 1993. The proposed noise compatibility program will be approved or disapproved on or before April 27, 1994.

EFFECTIVE DATE: The effective date of the start of the FAA's review of the noise compatibility program is October 29, 1993. The public comment periods ends November 29, 1993.

FOR FURTHER INFORMATION CONTACT: Ernest P. Gubry, Community Planner, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Kent County International Airport which will be approved or disapproved on or before April 27, 1994. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Kent County International Airport, effective on October 29, 1993. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 27, 1994.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, IL 60018

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111

Kent County Department of Aviation, Kent County International Airport, 5500 44th Street, S.E., Grand Rapids, MI 49512

Questions may be directed to the individual named above under the heading, "FOR FURTHER INFORMATION CONTACT."

Issued in Belleville, Michigan, on October 29, 1993.

Dean C. Nitz,

Manager, Detroit Airports District Office, FAA Great Lakes Region.

[FR Doc. 93–28127 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–93–49]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this

notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 6, 1993.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 8, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 26103
Petitioner: Northwest Seaplanes, Inc.
Sections of the FAR Affected: 14 CFR 135.203(a)(1)
Description of Relief Sought/ Disposition: To extend Exemption 5166 to continue to permit the petitioner to conduct flight operations when necessary at an altitude below 500 feet over water outside of controlled airspace.

Docket No.: 26533
Petitioner: Jump Shack
Sections of the FAR Affected: 14 CFR 105.43(a)
Description of Relief Sought/ Disposition: To permit the petitioner and its respective employees, representatives, and other volunteer experimental parachute test jumpers under its direction and control to make tandem parachute jumps for the purpose of meeting TSO-C23c certification requirements for live tests of its dual harness, dual parachute pack.

Docket No.: 26690
Petitioner: AMR Eagle, Inc.
Sections of the FAR Affected: 14 CFR 121.411(a)(2), (3) and (b)(2); 121.413(b), (c) and (d); Part 121, Appendix H; and 135.303; 135.337(a)(2), (a)(3) and (b)(2); 135.339(a)(2), (b), and (c).
Description of Relief Sought: To amend condition/limitation number 3 of Exemption No. 5486 to allow an indefinite use of the Supervisor Transfer Program for airmen employed by any affiliate carrier at the time instructors and check airmen begin to be used in conjunction with Exemption No. 5486.

Docket No.: 27391
Petitioner: Mr. Richard B. Miller
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To allow the petitioner to fly as a pilot in Part 121 air carrier operations after his 60th birthday.

Docket No.: 27489
Petitioner: Mr. Stanley F. Blaschke
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought/ Disposition: To permit the petitioner to serve as a pilot in Part 1231 air carrier operations after his 60th birthday.

Dispositions of Petitions

Docket No.: 26048
Petitioner: National Test Pilot School
Sections of the FAR Affected: 14 CFR 91.319(a)(1) and (2)
Description of Relief Sought/ Disposition: To permit the petitioner to use aircraft that have an experimental certificate to train flight test students through the demonstration and practice of flight test techniques and teach students flight test data acquisition methods for compensation.

Grant, October 28, 1993, Exemption No. 5778

Docket No.: 26898
Petitioner: Air Transport Association of America
Sections of the FAR Affected: 14 CFR 121.343(c)
Description of Relief Sought/ Disposition: To amend Exemption No. 5593 to permit member air carriers to operate, after May 26, 1994, under an FAA-approved Airplane Retirement Schedule until December 31, 1998, certain airplanes that do not have one or more of the digital flight data recorders required. The category of "certain" airplanes covered by the exemption are Stage 2 airplanes that air carriers plan to retire rather than retrofit with noise abatement equipment.

Grant, November 3, 1993, Exemption No. 5593B

Docket No.: 27225
Petitioner: Empire Airlines
Sections of the FAR Affected: 14 CFR 121.343(c)
Description of Relief Sought: To allow the petitioner to continue operating aircraft not fitted by May 26, 1994, with a digital flight data recorder capable of simultaneously recording at least 11 flight parameters.

Denial, November 2, 1993, Exemption No. 5781

Docket No.: 27236
Petitioner: United Parcel Service Co.
Sections of the FAR Affected: 14 CFR 121.343(c)
Description of Relief Sought: To allow the petitioner to continue operating, after May 26, 1994. 17 model DC8 aircraft not fitted with a digital flight recorder capable of simultaneously recording at least 11 flight parameters.

Denial, November 2, 1993, Exemption No. 5780

Docket No.: 27290
Petitioner: Mountain Air Cargo, Inc.
Sections of the FAR Affected: 14 CFR 121.343(c)
Description of Relief Sought/ Disposition: To allow the petitioner to continue operating aircraft not fitted by May 26, 1994, with a digital flight data recorder capable of simultaneously recording at least 11 flight parameters.

Denial, November 2, 1993, Exemption No. 5782

Docket No.: 27402
Petitioner: Atlantic Coast Airlines d/b/a/ United Express
Sections of the FAR Affected: 14 CFR 61.57(e), 121.433(c)(1)(iii), 121.441(a)(1), 121.441(b)(1) and Appendix F of 121.
Description of Relief Sought: To allow the petitioner to conduct a Single Visit Training Program for flight crew members, and eventually transition into the Advanced Qualifications Program.

Grant, November 4, 1993, Exemption No. 5783

Docket No.: 27417
Petitioner: Sierra Pacific Airlines
Sections of the FAR Affected: 14 CFR 121.343(c)
Description of Relief Sought: To allow the petitioner to continue operating, after May 26, 1994. 17 model DC8 aircraft not fitted with a digital flight recorder capable of simultaneously recording at least 11 flight parameters.

Denial, November 3, 1993, Exemption No. 5784

[FR Doc. 93–28125 Filed 11–15–93; 8:45 am]
BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Training and Qualifications

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss training and qualifications issues .

DATES: The meeting will be held on December 1, 1993 at 9 a.m.

ADDRESSES: The meeting will be held at the Department of Transportation, Nassif Building, in room 8440, 400 Seventh Street, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Marlene Vermillion, Flight Standards Service, Air Transportation Division (AFS–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8166.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee (ARAC) to be held on December 1, 1993, at the Department of Transportation, Nassif Building, room 8440, 400 Seventh Street, SW., Washington, DC. The agenda for this meeting will include progress reports from the Air Carrier Working Group and the Cabin Safety Working Group. Each working group Chair will report on the progress of the working group. In addition, the Air Carrier Working Group will present its recommendation to the ARAC regarding Part 135. There also will be a briefing on the ARAC procedures.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Because of increased security in Federal buildings, members of the public who wish to attend are advised to arrive in sufficient time to be cleared through building security.

Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

Issued in Washington, DC, on November 10, 1993.

Thomas Toula,

Executive Director for Training and Qualifications, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–28124 Filed 11–15–93; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: City of Alexandria, VA; Prince George's County, MD; Washington, DC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a Draft Environmental Impact Statement/Section 4(f) Evaluation will be prepared for a proposed highway project in Alexandria, Virginia, Prince George's County, Maryland, and Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert E. Gatz, Director, Office of Planning and Program Development, Federal Highway Administration, 10 S. Howard Street, Baltimore, Maryland 21201, Telephone: (410) 962–3742 or Jorg Huckabee, Project Coordinator, 211 North Union Street, Suite 111, Alexandria, Virginia 22314, Telephone: (703) 519–9800.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Maryland and Virginia Departments of Transportation and the District of Columbia Department of Public Works will prepare a supplement to the Draft Environmental Impact Statement/Section 4(f) Evaluation for a proposal to improve the Woodrow Wilson Bridge and the I–95 approach roadway network between Telegraph Road (Rte. 241) in Virginia and Indian Head Highway (Rte. 210) in Maryland; a distance of approximately five miles. Improvements to the bridge and roadways are considered necessary to improve the structural integrity of the existing bridge and to provide for current and projected traffic demands. The original Draft Environmental Impact Statement/Section 4(f) Evaluation for the improvements (FHWA–MD–VA–DC–EIS–91–01–D) was approved on August 26, 1991.

Alternatives under consideration include: (1) Taking no action (no build), (2) mass transit, (3) Transportation Systems Management (improving present systems) and (4) build alternatives based on upgrading the existing facility and construction on a new alignment.

A multi-jurisdictional Coordination Committee consisting of Federal, state, and local representatives has been formed to provide guidance and input towards identifying a solution which enhances mobility while assuring that community and environmental concerns are addressed. The previously established scoping process will continue and an expanded public outreach program will be implemented. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, state, and local agencies, and to private citizens and groups who have previously expressed or are known to have an interest in this proposal.

Public notice will be given of the time and place of all public meetings and hearings. The Draft Environmental Impact Statement/Section 4(f) Evaluation will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. A Woodrow Wilson Bridge Study and Design Center has been established at 211 North Union Street, Suite 111, Alexandria, Virginia, and will be open to the general public: Monday—Thursday 10 a.m. to 7 p.m. and Friday 10 a.m. to 5 p.m.

Comments or questions concerning the proposed action or the Environmental Impact Statement/Section 4(f) Evaluation should be sent to the Study and Design Center or the FHWA at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372 regarding intergovernmental consultation on Federal

Programs and activities apply to this program.)

Robert E. Gatz,

Director, Office of Planning and Program Development, Region 3, Baltimore, Maryland.

[FR Doc. 93–28153 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–22–M

Federal Transit Administration

[FHWA Docket No. 93–33]

Study of Axle Weights of Public Transit Buses; Request for Comments

AGENCIES: Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), DOT.

ACTION: Notice; request for comments.

SUMMARY: This is a joint request for information to assist the Secretary of Transportation (Secretary) in responding to a requirement in section 1023(h) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to conduct a study of the maximum axle weight limits of public transit vehicles on the Interstate Highway System. The study results must be submitted to Congress by April 6, 1994. All the responses and comments will be fully considered before the study is submitted.

DATES: Responses to this request must be received on or before February 14, 1994.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 93–33 Federal Highway Administration, Room 4232, HCC–10, Office of the Chief Counsel, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 4:15 p.m. e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Klimek, Office of Motor Carrier Information Management, at (202) 366–2212, Mr. Charles Medalen, Office of Chief Counsel, at (202) 366–1354, Federal Highway Administration; or Mr. Vincent R. DeMarco, Office of Engineering Evaluation, at (202) 366–0224, Mr. Richard Wong, Office of Chief Counsel, at (202) 366–1936, Federal Transit 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: Section 341 of the DOT and Related Agencies Appropriations Act, Public Law 102–388, 106 Stat. 1520, at 1552, amended section 1023 of the ISTEA, Public Law 102–240, 105 Stat. 1914, by adding a new paragraph (h), which, in paragraph (h)(2), required the Secretary to conduct a study of the maximum axle weight limits of "public transit vehicles" on the Interstate System. In paragraph (h)(1), the legislation also exempted "any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus" from the single- and tandem-axle weight limits imposed on the Interstate System by the second sentence in 23 U.S.C. 127 for 2 years from the effective date of the legislation, October 6, 1992. By using this language Congress evidently intended the subject of the study to be broader than the exemption. We do not believe, however, that the study should consider all vehicles that may transport the public. For example, it is unlikely that school buses would ever exceed Interstate axle weight limits. Furthermore, based on the language in paragraph (h)(2), we believe that "public transit vehicles" mean only those operated for or on behalf of a public agency, and not just any vehicle used to transport the public. Consequently, comments are sought on public transit vehicles which are operated by or on behalf of a political jurisdiction or regional transportation agency to transport the general public on specified routes which include the streets and highways within such jurisdiction and neighboring jurisdictions but excluding school buses. Such vehicles will be referred to as public transit buses in this notice.

The statute requires the Secretary to consider current public transit bus design standards, the implications for such standards of the Americans with Disabilities Act of 1990 (ADA) and Clean Air Act (CAA) requirements, and the potential impact of revised design standards on public transit bus ridership capacity, operating and replacement costs, air quality concerns, and highway wear and tear.

Axle weight limits which all States must adopt and enforce on the Interstate System are set forth in 23 U.S.C. 127. These are 20,000 pounds on a single axle and 34,000 pounds on a tandem axle. The latter is defined in 23 CFR 658.5(j) as two or more consecutive axles more than 40 inches apart but not more than 96 inches apart. Higher axle weight limits which were in effect in a State on July 1, 1956, are "grandfathered." Failure of a State to adopt and enforce these weight limits on the Interstate System may result in that State being penalized by the loss of Federal highway funds otherwise available under 23 U.S.C. 104.

The issue of overweight rear axles on public transit buses has surfaced periodically over the years. In its review of Washington State's certification of size and weight enforcement for FY 1990, the FHWA noted that the State issued permits to allow overweight rear axles on articulated public transit buses operated on the Interstate System in Seattle. Resolution of the matter was deferred pending further study of the problem by the FHWA. These efforts were superseded by the legislation requiring this study.

The most recent incident relating to the rear axle weight of public transit buses occurred in the fall of 1991 when the California Highway Patrol (CHP) began enforcing the State's single-axle weight limit against public transit buses in Orange County, California. A letter dated January 24, 1992, from the Orange County Transit Authority (OCTA) indicated that the CHP required passengers to be off-loaded from some buses until legal axle loads were achieved. In a letter dated February 11, 1992, the CHP asked that the FHWA investigate the matter of OCTA bus acquisitions and advised that it would continue to enforce the State's single-axle weight limit. One of the justifications offered to the OCTA by the CHP is that failure of the State to enforce axle weight limits on the Interstate System could result in the State being penalized by the loss of Federal highway funds under 23 U.S.C. 141(c)(2).

Based on information from the FTA's Altoona Bus Testing and Research Center and a 1983 Battelle Report, "Test Bed Transit Bus Fuel Economy Tests" [UMTA–IT–06–0219–11–2], the FTA compiled the following chart of buses currently available from manufacturers. "Curb weight" means a fully fueled bus without passengers; "seated weight" is the curb weight plus full seated capacity at 150 pounds per passenger; and "standing weight" is the seated weight plus full standee capacity at 150 pounds per 1.5 square feet of free floor space. "ADB" means Advanced Design Buses which refers to the current standard design adopted in the late 1970's, "CNG" means compressed natural gas and "LNG" means liquified natural gas.

AXLE WEIGHTS—STANDARD SIZE HEAVY DUTY PUBLIC TRANSIT BUSES

Bus manufacturer	Front axle weight	Rear axle weight	Pass. seated/standing	Rear axle over weight
Flexible 870, ADB, 40'*:				
Curb Weight	7,940	18,240	0/0	0
Seated Weight	10,970	21,970	48/0	1,970
Standing Weight	12,820	24,050	48/24	4,050
Flexible 870, CNG, ADB, 40':				
Curb Weight	12,375	19,725	0/0	0
Seated Weight	14,875	23,975	45/0	3,975
Standing Weight	16,375	26,975	45/30	6,975
Gillig Phantom, ADB, 40':				
Curb Weight	10,200	18,450	0/0	0
Seated Weight	12,950	22,700	46/0	2,700
Standing Weight	14,500	25,600	46/30	5,600
Stewart & Stevenson T–40 Apollo, ADB, 40':				
Curb Weight	9,250	18,450	0/0	0
Seated Weight	12,010	22,590	46/0	2,590
Standing Weight	12,850	26,250	46/30	6,250
Neoplan AN440A, ADB, 40'*:				
Curb Weight	8,990	18,840	0/0	0
Seated Weight	11,650	22,480	42/0	2,480
Standing Weight	12,900	24,780	42/21	4,780
Ikarus 416, LNG, ADB, 40':				
Curb Weight	11,500	20,215	0/0	215
Seated Weight	14,100	24,325	44/0	4,325
Standing Weight	15,130	27,400	44/29	7,400
Ikarus 416, ADB, 40':				
Curb Weight	10,100	18,860	0/0	0
Seated Weight	12,740	22,820	44/0	2,820
Standing Weight	14,600	25,760	44/32	5,760
BIA Orion V, ADB, 40':				
Curb Weight	8,573	17,307	0/0	0
Seated Weight	11,424	21,356	47/0	1,356
Standing Weight	14,499	25,040	47/43	5,040
BIA Orion V 502, ADB, 36':				
Curb Weight	8,800	17,900	0/0	0
Seated Weight	10,300	21,450	36/0	1,450
Standing Weight	12,450	23,750	36/28	3,750
New Flyer D–40, 40':				
Curb Weight	9,900	18,600	0/0	0
Seated Weight	12,450	22,900	46/0	2,900
Standing Weight	15,050	26,050	46/38	6,050
New Flyer D–40LFS, 40':				
Curb Weight	7,700	17,850	0/0	0
Seated Weight	8,800	21,050	29/0	1,050
Standing Weight	10,800	22,600	29/23	2,600
New Flyer D–35, 35':				
Curb Weight	9,100	18,150	0/0	0
Seated Weight	11,500	21,750	40/0	1,750
Standing Weight	14,000	23,800	40/30	3,800
TMC T80206 RTS, ADB, 40' Methanol:				
Curb Weight	9,750	19,400	0/0	0
Seated Weight	12,650	23,050	45/0	3,050
Standing Weight	15,050	26,300	45/35	6,300
TMC T80208 RTS, ADB, 40':				
Curb Weight	10,000	17,600	0/0	0
Seated Weight	12,700	21,500	45/0	1,500
Standing Weight	14,250	25,200	45/34	5,200

Articulated Buses

Bus manufacturer	Front axle weight	Mid axle weight	Rear axle weight	Pass. seated/standing	Rear axle overweight
Breda 350, 61':					
Curb Weight	13,200	15,545	20,450	0/0	450
Seated Weight	14,000	21,500	23,145	64/0	3,145
Standing Weight	14,800	26,360	26,360	64/59	6,360
Ikarus 436, 60':					
Curb Weight	12,000	10,200	20,400	0/0	400
Seated Weight	13,500	15,000	24,000	60/0	4,000

Articulated Buses

Bus manufacturer	Front axle weight	Mid axle weight	Rear axle weight	Pass. seated/standing	Rear axle overweight
Standing Weight	15,050	20,060	26,540	60/67	6,540

*From Battelle Report UMTA-IT-06-0219-11-2. All other data obtained from Altoona Bus Testing Center.

Comments are requested on the following matters and any others relating to the study:

1. Are there vehicles other than those covered by the definition which should be included in the study? Please advise which ones, if any, and why they should be included.

2. Is the chart included in this notice reasonably accurate? If not, what specific changes should be made and why?

3. In what jurisdictions (such as cities, counties, or transportation districts) in each State are public transit buses operated on the Interstate System?

4. Do public transit buses in any of these jurisdictions operate under overweight permits for single axles, middle axles on articulated three-axle buses, and rear axles? If so, how much overweight is allowed on each? How long a period of time do such permits cover, and what do they cost?

5. How many new public transit buses are purchased for use in the United States each year? Where does the money come from to purchase them?

6. How many miles do public transit buses with overweight single, middle, and/or rear axles operate on the Interstate System in each jurisdiction or State each year?

7. How much additional weight, if any, will single front and rear axles on public transit buses each have to carry in order to comply with the ADA and CAA? Please specify, in general, what additional systems or equipment will be needed to comply with these Acts. What will be the impact of these requirements on operating and replacement costs of transit buses, air quality, and highway wear and tear?

8. What effect would designing public transit buses to meet the current 20,000-pound single-axle weight limit have on transit riding capacity, operating and replacement costs, air quality, and highway wear and tear?

9. What are the problems associated with the use of tandem axles on public transit buses (e.g., maintenance, passenger capacity, cost, maneuverability, etc.)? If tandem middle and rear axles were required, should the use of existing public transit buses continue to be allowed for some period of time? If so, how long?

10. What is the average useful life of public transit buses? Is there a market for used public transit buses? What are the three most important factors, according to rank, affecting the selling price of used public transit buses?

11. Would it be feasible to design two types of public transit buses, one to meet the axle weight limit on the Interstate System and the other designed for use off that system? Please give reasons.

12. How much reduction in the weight of public transit buses could be achieved with little or no reduction in passenger safety by the use of carbon fiber (graphite) compounds, "honeycomb sandwich" panels, and other aerospace-type materials? How would the cost of such buses compare with those presently in use?

13. Should a permanent exemption from the Interstate System single-axle weight limit be authorized for public transit buses, or should the single-axle weight limit for public transit buses be raised to some higher limit? If so, what should that higher limit be? Please explain.

14. Should the FHWA adopt a policy to consider public transit buses with passengers nondivisible so that States could issue overweight permits to authorize them to use the Interstates? Why or why not?

15. What efforts have been made by public transit bus manufacturers to comply with the maximum single-axle Interstate System weight limit? Cite specific weight reduction programs and the results.

16. Without a major redesign of public transit buses, could a weight reduction program be expected to bring new buses into compliance with the single-axle weight limit on the Interstate System? Why or why not?

17. What would be the estimated time and cost required to design, test, and put into production a single rear-axle public transit bus that would meet the Interstate single-axle weight limit as well as all other applicable Federal, State, and local requirements? What would be the estimated production cost of such a public transit bus?

(Sec. 1023, Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, 105 Stat. 1914, as amended by sec. 341, Pub. L. 102-388, 106 Stat. 1520)

Issued on: November 8, 1993.

Rodney E. Slater,

Federal Highway Administrator.

Gordon J. Linton,

Federal Transit Administrator.

[FR Doc. 93-28143 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-22-P

National Motor Carrier Advisory Committee Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces a public meeting of the National Motor Carrier Advisory Committee. The focus of the meeting is on: (1) Regulatory Update - Drug and Alcohol Testing, (2) Overview on the Integration of the Numerous Programs in the Office of Motor Carriers, (3) Environmental Protection Agency and DOT Study on Air Quality Conformity, and (4) Subcommittee reports on: the North American Free Trade Agreement, Driver Training, Zero Base Regulatory Review, and the Sharing the Road Project.

DATES: The meeting will be from 8 a.m. to 5 p.m. on December 1, 1993.

ADDRESSES: Federal Highway Administration, 400 Seventh Street, SW., Room 2201, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas J. McKelvey, HIA-20, Room 3104, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 366-1861. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal Federal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: November 9, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93-28144 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-22-P

National Recreational Trails Advisory Committee; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA announces a public meeting of the National Recreational Trails Advisory Committee, as authorized by the National Recreational Trails Fund Act (the Act) (sections 1301 through 1303 of the Intermodal Surface Transportation Efficiency Act of 1991; Public Law 102–240, 105 Stat. 1914, 2064). The focus of the meeting will be to review the utilization of National Recreational Trails funds by States, and make recommendations for changes in Federal policy to advance the purposes of the Act. Discussion topics will include alternative funding sources for State trail programs, concerns of State Trail Administrators, trail research needs, and trail information dissemination.

DATES: The meeting will be December 2, 1993, from 8:30 a.m. to 5 p.m. e.t., and December 3, 1993, from 8:30 a.m. to 2 p.m. The meeting is open to the public.

ADDRESSES: The meeting will be held at the Ritz-Carlton Hotel, Pentagon City, 1250 South Hayes Street, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Christopher B. Douwes, Federal Highway Administration, Intermodal Division, HEP–50, (202) 366–5013; or John K. Kraybill, Office of the Chief Counsel, HCC–31, (202) 366–1367; 400 Seventh St., 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.

(Sections 1301 through 1303, Pub. L. 102–240, 105 Stat. 1914, 2064; 23 U.S.C. 315; 49 CFR 1.48).

Issued on: November 5, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93–28063 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–22–P

Federal Transit Administration

Environmental Impact Statement on the Proposed Newark-Elizabeth Rail Link Project Between Elizabeth, Union County, New Jersey and Newark, Essex County, NJ

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Federal Transit Administration (FTA) and the New Jersey Transit Corporation (NJ TRANSIT) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act of 1969 (NEPA) on a proposal by the New Jersey Transit Corporation for the extension of the Newark City Subway between the central business district of the City of Newark and the central business district of the City of Elizabeth ("midtown Elizabeth").

The proposed project, known as the Newark-Elizabeth Rail Link (NERL), will extend from the Newark City Subway at Orange Street, connecting the Broad Street Station on the Morris & Essex Division of NJ Transit's commuter rail system, Newark Penn Station on the Northeast Corridor, major activity centers within downtown Newark, Newark International Airport, the Division Street area of Elizabeth and Midtown Elizabeth Station on the Northeast Corridor.

The proposed project also includes construction of a light rail transit vehicle base facility. In addition to serving the NERL vehicle fleet, the vehicle base facility could potentially service vehicles for the Newark City Subway (NCS) and other possible future NJ Transit light rail lines, and replace the present City Subway maintenance and storage facility located in Newark Penn Station.

A separate study is currently being conducted by NJ Transit to determine the need for rehabilitation and/or replacement of vehicles, maintenance and storage facilities for the NCS. At the conclusion of that study, should it be determined that an environmental assessment (EA) or environmental impact statement (EIS) is needed for the NCS improvements, an EA or EIS will be initiated at that time. If it is also determined that the NERL Light Rail Vehicle (LRV) Base Facility should be used to service the NCS fleet, the NERL LRV Base Facility will also be included in the NCS EA/EIS as a separate project.

In addition to the NERL project, the EIS will evaluate the No-Build Alternative and any new alternatives generated through the Scoping Process.

Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state and local agencies, four public scoping meetings, and one interagency scoping meeting.

DATES: *Comment Due Date:* Written comments on the scope of alternatives and impacts must be submitted by December 27, 1993. Written comments should be sent to Dr. Jerome M. Lutin, Senior Director, Newark-Elizabeth Rail Link Division, NJ TRANSIT, One Penn Plaza East, Newark, New Jersey, 07105–2246. Verbal comments should be made at one of the four public scoping meetings scheduled below. *Scoping Meetings:* Public scoping meetings concerning the proposed NERL Project will be held on:

Wednesday, December 1, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Elizabeth City Hall, 50 Winfield Scott Plaza, Elizabeth, New Jersey 07201

Thursday, December 2, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Newark City Hall, 920 Broad Street, Newark, New Jersey 07102

Wednesday, December 8, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Bloomfield Municipal Building, Bloomfield Municipal Plaza, Bloomfield, New Jersey 07003

Thursday, December 9, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Belleville Township Hall, 152 Washington Avenue, Belleville, New Jersey 07109

An inter-agency scoping meeting will be held on Friday, December 10, 1993, from 9 a.m. to 11 a.m., at New Jersey Transit Headquarters, 9th Floor Board Room, One Penn Plaza East, Newark, New Jersey 07105–2246.

ADDRESSES: *Written Comments on the project scope should be sent to:* Dr. Jerome M. Lutin, Senior Director, Newark-Elizabeth Rail Link Division, NJ TRANSIT, One Penn Plaza East, Newark, New Jersey 07105–2246. *Scoping Meetings:* Public scoping meetings concerning the proposed NERL Project will be held at the following locations:

Wednesday, December 1, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Elizabeth City Hall, 50 Winfield Scott Plaza, Elizabeth, New Jersey 07201

Thursday, December 2, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Newark City Hall, 920 Broad Street, Newark, New Jersey 07102

Wednesday, December 8, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Bloomfield Municipal Building, Bloomfield Municipal Plaza, Bloomfield, New Jersey 07003

Thursday, December 9, 1993, from 2:30 p.m. to 5 p.m. and 6 p.m. to 8 p.m., Belleville Township Hall, 152 Washington Avenue, Belleville, New Jersey 07109

An inter-agency scoping meeting will be held at the following location: Friday, December 10, 1993, from 9 a.m. to 11 a.m., New Jersey Transit Headquarters, 9th Floor Board Room, One Penn Plaza East, Newark, New Jersey 07105–2246.

FOR FURTHER INFORMATION CONTACT: Ms. Letitia Thompson, Acting Regional Administrator, Federal Transit Administration, 26 Federal Plaza, Suite

2940, New York, NY 10278, (212) 264–8162.

SUPPLEMENTARY INFORMATION:

I. Scoping

FTA and NJ TRANSIT invite interested individuals, organizations, and federal, state and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, or environmental issues related to the alternatives. An information packet describing the purpose of the project, the proposed alternatives, the impact areas to be evaluated, the citizen involvement program, and the preliminary project schedule is being mailed to affected federal, state and local agencies and to interested parties on record. Others may request the scoping materials by contacting Dr. Jerome M. Lutin, Senior Director, Newark-Elizabeth Rail Link Division, NJ TRANSIT, One Penn Plaza East, Newark, New Jersey, 07102–2246, or by calling him at (201) 491–7847, or by fax at (201) 491–7837. Scoping comments may be made verbally at any of the public scoping meetings or submitted in writing. See Scoping Meetings section above for the locations and times. During scoping, comments should focus on identifying specific social, economic or environmental impacts to be evaluated and suggesting alternatives which are less costly or less environmentally damaging while achieving similar transportation objectives. Scoping is not the appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS has been completed. If you wish to be placed on the mailing list to receive further information as the project develops, contact Dr. Jerome M. Lutin as previously described.

II. Description of Study Area and Project Need

The study area is a north-south corridor approximately 9 miles long and one mile wide between midtown Elizabeth and Broad Street Station in downtown Newark. The study area also extends to the north to include a candidate site for the proposed Light Rail Transit (LRT) vehicle base facility, located near the north end of the Newark City Subway on the Conrail Orange Branch on the Belleville/Bloomfield border. The proposed NERL project is intended to provide fixed rail transit service between key activity centers in Newark and Elizabeth. The project will also provide a downtown circulator function, connecting the Broad Street Station area, the Performing Arts Center (PAC), the Newark Penn Station area, existing and developing major trip generators in the Newark CBD, Newark City Hall and the federal government complex.

III. Alternatives

The alternatives proposed for evaluation include: (1) No Build, which involves no change to transportation services or facilities in the corridor beyond already committed projects, and (2) the NERL project. NERL is approximately a 9-mile-long extension of the Newark City Subway. The NERL would be a light rail transit service, operating at-grade where possible and on aerial guideway where necessary to avoid traffic conflicts at-grade. Stations would be located to serve significant trip generators. Fully constructed, there would be up to 17 new stations on the alignment, with eight to nine stations in downtown Newark, one station in midtown Elizabeth, and remaining stations serving Newark International Airport, Division Street and other intermediate points.

The proposed project also includes construction of a light rail transit vehicle base facility. In addition to serving the NERL vehicle fleet, the vehicle base facility could potentially service vehicles for the Newark City Subway and other possible future NJ Transit light rail lines, and replace the present City Subway maintenance and storage facility located in Newark Penn Station.

The proposed LRT vehicle base facility would replace the existing city subway maintenance facility in Newark Penn Station. The No-Build alternative would call for continued use of the existing facility. LRT vehicle base facility sites under consideration include the Orange Street site in the City of Newark, located between Orange Street and the Morris & Essex Branch of NJ Transit, east of Nesbitt Street, and a site located between Franklin Avenue and Bloomfield Avenue on the Belleville/Bloomfield border.

IV. Probable Effects

FTA will evaluate, in the EIS, all significant social, economic, and environmental impacts of the alternatives. Environmental and social impacts proposed for analysis include land use and neighborhood impacts, traffic and parking impacts near stations, traffic circulation, visual impacts, impacts on cultural and archaeological resources, and noise and vibration impacts. Impacts on air and water quality, groundwater, hazardous waste sites and water resources will also be covered. The impacts will be evaluated both for the construction period and for the long-term period of operation. Measures to mitigate significant adverse impacts will be considered.

V. FTA Procedures

The Environmental Impact Statement (EIS) and the Preliminary Engineering (PE) for the Newark-Elizabeth Rail Link project will be prepared simultaneously. The locally preferred alternative was selected during the Newark-Elizabeth Rail Link Options Study (1993). The EIS/PE process will assess the social, economic and environmental impacts of the proposed project while refining its design to minimize and mitigate any adverse impacts. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing held. On the basis of the Draft EIS and the comments received, and New Jersey Transit Corporation will refine the project design and complete the preliminary engineering and the Final EIS.

Issued On: November 10, 1993.

Letitia Thompson,

Acting Regional Administrator.

[FR Doc. 93–28123 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–57–M

National Highway Traffic Safety Administration

[Docket No. 93–64; Notice 2]

Determination That Nonconforming 1987 Jaguar XJ6 Passenger Cars Are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1987 Jaguar XJ6 passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1987 Jaguar XJ6 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1987 Jaguar XJ6), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective on November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports, Inc. of Landsdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1987 Jaguar XJ6 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 9, 1993 (58 FR 47525) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #47 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1987 Jaguar XJ6 not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1987 Jaguar XJ6 originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–28129 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–62; Notice 2]

Determination That Nonconforming 1972 Alfa Romeo Spider Passenger Cars Are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1972 Alfa Romeo Spider passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1972 Alfa Romeo Spider passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1972 Alfa Romeo Spider), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective on November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) petitioned NHTSA to determine whether 1972 Alfa Romeo Spider passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 7, 1993 (58 FR 47175) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #44 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1972 Alfa Romeo Spider not originally manufactured to comply with all applicable Federal motor vehicle

safety standards is substantially similar to a 1972 Alfa Romeo Spider originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-28130 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-63; Notice 2]

Determination That Nonconforming 1991 BMW 518i Passenger Cars Are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1991 BMW 518i passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1991 BMW 518i passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1991 BMW 525i), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective on or before November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R-90-009) petitioned NHTSA to determine whether 1991 BMW 518i passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 9, 1993 (58 FR 47525) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #46 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1991 BMW 518i is substantially similar to a 1991 BMW 525i originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and that the 1991 BMW 518i is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93-28131 Filed 11-15-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-65; Notice 2]

Determination That Nonconforming 1969 Volkswagen 119 "Beetle" Passenger Cars Are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1969 Volkswagen 119 "Beetle" passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1969 Volkswagen 119 "Beetle" passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S. -certified version of the 1969 Volkswagen 119 "Beetle"), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49

CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Landsdale, Pennsylvania (Registered Importer R–90–009) petitioned NHTSA to determine whether 1969 Volkswagen 119 "Beetle" passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 17, 1993 (58 FR 48704) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #49 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1969 Volkswagen 119 "Beetle" not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1969 Volkswagen 119 "Beetle" originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3) (A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–28133 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 93–61; Notice 2]

Determination That Nonconforming 1991 Mercedes-Benz 190E Passenger Cars Are Eligible for Importation

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

ACTION: Notice of determination by NHTSA that nonconforming 1991 Mercedes-Benz 190E passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1991 Mercedes-Benz 190E passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1991 Mercedes-Benz 190E), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective on November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

G&K Automotive Conversion, Inc. (G&K) of Santa Ana, California (Registered Importer R–90–007) petitioned NHTSA to determine whether 1991 Mercedes-Benz 190E (Model ID 201.124) passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 7, 1993 (58 FR 47176) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #45 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1991 Mercedes-Benz 190E not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1991 Mercedes-Benz 190E originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i) (I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 9, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–28150 Filed 11–15–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: Adjacent Gravesite Set-Aside Survey (1-Year)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This documents lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Office of Information Resources Management (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Existing Collection in Use Without OMB Control Number

1. Adjacent Gravesite Set-Aside Survey (1-Year)
2. The information is needed to determine if individuals holding gravesite set-asides in national cemeteries wish to retain the set-aside and whether their eligibility for the set-aside has been affected.
3. Individuals or households
4. 7,000 hours
5. 10 minutes
6. Annually
7. 42,000 respondents

[FR Doc. 93-28040 Filed 11-15-93; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Application for Annual Clothing Allowance, VA Form 21-8678

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administrative (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Application for Annual Clothing Allowance, VA Form 21-8678
2. The form is used to gather information required to determine that a veteran's service connected disability causes the wearing or use of a prosthetic or orthopedic application which tends to wear out or tear clothing. The information is used by VA to determine if the veteran is entitled to a clothing allowance payment.
3. Individuals or households
4. 1,120 hours
5. 10 minutes
6. On occasion
7. 6,720 respondents

[FR Doc. 93-28047 Filed 11-15-93; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Application for Automobile or Other Conveyance and Adaptive Equipment, VA Form 21-4502

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Application for Automobile or Other Conveyance and Adaptive Equipment, VA Form 21-4502
2. The form is used to gather the necessary information to determine eligibility for financial assistance in the purchase of an automobile or other vehicle and/or the necessary adaptive equipment. The information is used by VA to determine initial and continuing eligibility for benefits.
3. Individuals or households
4. 375 hours
5. 15 minutes
6. On occasion
7. 1,500 respondents

[FR Doc. 93-28037 Filed 11-15-93; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Application for Designation as Management Broker, VA Form 26–6685

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Application for Designation as Management Broker, VA Form 26–6685
2. The information is used to determine the qualifications and acceptability of local management brokers who apply to participate in the sale and management of VA-owned properties.
3. Individuals or households
4. 63 hours
5. 15 minutes
6. On occasion
7. 250 respondents

[FR Doc. 93–28038 Filed 11–15–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Statement of Marital Relationship, VA Form 21–4170

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information; (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Statement of Marital Relationship, VA Form 21–4170
2. The form is used to gather the necessary information to determine if the veteran has established an other than ceremonial marriage. The information is used by VA to determine entitlement to spousal benefits.
3. Individuals or households
4. 3,000 hours
5. 30 minutes
6. On occasion
7. 6,000 respondents

[FR Doc. 93–28042 Filed 11–15–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Pension Claim Questionnaire for Farm Income, VA Form 21–4165

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Pension Claim Questionnaire for Farm Income, VA Form 21–4165
2. The form is used to obtain income and asset information to determine VA payment eligibility of veterans and dependents engaged in farming.
3. Individuals or households
4. 12,500 hours
5. 30 minutes
6. On occasion
7. 25,000 respondents

[FR Doc. 93–28046 Filed 11–15–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Request for Determination of Eligibility and Available Loan Guaranty Entitlement, VA Form 26–1880

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable, (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Request for Determination of Eligibility and Available Loan Guaranty Entitlement, VA Form 26–1880.
2. The form is completed by an applicant to establish eligibility for Loan Guaranty benefits, request restoration of entitlement previously used, or request a duplicate Certificate of Eligibility due to the original being lost or stolen. The information is used by VA to determine eligibility for Loan Guaranty benefits.
3. Individuals or households.
4. 164,692 hours.
5. 15 minutes.
6. On occasion.
7. 658,768 respondents.

[FR Doc. 93–28045 Filed 11–15–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Student Beneficiary Report-REPS, VA Form 21–8938

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Student Beneficiary Report-REPS, VA Form 21–8938
2. The form is used to verify a student beneficiary's school attendance and continued eligibility for REPS (Restored Entitlement Program for Survivors) benefits payments.
3. Individuals or households
4. 1,767 hours
5. 20 minutes
6. On occasion
7. 5,300 respondents

[FR Doc. 93–28043 Filed 11–15–93; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review: Application for Survivors' and Dependent's Educational Assistance (Under Provisions of Chapter 35, Title 38, U.S.C.), VA Form 22–5490

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Application for Survivors' and Dependents' Educational Assistance (Under Provisions of Chapter 35, Title 38, U.S.C.), VA Form 22–5490
2. The form is used to gather the necessary information to determine the entitlement of a veteran or serviceperson's son, daughter, spouse or surviving spouse to educational assistance under chapter 35 benefits. The information is used by VA to determine eligibility.
3. Individuals or households
4. 10,000 hours
5. 30 minutes
6. On occasion

7. 20,000 respondents

[FR Doc. 93-28039 Filed 11-15-93; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Statement of Witness to Accident, VA Form Letter 21-806

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) the title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Statement of Witness to Accident, VA Form Letter 21-806
2. The form letter is used to obtain information from a witness to determine if a veteran's accidental injury was the result of his/her misconduct. The information is used by VA to determine entitlement to disability benefits.
3. Individuals or households
4. 4,400 hours
5. 20 minutes
6. On occasion
7. 4,400 respondents

[FR Doc. 93-28041 Filed 11-15-93; 8:45 am]

BILLING CODE 8320-01-M

Information Collection Under OMB Review: Work Study Time Record (Veterans-Student Services), VA Form 4-8690

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondents; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Patti Viers, Office of Information Resources Management (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3172.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395-7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 16, 1993.

Dated: November 4, 1993.

By direction of the Secretary.

B. Michael Berger,

Director, Records Management Service.

Extension

1. Work Study Time Record (Veterans-Student Services), VA Form 4-8690
2. The form is used to record hours worked by work study participants under VA Work Study Program and to support payment allowance. The information is used by VA to process payment to the work study participant.
3. Individuals or households—Small businesses or organizations
4. 10,380 hours
5. 15 minutes
6. On occasion
7. 41,520 respondents

[FR Doc. 93-28044 Filed 11-15-93; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 219
Tuesday, November 16, 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).

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published in the Federal Register on November 10, 1993.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Friday, November 12, 1993.

CHANGES IN THE MEETING: *Deletion of the following open item from the agenda:*

1. Publication for comment of revision of Regulation E (Electronic Fund Transfers).
2. Proposed amendments to Regulation E (Electronic Fund Transfers) to cover Electronic Benefit Transfer (EBT) programs established by Federal, State, or local agencies. (Proposed earlier for public comment; Docket No. R-0796.) Q04

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 12, 1993

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-28311 Filed 11-12-93; 3:21 pm]

BILLING CODE 6210-01-P

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11 a.m., Monday, November 22, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-28312 Filed 11-12-93; 3:21 pm]

BILLING CODE 6210-01-P

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-93-34]

TIME AND DATE: November 22, 1993 at 4:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731-TA-663 (Preliminary) (Certain Paper Clips from China)—briefing and vote.
5. Continuation of discussion of APO Matters
6. Outstanding action jackets:
   1. EC-93-014, The Economic effects of Significant U.S. Imports Restraints in Inv. No. 332-235
   2. GC-93-121, **Federal Register** notice of proposed rulemaking for section 201.6 of the Commission's rules of practice and procedures
   3. ID-93-022, Global Competitiveness of U.S. Advanced Technology Industries: Computers

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary (202) 205-2000.

Issued: November 10, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-28310 Filed 11-12-93; 3:21 pm]

BILLING CODE 7020-02-P

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 15, 1993.

An open meeting will be held on Wednesday, November 17, 1993, at 10:00 a.m., in Room 1C30. A closed meeting will be held on Thursday, November 18, 1993, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Roberts, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Wednesday, November 17, 1993, at 10:00 a.m., will be:

The Commission will meet with members of the Financial Accounting Standards Board to discuss including stock compensation, financial instruments, and other projects, including consolidations and impairment of long-lived assets. For further information, please contact Robert Lavery at (202) 272-3081.

The subject matter of the closed meeting scheduled for Thursday, November 18, 1993, at 10:00 a.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Blair Thomas at (202) 272-2300.

Dated: November 10, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93-28313 Filed 11-12-93; 3:21 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following open meeting during the week of November 22, 1993.

An open meeting will be held on Monday, November 22, 1993, at 10:00 a.m., in Room 1C30.

The subject matter of the open meeting scheduled for Monday, November 22, 1993, at 10:00 a.m., will be:

Consideration of whether to adopt amendments to the executive compensation disclosure rules. The amendments were proposed for comment on August 9, 1993 in Release No. 33–7009 and the comment period expired on October 15, 1993. The amendments will broaden the class of persons covered by the rules, require disclosure of year-end restricted stock holdings in all cases, require registrants to set forth material assumptions and adjustments used in any grant-date valuation of options, and change the point in time at which the market capitalization of a peer group index or market capitalization index is calculated from the end of the period for which a return is indicated to the beginning of such period. In addition, the Commission is adopting several technical amendments. For further information, please contact Gregg W. Corso, Paula Dubberly, Brian L. Henry or Thomas D. Twedt at (202) 272–3097.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Holly Smith at (202) 272–2000.

Dated: November 10, 1993.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–28314 Filed 11–12–93; 3:22 pm]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1462]

TIME AND DATE: 10 a.m., November 17, 1993.

PLACE: TVA Knoxville Office Complex, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on October 20, 1993.

Action Items

New Business

C—Energy

C1. Energy Efficiency Initiatives.

C2. Non-firm Power.

E—Real Property Transactions

E1. Grant of Permanent Easement to the Tennessee Department of Transportation Affecting Approximately 10.85 Acres of Land on Chickamauga Lake.

E2. Grant of Permanent Easement to the Tennessee Department of Transportation Affecting Approximately 6.23 Acres of Land on Kentucky Lake.

E3. Grant of Nonexclusive Permanent Easement to South Central Bell Telephone Company Affecting Approximately 9.61 Acres of Land on Watts Bar Lake.

E4. Sale of Noncommercial, Nonexclusive Permanent Easement to Ronald Cardwell and William Matheny Affecting Approximately 0.24 Acre of Land on Tellico Lake.

E5. Land Exchange by the United States Department of Agriculture, Forest Service, Affecting Approximately 25.3 Acres of Land on Fontana Lake.

E6. Land Exchange by the United States Department of Agriculture, Forest Service, Affecting Approximately 1,275 Acres of Land on Fontana Lake.

E7. Land Reconveyance by the United States Department of Agriculture, Forest Service, Affecting Approximately 0.26 Acre of Land on Chatuge Lake.

E8. Abandonment of a TVA Road Right-of-Way Affecting Approximately 0.8 Acre of Land on Chickamauga Lake.

E9. Abandonment of a Road Right-of-Way Affecting Approximately 3.0 Acres in Exchange for Permanent Road Right-of-Way Easement Affecting Approximately 2.75 Acres of Land on Wheeler Lake.

E10. Declaration of Surplus Land and the Authorization of Sale Affecting Approximately 201 Acres of Land on Beech Lake.

F—Unclassified

F1. Filing of Condemnation Cases.

F2. Delegation to Develop Arrangements to Sell Steam to E. I. DuPont De Nemours & Company at New Johnsonville, Tennessee.

F3. Award of a 5-Year Requirements Contract for Limestone at Paradise Fossil Plant.

F4. Supplement to Contract with Stone and Webster Engineering Corporation for Architect/Engineering Services at Sequoyah Nuclear Plant, Subject to Satisfactory Negotiations and Final Review Prior to Execution.

F5. Award of a Contract with Engineering Solutions, Inc. for Professional Support Personnel at Browns Ferry Nuclear Plant, Subject to Satisfactory Negotiations and Final Review Prior to Execution.

Information Items

1. Merger of the Voluntary Retirement Savings and Investment Plan Into the Savings and Deferral Retirement Plan.

2. Fiscal Year 1993 Success Sharing Award.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

Dated: November 10, 1993.

William L. Osteen,

Associate General Counsel and Assistant Secretary.

[FR Doc. 93–28193 Filed 11–12–93; 9:34 am]

BILLING CODE 8120–08–M

Corrections

Federal Register
Vol. 58, No. 219
Tuesday, November 16, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MN-24-1-5912; FRL-4734-8]

Designation of Areas for Air Quality Planning Purposes; Minnesota

Correction

In rule document 93-23208 beginning on page 50275 in the issue of Monday, September 27, 1993, make the following correction:

§ 81.324 [Corrected]

1. On page 50281, in § 81.324, in the table entitled "Minnesota—CO", in the Benton County entry, in the third column, "Nonattainment" should read "Attainment".

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. TA-131-20, 503(a)-25, and 332-346]

President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences

Correction

In notice document 93-26500 beginning on page 57710 in the issue of Tuesday, October 26, 1993 make the following correction:

1. On page 57711, Annex I was published incorrectly and should read as set forth below:

Annex I (HTS Subheadings) [1]

A. Petitions to add products to the list of eligible articles for the Generalized System of Preference (GSP).

0805.30.40	2918.30.20 (pt)	2937.92.80 (pt)
0806.20.10	2921.49.40 (pt)	2937.99.80 (pt)
2309.90.90 (pt)	2933.39.37 (pt)	8529.90.10
2902.11.00	2937.92.20 (pt)	9106.90.80 (pt)

B. Petitions to remove a product from the list of eligible articles for the GSP.

4007.00.00

C. Petitions to remove duty-free status from beneficiary countries for products on the list of eligible articles for the GSP [2]

7308.90.90 (pt) (Venezuela).

D. Petitions for waiver of competitive need limit for products on the list of eligible products for the GSP from the specified country.

4203.21.40 (Philippines)	8521.10.60 (Indonesia)
7113.19.21 (Israel)	8525.20.20 (Philippines)
8402.20.00 (Philippines)	8525.20.50 (Malaysia, Philippines, and both)
8407.34.2080 (Brazil)	8527.31.40 (Malaysia)
8409.91.91 (pt) (Brazil) [1]	8527.32.00 (Malaysia)
8471.20.00 (Indonesia, Malaysia, and both)	8528.10.30 (Malaysia)
8471.91.00 (Indonesia, Malaysia, and both)	8529.90.10 (Indonesia)

[3] Brazil is currently subject to the reduced competitive need limit specified in section 504(c)(a)(B) of the 1974 Act for this HTS subheading.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES-940-03-4210-01-241A; MNES 46016]

Minnesota Chippewa Tribe; Transfer of Submarginal Lands

Correction

In notice document 93-12949 published at 58 FR 31413, Wednesday, June 2, 1993, and 58 FR 34842, Tuesday, June 29, 1993, a portion of the land description was published incorrectly. Section 6 of the land description is reprinted in its entirety for clarification:

3. Fifth Principal Meridian, Minnesota

* * * * *

T. 143 N., R. 39 W.,

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Sec. 6, Lots 3, 4, 5, SE¼NE¼, SE¼NW¼, SE¼SW¼, SW¼SE¼;

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BILLING CODE 1505-01-D

[1] See USTR **Federal Register** notice of October xx, 1993 (xx F.R. xxxxx) for article description.

[2] While the Trade Policy Staff Committee (TPSC) review will focus on the designated country(ies), the TSPC reserves the right to address removal of GSP status for countries other than those specified as well as GSP status for the entire article.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 35121]

Transfer of Lands, Sawyer County, Wisconsin; Correction

Correction

In notice document 93-14854 appearing on page 34275 in the issue of Thursday, June 24, 1993, in the third column, in the **SUMMARY**, in the last line, "Sec. W½NW¼ (70.77)." should read "Sec. 6., W½NW¼ (70.77)."

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-930-4214-10; COC-55885]

Proposed Withdrawal: Opportunity for Public Meeting; Colorado

Correction

In notice document 93-26621 beginning on page 58176 in the issue of Friday, October 29, 1993, in the third column, in **DATES**, in the last line, "January 27, 1993" should read "January 27, 1994".

BILLING CODE 1505-01-D

federal register

Tuesday
November 16, 1993

Part II

Department of Health and Human Services

Office of the Secretary

45 CFR Part 96

Low-Income Home Energy Assistance Program; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 96

Block Grant Programs; Low-Income Home Energy Assistance Program

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to make technical changes to the regulations for the block grant program, the low-income home energy assistance program (LIHEAP), so that dates and terms in the regulation will conform to those appropriate for "forward funding" of the program once it has been implemented and to amend the regulations to specify that transfers of LIHEAP funds to other HHS block grant programs will be eliminated after September 30, 1993, as required by the Augustus F. Hawkins Human Services Reauthorization Act (Act) of 1990. Additionally, this notice of proposed rulemaking proposes to establish submission dates and completion dates for applications for funding from States and territories for LIHEAP, the community services block grant and the social services block grant in order to facilitate compliance with the Cash Management Improvement Act of 1990. It also proposes to establish a completion date for applications for direct funding from Indian tribes and tribal organizations for LIHEAP and for the community services block grant program.

DATES: Comments must be submitted by January 3, 1994.

ADDRESSES: Send comments to: Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade SW., Washington, DC 20447.

The comments received in response to this notice of proposed rulemaking may be inspected or reviewed at the above address, Monday through Friday, between 9 a.m. and 5 p.m., beginning one week after the publication of this notice.

FOR FURTHER INFORMATION CONTACT: Janet M. Fox, 202–401–9351, or Trudy Hairston, 202–401–5319.

SUPPLEMENTARY INFORMATION:

Background

The Augustus F. Hawkins Human Services Reauthorization Act of 1990, Public Law 101–501, was enacted on November 3, 1990.

Title VII of this public law contains amendments to the Low-Income Home Energy Assistance Act of 1981 (title XXVI of Pub. L. 97–35, as amended), including several changes affecting LIHEAP grantee program administration. An Interim Final Rule published January 16, 1992, in the **Federal Register** (57 FR 1960 *et seq.*) promulgated regulatory changes for several provisions which were effective for fiscal year (FY) 1991 and FY 1992. It also indicated that regulations concerning additional changes would be issued at a later date. This notice of proposed rulemaking contains proposed regulatory changes for provisions scheduled in the law to become effective in FY 1993 and FY 1994. These later changes concern "forward funding" and the end of authority to transfer LIBHEAP funds to other HHS block grants. This notice of proposed rulemaking also includes changes to provisions that were originally contained in a notice of proposed rulemaking issued by the Department of Health and Human Services on July 17, 1992 (57 FR 31685) concerning a due date for completion of applications for direct funding of Indian tribes and tribal organizations under LIHEAP and under the community services block grant program. In addition, it proposes to establish submission and completion dates for block grant applications from States and territories.

Forward Funding

A new section, 2602(c), was added to the LIHEAP statute by Public Law 101–501. This section provides that LIHEAP funds will be available for obligation on the basis of a new "program year" of July 1 through June 30, rather than on the normal Federal fiscal year basis of October 1 to September 30. The law provided that this change from a fiscal year to a program year basis, known as "forward funding", would take place beginning in fiscal year (FY) 1993, and that it would be implemented by appropriating funds in the FY 1993 HHS appropriations law for a nine-month transition period of October 1, 1992 to June 30, 1993, and also for the new program year of July 1, 1993 to June 30, 1994, a period of 21 months.

The FY 1993 appropriations law for HHS (Pub. L. 102–394) provided funding for the regular Federal fiscal year 1993, which began October 1, 1992 and ends September 30, 1993. It also provided advance funding for FY 1994 to operate the program for a nine-month transition period of October 1, 1993 to June 30, 1994, thus providing partial implementation of forward funding a year later than authorized. President Clinton's proposed budget for FY 1994 supports implementation of forward funding. It would complete implementation of forward funding by providing funding for the new program year of July 1, 1994 through June 30, 1995 and it is expected that future year appropriations laws will continue the policy of providing forward funding of the program for the new program year. Current regulations require that certain specific existing deadlines apply for the period when funding is on a regular Federal fiscal year basis. This notice of proposed rulemaking provides that new deadlines will become effective once funding is provided for the new program year. In some cases, specific requirements are also included for the transition period to the new program year, whether that period is October 1, 1993 to June 30, 1994, or some later time. Once forward funding is fully implemented, funds that are usually appropriated in the fall will be for activities taking place during the following July 1–June 30 program year. This will allow grantees to have six to nine months advance notice of their funding level for what is primarily a winter heating assistance program.

Application Submission and Completion Dates for States and Territories For Block Grants

Due dates for submission and completion of State and territorial applications for LIHEAP, the community services block grant and the social services block grant are being added to the block grant regulations so that grant awards can be issued as close as possible to the beginning of a grant period.

The Cash Management Improvement Act of 1990, (CMIA, Pub. L. 101–453) imposes requirements for the timely transfer of funds between a Federal agency and a State and for the exchange of interest where transfers are not made in a timely fashion. The CMIA also requires States to minimize the time between the receipt of Federal funds and their disbursement by the State for program purposes.

The establishment of application dates will allow the agency sufficient time to process the applications and issue the awards in a timely manner thus enabling the agency to meet the requirements imposed by the CMIA.

End of Transfer Authority

The LIHEAP statute allowed grantees to transfer to several other HHS block grant programs up to 10% of their allotment between fiscal years 1982 and 1984 and up to 10% of LIHEAP funds payable in a fiscal year during fiscal years 1985 through 1993. However, an amendment to section 2604(f) of the

statute contained in Public Law 101–501 provides that beginning in fiscal year 1994, LIHEAP funds payable to a grantee no longer may be transferred to the HHS block grant programs specified under section 2604(f). This notice of proposed rulemaking proposes to amend the current regulations to be consistent with this new statutory requirement.

The authority for territories to consolidate funding for several programs under one or more HHS programs is not considered a transfer and thus will not terminate in FY 1994. Likewise, LIHEAP funds earmarked for use for weatherization assistance or other energy-related home repair, even if administered by another grantee agency, is not considered a transfer, and this authority will not terminate in FY 1994.

Tribal Application Completion Date

Under the low-income energy assistance program and the community services block grant, Indian tribes and tribal organizations may request direct funding from HHS so that they may provide services directly to their members rather than being served by the State(s) in which they are located. The regulations currently establish a due date of September 1 for the receipt of applications for direct funding of tribes and tribal organizations. A notice of proposed rulemaking issued by the Department on July 17, 1992 (57 FR 31685) proposed establishing a date by which those applications must be completed, as well. That proposal is included in this notice of proposed rulemaking for both LIHEAP and the community services block grant, with amendments to reflect forward funding of LIHEAP.

Section-by-Section Analysis of Proposed Changes in the Regulations

Subpart B—General Procedures

Section 96.10 Prerequisites to Obtain Block Grant Funds

Application Submission and Completion Dates for States and Territories For Block Grants. Due dates for submission and completion of State and territorial applications for LIHEAP, the community services block grant and the social services block grant are being added to the block grant regulations so that grant awards can be issued as close as possible to the beginning of a grant period.

The Cash Management Improvement Act of 1990, (CMIA, Pub. L. 101–453) imposes requirements for the timely transfer of funds between a Federal agency and a State and for the exchange of interest where transfers are not made in a timely fashion. The CMIA also requires States to minimize the time between the receipt of Federal funds and their disbursement by the State for program purposes.

The CMIA applies to States and territories, but it does not apply to Indian tribes or tribal organizations. The notice of proposed rulemaking issued by the Department of July 17, 1992 (57 FR 31685) proposed completion dates for tribal applications for the community services block grant and for the low-income home energy assistance program (LIHEAP). The current notice of proposed rulemaking makes a technical adjustment in the previous date which was given for the completion of tribal applications for LIHEAP in order to implement forward funding.

The establishment of application due dates for States and territories will allow the agency sufficient time to process applications and issue awards in a timely manner, in order to minimize interest charges associated with the CMIA.

For LIHEAP, it is proposed that the submission date for applications be established as of one month before the beginning of the program period. Under forward funding, LIHEAP funds that are normally appropriated in the fall will be for the program year starting the following July. Accordingly, we believe it is appropriate to require submission of the funding application prior to the start of the funding period, since the grantee will have had plenty of time for planning based on their estimated allocation and to hold required public hearings.

For LIHEAP, the date for submission of applications from States and territories is being proposed as June 1 of the preceding program year or transition period. The due date for receipt of all information required for the completion of applications for LIHEAP by States and territories is being proposed as December 31 of the program year for which they are requesting funds. For example, for the program year which begins on July 1, 1994 and ends on June 30, 1995, applications must be submitted by June 1, 1994 and must be completed by December 31, 1994.

We are also proposing that the due date for social services block grant applications be one month prior to the beginning of the funding period. State allocations are established by an entitlement formula based on population. Each fall, estimated State allocations are published in the **Federal Register** for the following funding year, which begins either July 1 or October 1, depending on the State. The funds are not actually appropriated until the following fall, but the allocations printed in the **Federal Register** the previous fall are essentially accurate. For example, projected FY 1994 allocations are published in the **Federal Register** in the fall of 1992 for use beginning on either July 1, 1993 or October 1, 1993, but the funds are not actually appropriated until the fall of 1993. This gives the grantee plenty of time to plan its program activities.

For the social services block grant, accordingly, it is proposed that States and territories which operate on a Federal fiscal year basis submit applications (pre-expenditure reports) for funding by September 1 of the preceding fiscal year. It is proposed that States and territories which operate their social services block grant on a July 1–June 30 basis submit their applications for funding by June 1 of the preceding funding period. For example, for States and territories which operate on the basis of the fiscal year which begins on October 1, 1994, and ends on September 30, 1995, applications must be submitted by September 1, 1994. For social services block grant programs with a funding period which begins on July 1, 1994 and ends on June 30, 1995, applications must be submitted by June 1, 1994. No date is being proposed for completion of social services block grant applications.

The community services block grant program, however, is funded on a Federal fiscal year basis. The funds that are normally appropriated in the fall (sometimes as late as November or December) are for the funding period that began on October 1 of the same fiscal year, and are available for expenditure for a two-year period. In addition, the community services block grant statute requires that the State legislature conduct public hearings on the planned uses and distribution of community services block grant funds. Many State legislatures will not hold hearings until the amount of the community services block grant allocation is made available. Another complicating factor is the timing of legislative sessions. For all these reasons, we do not believe it is appropriate to require submission of the community services block grant applications prior to the beginning of the fiscal year for which funds are being requested.

Accordingly, for the community services block grant, the date for submission of applications from States and territories is being proposed as December 1 of the fiscal year for which funds are requested. The due date for the receipt of all information required

for the completion of applications for the community services block grant by States and territories is being proposed as April 30 of the fiscal year for which they are requesting funds. For example, for the fiscal year which begins on October 1, 1994 and ends on September 30, 1995, applications must be submitted by December 1, 1994, and must be completed by April 30, 1995. The funds which are appropriated in the fall of 1994 must be expended during the period from October 1, 1994 until September 30, 1996.

Section 96.14 Time Period for Obligation and Expenditure of Grant Funds

The LIHEAP statute provides that up to 10 percent of amounts appropriated under the program which are unobligated by grantees at the end of the fiscal year in which they were first allotted, shall remain available for obligation (or carried over to) the succeeding fiscal year. With the implementation of forward funding, up to 10 percent of amounts unobligated by grantees at the end of the program year for which they were first allotted, may be carried over to the succeeding program year.

The authorizing statute provides that LIHEAP funds appropriated for fiscal year 1993 are to be available for the period of October 1, 1992 through June 30, 1993 (the transition period) and July 1, 1993 through June 30, 1994 (initial program year). However, the FY 1993 appropriations law for HHS (Public Law 102–394) provided funding for the regular fiscal year 1993, which began October 1, 1992 and ends September 30, 1993. It also provided funding to operate the program for a nine-month transition period of October 1, 1993 to June 30, 1994, thus providing partial implementation of forward funding a year later than authorized. The initial program year will begin on July 1, 1994 and end on June 30, 1995, providing that forward funding is fully implemented in future appropriations laws.

The language in Public Law 102–394 makes clear that the FY 1993 appropriation is for FY 1993 only, not the 21-month period of October 1, 1992 to June 30, 1994 which had been originally authorized by the 1990 amendments to the statute. Accordingly, we have determined that the obligation periods for fiscal year 1993, the transition period, and the initial program year 1994–1995 will be determined separately. Currently, the obligation period ends on September 30 of each fiscal year for LIHEAP funds with the exception that up to 10 percent may be carried over to the next fiscal year. Funds which are carried over must be obligated by the following September 30, the end of the fiscal year to which the funds were carried over. Accordingly, the obligation period for ninety percent of fiscal year 1993 funds will end on September 30, 1993. The obligation period for the up to 10 percent carryover amount from FY 1993 will end on September 30, 1994, one year later. It is proposed that for the transition period, the obligation period would end on June 30, 1994, with the exception that up to 10 percent may be carried over to program year 1994–1995. The obligation period for this carryover amount from the transition period would end on June 30, 1995, one year later. The obligation period for the new program year 1994–1995 would end on June 30, 1995, with the exception that up to 10 percent may be carried over to program year 1995–1996 and must be obligated by June 30, 1996. The end of the obligation period for subsequent program years would also be June 30. The carryover amount for unobligated funds from LIHEAP awards will also be calculated as of these dates, and must be obligated no later than the end of the program year following the year for which they were allotted.

Additionally, the 1990 statutory amendment reduced the amount of funds that LIHEAP grantees may carry over to the next fiscal or program year from 15 percent to 10 percent of funds payable and not transferred, beginning with FY 1991 funds carried over to FY 1992. A change was made to § 96.81 by the Interim Final Rule published on January 16, 1992 (57 FR 1960 *et seq.*) to implement this statutory amendment. This notice of proposed rulemaking would make a related change to § 96.14 to reflect this reduction. Also, references in this section to fiscal year would be changed to program year, or transition period, whichever is applicable. Further, a change is made to this section to reflect the termination of the authority to transfer funds to other HHS block grants, beginning in FY 1994, as discussed further in § 96.84(d).

Section 96.81 of this notice of proposed rulemaking contains related changes involving a report grantees are required to submit to HHS each fiscal year advising HHS of the amount of LIHEAP funds it expects to carryover to the next fiscal year.

The end of the obligation period for LIHEAP leveraging incentive awards is addressed in § 96.87(k) of this notice of proposed rulemaking.

Section 96.15 Waivers

The LIHEAP statute provides that grantees may request waivers of the limit on the amount of funds that may be spent on weatherization activities and other energy-related home repairs and of certain crisis assistance performance standards.

The LIHEAP statute provides that, in general, not more than 15 percent of funds allotted to or available to a grantee for any fiscal year may be used for weatherization activities and other energy-related home repairs. Section 705 of Public Law 101–501 (42 U.S.C. 8624(k)) amended section 2605(k) of the LIHEAP statute to allow the Department, under certain circumstances, to grant a waiver to increase the maximum amount of LIHEAP funds a grantee may use for low cost weatherization or other energy-related home repairs from 15 percent to up to 25 percent of the funds allotted or available to the grantee.

Section 2604(a)(4)(c) of Public Law 97–35 (42 U.S.C. 8623(a)(4)(c)) provides that a portion of funds shall be reserved until March 15 of each year by each State for energy crisis intervention. This section describes performance standards for time frames for the provision of assistance, in addition to requirements of geographical accessibility and provisions for obtaining applications from individuals who are physically infirm. However, the statute provides a waiver of the performance standards for a program in a geographical area affected by a natural disaster designated by the Secretary or affected by a major disaster or emergency designated by the President for as long as the designation remains in effect, when the emergency makes compliance with the standards impracticable. Detailed criteria for a waiver of the crisis assistance performance standards are described in 45 CFR, 96.89.

Currently, no mention is made to indicate to whom applications for waivers that are permitted by statute should be submitted for the LIHEAP program. A statement is being added to indicate that waiver applications for the social services block grant (formerly submitted to the defunct Office of Human Development Services), LIHEAP and the community services block grant should be submitted to the Director, Office of Community Services.

Subpart D—Direct Funding of Indian Tribes and Tribal Organizations

Section 96.42 General Procedures and Requirements

Under the LIHEAP block grant, Indian tribes and tribal organizations may

request direct funding from HHS so that they may provide services directly to their members rather than being served by the State(s) in which they are located. Any funds provided directly to a tribe or tribal organization are deducted from the funds that would otherwise go to those States. A specific deadline is required for applications from Indian tribes/tribal organizations so that HHS knows what portion of a State's allotment to set aside for the tribes/tribal organizations and so that the States know which of its residents they are required to serve and which will be served by the tribes/tribal organizations.

With the implementation of forward funding, the due date for the submission of tribal applications will need to change. Current regulation requires that applications for direct funding from tribes and tribal organizations must be submitted to HHS by September 1 for the following fiscal year, unless the State(s) in which the tribe is located agrees to a later date. As in the other block grant programs that allow direct tribal funding, the due date for submission of tribal applications is the first day of the last month of the fiscal year preceding the year for which funds are being requested. Under forward funding for LIHEAP, it is being proposed that the due date for submission of tribal applications for the next program year be changed to June 1, the first day of the last month of the program year (or transition period) preceding the year for which funds are being requested, unless the State(s) in which the tribe is located agrees to a later date.

Section 96.49 Due Date for Receipt of All Information Required for Completion of Tribal Applications for the Community Services and Low-Income Home Energy Assistance Block Grants

Section 96.49 was previously proposed to be added to the block grant regulations by a notice of proposed rulemaking issued by the Department on July 17, 1992 (57 FR 31685). It established completion dates for tribal applications for the community services block grant and for LIHEAP. This present notice of proposed rulemaking would revise the date previously proposed for LIHEAP, in order to implement forward funding.

This present notice of proposed rulemaking also includes the provision from the Department's July 17, 1992 notice of proposed rulemaking establishing an application completion date of June 30 of the preceding fiscal year for the community services block grant program. The community services block grant provision is included in this notice of proposed rulemaking without change, with the exception of making a minor correction by changing the statement "* * * make direct requests for funding * * *" to the more accurate "* * * make requests for direct funding * * *". If the application is not completed by June 30, the community services block grant money would revert to the State(s) in which the tribe is located, and the State would become responsible for serving the tribal members.

Section 96.49 of the notice of proposed rulemaking dated July 17, 1992 proposed that once the LIHEAP tribal applications are received by the Department, additional information needed to complete the applications must be received no later than January 31 for a given fiscal year. The July 17, 1992 proposed rule also indicated that after January 31, funds would revert to the State(s) in which the tribe is located.

With the implementation of forward funding, it is being proposed that tribes and tribal organizations that request direct LIHEAP funding must ensure that all information necessary to complete their applications is received by HHS by October 1, four months after the initial submission date for the applications. Even though this change in the date is proposed because of the shift in the funding cycle to forward funding, a pivotal concern is that funding be determined before winter weather begins. In response to § 96.49 in the notice of proposed rulemaking dated July 17, 1992, several comments were received. A commenter from a northern State indicated that the deadline should provide States with sufficient notice in case they need to provide LIHEAP assistance to the service population of a tribe that has not completed its application for a direct grant. Additionally, the commenter stated that the State's extremely cold weather necessitates that winter heating assistance begin by November 1. The deadline of October 1 for completed LIHEAP applications would allow the Department to provide sufficient notice to States that they must provide LIHEAP assistance to the service population of a tribe that has not completed its application for a direct grant.

One commenter indicated that the requirement that tribal applications be completed by January 31 or the State becomes responsible to serve the tribe would result in funds being allocated to the State after February, which is too late because in addition to the financial impact on the State, the State would not have sufficient lead time to plan, staff and implement its program to serve the tribes.

Another commenter indicated that the original due date of September 1 for submission of a tribal application for both the community services block grant and LIHEAP is satisfactory. The commenter was uncertain whether the due date for completion of the tribal applications is necessary. The commenter also expressed the need to receive LIHEAP funding as early in the fiscal year as possible.

The Department concludes that because most LIHEAP funds are spent for winter heating assistance, it is important that States know before frigid weather begins whether they will be required to serve a tribe's service population. It should be mentioned that most tribes submit all the information necessary to complete their applications in a timely manner. Under this proposed rule, the due date for receipt of all information necessary to complete LIHEAP tribal applications would be October 1, unless the State(s) in which the tribe is located agree(s) to a later submission date.

An additional commenter on the July 17, 1992 proposed rule expressed the opinion that the community services block grant program's application completion date of June 30 will cause difficulty for States to comply with the assurance requirements of HHS and will not allow sufficient time for public notice and comment on the plan. The commenter added that if the June 30 completion date is implemented, HHS should take action to ensure enforcement of notice and comment requirements. We do not believe a change is necessary on this issue. It is expected that the State will use any funds which revert to it under this provision under the terms of the plan which is already in effect for the State. It simply means that the members of the tribe affected would be eligible for assistance under the existing State plan.

Subpart H—Low-Income Home Energy Assistance Program (LIHEAP)

Section 96.80 Scope

Historically, the low-income home energy assistance program has been funded on a regular Federal fiscal year basis. With the implementation of forward funding, LIHEAP will operate on the basis of a new "program year", rather than the Federal fiscal year. When Congress authorized implementation of forward funding, it did not make related changes to the LIHEAP statute to change fiscal year references to program year. It is clear, however, that Congress intended to shift

the funding cycle and that related changes must be made to the timing of other related requirements, such as year-end reporting requirements. Accordingly, a paragraph is added to this section of the regulations to define program year as an operational year which begins on July 1 of the Federal fiscal year for which the appropriation is made and ends on the following June 30, with an effective date of July 1, 1994. This definition also provides that program year designations will include the beginning and ending years for the operational period (e.g., Program year 1994–1995 will begin on July 1, 1994 and end on June 30, 1995). Further, the definition includes a description of the nine-month transition period to forward funding, of October 1, 1993 to June 30, 1994.

Wherever a reference is made to "fiscal year" throughout these regulations, it shall be read to mean "program year" or "transition period", as appropriate, for the low-income home energy assistance program, for periods beginning after October 1, 1993, the beginning of the implementation of forward funding.

Section 96.81 Required Carryover and Reallotment Report

It is being proposed that the name of § 96.81 be revised from "Reallotment report" to "Required carryover and reallotment report" to more accurately reflect the contents of the report.

Currently, § 96.81 of the block grant regulations provides that LIHEAP grantees must submit to HHS by August 1 of each fiscal year a carryover and reallotment report which includes information on the amount of the grantee's funds, if any, which will be held available for obligation in the following fiscal year (currently limited to 10% of the funds payable to the grantee and not transferred to another HHS block grant program) and the amount, if any, which exceeds this carryover limit and thus is subject to reallotment to other grantees in the following fiscal year. The August 1 deadline is two months prior to the end of the fiscal year for which the funds were appropriated. With the implementation of the use of the program year beginning July 1 under forward funding, it is being proposed that the due date for submission of the carryover and reallotment report be revised to May 1, two months prior to the end of the program year. The same date would apply to the transition period to forward funding. Additionally, a sentence is added making clear that, beginning with funds appropriated for FY 1994, no funds may be transferred to another HHS block grant program, as required under the 1990 amendments to the LIHEAP statute. Finally, references in this section to fiscal year would be changed to program year.

In issuing Final Rules to replace the January 16, 1992 Interim Final Rule or the July 17, 1992 notice of proposed rulemaking, the Department may make additional changes to section 96.81.

Section 96.82 Required Report on Households Assisted

The name of § 96.82 would be revised from "Required report" to "Required report on households assisted" to reflect the contents of the report.

The households-served report (number and income levels of households served, and number of households served with elderly and handicapped members) required by this section currently must be submitted by October 31, one month after the end of the fiscal year. It is being proposed that, with forward funding, this date be changed to July 31, one month after the end of the program year. This date would also apply to the transition period to forward funding.

Section 96.83 Increase in Maximum Amount That May Be Used for Weatherization and Other Energy-Related Home Repair

Originally, the LIHEAP statute provided that a maximum of 15% of a State's funds could be used for low-cost residential weatherization and other energy-related home repair. As explained in the Interim Final Rule published in the **Federal Register** on January 16, 1992, Public Law 101–501 amended section 2605(k) of the LIHEAP statute to allow grantees to request a waiver from HHS beginning in fiscal year 1991 to increase the amount of their funds that may be spent on weatherization and other energy-related home repairs from 15% to up to 25% of their funds allotted or available that are not transferred to another block grant under section 2604(f) of the statute.

In the preamble to the Interim Final Rule, we asked for comments on whether the statutory prohibition against applying for such a waiver before March 31 of the year for which the funds are appropriated would cause a problem once forward funding was implemented. We were concerned that this date might not provide sufficient time for HHS to review the waiver request and obtain any additional information that might be needed, and still allow the grantee to obligate the funds by June 30, the end of the program year under forward funding.

In response to this request, two comments were received in relation to the submission date for waiver requests of the weatherization maximum. One commenter indicated that although a change in the submission date of waiver requests under forward funding was not being suggested at the immediate time, a date two to four weeks earlier might be reasonable.

The other commenter stated that the statutory requirement that grantees wait until after March 31 to submit waiver requests is impractical under forward funding since little time exists between this date and June 30, the end of the program year. The commenter suggested that grantees be allowed to submit requests for waivers after January 31.

Under the terms of Public Law 101–501, any requests for waivers of the weatherization obligation limit must be submitted to HHS after March 31. The March 31 date appears to have been selected with fiscal year funding in mind. We continue to be concerned that, once forward funding is implemented, submission of a waiver request after March 31 may mean that there would not be time for HHS to review the waiver request, to obtain any additional information that is required and to advise the grantee of its decision, and for the grantee to obligate the funds in a timely manner before the end of the program year on June 30. Accordingly, it is proposed to allow preliminary submission of waiver requests after January 31 of each program year. However, the Department will not render decisions on such requests until after March 31, and will request information from the grantees as to whether any material changes of fact have occurred since submission of the applications, thereby keeping in compliance with the requirements of the statute. Since grantees will be able to submit preliminary waiver requests as early as January 31, this will allow sufficient time for HHS review and subsequent decision soon enough after March 31 to allow the grantee time for obligation of funds prior to the end of the program year. We further propose that public comments must be allowed to be submitted to the grantee until March 15. Prior to HHS making a decision on the waiver requests, each grantee should submit to HHS the public comments which they have received, or a summary of those comments, and, if applicable, provide a statement that no comments were received. This procedure, we believe, meets Congress' intent to allow timely and meaningful public comments.

The Department will review all requests and make a decision within a

maximum of 45 days of receipt of a completed request, but no earlier than March 31. The earlier a grantee submits a request for waiver of the weatherization maximum, the quicker the grantee should receive a response, once all the required information has been received. Further, "fiscal year" is being changed to "program year" or "transition period", as appropriate.

In issuing a Final Rule to replace the January 16, 1992 Interim Final Rule, the Department may make additional changes based on other comments which were received on Section 96.83.

Section 96.84 Miscellaneous

End of Transfer Authority. Currently, grantees may transfer up to 10 per cent of LIHEAP funds payable in a fiscal year to other HHS block grant programs. The 1990 amendments to the statute provided that, beginning in fiscal year 1994, no funds payable to a grantee may be transferred to other block grant programs. Accordingly, this notice of proposed rulemaking amends the block grant regulations to provide that after September 30, 1993, grantees no longer may transfer any of their LIHEAP funds to the block grant programs specified in section 2604(f) of the statute.

The FY 1993 HHS appropriations law (Public Law 102–394) provided advance funding for the first nine months of FY 1994, and allows $141,950,340 of those funds to be used by grantees to reimburse themselves for expenses incurred in FY 1993. Because they are appropriated as advance funding for FY 1994, any such funds used by grantees to reimburse themselves for FY 1993 expenses may not be considered funds payable to grantees in FY 1993 and thus may not be used to calculate the maximum amount that may be transferred in FY 1993.

The authority for territories to consolidate funding for several programs under one or more HHS programs is not considered a transfer and thus will not terminate in FY 1994. Likewise, LIHEAP funds earmarked for use for weatherization assistance or other energy-related home repair, even if administered by another grantee agency, is not considered a transfer, and this authority will not terminate in FY 1994.

Section 96.85 Income Eligibility

The statute sets maximum and minimum income eligibility standards for participation in the LIHEAP program that are tied to poverty income guidelines and to State median income estimates as determined by the Bureau of Census. The date for adoption of the current poverty income guidelines is any time between the date of their publication in the **Federal Register** and the beginning of the fiscal year. The date for adoption of the State median income estimates is currently the first day of the fiscal year, but that date has not been reflected in the block grant regulations. It is proposed that the block grant regulations be amended to incorporate an adoption date for the State median income estimates that is consistent with the adoption date for the poverty income guidelines and to amend that adoption date to reflect the shift to forward funding. The poverty income guidelines and the State median income estimates are published annually in the **Federal Register**, generally in the month of February or March. Therefore, grantees may adopt the annual poverty income guidelines and the annual State median income estimates at any time between the date of publication in the **Federal Register** and the first day of the program year, July 1, or the beginning of the State fiscal year, whichever is later. Grantees may also choose to implement the changes during the period between the heating and cooling seasons.

Section 96.87 Leveraging Incentive Program

The references to fiscal year would be changed to program year, effective with initiation of forward funding. The FY 1993 HHS appropriations law (Public Law 102–394) provided $24,800,000 for the leveraging incentive fund for FY 1993. Although advance block grant funding was also included in Public Law 102–394 for a nine-month transition period to forward funding of October 1, 1993 to June 30, 1994, no mention of funds earmarked for leveraging in FY 1994 was included in the law. Although Public Law 101–501 authorized leveraging for FY 1994, this funding may or may not be appropriated. As indicated in the Interim Final Rule published on January 16, 1992 (57 FR 1960 et. seq.), section 2607(A) provides that grantees must submit their leveraging reports to HHS by October 31 while LIHEAP is funded on a Federal fiscal year basis and by July 31 of each year after forward funding begins. Once forward funding begins, July 31 will be one month after the end of the program year or the transition period for which leveraging activities are reported and for which funds are requested. Separate applications should be submitted for leveraging activities which take place during the transition period and for leveraging activities which take place during the new program year 1994–1995. Therefore, during the implementation period of forward funding, two applications for leveraging incentive awards should be submitted.

It is also proposed that changes be made to reflect a change in the obligation deadlines for leveraging incentive grant awards. Under the January 16, 1992 Interim Final Rule, leveraging incentive grant awards are available for obligation from the time they are awarded until the end of the following fiscal year. With the implementation of forward funding, we are proposing that any leveraging incentive grant awards may be used during the fiscal or program year or transition period during which they are awarded until the end of the following transition period or program year. In addition to reflecting the move to forward funding, this language will clarify that leveraging incentive grant awards may be used to cover expenses incurred at any time during the period for which the funds are awarded.

Regulatory Procedures

Executive Order 12291

Executive order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the national economy of $100 million or more or has certain other specified effects. This notice proposes to make technical changes to the regulations for the block grant program, the low-income home energy assistance program (LIHEAP), so that dates and terms in the regulation will conform to those appropriate for forward funding of the program once it has been initiated and to amend the regulations to specify that transfers of LIHEAP funds to other HHS block grant programs will be eliminated after September 30, 1993, as required by the Augustus F. Hawkins Human Services Reauthorization Law of 1990 (Public Law 101–501). Additionally, this notice proposes to establish submission dates and completion dates for applications for funding from States and territories for LIHEAP, CSBG and the social services block grant program. Therefore, the Department has determined that these regulations are not major rules within the meaning of the Executive Order because they will not have an effect on the economy of $100 million or more, or otherwise meet the threshold criteria.

Paperwork Reduction Act

There are no new information collection requirements in this proposed rule which require approval under the Paperwork Reduction Act. The information collection requirements needed by this proposed rule have

previously been approved. Section 96.42 and § 96.49 of this notice of proposed rulemaking contain information collection requirements relating to the completion of the Model Plan, OMB Clearance Number: 0970–0075. Additionally § 96.81 requires information collection for the Carryover and Reallotment Report, OMB Clearance No.: 0970–0106. Section 96.82 requires information collection requirements relating to the Report of Households Assisted, OMB Clearance No.: 0970–0060. Lastly, this notice of proposed rulemaking contains information collection requirements relating to the LIHEAP Leveraging Report, OMB Clearance No.: 0970–0121.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal Government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these proposed rules is on State, tribal and territorial governments. Therefore, the Department of Health and Human Services certifies that these rules will not have a significant economic impact on a substantial number of small businesses because they affect payments to States, tribes and territories. Thus, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Program Number: 93.568, Low-Income Home Energy Assistance Program)

List of Subjects in 45 CFR Part 96

Energy, Forward funding, Grant programs-energy, Grant programs-Indians, Income assistance, Leveraging incentive program, Low and moderate income housing, Reporting and record keeping requirements, Transfers, Weatherization.

Dated: August 11, 1993.

Laurence J. Love,

Acting Assistant Secretary for Children and Families.

Approved: September 2, 1993.

Donna E. Shalala,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, part 96 of title 45 of the Code of Federal Regulations is proposed to be amended as follows:

PART 96—BLOCK GRANTS

1. The authority citation for part 96 continues to read as follows:

Authority: 42 U.S.C. 300W *et seq.*; 42 U.S.C. 300x *et seq.*; 42 U.S.C. 300y *et seq.*; 42 U.S.C. 701 *et seq.*; 42 U.S.C. 8621 *et seq.*; 42 U.S.C. 9901 *et seq.*; 42 U.S.C. 1397 *et seq.*; 31 U.S.C. 1243 note.

Subpart B—General Procedures

2. Section 96.10 is amended by adding paragraphs (c) and (d) to read as follows:

§ 96.10 Prerequisites to obtain block grant funds.

* * * * *

(c) *Submission dates.* (1) For the community services block grant, States and territories which make requests for funding from the Secretary must insure that their applications for the fiscal year are submitted by December 1 of the fiscal year for which they are requesting funds.

(2) For the social services block grant, States and territories which operate on a Federal fiscal year basis, and make requests for funding from the Secretary, must insure that their applications (pre-expenditure reports) for funding are submitted by September 1 of the preceding fiscal year. States and territories which operate their social services block grant on a July 1–June 30 basis, must insure that their applications are submitted by June 1 of the preceding funding period.

(3) For the low-income home energy assistance program, States and territories which make requests for funding from the Secretary must insure that their applications for the program year are submitted by June 1 of the preceding program year or transition period.

(d) *Completion dates.* (1) For the community services block grant, States and territories which make requests for funding from the Secretary, must insure that all information necessary to complete their applications is received by April 30 of the fiscal year for which they are requesting funds.

(2) For the low-income home energy assistance program, States and territories which make requests for funding from the Secretary must insure that all information necessary to complete their applications is received by December 31 of the program year for which they are requesting funds.

3. Section 96.14 is amended by revising (a) introductory text and (a)(2) to read as follows:

§ 96.14 Time period for obligation and expenditure of grant funds.

(a) *Obligations.* Amounts unobligated by the State at the end of the fiscal year in which they were first allotted shall remain available for obligation during the succeeding fiscal year for all block grants except:

(1) * * *

(2) *Low-income home energy assistance.* Regular LIHEAP block grant funds authorized under section 2602(b) of Public Law 97–35 (42 U.S.C. 8621(b)) are available only in accordance with section 2607(b)(2)(B) of Public Law 97–35 (42 U.S.C. 8626(b)(2)(B)), as follows. From allotments for fiscal year 1982 through fiscal year 1984, a maximum of 25 per cent may be held available for the next fiscal year. From allotments for fiscal year 1985 through fiscal year 1990, a maximum of 15 percent of the amount payable to a grantee and not transferred to another block grant according to section 2604(f) of Public Law 97–35 (42 U.S.C. 8623(f)) may be held available for the next fiscal year. From allotments for fiscal year 1991 through fiscal year 1993, a maximum of 10 percent of the amount payable to a grantee and not transferred to another block grant according to section 2604(f) of Public Law 97–35 (42 U.S.C. 8623(f)) may be held available for the next fiscal year or transition period. Beginning with allotments for FY 1994, a maximum of 10 percent of the amount payable to a grantee may be held available for the next program year. The obligation period for fiscal year 1993 will end on September 30, 1993. The obligation period for the transition period will end on June 30, 1994. The obligation period for program year 1994–1995 will end on June 30, 1995. The obligation period for subsequent program years will also end on June 30 of the program year. The carryover amount for unobligated funds from the block grant awards will also be calculated as of these dates, and must be obligated no later than the end of the fiscal or program year or transition period following the year for which they were allotted. No funds may be obligated after the end of the fiscal or program year or transition period following the fiscal or program year or transition period for which they were allotted.

(b) * * *

4. Section 96.15 is revised to read as follows:

§ 96.15 Waivers.

Applications for waivers that are permitted by statute for the block grants should be submitted to the Assistant Secretary of Health in the case of the preventive health and health services, alcohol and drug abuse and mental health services, and maternal and child health services block grants; and to the Director, Office of Community Services in the cases of the community services block grant, low-income home energy assistance program, and social services block grant. Beginning with fiscal year

1986, the Secretary's authority to waive the provisions of section 2605(b) of Public Law 97–35 (42 U.S.C. 8624(b)) under the low-income home energy assistance program is repealed.

Subpart D—Direct Funding of Indian Tribes and Tribal Organizations

5. Paragraphs (c), (e), and (f) of section 96.42 are revised to read as follows:

§ 96.42 General procedures and requirements.

* * * * *

(c) If an Indian tribe or tribal organization whose service population resides in more than one State applies for block grant funds that, by statute, are apportioned on the basis of population, the allotment awarded to the tribe or organization shall be taken from the allotments of the various States in which the service population resides in proportion to the number of eligible members or households to be served in each State. If block grant funds are required to be apportioned on the basis of grants during a base year, the allotment to the Indian tribe or tribal organization shall be taken from the allotment of the State whose base year grants included the relevant grants to the tribe or organization.

* * * * *

(e) Beginning with fiscal year 1983, any request by an Indian tribe or tribal organization for direct funding by the Secretary must be submitted to the Secretary, together with the required application and related materials, by September 1 preceding the Federal fiscal year for which funds are sought. For the low-income home energy assistance program, beginning with program year 1994–1995, any request by an Indian tribe or tribal organization for direct funding by the Secretary must be submitted to the Secretary, together with the required application and related material, by June 1 preceding the program year for which funds are sought. A separate application is required for each block grant. After the deadline, tribal applications will be accepted only with the concurrence of the State (or States) in which the tribe or tribal organization is located.

(f) A State receiving block grant funds is not required to use those funds to provide tangible benefits (e.g., cash or goods) to Indians who are within the service population of an Indian tribe or tribal organization that received direct funding from the Department under the same block grant program for the same fiscal year or in the case of LIHEAP, program year. A State, however, may not deny Indians access to intangible services funded by block grant programs (e.g., treatment at a community health center) even if the Indians are members of a tribe receiving direct funding for a similar service. A tribe receiving direct block grant funding is not required to use those funds to provide trangible benefits to non-Indians living within the tribe's service area unless the tribe and the State(s) in which the tribe is located agree in writing that the tribe will do so.

6. A new § 96.49 is added to Subpart D to read as follows:

§ 96.49 Due date for completion of tribal applications.

(a) For the community services block grant, Indian tribes and tribal organizations that make requests for direct funding from the Secretary must insure that all information necessary to complete their applications for the fiscal year is received by June 30 of the fiscal year for which funds are requested. After June 30, funds will revert to the State(s) in which the tribe is located.

(b) For the low-income home energy assistance program, Indian tribes or tribal organizations that make requests for direct funding from the Secretary must insure that all information necessary to complete their applications is received by October 1 for a given program year, unless the State(s) in which it is located agrees to a later date. After October 1, funds will revert to the State(s) in which the tribe is located, unless the State(s) agrees to a later date.

Subpart H—Low-Income Home Energy Assistance Program

7. Section 96.80 is revised to read as follows:

§ 96.80 Scope.

This subpart applies to the low-income home energy assistance program (LIHEAP).

(a) Beginning in Federal fiscal year 1994, LIHEAP will be administered on a *program year* basis under forward funding. *Program year* is defined as the period of operation or budget period of the low-income home energy assistance program which begins on July 1 of the Federal fiscal year for which appropriations are made and ends on the following June 30. The initial program year will begin after a nine-month "transition period" to forward funding from October 1, 1993 to June 30, 1994. The first program year will become effective on July 1, 1994 and end on June 30, 1995. References to "program year" shall also be read to mean "transition period" unless stated otherwise in these regulations. Program year designations will include the beginning and ending calendar years for the operational period (e.g., program year 1994–1995 will begin on July 1, 1994 and end on June 30, 1995). Wherever a reference is made to "fiscal year" throughout these regulations, it shall be read to mean "program year" or "transition period", as appropriate, for the low-income home energy assistance program, for periods beginning on or after October 1, 1993.

(b) [Reserved]

8. Section 96.81 is revised to read as follows:

§ 96.81 Required carryover and reallotment report.

As a part of the reallotment procedure established by section 2607(b) of Public Law 97–35 (42 U.S.C. 8626(b)), beginning with funds to be held available for the transition period and for program year 1994–1995, each grantee must submit a report to the Secretary by May 1 of each year containing the following information:

(a) The amount of funds that the grantee desires remain available for obligation in the succeeding program year, not to exceed 10 percent of the funds payable to the grantee and not transferred pursuant to section 2604(f) of Public Law 97–35 (42 U.S.C. 8623(f)). (Beginning with funds appropriated for FY 1994, grantees may not transfer any funds that are payable to them under LIHEAP to another block grant program);

(b) A statement of the reasons that this amount to remain available will not be used in the program year or transition period for which it was allotted;

(c) A description of the types of assistance to be provided with the amount held available; and

(d) The amount of funds, if any, to be subject to reallotment.

9. Section 96.82 is revised to read as follows:

§ 96.82 Required report on households assisted.

In accordance with section 2610(a) of Public Law 97–35 (42 U.S.C. 8629(a)), each grantee shall submit to the Department by July 31 of each year a report of:

(a) The number and income levels of the households assisted by LIHEAP funds during the preceding program year or transition period; and

(b) The number of households assisted by LIHEAP funds during the preceding program year or transition period that contain one or more individuals who are 60 years or older and the number that contain one or more individuals who are handicapped.

10. Section 96.83 is amended by revising paragraphs (a), (c), (e), (f) and (g) to read as follows:

§ 96.83 Increase in maximum amount that may be used for weatherization and other energy-related home repair.

(a) *Scope.* This section concerns requests for waivers increasing from 15 percent to up to 25 percent of LIHEAP funds allotted or available to a grantee for a program year, the maximum amount that grantees may use for low-cost residential weatherization and other energy-related home repair for low-income households (hereafter referred to as "weatherization"), pursuant to section 2605(k) of Public Law 97–35 (42 U.S.C. 8624(k).

(b) * * *

(c) *Waiver request.* After March 31 of each program year, the chief executive officer (or his or her designee) may request a waiver of the weatherization obligation limit, if the grantee meets the criteria in paragraphs (c)(2) (i), (ii), and (iii) of this section, or can show "good cause" for obtaining a waiver despite a failure to meet one or more of these criteria. The grantee must allow for submission of public comments on the request until March 15. In order to speed the review process and allow for timely obligation of such funds by June 30, the grantee may submit a preliminary waiver request after January 31. If such a preliminary waiver request is submitted prior to March 31, the grantee must advise the Department after March 31 as to whether any public comments were received by March 15 and whether any material changes of fact have occurred since submission of its preliminary waiver request. The Department will make decisions on any waiver request after March 31. Prior to HHS making a decision, each grantee must submit the public comments which have been received, or a summary of those comments, to HHS. A statement that no comments were received should be submitted, if applicable. All waiver requests must be in writing and must include the following information:

(1) A statement of the total percent of its LIHEAP funds allotted or available for the program year or transition period for which the waiver is requested, that the grantee desires to use for weatherization.

(2) A statement of whether the grantee has met each of the following three criteria:

(i) In the program year or transition period for which the waiver is requested, the combined total (aggregate) number of households in the grantee's service population that will receive LIHEAP heating, cooling, and crisis assistance benefits will not be fewer than the combined total (aggregate) number that received such benefits in the preceding fiscal year, transition period or program year, whichever is applicable;

(ii) In the program year or transition period for which the waiver is requested, the combined total (aggregate) amount of LIHEAP heating, cooling, and crisis assistance benefits will not be less than the combined total (aggregate) amount received in the preceding fiscal year, transition period or program year; and

(iii) All LIHEAP weatherization activities to be carried out by the grantee in the program year or transition period for which the waiver is requested have been shown to produce measurable savings in energy expenditures.

(3) With regard to the criterion in paragraph (c)(2)(i) of this section, a statement of the grantee's best estimate of the appropriate household totals for the program year for which the waiver is requested and for the preceding fiscal year, transition period or program year.

(4) With regard to the criterion in paragraph (c)(2)(ii) of this section, a statement of the grantee's best estimate of the appropriate benefit totals for the program year for which the waiver is requested and for the preceding fiscal year, transition period or program year.

(5) With regard to the criterion in paragraph (c)(2)(iii) of this section, a description of the weatherization activities to be carried out by the grantee in the program year for which the waiver is requested (with all LIHEAP funds proposed to be used for weatherization, not just with the amount over 15 percent), and an explanation of the specific criteria under which the grantee has determined whether these activities have been shown to produce measurable savings in energy expenditures.

* * * * *

(e) *"Good cause" waiver.* (1) If a grantee does not meet one or more of the three criteria in paragraph (c)(2) of this section, then the grantee may, in accordance with the provisions in paragraphs (e)(1) and (e)(2) of this section, submit documentation that demonstrates good cause why a waiver should be granted despite the grantee's failure to meet this criterion or these criteria. "Good cause" waiver requests must include the following information, in addition to the information specified in paragraph (c) of this section:

(i) For each criterion under paragraph (c)(2) of this section that the grantee does not meet, an explanation of the specific reasons demonstrating good cause why the grantee does not meet the criterion and yet proposes to use additional funds for weatherization, citing measurable, quantified data, and stating the source(s) of the data used.

(ii) A statement of the grantee's LIHEAP heating, cooling, and crisis assistance eligibility standards and benefit levels for the program year for which the waiver is requested and for the preceding fiscal year, transition period or program year; and, if eligibility standards were less restrictive and/or benefit levels were higher in the preceding fiscal year, transition period or program year for one or more of these program components, an explanation of the reasons demonstrating good cause why a waiver should be granted in spite of this fact.

(2) If the Department determines that a grantee requesting a "good cause" waiver has demonstrated good cause why a waiver should be granted, has provided all information specified in paragraph (c) of this section and in this paragraph, has shown adequate concern for timely and meaningful public review and comment, and has proposed weatherization that meets all relevant requirements of title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and applicable Federal regulations, the Department will approve a "good cause" waiver.

(f) *Approvals and disapprovals.* After receiving the grantee's completed waiver request, the Department will respond in writing within 45 days, informing the grantee whether the request is approved on either a "standard" or "good cause" basis. Although a preliminary waiver request may be submitted as early as January 31, the Department will not make a decision until after March 31. The Department may request additional information and/or clarification from the grantee. If additional information and/or clarification is requested, the 45-day period for the Department's response will start when the additional information and/or clarification is received. No waiver will be granted for a previous fiscal or program year.

(g) *Effective period.* Waivers will be effective from the date of the Department's written approval until the funds for which the waiver is granted are obligated in accordance with title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and applicable regulations. Funds for which a weatherization waiver was granted that are carried over to the following program year and used for weatherization shall not be considered "funds allotted" or "funds available" for the purposes of calculating the maximum amount that may be used for weatherization in the succeeding program year.

11. Section 96.84 is amended by adding paragraph (d) to read as follows:

§ 96.84 Miscellaneous.

* * * * *

(d) *End of transfer authority.* Beginning with funds appropriated for FY 1994, grantees may not transfer any funds pursuant to section 2604(f) (42 U.S.C. 8623(f)) that are payable to them under the LIHEAP program to the block grant programs specified in section 2604(f).

12. Section 96.85 is amended by revising paragraph (a) and adding (c) to read as follows:

§ 96.85 Income eligibility.

(a) *Application of poverty income guidelines.* In implementing the income eligibility standards in section 2605(b)(2) of Public Law 97–35 (42 U.S.C. 8624(b)(2)), grantees using the Federal Government's official poverty income guidelines as a basis for determining eligibility for assistance shall, by July 1 of each year, or by the beginning of the State fiscal year, whichever is later, adjust their income eligibility criteria so that they are in accord with the most recently published update of the guidelines, except that grantees may adjust their criteria after the end of their cooling assistance program and before the beginning of their heating assistance program. Grantees may adjust their income eligibility criteria to accord with the most recently published revision to the poverty income guidelines at any time between the publication of the revision and the following July 1, or the beginning of the State fiscal year, whichever is later.

(b) * * *

(c) *Application of State median income estimates.* In implementing the income eligibility standards in section 2605(b) of Public Law 97–35 (42 U.S.C. 8624(b)(2)), grantees using the Federal Government's official State median income estimates for households as a basis for determining eligibility for assistance shall, by July 1 of each year, or the beginning of the State fiscal year, whichever is later, adjust their income eligibility criteria so that they are in accord with the most recently published update of the estimates, except that grantees may adjust their criteria after the end of their cooling assistance program and before the beginning of their heating assistance program. Grantees may adjust their income eligibility criteria to accord to the most recently published revision to the state median income estimates for households at any time between the publication of the revision and the following July 1, or the beginning of the State fiscal year, whichever is later.

13. Section 96.87 of 45 CFR part 96, is amended by removing the words "fiscal year" and inserting in their place "program year or transition period" in each place they appear and by revising paragraphs (h)(2) and (k) to read as follows:

§ 96.87 Leveraging incentive program.

* * * * *

(h) Leveraging report.

(1) * * *

(2) *Submission dates.* With the implementation of forward funding, the deadline for submission of leveraging reports will be July 31 of the program year for which funds are requested. The deadline for submission of leveraging activities occurring during the nine-month transition period to forward funding of October 1, 1993 to June 30, 1994 will be due on July 31, 1994.

* * * * *

(k) *Period of obligation for leveraging incentive funds.* Leveraging incentive funds are available for obligation during the fiscal or program year or transition period during which they awarded to a grantee until the end of the program year or transition period following the fiscal or program year or transition period in which they were awarded, without regard to limitations on carryover of funds in section 2607(b)(2)(B) of Public Law 97–35 (42 U.S.C. 8626(b)(2)(B)). Any leveraging incentive funds not obligated for allowable purposes by the end of this period must be returned to the Department.

[FR Doc. 93–27964 Filed 11–15–93; 8:45 am]
BILLING CODE 4150–04–M

federal register

Tuesday
November 16, 1993

Part III

Department of Health and Human Services

Public Health Service

42 CFR Part 67

Health Services Research, Evaluation, Demonstration, and Dissemination Projects; Peer Review of Grants and Contracts; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 67

RIN 0905-AD30

Health Services Research, Evaluation, Demonstration, and Dissemination Projects; Peer Review of Grants and Contracts

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This NPRM would revise existing regulations governing grants for health services research, demonstration, and evaluation projects administered by the former National Center for Health Services Research (NCHSR) to reflect the establishment of the Agency for Health Care Policy and Research (AHCPR), and an expanded authority for grants for health services research, demonstration, evaluation, and dissemination projects. The proposed regulations would set out program and administrative requirements for grantees and potential grant applicants, and describe the technical and scientific peer review by which applications for grants are to be evaluated. The proposed regulations would establish procedures for the conduct of peer review of AHCPR contracts for health services research, evaluation, demonstration, and dissemination projects.

DATES: Comments, in writing, must be received by January 18, 1994.

ADDRESSES: Respondents should address comments to J. Jarrett Clinton, M.D., Administrator, Agency for Health Care Policy and Research, Executive Office Center, Suite 600, 2101 East Jefferson Street, Rockville, MD 20852. All comments received will be available for public inspection and copying at the AHCPR Office of Program Development, Program and Policy Implementation Branch, Suite 603, 2101 East Jefferson Street, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Linda K. Demlo, Ph.D., Director, Office of Program Development, Agency for Health Care Policy and Research, Executive Office Center, suite 603, 2101 East Jefferson Street, Rockville, MD 20852. Phone (301) 227-8453.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, is proposing to revise the existing regulations at 42 CFR part 67, subpart A and to substitute a new Subpart B to reflect the establishment of the Agency for Health Care Policy and Research (AHCPR) and its legislative mandates as set forth in Public Law 101-239, the Omnibus Budget Reconciliation Act of 1989, enacted on December 19, 1989. Section 6103(a) of Public Law 101-239 added a new title IX to the Public Health Service (PHS) Act (42 U.S.C. 299-299c-6) and established AHCPR. Section 901(c) of the PHS Act provides that the Secretary will act through the Administrator of AHCPR in carrying out the authorities under this title. Title IX has been further amended by Public Law 102-410, the Agency for Health Care Policy and Research Reauthorization Act, enacted on October 13, 1992. The proposed regulations reflect these amendments as well.

The purpose of AHCPR is to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. The AHCPR is to achieve these goals through the establishment of a broad base of scientific research, and through the promotion of improvements in clinical practice (including the prevention of diseases and other health conditions) and the organization, financing, and delivery of health services. In carrying out these functions, AHCPR builds on and expands the work supported over the past twenty years by its predecessor, the National Center for Health Services Research and Health Care Technology Assessment (NCHSR).

Title IX, in particular sections 902 and 925(c), authorizes the Administrator to award grants to, and enter into cooperative agreements with, public and private nonprofit entities and individuals to support research, demonstration projects, evaluations, and the dissemination of information, on health care services and systems for the delivery of these services. When appropriate, the Administrator also may enter into contracts with individuals, as well as public and private entities.

Section 902(d) of the PHS Act, as amended by Public Law 102-410, specifies that the Administrator may provide financial assistance for the costs of developing and operating centers for multidisciplinary health services research, demonstration projects, evaluations, training, and policy analysis with respect to the delivery of health care services in rural areas and the health of low-income groups, minorities, and the elderly.

Under section 902(e), as amended by Public Law 102-410, AHCPR may use its title IX authorities to carry out, and coordinate appropriately with, activities authorized by the Social Security Act, including experiments, demonstration projects, and other related activities. Further, section 902(e) requires that research and other activities conducted under title IX on the outcomes of health care services and procedures which affect the Medicare and Medicaid programs be consistent with the provisions of section 1142 of the Social Security Act, simultaneously enacted by section 6103(b) of Public Law 101-239. The authorities in section 1142 (42 U.S.C. 1320-12b) enhance and elaborate on the authority for outcomes research provided under title IX.

Section 1142(a)(1) directs the Secretary, acting through the Administrator of AHCPR, to support research with respect to the outcomes, effectiveness, and appropriateness of health care services and procedures, in order to identify the manner in which diseases, disorders, and other health conditions can be prevented, diagnosed, treated, and managed most effectively. Section 1142(a)(2) authorizes evaluations of the comparative effects on health and functional capacity, of alternative services and procedures for preventing, diagnosing, and managing health conditions.

Factors to be considered in establishing priorities for outcomes research and evaluations with respect to a disease, disorder, or other health condition, as set out in section 1142(b), include the extent to which:

(1) Improved methods of prevention, diagnosis, treatment, and clinical management can benefit a significant number of individuals;

(2) There are significant variations among physicians in the particular services and procedures used in making diagnoses and providing treatments, or in the outcomes of health care services or procedures, due to different patterns of diagnosis or treatment;

(3) The services and procedures used result in relatively substantial expenditures; and

(4) The data necessary for such evaluations are readily available or can be readily developed.

Also provided for in section 1142(c), for the purpose of facilitating outcomes research, are various authorities to conduct and support activities such as the improvement of methodologies, criteria, and data bases used in outcomes research, and research and demonstrations on the use of claims data and data on the clinical and functional status of patients.

Section 1142(e) requires the Secretary (through AHCPR) to provide for dissemination of the findings of outcomes research conducted or supported under section 1142 and clinical practice guidelines developed under sections 911-914 of the PHS Act.

Section 1142(e)(2) provides that the Secretary (through AHCPR) will work with professional associations, medical organizations, and other relevant groups to identify and implement effective means to educate physicians and other providers, consumers, and others in using such research findings and guidelines. Authority to support evaluations of the impact of such dissemination activities and authority to support research with respect to improving methods of disseminating information on the effectiveness and appropriateness of health care services and procedures are provided under sections 1142 (f) and (g).

The proposed regulations at subpart A would establish program and administrative requirements governing grants and cooperative agreements to carry out the purposes of title IX of the PHS Act and section 1142 of the Social Security Act. The proposed regulations also would set out the technical and scientific peer review procedures and criteria by which applications for grants are to be reviewed, in accordance with section 922(e) of the PHS Act (42 U.S.C. 299c–1(e)). The provisions of the proposed regulations essentially reflect and update policies established under the existing regulations governing grants for health services research, demonstration, and evaluation projects. In addition, the existing regulations are being revised where applicable to incorporate current Department and PHS grants policies.

It should be noted that Public Law 102–410 amended section 924(a) of the PHS Act to require that the Administrator define by regulation what constitutes financial interests in grants, cooperative agreements, and contracts supported by AHCPR that will, or may be reasonably expected to, create a bias in the results of the supported projects; and the actions that will be taken in response to any such interests. It is planned to address these requirements in separate regulations. Until rules are published governing conflict of interest in AHCPR supported projects, there are PHS grants policies on conflicts of interest which are applicable to AHCPR and other PHS grantees.

Provisions of Proposed Subpart A

The following is a discussion of the major provisions of the proposed regulations at Subpart A:

Section 67.10 Purpose and Scope

Section 67.10 of the proposed regulations provides that these regulations apply to the award by AHCPR of grants and cooperative agreements under: (a) Title IX of the Public Health Service Act to support research, demonstration projects, evaluations, dissemination projects, and conferences on health care services and systems for the delivery of such services, as well as to establish and operate multidisciplinary health research centers; and (b) Section 1142 of the Social Security Act to support research on the outcomes, effectiveness, and appropriateness of health care services and procedures, including but not limited to, evaluations of alternative services and procedures, projects to improve methods and data bases for outcomes research, dissemination of research information and clinical guidelines, conferences, and research on dissemination methods.

Section 67.11 Definitions.

Section 67.11 of the proposed regulations includes, among others, definitions for the "Agency for Health Care Policy and Research (AHCPR)" and the "Administrator", consistent with the authorities provided to AHCPR and the Administrator by title IX of the PHS Act and section 1142 of the Social Security Act. "Peer review group" is also defined, conforming to section 922(c) of the PHS Act, as amended by Public Law 102–410. Specifically, section 922(c)(2) stipulates that members of a peer review group established by the Administrator shall be appointed from among individuals who by virtue of their training or experience are eminently qualified to carry out the duties of such peer review group. Public Law 102–410 amended the original definition to remove the prior restriction against officers or employees of the United States serving as peer reviewers. The new definition permits officers and employees of the United States to serve so long as they not constitute more than 25 percent of a peer review group. These provisions are consistent with those for peer review groups used by the NIH for review of its research grants.

Section 67.12 Eligible Applicants

Consistent with section 925(c) of the PHS Act, § 67.12 provides that public or nonprofit private entities and individuals are eligible for grants or cooperative agreements under these proposed regulations.

Section 67.13 Eligible Projects

Section 67.13 of the proposed regulations identifies categories of projects eligible for funding under these regulations. The listing of projects is not exhaustive, but highlights the types of projects for which support is authorized under title IX of the PHS Act and section 1142 of the Social Security Act. For example, dissemination of research information, a program category not in the existing regulations, reflects the legislative mandate in title IX of the PHS Act and section 1142 of the Social Security Act to disseminate research findings and the authority in section 1142 to support research on methods of dissemination. In addition, because of the importance of addressing national concerns regarding AIDS and HIV-related health issues, the listing of eligible projects includes projects related to access and the quality of health care services for AIDS and HIV-infected patients.

Eligible projects listed in the proposed regulations include, but are not limited to, the following areas of study: (a) Effectiveness, efficiency, and quality of health care services; (b) Outcomes of health care services and procedures; (c) Clinical practice, including primary care and practice-oriented research; (d) Health care technologies, facilities, and equipment, including assessments of health care technology diffusion; (e) Health care costs, productivity, and market forces; (f) Health promotion; (g) Health statistics and epidemiology; (h) Medical liability; (i) AIDS/HIV infection with respect to issues of access and delivery of health care services; (j) Rural health services; (k) The health of low-income, minority, elderly, and other underserved populations; and (l) Information dissemination, conferences, and research on dissemination methodologies.

Section 67.14 Application

Proposed § 67.14 addresses the standard application process for grants, including cooperative agreements.

Section 67.15 Peer Review of Applications

Section 67.15 of the proposed regulations sets forth the administrative requirements and processes to be used for the review of all grant applications, in accordance with section 922 of the PHS Act. Regulations for the conduct of peer review are required by section 922(e) of the PHS Act (42 U.S.C. 299c–1(e)).

The proposed § 67.15(a) establishes the peer review process for all grant applications, except those for small grants, as discussed below. Section 67.15(a)(1) sets out criteria for selection of members of peer review groups. Members are to be selected on the basis of their training and experience in relevant scientific and technical fields, their knowledge of health services research and the application of research findings, and their special knowledge of the issues(s) being addressed in the

grant application. The selection criteria in the NPRM also reflects AHCPR's commitment to seek appropriate representation based on gender, racial/ethnic origin, and geography.

Section 67.15(a)(3) establishes responsibilities of the peer review groups, including the reporting requirements for each application reviewed. The peer review report must include a factual summary of the proposed project; address the scientific and technical merit of the proposed project; and provide a recommendation on the disposition of the application. The peer review group may recommend that an application: (1) be considered for funding, (2) be deferred for a later decision, pending additional information, or (3) not receive further consideration for funding. Also, for each application recommended for consideration for funding, the group must provide a priority score, based on the scientific and technical merit of the proposed project, as well as the group's recommendation regarding the length of the project period and the budgetary level of support.

The proposed peer review recommendation alternatives would replace the existing set of recommendations: (1) approve, (2) defer for a later decision, or (3) disapprove. The changes are based on National Institutes of Health (NIH) modifications in their review process that are being implemented in response to congressional concerns that distinctions should be made between applications having limited scientific and technical merit and those having such significant scientific and technical merit as to warrant consideration for funding. The AHCPR peer review process is patterned after that of NIH, except for those applications for which procedural adjustments are made in accordance with section 922(d)(2) of the PHS Act (see proposed § 67.15(b), described below). Moreover, AHCPR, along with other research components of the Public Health Service, uses NIH's Division of Research Grants for the receipt and referral of applications. Therefore, the proposed regulations incorporate the new terminology used in the peer review of NIH grant applications and in the vast majority of the Department's research grants.

Section 67.15(b) proposes the requirements for review of small grant applications in accordance with section 922(d)(2) of the PHS Act. Specifically, section 922(d)(2) provides that in the case of applications for financial assistance the direct costs of which will not exceed the dollar limit specified in 922(d)(2) ($50,000), the Administrator may make appropriate procedural adjustments in the peer review process. For the purpose of these proposed regulations, applications with total direct costs over the project period that do not exceed the specified dollar limit ($50,000) are referred to as "small grants." The specific dollar limit is not stated in the body of the proposed regulations so that the regulations would not require amendment should the statutory amount be changed. In accordance with section 922(d)(2), such adjustments may be made in the peer review process for small grants for the purpose of encouraging the entry of individuals into the field of research and promoting clinical practice-oriented research, as well as for other purposes which the Administrator may determine.

Under § 67.15(b), applications for small grants may be submitted by the Administrator for review by appropriate staff members of the Department of Health and Human Services or other Federal departments, who are qualified as peers or experts in the field(s); and/or outside experts who are neither officers nor employees of the United States Government, to assess the scientific and technical merit of an application. Federal and non-Federal experts are to be selected by the Administrator, on the basis of their training and experience in particular scientific and technical fields, their knowledge of health services research and the application of research findings, and their special knowledge of the issue(s) being addressed in the specific proposal. The reviewers or group of reviewers will report on each application reviewed, as well as provide recommendations consistent with the requirements for peer review groups under paragraph (a)(3) of § 67.15.

Proposed § 67.15(c) sets out review criteria for all grant applications, including small grants. Criteria for the review of applications for conference grants, including applications for small conference grants, are set out separately. The conference grant criteria reflect currently established criteria, as published in program announcements. Provision also is made for additional review criteria that may be announced by the Administrator of AHCPR for specific categories of grants, such as proposed projects to encourage the entry of individuals into health services research; to study the dissemination of research information and practice guidelines; and to establish research centers. In general, announcements relating to grants are made by the Administrator in the "NIH Guide for Grants and Contracts" or the Federal Register.

Proposed § 67.15(d) highlights conflict of interest provisions applicable to peer reviewers.

Section 67.16 Evaluation and Disposition of Applications

Proposed § 67.16 sets out factors that the Administrator will consider in making funding decisions. The factors include the recommendations made as a result of peer review in accordance with § 67.15 discussed above; recommendations by the National Advisory Council for Health Care Policy, Research, and Evaluation (referred to as the Council) for those applications reviewed in accordance with its charter; the probable usefulness of the results of the project for dealing with national health issues, policies, and programs; and the extent that the proposed project addresses specific AHCPR program priorities which may be announced by the Administrator in the "NIH Guide for Grants and Contracts," the Federal Register, or other appropriate health research publications receiving widespread distribution.

Section 921 of the PHS Act establishes the National Advisory Council for Health Care Policy, Research, and Evaluation to advise the Secretary and the Administrator with respect to activities for carrying out the purposes of AHCPR. The Council's charter provides that it will review and make recommendations on applications for grants with proposed total direct costs in excess of $250,000 for the project period. Recently, its charter was revised to permit discretionary review of grant applications requesting total direct costs in excess of $50,000. The Council's recommendations with respect to specific applications are based on the relevance of these grant projects to AHCPR's program priorities.

Consistent with section 922(b) of the PHS Act, proposed § 67.16 provides that the Administrator may not give consideration for funding to an application, which has not been recommended for further consideration as a result of peer review in accordance with § 67.15.

Section 67.17 Grant Award

Section 67.17 of the proposed regulations sets forth grant award requirements, such as how long the Administrator intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3 to 5 years, or for small grants usually 1 year. These provisions are consistent

with PHS grants policies. PHS grants management policies are set out, and periodically updated, in the "PHS Grants Policy Statement" provided to all grantees. Section 67.17(f) provides that for particular categories of small grants, such as dissertation research support, the Administrator may establish a limit on total direct costs that is less than the amount specified for special procedures in section 922(d)(2) of the PHS Act. Any such categorical or cost limits would be announced in advance of the deadline for receipt of these applications. This provision is equivalent to that in the existing regulations.

Except for small grants, proposed § 67.17(g)(1) states that where the award of a supplemental grant(s) would result in supplemental awards in the aggregate that exceed 20 percent of the approved direct costs of the project during the project period, the Administrator will obtain, to the extent possible, the views of the peer review group prior to making any such award. A supplemental award for preparation of data in suitable form for transmittal in accordance with § 67.21 shall be excluded from the 20 percent aggregate. Supplemental grants which would exceed the 20 percent limit specified above or which would request an increase in funds to support an expansion or change in the scope of the project will be reviewed as competing supplemental grants in accordance with § 67.15(a).

In the case of small grants, reviewed in accordance with section 922(d)(2) of the PHS Act and § 67.15(b), the Administrator will not approve a supplemental award during the project period (excluding any supplemental award for preparation of data in suitable form for transmittal in accordance with § 67.21) that will, in the aggregate, exceed 10 percent of the approved direct costs of the project.

Proposed § 67.17(h) includes the review criteria for continuation awards that would not have to compete for funds with applications for new and supplemental grants. Specifically, each project with a project period in excess of 2 years that is not a small grant would be reviewed during the second budget period, and each subsequent budget period (except for the final year of the project). As a part of this process, the proposed continuation grant would be reviewed, to the extent possible, by at least two members of the same peer group that reviewed the initial proposal in accordance with § 67.15(a), or who participated in that review.

The group would review the application for continuation support and make recommendations to the Administrator based upon the group's evaluation of factors including, the progress of the project in meeting project objectives and the allocation of resources within the project.

Section 67.18 Use of Project Funds

Proposed § 67.18 provides that grant funds must be spent for carrying out the approved project in accordance with the PHS Act and section 1142 of the Social Security Act (if applicable), these regulations, the terms and conditions of the grant award, and, in particular, the applicable cost principles in subpart Q of 45 CFR part 74, or in 45 CFR part 92 for State and local government grantees.

Section 67.19 Other Applicable Regulations

Section 67.19 sets out a listing of several other regulations which apply to these grants.

Section 67.20 Confidentiality

Proposed § 67.20 sets out the provisions of section 903(c) of the PHS Act with respect to the confidentiality of information obtained in the course of conducting activities under title IX of the PHS Act (and those conducted under both title IX and section 1142 of the Social Security Act). This proposed section states that no information so obtained if the entity or individual supplying the information or described in it is identifiable may be used for any purpose other than the purpose for which it was supplied, unless the entity or individual supplying the information or described in it has consented to such other use, in the recorded form and manner as the Administrator may require. In addition, information so obtained may not be published or released in other form if the individual who supplied the information or who is described in it is identifiable, unless such individual has consented in the recorded form and manner as the Administrator may require. Proposed § 67.20 also makes explicit that the confidentiality provisions apply to any person who might obtain grant information in the course of working on a grant application or grant award, including Federal employees and peer reviewers.

Section 67.21 Control of Data and Availability of Publications

Proposed § 67.21 provides that, subject to the confidentiality requirements of section 903(c) of the PHS Act, section 1142(d) of the Social Security Act, and § 67.20 of this proposal:

(a) All data collected or assembled for the purposes of carrying out health services research, demonstration, evaluation, or dissemination projects supported under this subpart shall be made available to the Administrator, upon request;

(b) All publications, reports, papers, statistics, or other materials developed from work supported, in whole or in part, by an award under this subpart must be submitted in a timely manner to the Administrator. All such publications must include an acknowledgement that such materials are the results of, or describe, a grant activity supported by AHCPR;

(c) The AHCPR shall have a royalty-free non-exclusive, and irrevocable license to reproduce, publish, use, or disseminate any copyrightable materials developed from a grant, for any purpose consistent with AHCPR's statutory responsibility, and to authorize others to do so; and

(d) Except for identifying information protected by section 903(c) of the PHS Act, the Administrator, as appropriate, will make information available and disseminate such information and materials on as broad a basis as practicable and in such form as to make them as useful as possible to a variety of audiences, including consumers, health care policymakers, practitioners, and educators.

The requirement under paragraph (a) for the submission of data assembled or collected in carrying out activities under this subpart is included in the current Subpart A. This requirement helps to focus attention on the importance of reliable and valid research findings that have direct application in the practice of medicine, delivery of health care services, and related policy decisionmaking. This is particularly important in outcomes and other medical effectiveness research, the findings of which directly affect patients. Such findings are used to determine which clinical services and procedures are most effective in diagnosing and treating patients and which result in the best outcomes for patients. The data used to generate such findings should be submitted to AHCPR, upon request, for analysis and validation by AHCPR and/or outside researchers to assess the integrity of the research results before findings are incorporated into guidelines or otherwise result in clinical practice recommendations or generate changes in delivery systems.

The emphasis under proposed paragraph (b) for the timely submission of publications, reports, papers, statistics, or other materials is also extremely important in assuring that AHCPR is able to carry out its legislative mandate for timely dissemination of

research findings. In addition, in accordance with the PHS Grants Policy Statement and the general departmental Administration of Grants regulations (45 CFR 74.145), proposed paragraph (c), emphasizes that AHCPR has a non-exclusive and irrevocable license to use, publish, and disseminate copyrightable materials developed in the course of, or under a grant, for any purpose consistent with AHCPR's statutory responsibilities, and to authorize others to do so.

Discussion of Subpart B

The existing regulations at Subpart B pertain to grants for health services research centers under former section 305(e) of the PHS Act (originally section 305(d)), which described specific types of research centers to be supported and mandated particular requirements for each center. Pub. L. 101–239 repealed section 305 of the PHS Act in its entirety and provided for a broad authority for support to multidisciplinary health services research centers under the new title IX of the PHS Act (42 U.S.C. 299–299c–6). See section 902(d), as amended by Pub. L. 102–410 (42 U.S.C. 299a(d)). Pub. L. 101–239 also provided broad authority for support of research centers for the conduct of outcomes research under section 1142(c) of the Social Security Act (42 U.S.C. 1320b–12(c)(4)). Grants for centers under title IX of the PHS Act and section 1142(c) of the Social Security Act are being made in accordance with Subpart A. Consequently, the existing Subpart B is now obsolete and the Department is proposing to remove it and add a new Subpart B pertaining to the peer review of contract proposals, as discussed below. All other aspects of AHCPR contract administration and management will be conducted in accordance with the Federal Acquisition Regulations (FAR) and the Department's Acquisition Regulations (HHSAR).

Section 922 of the PHS Act requires that technical and scientific peer review shall be conducted not only with respect to each application for a grant or cooperative agreement, but also with respect to each proposal for a contract under title IX. Section 922(e) (42 U.S.C.299c–1(e)) further requires that regulations be issued for the conduct of such peer review. Proposed new Subpart B would satisfy this requirement with respect to the peer review of contracts. The proposed regulations are intended to be used in conjunction with the FAR and the HHSAR, governing all Department contracts.

The proposed regulations would apply to the peer review of contract proposals under section 1142 of the Social Security Act (42 U.S.C. 1320b–12), as well as title IX of the PHS Act. This is consistent with the interrelationship between the two authorities. The peer review requirements in proposed § 67.102 are applicable to all contract proposals, regardless of the projected costs of the contracts. (Section 922(d)(2) of the PHS Act does not provide for procedural adjustments in the peer review process for contract proposals as it does for applications for small grants as set out in proposed § 67.15(b) of Subpart A.)

Provisions of Subpart B include the following:

Section 67.101 Purpose and Scope

Proposed § 67.101 would provide that the regulations in proposed new Subpart B of Part 67 apply to the review of contract proposals for health services research, demonstration projects, evaluations, guideline development, and dissemination of information, including research on dissemination methods, on health care services and systems for the delivery of such services, under both title IX of the PHS Act and section 1142 of the Social Security Act.

Section 67.102 Definitions

Proposed § 67.102 sets forth definitions applicable to peer review of AHCPR research contract proposals. "Peer review group" is defined, conforming to section 922(c) of the PHS Act, as amended by Pub. L. 102–410. Specifically, section 922(c)(2) stipulates that members of a peer review group be established by the Administrator from among individuals who by virtue of their training or experience are eminently qualified to carry out the duties under this subpart. Pub. L. 102–410 amended the original definition to remove the prior restriction against officers or employees of the United States serving as peer reviewers. The new definition permits officers and employees of the United States to serve so long as they not constitute more than 25 percent of a peer review group.

Section 67.103 Peer Review of Contract Proposals

Proposed § 67.103 provides that peer review of contract proposals would be conducted in accordance with the Federal Acquisition Regulations and the Health and Human Services Acquisition Regulations (48 CFR Chapters I and III) and the requirements of the pertinent Request for Proposal. It sets forth provisions for the establishment and composition of peer review groups consistent with section 922(c) of the Public Health Service Act. Experts are to be selected on the basis of their training or experience in particular scientific and technical fields, their knowledge of health services research and the application of research findings, and their special knowledge of the issue(s) being addressed in the contract proposals. The selection criteria also reflect AHCPR's commitment to seek appropriate representation based on gender, racial/ethnic origin, and geography, to the extent practicable, given that the peer review group for a particular contract may consist of as few as 3 to 5 members. The regulation also would provide that members of peer review groups for contracts would be appointed for a limited period of time; such as on an annual basis, or until the peer review of the contract proposals is completed as specified in the group's charter, or until expiration of the approved contract. It also highlights conflict of interest provisions relevant to peer review of contract proposals.

Section 67.104 Confidentiality.

Proposed § 67.104 reiterates the provisions of section 903(c) of the PHS Act concerning the protection of the confidentiality of individuals and entities involved in health services research proposals reviewed under this subpart, or identifiable in research products produced with AHCPR contract funds. It would also make explicit that these confidentiality provisions apply to any person who might obtain such information in the course of working on a proposal or contract, including Federal employees and peer reviewers.

Section 67.105 Control of Data and Availability of Publications.

Proposed § 67.105 provides that: (a) Data will be collected, maintained, and supplied, as provided in each contract and subject to the confidentiality requirements of section 903(c) of the PHS Act, section 1142(d) of the Social Security Act, and § 67.104 of this subpart; (b) All publications, reports, papers, statistics, or other materials developed, in whole or in part, under an AHCPR contract must be submitted to the Administrator in accordance with the terms of the contract and all publications must include an acknowledgement that such materials are the results of, or describe, an activity supported by an AHCPR contract; (c) In accordance with 48 CFR 52.227–14, except where otherwise specified in the contract, AHCPR has an unlimited license to use, disclose, reproduce,

prepare derivative works from, distribute copies to the public, and perform publicly and display publicly copyrightable materials produced under a contract, for any purpose consistent with AHCPR's statutory responsibility, and to have or permit others to do so; and (d) Except for identifying information protected by section 903(c) of the PHS Act, the Administrator, as appropriate, will make information provided in accordance with (a) and (b) of this section available, and disseminate such information and materials on as broad a basis as practicable and in such form as to make them as useful as possible to a broad audience including consumers, health policymakers, educators, and practitioners.

This section is included to help focus attention on the importance of reliable and valid research findings that have direct application in the practice of medicine, delivery of health care services, and related policy decisionmaking; and on AHCPR's legislative mandate to disseminate information on a wide-spread basis. This section is modeled after § 67.21 in Subpart A governing AHCPR grants.

Executive Order No. 12291

These proposed regulations have been reviewed in accordance with the requirements of Executive Order No. 12291, "Federal Regulation." They make minor changes to the existing grant and contract procedures, and will not impose any consequential costs on the grantees or contractors. The Secretary, therefore, has determined that the proposed regulations do not constitute a major rule, as defined under the order, and that a regulatory impact analysis is not required.

Regulatory Flexibility Act

The proposed regulations make minor revisions to the current grant and contract procedures, and would not have a significant economic impact on a substantial number of small entities. Therefore, the Secretary has concluded that a regulatory flexibility analysis, as defined under the Regulatory Flexibility Act of 1980 (5 U.S.C. Chapter 6), is not required.

Paperwork Reduction Act of 1980

These proposed regulations do not contain reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). The applications used for the programs covered by the regulations at 42 CFR 67, Subpart A, (Form PHS 398, "Application for Public Health Service Grant" and PHS 2590, "Application for Continuation of Public Health Service Grant"), are approved under OMB Approval No. 0925–0001.

List of Subjects in 42 CFR Part 67

Grant programs—health services research, evaluation, and demonstration projects; Health services research centers; Medical research; Reporting and recordkeeping requirements.

For the reasons set out in the preamble, it is proposed to revise 42 CFR Part 67 to read as set forth below.

Dated: March 11, 1993.

Audrey F. Manley,

Acting Assistant Secretary for Health.

Approved: September 2, 1993.

Donna E. Shalala,

Secretary.

(Catalog of Federal Domestic Assistance No. 93.226—Health Services Research and Development Grants, and No. 93.180—Medical Effectiveness Research.)

Part 67—Agency for Health Care Policy and Research Grants and Contracts

Subpart A—Research Grants for Health Services Research, Evaluation, Demonstration, and Dissemination Projects

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Subpart B—Peer Review of Contracts for Health Services Research, Evaluation, Demonstration, and Dissemination Projects

Sec.
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Authority: Pub. L. 102–410, 106 Stat. 2094–2101 and Sec. 6103, Pub. L. 102–239, 103 Stat. 2169–2208, title IX of the Public Health Service Act (42 U.S.C. 299–299c–6); and sec. 1142, Social Security Act (42 U.S.C. 1320b–12).

Subpart A—Research Grants for Health Services Research, Evaluation, Demonstration, and Dissemination Projects

§ 67.10 Purpose and scope.

The regulations of this subpart apply to the award by AHCPR of grants and cooperative agreements under:

(a) Title IX of the Public Health Service Act to support research, demonstration projects, evaluations, dissemination projects, and conferences on health care services and systems for the delivery of such services, as well as to establish and operate multidisciplinary health research centers.

(b) Section 1142 of the Social Security Act to support research on the outcomes, effectiveness, and appropriateness of health care services and procedures, including but not limited to, evaluations of alternative services and procedures, projects to improve methods and data bases for outcomes research, dissemination of research information and clinical guidelines, conferences, and research on dissemination methods.

§ 67.11 Definitions.

As used in this subpart—

Administrator means the Administrator and any other officer or employee of the Agency for Health Care Policy and Research to whom the authority involved may be delegated.

Agency for Health Care Policy and Research (AHCPR) means that unit of the Department of Health and Human Services established by section 901 of the Public Health Service Act.

Direct costs means the costs that can be identified specifically with a particular cost objective, such as compensation of employees for the time and effort devoted specifically to the approved project, and the costs of materials acquired, consumed, or expended specifically for the purpose of the approved project.

Grant means an award of financial assistance as defined in 45 CFR parts 74 and 92, including cooperative agreements.

Grantee means the organizational entity or individual to which a grant, including a cooperative agreement, under title IX of the Public Health Service Act or section 1142 of the Social Security Act and this subpart, is awarded and which is responsible and accountable both for the use of the funds provided and for the performance of the grant-supported project or activities. The grantee is the entire legal entity even if only a particular component is designated in the award document.

Nonprofit as applied to a private entity, means that no part of the net earnings of such entity inures or may lawfully inure to the benefit of any shareholder or individual.

Peer review group means a panel of experts, as required by section 922(c) of the PHS Act, who by virtue of their

training or experience are eminently qualified to carry out the duties under this subpart. Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group under this subpart.

PHS Act means the Public Health Service Act, as amended.

Principal investigator means a single individual, designated in the grant application and approved by the Administrator, who is responsible for the scientific and technical direction of the project.

Social Security Act means the Social Security Act, as amended.

§ 67.12 Eligible applicants.

Any public or nonprofit private entity or any individual is eligible to apply for a grant under this subpart.

§ 67.13 Eligible projects.

Projects for research, demonstrations, evaluations, dissemination of information (including research on dissemination), and conferences, related to health care services and the delivery of such services are eligible for grant support. These include, but are not limited to, the following project categories:

(a) Effectiveness, efficiency, and quality of health care services;

(b) Outcomes of health care services and procedures;

(c) Clinical practice, including primary care and practice oriented research;

(d) Health care technologies, facilities, and equipment, including assessments of health care technology and technology diffusion;

(e) Health care costs, productivity, and market forces;

(f) Health promotion and disease prevention;

(g) Health statistics and epidemiology;

(h) Medical liability;

(i) AIDS/HIV infection, particularly with respect to issues of access and delivery of health care services;

(j) Rural health services;

(k) The health of low-income, minority, elderly, and other underserved populations; and

(l) Information dissemination and research on dissemination methodologies.

§ 67.14 Applications.

(a) To apply for a grant, an entity or individual must submit an application in the form and at the time that the Administrator requires. The application must be signed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the PHS Act and the Social Security Act, as pertinent, the regulations of this subpart, and any additional terms or conditions of any grant awarded.

(b) In addition to information requested on the application form, the applicant must provide such other information as the Administrator may request.

§ 67.15 Peer review of applications.

(a) *Peer review of applications, except applications reviewed under section 922(d)(2) of the PHS Act.*

(1) All applications for support under this subpart, except those which the Administrator has determined are eligible for review under section 922(d)(2) of the PHS Act and paragraph (b) of this section (referred to as "small grants"), will be submitted by the Administrator for review to a peer review group, in accordance with section 922(a) of the PHS Act. Members of the peer review group will be selected based upon their training and experience in relevant scientific and technical fields, taking into account, among other factors:

(i) The level of formal education (e.g., R.N., M.A., M.D., Ph.D.) completed by the individual or, as appropriate, the individual's pertinent experience and expertise;

(ii) The extent to which the individual has engaged in relevant research, the capacities (e.g., principal investigator, assistant) in which the individual has done so, and the quality of such research;

(iii) The extent of the professional recognition received by the individual as reflected by awards and other honors received from scientific and professional organizations outside the Department of Health and Human Services;

(iv) The need of the peer review group to include within its membership experts from various areas of specialization within relevant scientific and technical fields; and

(v) Appropriate representation based on gender, racial/ethnic origin, and geography.

(2) Review by the peer review group under this paragraph (a) is conducted by using the criteria set out in paragraph (c) of this section.

(3) The peer review group to which an application has been submitted under this paragraph (a) shall make a written report to the Administrator on each application, which shall contain the following parts:

(i) The first part of the report shall consist of a factual summary of the proposed project, including a description of its purpose, scientific approach, location, and total budget.

(ii) The second part of the report shall address the scientific and technical merit of the proposed project and shall consist of a critique of the proposed project with regard to the factors described in paragraph (c) of this section. This portion of the report shall include a set of recommendations to the Administrator with respect to the disposition of the application based upon its scientific and technical merit. The peer review panel may recommend that an application: (A) be considered for funding, (B) be deferred for a later decision, pending additional information, or (C) not be given further consideration for funding.

(iii) For applications recommended, in accordance with paragraph (a)(3)(ii)(A) of this section, for consideration for funding, the peer review panel shall, at the end of its deliberations, provide both a priority score, based on the scientific and technical merit of the proposed project, and its recommendation regarding the appropriate project period and level of support for the proposed project.

(b) *Peer review of applications eligible for review under section 922(d)(2) of the PHS Act (small grants).*

(1) In accordance with section 922(d)(2) of the PHS Act, for applications with total direct costs that do not exceed the amount specified in that section, hereafter, referred to as "small grants", the Administrator may make adjustments in the peer review procedures established in accordance with section 922 of the PHS Act and paragraph (a) of this section.

(2) Applications for small grants may be submitted by the Administrator for review by staff members of the Department of Health and Human Services or other Federal departments, who are qualified as peers or experts in the field(s); and/or outside experts who are neither officers nor employees of the United States Government, to assess the scientific and technical merit of such applications. Federal and non-Federal experts will be selected by the Administrator on the basis of their training and experience in particular scientific and technical fields, their knowledge of health services research and the application of research findings, and their special knowledge of the issue(s) being addressed or methods and technology being used in the specific proposal.

(3) The review criteria set forth in paragraph (c) of this section shall be utilized for the review of small grants. The review may be performed by individual reviewers or a group of

reviewers assembled by the Administrator.

(4) Each reviewer or group of reviewers to whom an application has been submitted under paragraph (b) of this section shall make a written report to the Administrator on each application. Each report shall summarize the findings of the review and provide recommendations with regard to whether the application should receive consideration for funding. If the review recommends that the application be so considered, each reviewer shall provide a numerical rating of the scientific and technical merit of the proposed project.

(c) *Review criteria.* The review criteria set out in this paragraph (c) apply to both applications reviewed by peer review panels in accordance with paragraph (a) of this section, and applications for small grants reviewed in accordance with paragraph (b) of this section.

(1) *Review criteria for nonconference grants.* In carrying out a review under this section for nonconference grants, the following review criteria will be taken into account, where appropriate:

(i) The degree to which the proposed project addresses the purposes of title IX of the PHS Act and section 1142 of the Social Security Act, if applicable, and any special AHCPR priorities which have been announced by the Administrator.

(ii) The significance and originality from a scientific or technical standpoint of the goals of the project;

(iii) The adequacy of the methodology proposed to carry out the project;

(iv) The availability of data or the adequacy of the proposed plan to collect data required in the analyses;

(v) The adequacy and appropriateness of the plan for organizing and carrying out the project;

(vi) The qualifications and experience of the principal investigator and proposed staff;

(vii) The reasonableness of the budget and the time frame for the project, in relation to the work proposed;

(viii) The adequacy of the facilities and resources available to the grantee;

(ix) Where an application involves activities which could have an adverse effect upon humans, animals, or the environment, the adequacy of the proposed means for protecting against or minimizing such effects; and

(x) Any additional criteria that may be announced by the Administrator from time to time for specific categories of grant applications (e.g., proposed projects to encourage the entry of individuals into health services research; to study the dissemination of research findings and guidelines; and to establish research centers) eligible for support under this subpart.

(2) *Review criteria for conference grants.* In carrying out a review under this paragraph (c) for conference grants, the following review criteria will be taken into account:

(i) The degree to which the proposed project addresses the purposes of title IX of the PHS Act and section 1142 of the Social Security Act, if applicable, and any special AHCPR program priorities which have been announced by the Administrator;

(ii) The significance of the proposed conference, specifically:

(A) The importance of the issue or problem addressed in the delivery, cost, quality of, or access to health services, or a methodological or technical issue in dealing with the development and conduct of health services research;

(B) The implications of the conference's intended outcomes for future health services research, for identifying or resolving methodological problems, and for organizing and managing research activities; and

(C) The implications of the conference for technological innovations in health care communications and dissemination of knowledge, or for the effective utilization of the material communicated and disseminated;

(iii) The design of the proposed conference, specifically:

(A) The logic and soundness of the conference's conceptual framework;

(B) The role, composition, and expertise of individuals and advisory groups to be utilized in planning or conducting the conference, including the involvement of the potential users of the information or other products of the conference;

(C) The reasonableness of the techniques proposed to ensure maximum participation and interaction among participants, e.g., discussion in large and small groups, prior distribution of papers, panels versus individual speakers, and periods for questions and answers;

(D) The specificity of the proposed agenda of topics to be addressed, the proposed speakers and panel members for each topic, their credentials, and the criteria for their selection; and

(E) The nature and quality of the informational products to be disseminated as a result of the conference (such as proceedings, research agendas, publications, training manuals and other products), and a plan for dissemination;

(iv) The qualifications of the personnel and the facilities involved, specifically:

(A) The experience and training of the applicant indicating the ability of the applicant to design, organize and carry out a health services research conference; and

(B) The adequacy of the facilities available for conducting the conference; and

(v) The appropriateness of the proposed budget, specifically:

(A) The reasonableness of the overall cost of the conference, given the proposed approach; and

(B) The cost effectiveness of the total proposed expenditure in terms of the probable value of the conference results.

(d) *Conflict of interest.*

(1) Members of peer review groups are subject to applicable conflict of interest statutes and policies, including the relevant provisions in title 18 of the United States Code related to criminal activity, Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635), and Executive Order 12674 (as modified by Executive Order 12731).

(2) In addition to any restrictions imposed under paragraph (d)(1) of this section:

(i) No member of a peer review group may participate in or be present during any review by such group of a grant application in which, to the member's knowledge, any of the following has a financial interest: (A) the member or his or her spouse, minor child, or partner; (B) any organization in which the member is serving as an officer, director, trustee, general partner, or employee; or (C) any organization with which the member is negotiating or has any arrangement concerning prospective employment or other similar association.

(ii) In the event any member of a peer review group or his or her spouse, parent, child, or partner is currently or expected to be the principal investigator or member of the staff responsible for carrying out any research or development activities contemplated as part of a grant application, that group is disqualified and the review will be conducted by another group with the expertise to do so. If there is no other group with the requisite expertise, the review will be conducted by an ad hoc group no more than 50 percent of whose members may be from the disqualified group. The composition of any such ad hoc group will be determined in accordance with § 67.15(a) of this subpart.

(iii) No member of a peer review group may participate in any review under this subpart of a specific grant application for which the member has had or is expected to have any other

responsibility or involvement (whether preaward or postaward) as an officer or employee of the United States.

(3) Where permissible under the statutes, standards, and order cited in paragraph (d)(1) of this section, the Administrator may waive the requirements in paragraph (d)(2) of this section if it is determined that there is no other practical means for securing appropriate expert advice on a particular grant application.

§ 67.16 Evaluation and disposition of applications.

(a) *Evaluation.* After appropriate peer review in accordance with § 67.15, the Administrator will evaluate applications recommended for funding, taking into consideration, among other factors:

(1) Recommendations made by reviewers pursuant to § 67.15;

(2) Recommendations made by the National Advisory Council for Health Care Policy, Research, and Evaluation for projects subject to review under the Council's charter;

(3) The appropriateness of the budget;

(4) The extent to which the research proposal and the fiscal plan provide assurance that effective use will be made of grant funds;

(5) The demonstrated business management capability of the applicant;

(6) The demonstrated competence and skill of the staff, especially the senior personnel, in light of the scope of the project;

(7) The probable usefulness of the results of the project for dealing with national health care issues, policies, and programs; and

(8) The degree to which the proposed project addresses specific priorities or purposes, which may be announced by the Administrator from time to time.

(b) *Disposition.* On the basis of the evaluation of the application as provided in paragraph (a) of this section, the Administrator shall: (1) give consideration for funding, (2) defer for a later decision, pending additional information, or (3) give no further consideration for funding, to any application for a grant under this subpart; except that the Administrator may not give consideration for funding to an application which has not been so recommended as a result of peer review in accordance with § 67.15. A recommendation against consideration for funding shall not preclude reconsideration, if the application is revised, responding to peer review issues and questions, and resubmitted for peer review at a later date.

§ 67.17 Grant award.

(a) Within the limits of available funds, the Administrator may award grants to those applicants whose projects are being considered for funding, which in the judgment of the Administrator, will promote best the purposes of title IX of the PHS Act and section 1142 of the Social Security Act, if applicable, and the regulations of this subpart.

(b) The Notice of Grant Award specifies how long the Administrator intends to support the project without requiring the project to recompete for funds. This period, called the project period, will usually be for 3–5 years, except for small grants, usually 1 year. The project period as specified in the Notice of Grant Award shall begin no later than 9 months following the date of the award, except that the project period must begin in the same fiscal year as that from which funds are being awarded.

(c) Upon request from the grantee, PHS grants policy permits an extension of the project period for up to 12 months when more time is needed to complete the research. The Administrator may approve an additional extension of time based on appropriate written justification submitted by the grantee prior to the completion of the project period.

(d) Generally, a grant will be for 1 year and subsequent continuation awards will be for 1 year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices and the availability of funds. In all cases, continuation awards require a determination by the Administrator that continuation is in the best interest of the Federal Government.

(e) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation, or other award with respect to any approved application.

(f) *Small grants.* For particular categories of small grants, such as dissertation research support, the Administrator may establish a limit on total direct costs that is less than the amount specified in section 922(d)(2) of the PHS Act. Any such categorical limits will be announced in advance of the deadline for receipt of applications for such small grants.

(g) *Supplemental awards.* (1) Except for small grants, where the award of a supplemental grant(s) would result in supplemental awards in the aggregate that exceed 20 percent of the approved direct costs of the project during the project period, the Administrator will obtain, to the extent possible, the views of the peer review group that evaluated the initial application, prior to making any such award. A supplemental award for preparation of data in suitable form for transmittal in accordance with § 67.21 shall be excluded from the 20 percent aggregate. Supplemental grants that would exceed the 20 percent limit or that request an increase in funds to support an expansion or change in the scope of the project will be reviewed as competing supplemental grants in accordance with § 67.15(a).

(2) In the case of small grants, reviewed in accordance with section 922(d)(2) of the PHS Act and § 67.15(b), the Administrator will not approve a supplemental award during the project period (excluding any supplemental award for preparation of data in suitable form for transmittal in accordance with § 67.21) that will, in the aggregate, exceed 10 percent of the approved direct costs of the project.

(h) *Noncompeting continuation awards.* Each project with a project period in excess of 2 years and with direct costs over the project period in excess of the amount specified in section 922(d)(2) will be reviewed during the second budget period and during each subsequent budget period (except for the last budget period of the project period) by, if possible, at least two members of the peer review group that reviewed the initial proposal or individuals who participated in that review. Such individuals shall review the application for continuation support and make recommendations to the Administrator concerning the disposition of the application based upon evaluation of:

(1) The progress of the project in meeting project objectives;

(2) The appropriateness of the management of the project and allocation of resources within the project;

(3) The adequacy and appropriateness of the plan for carrying out the project during the budget period in light of the accomplishments during previous budget periods; and

(4) The reasonableness of the proposed budget for the subsequent budget period.

§ 67.18 Use of project funds.

Grant funds must be spent solely for carrying out the approved project in accordance with the PHS Act, section 1142 of the Social Security Act (if applicable), the regulations of this subpart, the terms and conditions of the

award, and, in particular, the applicable cost principles, prescribed in subpart Q of 45 CFR part 74, or in 45 CFR part 92 for State and local government grantees.

§ 67.19 Other applicable regulations.

Several other regulations apply to grants under this subpart. These include, but are not limited to:

42 CFR Part 50 Subpart A—Responsibility of PHS awardee and applicant institutions for dealing with and reporting possible misconduct in science

42 CFR Part 50 Subpart D—Public Health Service grant appeals procedure

37 CFR Part 401—Inventions and patents

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board

45 CFR Part 46—Protection of human subjects

45 CFR Part 74—Administration of grants

45 CFR Part 75—Informal grant appeals procedures

45 CFR Part 76—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drugfree workplace (grants)

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81—Practice and procedure for hearings under Part 80 of this title

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

45 CFR Part 92—Uniform administrative requirements for grants and cooperative agreements with State and local governments

45 CFR Part 93—New restrictions on lobbying

§ 67.20 Confidentiality.

The confidentiality of information obtained by a grantee in conducting activities under this subpart is protected by section 903(c) of the PHS Act. Specifically:

(a) No information obtained in the course of conducting activities supported under this subpart, if the entity or individual supplying the information or described in it is identifiable, may be used for any purpose other than the purpose for which it was supplied, unless the identifiable entity or individual supplying the information or described in it has consented to such other use, in the recorded form and manner as the Administrator may require; and

(b) No information obtained in the course of activities supported under this subpart may be published or released in other form if the individual who supplied the information or who is described in it is identifiable, unless such individual has consented, in the recorded form and manner as the Administrator may require, to such publication or release.

(c) The provisions of this section are applicable to any person who might obtain such information in the course of working on a grant application or grant award, including Federal employees and peer reviewers.

§ 67.21 Control of data and availability of publications.

Except as otherwise provided in the terms and conditions of the award and subject to the confidentiality requirements of section 903(c) of the PHS Act, section 1142(d) of the Social Security Act and § 67.20 of this subpart:

(a) All data collected or assembled for the purposes of carrying out health services research, demonstration, evaluation, or dissemination projects supported under this subpart shall be made available to the Administrator, upon request;

(b) All publications, reports, papers, statistics, or other materials developed from work supported, in whole or in part, by an award made under this subpart must be submitted, in accordance with the terms and conditions of the award, to the Administrator in a timely manner. All publications must include an acknowledgement that such materials are the results of, or describe, a grant activity supported by AHCPR;

(c) The AHCPR retains a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, use, or disseminate any copyrightable materials developed in the course of or under a grant, for any purpose consistent with AHCPR's statutory responsibilities, and to authorize others to do so; and

(d) Except for identifying information protected by section 903(c) of the PHS Act, the Administrator, as appropriate, will make information available and disseminate such information and materials on as broad a basis as practicable and in such form as to make them as useful as possible to a variety of audiences, including consumers, health policymakers, educators, and practitioners.

§ 67.22 Additional conditions.

The Administrator may, with respect to any grant awarded under this subpart, impose additional conditions prior to or at the time of any award when in the Administrator's judgment such conditions are necessary to assure or protect advancement of the approved project, the interest of the public health, or the conservation of grant funds.

Subpart B—Peer Review of Contracts for Health Services Research, Evaluation, Demonstration, and Dissemination Projects

§ 67.101 Purpose and scope.

(a) The regulations of this subpart apply to the peer review of contracts under:

(1) Title IX of the Public Health Service Act to support research, evaluations, guideline development, demonstrations, and dissemination projects, including conferences, on health care services and systems for the delivery of such services.

(2) Section 1142 of the Social Security Act to support research on the outcomes, effectiveness, and appropriateness of health care services and procedures, including, but not limited to, evaluations of alternative services and procedures, projects to improve methods and data bases for outcomes research, dissemination of research information and clinical guidelines, conferences, and research on dissemination methods.

(b) The regulations of this subpart incorporate provisions with respect to confidentiality of research data, control of data, and availability of information.

§ 67.102 Definitions

Contract proposal means a written offer to enter into a contract, submitted to a contracting officer by an individual or non-Federal organization, and including at a minimum a description of the nature, purpose, duration, cost of project and methods, personnel, and facilities to be utilized in carrying it out.

Peer review group means a panel of experts, as required by section 922(c) of the PHS Act, established to conduct technical and scientific review of contract proposals and to make recommendations to the Administrator regarding the merits of such proposals.

Request for proposals means a Government solicitation to prospective offerors, under procedures for negotiated contracts, to submit a proposal to fulfill specific agency

requirements based on terms and conditions defined in the solicitation. The solicitation contains information sufficient to enable all offerors to prepare competitive proposals, and is as complete as possible with respect to: the nature of work to be performed; descriptions and specifications of items to be delivered; performance schedule; special requirements, clauses or other circumstances affecting the contract; and evaluation criteria by which the proposals will be evaluated.

§ 67.103 Peer review of contract proposals.

(a) *Peer review of contract proposals.* All contract proposals for support under this subpart will be submitted by the Administrator for review to a peer review group, as required in section 922(a) of the PHS Act. Proposals will be reviewed in accordance with the Federal Acquisition Regulations and the Health and Human Services Acquisition Regulations (48 CFR chapters I and III) and the requirements of the pertinent Request for Proposal.

(b) *Establishment of peer review group.* In accordance with section 922(c) of the PHS Act, the Administrator shall establish such peer review groups as may be necessary to review all contract proposals submitted to AHCPR.

(c) *Composition of peer review groups.* The peer review groups shall be composed of individuals, in accordance with section 922(c) of the PHS Act, as amended, who by virtue of their training or experience are eminently qualified to carry out the duties of such a peer review group. Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees. Members of the peer review group will be selected based upon their training or experience in relevant scientific and technical fields, taking into account, among other factors:

(1) The level of formal education (e.g., R.N., M.A., M.D., Ph.D.) completed by the individual or, as appropriate, the individual's pertinent experience and expertise;

(2) The extent to which the individual has engaged in relevant research, the capacities (e.g., principal investigator, assistant) in which the individual has done so, and the quality of such research;

(3) The extent of the professional recognition received by the individual as reflected by awards and other honors received from scientific and professional organizations outside the Department of Health and Human Services;

(4) The need of the peer review group to include within its membership experts from various areas of specialization within relevant scientific and technical fields; and

(5) Appropriate representation based on gender, racial/ethnic origin, and geography, to the extent practicable.

(d) *Term of peer review group members.* Notwithstanding section 922(c)(3) of the PHS Act, members of peer review groups appointed to review contract proposals will be appointed to such groups for a limited period of time, such as on an annual basis, or until the peer review of the contract proposals is completed as specified in the group's charter, or until the expiration of the contract(s) awarded as a result of the peer review.

(e) *Conflict of interest.*

(1) Members of peer review groups are subject to applicable conflict of interest statutes and policies, including the relevant provisions in title 18 of the United States Code related to criminal activity, the Standards of Ethical Conduct for Employees of the Executive Branch and (5 CFR part 2635) and Executive Order 12674 (as modified by Executive Order 12731).

(2) In addition to any restrictions imposed under paragraph (e)(1) of this section:

(i) No member of a peer review group may participate in or be present during any review by such group of a contract proposal in which, to the member's knowledge, any of the following has a financial interest: (A) The member or his or her spouse, minor child, or partner; (B) any organization in which the member is serving as an officer, director, trustee, general partner, or employee; or (C) any organization with which the member is negotiating or has any arrangement concerning prospective employment or other similar association.

(ii) In the event any member of a peer review group or his or her spouse, parent, child, or partner is currently or expected to be the project director or member of the staff responsible for carrying out any contract requirements as specified in the contract proposal, that group is disqualified and the review will be conducted by another group with the expertise to do so. If there is no other group with the requisite expertise, the review will be conducted by an ad hoc group no more than 50 percent of whose members may be from the disqualified group. The composition of any such ad hoc group will be determined in accordance with § 67.103 of this subpart.

§ 67.104 Confidentiality.

Information obtained by a Federal employee, peer reviewer, or contractor in the course of conducting AHCPR contract activities is protected by section 903(c) of the PHS Act. Specifically:

(a) No information obtained in the course of conducting AHCPR contract activities, if the entity or individual supplying the information or described in it is identifiable, may be used for any purpose other than the purpose for which it was supplied, unless the identifiable entity or individual supplying the information or described in it has consented to such other use, in the recorded form and manner as the Administrator may require; and

(b) No information obtained in the course of conducting AHCPR contract activities under this subpart may be published or released in other form if the individual who supplied the information or who is described in it is identifiable, unless such individual has consented, in the recorded form and manner as the Administrator may require, to such publication or release.

§ 67.105 Control of data and availability of publications.

(a) Data will be collected, maintained, and supplied as provided in each contract subject to the confidentiality requirements of section 903(c) of the PHS Act, section 1142(d) of the Social Security Act, and § 67.104 of this subpart;

(b) All publications, reports, papers, statistics, or other materials developed from work supported in whole or inpart by contracts under title IX of the PHS Act and section 1142 of the Social Security Act, if applicable, must be submitted to the Administrator in accordance with the terms of the contract. All publications must include an acknowledgement that such materials are the results of, or describe, a contractual activity supported by AHCPR;

(c) In accordance with 48 CFR part 52.227–14 and except as otherwise specified in the contract, AHCPR has the license to use, disclose, reproduce, prepare derivative works from, distribute copies to the public, and perform publicly and display publicly any copyrightable materials produced under a contract for any purpose consistent with AHCPR's statutory responsibilities, and to have or permit others to do so; and

(d) Except for identifying information protected by section 903(c) of the PHS

Act, the Administrator, as appropriate, will make information provided in accordance with paragraphs (a) and (b) of this section available, and disseminate such information and materials on as broad a basis as practicable and in such form as to make them as useful as possible to a variety of audiences, including consumers, health policymakers, educators, and practitioners.

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Tuesday
November 16, 1993

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 15

Importation of Exotic Wild Birds to the United States; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 15

RIN: 1018–AB93

Importation of Exotic Wild Birds to the United States; Final Rule Implementing the Wild Bird Conservation Act of 1992

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: On October 23, 1992, the Wild Bird Conservation Act of 1992 (WBCA) was signed into law, the purposes of which include promoting the conservation of exotic birds by: ensuring that all imports into the United States of species of exotic birds are biologically sustainable and not detrimental to the species; ensuring that imported birds are not subject to inhumane treatment during capture and transport; and assisting wild bird conservation and management programs in countries of origin. This final rule implements the prohibitions stipulated in the WBCA and provides permit requirements and procedures for some allowed exemptions. This rule also replaces the feather importation quota regulations.

EFFECTIVE DATE: This rule is effective November 16, 1993.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Dr., room 420C, Arlington, VA 22203, telephone (703) 358–2093.

SUPPLEMENTARY INFORMATION: This rule implements some aspects of the Wild Bird Conservation Act (WBCA), which was signed into law on October 23, 1992. The WBCA limits or prohibits imports of exotic bird species to ensure that their populations are not harmed by trade. It also encourages wild bird conservation programs in countries of origin by both ensuring that all trade in such species involving the United States is biologically sustainable and not detrimental to the species, and by creating an Exotic Bird Conservation Fund to provide conservation assistance in countries of origin. The effects of the WBCA, which this rule implements, are as follows:

The WBCA covers the importation of all bird species not indigenous to the 50 United States and the District of Columbia, while exempting the following bird families from its provisions: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae, based on "Reference List of the Birds of the World" by Morony, Bock, and Farrand (1975).

An immediate moratorium, effective October 23, 1992, was established on the importation of ten species of wild birds of particular concern that are listed in Appendix II of the Convention on International Trade in Endangered Species (CITES), two of which were moved to Appendix I at the March 1992 CITES meeting. The prohibition on importation of those species was announced in the **Federal Register** of December 4, 1992 (57 FR 57510).

During the one-year delay period from October 23, 1992, to October 22, 1993, there has been a maximum number of individuals of any CITES-listed bird species that can be imported. That quota, equal to the number imported during the last year for which the Service had complete data (1991), was announced in the **Federal Register** of December 4, 1992 (57 FR 57510).

A notice published on March 30, 1993 (58 FR 16644) solicited public comments and announced a public meeting, held April 15–16, 1993, to receive input from the public in the development of regulations to implement some of the provisions of the WBCA. Useful input was received from a broad cross-section of interested members of the public who participated in the meeting and submitted comments in writing; that input was utilized in developing this rule. A notice published on April 16, 1993, (58 FR 19840) announced species for which the quota had been met and no further individual birds could be imported.

On August 12, 1993 the Service published a proposed rule (58 FR 42926) which proposed regulations implementing the prohibitions stipulated in the WBCA and provided permit requirements and procedures for some allowed exemptions. That rule also proposed to replace the feather importation quota regulations and gave notice that comments must be received by September 13, 1993, in order to be assured consideration.

Effective October 23, 1993, imports of all CITES-listed birds are prohibited, except for species included in an approved list, or for which an import permit has been issued. The approved list will include species (by country) and/or specific captive-breeding facilities. The Service will publish a proposed rulemaking establishing the criteria for adopting the approved list in the very near future. The Service also has the emergency authority to suspend imports of any CITES-listed bird species at any time based on a series of criteria.

The WBCA authorizes the Service to issue permits for the importation of individual birds from otherwise prohibited species for the following purposes (after required findings are made): (1) Scientific research; (2) personally owned pets of individuals returning to the United States after being out of the country for at least a year; (3) zoological breeding or display programs; and (4) cooperative breeding programs designed to promote the conservation of the species and maintain the species in the wild, as long as such programs are developed and administered by organizations meeting certain standards. This final rule finalizes the proposals made in the **Federal Register** of August 12, 1993, with some modifications based on comments received and further analysis by the Service.

Regulatory Schedule

This rule replaces CFR part 15 so that it relates only to implementation of the Wild Bird Conservation Act. There is regulatory text for the following subparts: subpart A (Introduction and General Provisions), subpart B (Prohibitions and Requirements), and subpart C (Permits and Approval of Cooperative Breeding Programs). It is the Service's intent to propose text for subparts D (Approved list of species) and E (Qualifying foreign breeding facilities) in the near future, and to propose text for subpart F (Prohibited non-CITES species) not long thereafter.

Comments and Information Received

Comments were received from 73 organizations and private individuals, including 2 Universities, 5 conservation and/or animal welfare organizations (including 1 submission representing 14 organizations), 6 zoos or zoological organizations, 1 importer, 1 representative of the pet industry, 2 private companies, 19 bird breeders or avicultural organizations (one of which submitted 24 form letters), and 37 private individuals.

Comments of a General Nature

Several commenters supported the permit provisions of the proposed rule in their entirety, whereas others had specific concerns that are addressed in the discussion of comments received, below. In reference to permit application and issuance requirements, several commenters considered the proposed rule to be excessive and/or burdensome. It was not the Service's intention to be either excessive or burdensome, but rather to fully clarify

the information required to be submitted in order to facilitate the Service's making the required findings under the law, and to expedite the permit issuance process. In many cases in its past experience the Service has found that permit applicants submit minimal information, and in order to make the necessary findings, the Service must write back to applicants for further information. The proposed rule intended to provide the public with a full view as to what information is necessary. The Service, in analyzing all comments received, agrees that some of the permit application and issuance requirements may appear too restrictive or burdensome, and has modified them accordingly. The Service notes, that in order to make a finding of non-detriment to a species' survival in the wild, or whether or not a cooperative breeding program benefits a species' conservation, a stricter test will be applied for species listed in Appendix I of the Convention than for Appendix II or III species. The Service agrees with some commenters who noted that the information it proposed to be required, while appropriate for endangered or Appendix I species, may not be as necessary for Appendix II species. The Service has modified the rule accordingly, by eliminating some proposed requirements and modifying others to include language such as "as appropriate" or "when applicable," to provide more flexibility to both the public and the Service.

Feather Import Quotas: Elimination of Rule

This rule eliminates regulations currently in 50 CFR part 15, which implement feather import quotas contained in the Tariff Classification Act of 1962 (19 U.S.C. 1202). The previous regulations in 50 CFR part 15 contained three subparts regulating the importation of skins bearing feathers of the mandarin duck, a jungle fowl, and six species of pheasants, under the authority of the Tariff Classification Act of 1962; these regulations were last amended in January, 1974 (39 FR 1168). The Service believes that those feather import quota regulations are unnecessary and wasteful of government and private resources, with no benefit to wildlife species. The Service notes there are a number of other laws and regulations that protect species of birds for which there is cause for concern and for which importation of skins bearing feathers could be of concern. These laws include the Lacey Act Amendments of 1981, the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, the Endangered Species Act, and CITES. The Service notes that the regulations in 50 CFR part 15, and the Tariff Classification Act, were passed prior to the signing and implementation by the United States of the CITES treaty. The feather import regulations that are hereby repealed prohibited the importation of feathers of two species that are listed in the CITES Appendices; *Gallus sonnerati* and *Crossoptilon mantchuricum* were listed in CITES Appendix II and I, respectively, in 1975. The Service believes that if there were any conservation concern regarding trade in feathers of the other species listed in 50 CFR part 15, the government authorities responsible could have proposed their listing in the CITES Appendices. There were no comments in opposition to this proposal, and one in support.

Renumbering of 50 CFR Part 15

The Service hereby includes the regulations implementing the WBCA in 50 CFR part 15. The Service hereby eliminates those three subparts regulating the importation of skins bearing feathers of the mandarin duck, a jungle fowl, and six species of pheasants, and includes the regulations implementing the WBCA in 50 CFR part 15 subparts A–F.

Comments Pertaining to Subpart A—Wild Bird Conservation Act: Introduction and General Provisions

Comments Pertaining to Section 15.1: Purpose of Regulations

This section outlines the general purpose of the regulations in 50 CFR part 15, which apply to all species of exotic birds as defined in this subpart. No comments were received on this section.

Comments Pertaining to Section 15.2: Scope of Regulations

This section clarifies that all of the requirements of part 15 are in addition to the existing requirements in parts 13 and 14, part 17 (species listed as endangered or threatened under the Endangered Species Act (ESA)), part 21 (Migratory Bird Treaty Act) and part 23 (species listed in the Appendices to the Convention on International Trade in Endangered Species). Thus, for example, in addition to the requirements of part 15 relating to the Wild Bird Conservation Act (WBCA), importation of a species of bird listed in CITES Appendix I would still require a CITES Appendix I import permit and be required to comply with the requirements of 50 CFR part 23. One application will suffice for both sets of requirements, and one permit will be issued covering CITES, ESA, and Wild Bird Conservation Act requirements, as is now done for imports requiring both CITES and ESA permits. Two commenters supported this intent of the Service, while one also requested that the Service require through these regulations that permits be issued within 30 days, and approval of cooperative breeding programs within 60 days. It is the Service's intent to process all applications as expeditiously as possible. The Service cannot, however, impose a regulatory time frame within which permits or approvals for cooperative breeding programs will be issued, as the processing time depends on the completeness of an application, whether the Service needs further information from an applicant, the Service's ability to make the required findings, and financial and personnel resources available to the relevant Service offices. In the case of permit applications involving birds removed from the wild, and particularly when the species is listed in Appendix I, a finding of non-detriment to the wild application is particularly critical, dependent on information from a wide range of sources, and often more time consuming. The Service encourages applicants to provide all of the information necessary to make the required findings.

Comments Pertaining to Section 15.3: Definitions

This section defines a number of terms used in part 15. The definitions in parts 10 and 23 of 50 CFR, unless defined herein, also apply. The definitions of exotic bird, person, species, and United States are taken directly out of the text of the WBCA. One commenter explicitly supported the definitions as proposed.

Regarding the definition of exotic bird, one commenter (on behalf of 14 organizations) requested that the Service not exempt from the provisions of the WBCA exotic birds in the families Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae. Another commenter requested that only some species in those families be exempted from the provisions of the WBCA. While arguments given for not exempting some species in those families may be valid, the statute itself provides that exemption, and the Service cannot by regulation make the WBCA applicable to species that Congress explicitly in the law decided to exempt from the statute's provisions. Another commenter requested that two additional families of

birds (Accipitridae and Falconidae) be exempted from the provisions of the WBCA through this definition of exotic bird, in order to facilitate their importation. The Service cannot exempt entire families of birds that Congress did not choose to exempt. However, the Service is aware that many species in those two orders are either already part of successful existing cooperative breeding programs, which could qualify for approval under subpart C, or are bred in captivity in facilities that could obtain approval under subpart E. Another commenter asked that dead specimens also be regulated. The Service notes that the WBCA explicitly excludes dead sport-hunted birds, dead museum specimens, and dead scientific specimens, which is reflected in the definition.

One commenter supported the inclusion of hybrids of any species or subspecies as covered by these regulations; the Service agrees, and notes that this is consistent with CITES requirements. Hybrids will be treated according to the more restrictive Appendix or category in which either parental species is listed.

Comments Pertaining to Subpart B: Prohibitions and Requirements

Comments Pertaining to Section 15.11: Prohibitions

This section describes the prohibitions under the Act, which relate to the importation of birds into the United States. It is unlawful to import any exotic bird listed under CITES if it is not listed either in the approved list of species pursuant to subpart D or in the approved list of qualifying foreign captive-breeding facilities pursuant to subpart E. It is unlawful to import any bird from an approved breeding facility if the bird was not bred at that facility. It is unlawful to import any non-CITES bird if it is listed under subpart F as a prohibited species, or if it was exported from a prohibited country, also under subpart F. It is unlawful to engage in any activity in violation of a specified condition of a permit issued pursuant to subpart C that authorizes the import of an exotic bird under this part 15. If a species is re-exported from a country, whether or not it can be imported into the United States is dependent on the country of origin (the country of first export) of the bird. For example, if a CITES-listed bird species is re-exported from country A, but originated in country B, that species must be listed as an approved species from country B. These regulations can be illustrated through an example; these examples are not meant to imply approval or disapproval of any species or country but are just for the sake of giving an example. *Example 1:* If exports of *Amazona aestiva* are approved from Argentina but not from any other country, then *A. aestiva* could not be imported into the United States with an export permit from Venezuela or Peru; a re-export from Belgium could only be imported with a valid CITES permit indicating the original country of export as Argentina, and giving the valid Argentina CITES Permit number. *Example 2:* If Species X is listed as a captive-bred species under subpart D, it can be imported from any country with a valid CITES permit; no additional permits are required. *Example 3:* If Smith's Breeding Farm in England is listed under subpart E as approved for *Amazona aestiva* and *Amazona albifrons*, then those two species can be imported from Smith's Breeding Farm with a valid CITES permit; no additional import permit is required from the Service; they must have been bred at Smith's. If Smith's is the only approved facility for the species, imports from any other facility or country are only allowed with a valid import permit issued by the Service, pursuant to subpart C.

Thirty-two (32) organizations or private individuals commented on this section. A large number of those comments indicate confusion about the proposed rule, the Service's intent, or the relationship between these regulations and other parts in 50 CFR, so for the sake of clarity the Service will respond for each paragraph of this section for which it received specific comments from the public.

Comments Pertaining to Section 15.11(c): CITES Appendix III

Three commenters supported the Service's interpretation that Appendix III species are considered CITES-listed species for the purposes of these regulations only if they originate in the country that listed them in Appendix III. Four commenters (including one on behalf of 14 organizations) opposed this interpretation. The Service notes that listing of a species in Appendix III is a unilateral action by a particular CITES Party, thereby requiring CITES permits and implementation of CITES permits issuance requirements for that country; when the species is found in other countries that did not list it in Appendix III, only a certificate of origin is required, stating that it did not originate in the country that listed the species in Appendix III. Therefore, when the species is found in countries other than where listed in Appendix III, it is not subject to the same level of CITES controls, and indeed is only listed in the Appendices in the country so annotated in the official CITES Appendices. Several commenters stated that this provision allows too many finches and other non-psittacine birds to be legally imported, given that they are prone to high transport mortalities. The Service notes that if there is evidence that trade in those species [listed in Appendix III that originate in a country that has not listed them in Appendix III] is detrimental to the species' survival, or inhumane, a petition may be submitted to the Service pursuant to the WBCA to impose a moratorium on the species' import. In addition, the option remains to list the entire species in CITES Appendix I or II at a meeting of the CITES Conference of the Parties, if appropriate, commensurate with the conservation and trade status of the species. Therefore, the Service has retained this provision as proposed.

Comments Pertaining to Section 15.11(e): Qualifying Facility

One commenter agreed with this paragraph. Three commenters recommended that individual foreign hobby breeders be able to consolidate their shipments, to be considered a single qualifying facility. This will be dealt with in a future proposed rulemaking. The Service notes, however, that the prohibition on importing birds from a qualifying foreign breeding facility that were not bred at the listed facility derives directly from the WBCA.

Comments Pertaining to Section 15.11(f): Possession of an Illegally Imported Bird

In the proposed rule published on August 12, 1993, the Service proposed that it be unlawful to possess an exotic bird imported into the United States contrary to any of the requirements of this part 15. Numerous commenters were opposed to this provision, including several form letters, although in many cases the intent of the Service was perhaps not sufficiently clear in the proposed rule. It was not the Service's intention to require a proof of legality of all birds in the possession of citizens of the United States, as was misinterpreted by several commenters. Rather, the Service notes that it is already prohibited under the Lacey Act Amendments of 1981 to import a bird possessed or sold in violation of any foreign or State law. The provision proposed herein that possession be a violation of this part 15 is therefore eliminated as largely redundant with the Lacey Act Amendments. Four commenters asked that a special

exemption be provided in this paragraph for pre-Act birds. The Service notes that such a provision was debated and rejected by Congress, and explicitly is not found in the WBCA.

Comments Pertaining to Section 15.12: Requirements

This section establishes that no exotic bird can be imported into the United States except in accordance with the provisions of subparts D–F, or under the terms of a valid import permit issued pursuant to subpart C. Even if a species is prohibited from import, or originates in a prohibited country, individuals are eligible to apply for a permit under subpart C if the purpose for which they desire to import a bird qualifies for one of the four types of permits. There were no comments on this section.

Comments Pertaining to Previously Exported Birds

Numerous commenters misinterpreted the Service's intentions regarding birds that have previously been exported from the United States and are being "re-imported," and therefore the Service is changing the rule in that regard. The Service agrees with the 21 commenters who requested that any person who is issued a permit to export birds from the United States should be allowed to return to the United States, with the *same* birds, at any time; such a person would not be subject to the limitation on two pet birds per individual or to being out of the United States for more than a year. The Service notes that the WBCA was silent on this issue, and therefore the proposed rule published on August 12, 1993 intentionally adhered strictly to the letter of the law, in limiting imports to two pet birds per year. (The Service was aware that this might cause some concern, and wanted to assess comments from the public.) The Service appreciates the attention the public focused on this issue, and the full consensus of all commenters that any bird legally exported from the United States on a permit issued by the Service's Office of Management Authority be able to return to the United States, whether for personal or other purposes. The Service is in full agreement with the public that the intent of the WBCA is to conserve and protect exotic birds in the wild, and therefore any bird that the Service agrees can be exported from the United States can return with its original owner to the United States. The Service notes that, based on its past experience, this provision will apply largely to individuals traveling on vacation or on overseas assignment with their pet bird.

Therefore, the Service has modified this section accordingly, such that a bird can be imported to the United States that was legally exported from the United States with a permit issued by the Service's Office of Management Authority, provided that: (1) the import is by the same person [as defined by this part 15] who exported the bird; (2) the person provides a copy of the cleared (validated) CITES export permit or certificate issued by the Service; (3) the Service is satisfied that the same bird is being imported as is indicated on the aforementioned permit or certificate; and (4) the import complies with all other applicable Service regulations. The Service stresses that this "return" provision *does not apply* to any bird obtained or purchased outside of the United States and entering the United States for the first time. The Service will monitor the implementation of this provision, and if there is evidence that it is being used to facilitate illegal importation or smuggling of birds into the United States, the Service may modify it in the future. The Service's Office of Management Authority will also notify future recipients of CITES export permits or certificates for pet birds leaving the United States of these provisions, particularly in that a copy of the cleared permit or certificate must be retained.

General Comments Pertaining to Subpart C: Permits and Approval of Cooperative Breeding Programs

This subpart establishes procedures, application requirements, and issuance criteria for four types of permits authorized under the WBCA. The Service received several comments on the following issues that pertain to terms used in several different paragraphs in §§ 15.22–15.26:

Comments Pertaining to Sex (Section 15.22(a)(1)(i), Section 15.23(a)(1)(i), Section 15.24(a)(1)(i), Section 15.25(a)(1)(i))

Several commenters noted that the sex of an exotic bird to be imported is not always known, but the proposed rule requested the applicant provide the Service with the sex of the bird to be imported. The Service is aware that for many birds, particularly monomorphic species, sex cannot be determined without surgical methods or chromosome analysis. The Service has modified the rule (in §§ 15.22–15.25) to require sex, when known.

Comments Pertaining to Age (Section 15.22(a)(1)(i), Section 15.23(a)(1)(i), Section 15.24(a)(1)(i), Section 15.25(a)(1)(i), Section 15.26(a)(1))

Several commenters misunderstood the application requirement in the proposed rule, which requested the age of the bird to be imported, thinking that a permit would not be issued if the bird's exact age in months and years was not known. The Service is quite aware that for wild-caught birds, an individual bird's exact age cannot necessarily be determined, although age class (i.e. chick, fledgling, juvenile, sub-adult, adult) is known. For captive-bred birds, however, age is often known with certainty. Therefore, the Service has modified the rule to require either age or age class.

Comments Pertaining to Locations (Section 15.22(a)(2)(i), Section 15.23(a)(2)(i), Section 15.24(a)(2))

In the proposed rule, for permits for scientific research, zoological breeding or display, or cooperative breeding involving imports of wild-caught birds, the Service had proposed to require both the country and specific location where the bird was [or was to be] removed from the wild. Several commenters misunderstood that the Service wanted exact location, including fully accurate details, as to where the bird was or was to be removed from the wild. Such is not the case; rather, in order to make the required finding that the import will not be detrimental to the species survival, the Service needs to know the location in the country of origin where the bird was [or will be] removed from the wild. In many countries, a species may be locally abundant in one area or region, while rare and/or declining in another. therefore, for the clarity of the public, the Service has changed location to region, to indicate the region within the country of origin. However, particularly in the case of Appendix I species, permit applicants should provide as much information to the Service as is necessary to make the required non-detriment finding. This is for the benefit of the public, since if the Service does not have sufficient information on which to base a non-detriment finding, it cannot issue a permit.

Comments Pertaining to Persons Capturing Birds

In the proposed rule, for all of the permits except personal pets, the Service had proposed to require, for wild-caught birds, the names and qualifications of persons who will capture or who captured the bird.

Several commenters felt this was overly burdensome. The Service did not intend this to be burdensome, but rather considered that for wild-caught birds such information is useful. The Service agrees that it is not necessary in most cases, and has removed the requirement. However, as was discussed above, in the case of Appendix I species, permit applicants should provide as much information to the Service as is necessary to make the required non-detriment finding. Several commenters noted that zoological institutions often import birds that were obtained illegally and have been confiscated by other governments, and therefore details as to their origin in the wild are often unavailable. The service is aware of such situations although they are rare, and will take such circumstances into consideration if there is extenuating information showing that the import will benefit the conservation of the species.

Comments Pertaining to Status of the Species in the Area of Capture (Section 15.22(a)(2)(ii), Section 15.23(a)(2)(ii), Section 15.24(a)(2)(ii))

In the proposed rule, the Service proposed to require a description of the status of the species in the area of capture. Such information is necessary to make a non-detriment finding. In order to be consist with the changed language regarding region rather than location where a bird was removed from the wild, area of capture has been changed to region of removal. The Service hereby clarifies that status in this context refers to the species' conservation status in the wild (i.e., increasing, stable, declining, protected, endangered, threatened, rare, vulnerable, insufficiently known). The Service has scientific information available to help it make the required findings, and may consult the Convention Scientific and/or Management Authority in the country of origin; however, the Service encourages permit applicants to provide as detailed information in this regard as may be readily available to them.

Comments Pertaining to Collecting Permits (Section 15.22(a)(2)(iii), Section 15.23(a)(2)(iii), Section 15.24(a)(2)(iii))

In the proposed rule, the Service proposed to require, for wild-caught birds, a copy of any foreign collecting permit or authorizing letter. Several commenters felt this was a burdensome requirement. The Service does not consider this requirement to be excessive and has retained the requirement, with the addition of the words "if applicable," such that any case where there is no such permit required or it does not apply, such a permit is not required. However, in many cases of scientific research, or export to zoological institutions, the Service is aware of the requirement of the country of origin for a collecting permit.

Comments Pertaining to Manner of Taking

In the proposed rule, the Service proposed to require a description of the manner of taking of wild-caught birds. Several commenters considered this either excessive, or not within the capability of the applicant to ascertain. The Service agrees that it may be more information than is necessary to make a non-detriment finding. In the future proposed rulemaking establishing criteria for approval of sustainable use management plans for wild-caught birds, the Service will address this issue. The Service agrees that it is not critical for permits issuance, and has removed it from the final rule. However, particularly in the case of Appendix I species, if that information is available to the permit applicant, it could assist the Service in making the necessary findings.

Comments Pertaining to Date of Removal

In the proposed rule, the Service requested the date when a specimen was removed from the wild, for wild-caught birds that had been held in captivity for more than a year. Several commenters misunderstood this requirement, and thought that the Service wanted the exact calendar date that a bird was removed from the wild. Rather, the Service had included this requirement for the benefit of permit applicants, in order to facilitate the necessary findings and to expedite permit processing. The Service has however removed this requirement, since it was apparently unclear. Rather, in order to determine if a particular removal from the wild was detrimental to a species' survival, the Service will need to know, approximately, when it was so removed. For a given species, the more information the Service has about when an individual bird was removed from the wild, the easier it may be to make the required non-detriment finding. The Service encourages applicants to err on the side of providing too much rather than too little information.

Comments Pertaining to Length of Time in Captivity

In the proposed rule, the Service Distinguished between birds not yet removed from the wild and those wild-caught birds that had been held in captivity for more than a year. The distinction facilitated requiring more information, including about capture, for imports of birds not yet removed from the wild. Since there is now no difference between the two situations, the Service has combined paragraphs (2) and (3) in the proposed rule, for §§ 15.22–15.24.

Comments Pertaining to Progeny (Section 15.22(a)(4)(iv), Section 15.23(a)(4)(v), Section 15.24(a)(5)(iv), and Section 15.26(a)(2)(vi))

Several commenters were concerned that the rule requires plans for the disposition of exotic birds imported and any progeny, upon completion of the applicable project or program. These commenters either did not understand the meaning of the term progeny, or were confused as to how many generations of progeny are referred to. The Service notes that "progeny" is the more zoologically correct version of the more anthropomorphic "offspring", but means the same. The Service notes that it has required information on plans for disposition of progeny, and not a full reporting in every case of whether those plans were fulfilled. If progeny of imported birds are sold or otherwise leave the control of the permittee, then the applicant can have no plans for the disposition of their progeny. The purpose of this application requirement is to assist the service in making the determination required by the statute that the birds are being imported *exclusively* for the purpose for which the permit is issued. The Service notes that it will constitute a violation of a permit issued under this part 15 to utilize imported birds for purposes other than those authorized by the permit.

Comments Pertaining to Multiple Transactions (Section 15.22(a)(3)(ii), Section 15.23(a)(3)(ii), Section 15.24(a)(3)(ii))

For permits for birds that were bred in captivity, the Service proposed requiring documentation showing the bird was acquired from the breeder and a history of multiple transactions, when the applicant is not the breeder. Some commenters misunderstood this requirement. The Service has added the words "if applicable," such that only if it is applicable should such a history be provided. The Service notes that, if a permit is for a bird that is bred in captivity, it will be far easier for the Service to make a non-detriment finding, particularly in the case of Appendix I species. In addition, recent

law enforcement investigations have shown cases of wild-caught birds being falsely claimed to have been bred in captivity. In one particular case, eggs from protected parrot species in Australia (prohibited from export) were smuggled from Australia to New Zealand, where they were declared to be captive-bred and then exported to the United States. Therefore, the Service must be particularly vigilant in being certain that it is satisfied that birds claimed to be so, were indeed bred in captivity.

Comments Pertaining to Preparation for Shipment

In the proposed rule, the Service proposed to require a description (for all permits to be issued under this part 15) of the shipping methods and enclosure to be used to transport the exotic bird, including feeding and care during transport, along with an issuance criterion that the birds would be prepared and shipped as to minimize the risk of injury, damage to health, or cruel treatment. Numerous commenters objected to this requirement, noting that it is not explicitly stated as a permit requirement in the WBCA. The Service is cognizant of that fact, but included this requirement in the proposed rule for these reasons, which were for the benefit and convenience of the importing public: All shipments of exotic birds into the United States must comply with the humane and healthful transport requirements of 50 CFR part 14, which incorporated by reference the International Air Transport Association (IATA) Live Animals Regulations (LAR); all CITES shipments must also comply with the IATA LAR. The Service included a requirement to provide shipping and transport information, and the requirement to make a finding that the proposed shipping and transport would comply with all CITES and U.S. requirements. Such requirements were to assist the importing public in avoiding a situation where an import permit was issued, but the birds suffered high mortalities, the shipment was found in violation of U.S. law, or was even possibly confiscated, due to lack of awareness by the importer and/or exporter. Since so many commenters did not understand this proposed requirement (which required nothing more than is already required), the Service has removed it from the final rule. However, the Service stresses that all exotic bird imports into the United States must fully comply with all humane transport requirements of U.S. law. Copies of the humane and healthful transport regulations in 50 CFR part 14 are available from the Service on request.

Comments Pertaining to Enhancement or Promotion of the Conservation of Species in the Wild

Several commenters objected strongly to the proposal by the Service that importation of birds for zoological breeding or display and scientific research purposes should enhance, or promote, the conservation of the species in the wild. These commenters claimed that because Section 112 of the WBCA authorizes the Secretary to issue permits for otherwise prohibited species if the Secretary determines that the import is not detrimental to the survival of the species and if the bird is being imported exclusively for the stated purpose, the Secretary (and thereby the Service) should ignore that stated purpose of the WBCA (Section 103) to "promote the conservation of exotic birds." The Service disagrees with this comment in principle. The Service notes that Congress, in the Committee Report on the WBCA, said that the primary goal of the WBCA is "to conserve birds in the wild in order to protect their genetic diversity and the integrity of the ecosystems in which they are found." The Service feels strongly that the underlying principle of the WBCA is to promote the conservation of exotic birds in the wild. Any permit issued is an exemption to otherwise prohibited acts, which the Service, acting on behalf of the Secretary, may or may not authorize, depending on individual circumstances.

However, the Service is also cognizant that the rule as proposed appeared to many commenters to utilize the same standard for Appendix II and III species as for endangered, threatened, or Appendix I species. As is standard practice within the Offices of Scientific and Management Authority, a stricter test is applied to Appendix I than to Appendix II and III species. The rule has been modified, such that for permits for zoological breeding or display, or for scientific research, applications will not be judged as to whether or not the import will promote or enhance the conservation of the species in the wild. In the case of wild-caught specimens of Appendix I species, however, such a test will be utilized.

In the same context, several comments objected to the inclusion in the proposed rule (previous § 15.22(a)(5)(ii) and § 15.23(a)(5)(v)), for scientific research and zoological breeding and display, of a requirement that applicants state the relationship of the breeding or display program, or the research, to promoting the conservation of the species in the wild. In light of the aforementioned discussion, in this final rule the Service will not require information on how the program will promote the conservation of the species per se, but retains a requirement for information on the relationship (§ 15.22(a)(4)(2) and § 15.23(a)(4)) of the research or breeding or display program to the conservation of the species in the wild. That is for two reasons: First, to allow the Service to make the necessary non-detriment finding and second, to make the finding inherent in issuance criterion 3 in both cases. Issuance criterion 3 (§ 15.22(b)(3), § 15.23(b)(3), and § 15.26(b)(3)) refers to whether a permit (or approval, in the case of cooperative breeding programs), if issued, would conflict with any known program intended to enhance the survival of the population from which the exotic bird was or would be removed. This does not require that the import actually enhance the survival of the population, but rather would prohibit any import that conflicted with a conservation program in a country of origin.

Two ornithologists commented that captive breeding of endangered species should be conducted in the country of origin of the species (in situ) for conservation purposes and ex situ captive-breeding programs should only be sanctioned when it is not possible to set up captive-breeding programs in the country of origin. The Service feels quite strongly that conservation, management, and recovery programs in countries of origin should be given full consideration. This is consistent with the Statement of Purpose of the WBCA (Section 103), whereby a purpose of the WBCA is "to promote the conservation of exotic birds by assisting wild bird conservation and management programs in the countries of origin of wild birds." The Service notes that, for permits for cooperative breeding, for the convenience of the public, once a program is approved, this finding is not required for individual permits.

Several commenters objected to the issuance criterion in § 15.24(b)(3) and § 15.26(b)(4) requiring the Service to determine if the cooperative breeding program for which the permit is required would be likely to enhance or promote the conservation of the exotic bird species in the wild or result in a self-sustaining population of the exotic birds species in captivity. The Service disagrees, and has retained that provision in the rule. Unlike the situation for other exemptions specified in Section 112 of the WBCA, the law requires that cooperative breeding programs are "designed to promote the conservation of the species and

maintain the species in the wild [emphasis added] by enhancing the propagation and survival of the species." The Service is therefore required to make such a finding that the cooperative breeding program and imports pursuant to it promote or enhance the species' conservation. The Service believes that it is being flexible in allowing, as an alternative, that the program could also lead towards a self-sustaining population of the exotic bird species in captivity. However, it may be more difficult to make a non-detriment finding for imports of CITES Appendix I species solely for this latter purpose, if specific offsetting conservation value is lacking.

Comments Pertaining to Letters of Recommendation or Endorsement

Several commenters opposed the proposed requirement for three letters of recommendation or endorsement for permits for scientific research, zoological breeding or display, and cooperative breeding programs. Some commenters felt this was a burdensome requirement. The Service disagrees that this would be burdensome, and notes that this requirement was actually included in the proposed rule for the benefit of the public, to provide the opportunity for an application to be accompanied by additional supportive information that might expedite permit processing. The Service does agree that this information is not necessary in all cases, and has eliminated it. The Service has also removed the requirement for a letter of endorsement from the Convention Scientific Authority in the country from which an exotic bird is to be [or was] removed from the wild, based on its agreement with commenters that this need not be required in all cases (Appendix I, II, and III). However, for wild-caught birds, the Service may require such an endorsement or other information from the Convention Scientific Authority in the country of origin, on a case-by-case basis. The Service stresses that such supporting documentation for any relevant permit may expedite processing of the permit application, particularly in the case of appendix I, endangered, or threatened species.

Comments Pertaining to the Same or Similar Species (Section 15.23(a)(7), Section 15.24(a)(9), Section 15.26(a)(3))

Several commenters expressed concern as to what is meant by the phrase "same or similar species." Specifically, permit applicants are required to submit a history of either their zoological breeding or display program, or cooperative breeding program, with the same or similar species. Some commenters inquired if the Service wanted voluminous records of all bird species, or of all bird species in the same order, particularly if applicants are zoos with large collections and years of experience with many exotic bird species. Such is not the Service's intent. Rather, in order to make the required finding that the exotic bird will be imported for the intended purpose, the Service needs to be convinced that the applicant has experience with either the species requested, or closely related or otherwise similar species. Thus, if the applicant has extensive experience with the species or genus applied for, that may suffice. If an applicant has no experience with birds of the same species or genus, the application should include pertinent information for bird species as closely related to the species applied for as is possible. Clearly, particularly in the case of birds being taken from the wild, the applicant is expected to have experience with similar bird species. The Service notes that similarity can be behavioral or physiological, and not necessarily only taxonomic.

Comments Pertaining to Plans for Disposition of Birds (Section 15.22(a)(4)(iv), Section 15.23(a)(4)(v), Section 15.24(a)(5)(iv), Section 15.26(a)(2)(vi))

Several commenters noted that the proposed rule requested planned disposition of birds, and individuals, zoological institutions, or breeding programs cannot know in advance what disposition of birds will be. The Service agrees, and clarifies that its intent is for the applicant to indicate any plans it may have for the disposition of birds and/or their immediate progeny. This will assist the Service in determining that the exotic birds for which the permit is requested will be used for the requested purpose. This will also assist the Service in assessing a given breeding or display program. This information will also assist the Service in issuing future permits for the same or similar species to the same applicant. The Service has clarified this requirement in all cases by changing "planned disposition" to "plans for disposition."

Comments Pertaining to Care and Maintenance of the Exotic Bird (Section 15.22(a)(6), Section 15.23(a)(5), Section 15.24(a)(8))

Several commenters opposed the proposed requirement for a description of the care and maintenance of the exotic bird, including how the facility meets professionally recognized standards. The Service disagrees, and considers this information critical to its determination that the expertise, facilities, or other resources that are available to the applicant are adequate for proper care and maintenance of the exotic bird, in order to successfully accomplish the objectives stated in the application. Such a finding is critical to determining that the exotic bird is being imported exclusively for the purpose for which the permit is issued, as is required by the WBCA. Furthermore, the Service reminds the public of the existing requirements in 50 CFR part 13 for all permits issued by the Service.

Several commenters opposed the inclusion of the address of any facility, expressing a concern that they did not want members of the general public knowing where they or their birds are. The Service disagrees, and feels strongly that it must have both the name and address of any facility that will house birds for which an import permit is being issued; this is consistent with existing requirements of 50 CFR part 13. Several commenters objected to the requirement of photographs or diagrams of the facility, as being excessive. The Service agrees that this information may not be necessary in all cases, and has eliminated the requirement. Several commenters objected to the requirement for information on qualifications and experience of personnel responsible for the care of the bird, as being excessive and/or duplicative. The Service agrees that this information may not be necessary in all cases, and has eliminated the requirement. However, the Service will accept the afterementioned documentation for any relevant permit.

Comments Pertaining to Veterinary Care

Several commenters considered this proposed requirement excessive or unnecessary. The Service agrees that it is not necessary and was insufficiently clear, and is indeed covered by the term "husbandry practices" (discussed below). The Service has eliminated the requirement.

Comments Pertaining to Husbandry Practices (Section 15.22(a)(6)(iii), Section 15.23(a)(5)(iii), Section 15.24(a)(8)(iii))

Some commenters questioned what is meant by husbandry practices, and why it is required. The Service is requiring details on husbandry practices, for scientific research, zoological breeding or display, and cooperative breeding permits (but not cooperative breeding programs, as several facilities could be involved). Information on husbandry practices is required in the context of a

description of the care and maintenance of the exotic bird, and how professionally recognized standards are met. That information is necessary to allow the Service to determine that the expertise, facilities, or other resources available to the applicant appear adequate to accomplish the objectives in the application. Such an issuance criterion is vital to determining whether the stated objectives in the application could be expected to be accomplished, and whether the exotic bird will be imported exclusively for a purpose allowed by the WBCA (as required by the statute). Husbandry practices can include information on: diet and feeding regimes; provision of water; temperature control; veterinary practices, such as vaccination and health screening; and substrate and/or bedding provided. Information on husbandry practices should include the specific needs of the particular species of exotic bird.

Comments Pertaining to Opinions of Other Scientists or Organizations With Expertise (Section 15.22(b) and Section 15.23(b))

Several commenters objected to the proposed issuance criterion regarding the opinions of scientists or other persons or organizations having expertise concerning the exotic bird or other matters germane to the application. The Service agrees that this is not strictly an issuance criterion. The Service has eliminated this requirement as unnecessarily duplicative with its existing authority under 50 CFR part 13 to obtain information as is necessary to issue any permit.

Comments Pertaining to Publication of Permit Applications in the **Federal Register**

Several commenters objected to the Service's proposed requirement to publish all applications for scientific research and zoological breeding and display permits in the **Federal Register**, for public comment from interested parties. The Service had included this requirement in order to facilitate receiving information from the widest possible sources. The Service agrees, however, that such publication is not necessary in all cases, particularly for Appendix II species. Since this constituted the Service placing an additional administrative burden upon itself, this requirement has been eliminated for scientific research and zoological breeding and display permits. Several commenters objected to publication in the **Federal Register** of permit applications for cooperative breeding programs. The Service notes that this was not included in the proposed rule of August 12, 1993; the publication in the **Federal Register** applied to approval of cooperative breeding programs (§ 15.26) and not to the import permits for individual birds (§ 15.24). However, in the case of controversial permits, or permits for which the Service deems it necessary to obtain information from the public, the Service by policy reserves the option of publishing in the **Federal Register** a notice of any permit application.

Several commenters objected to publication in the **Federal Register** of applications for approval of cooperative breeding programs. The Service disagrees, and has retained the requirement to publish all applications for approval of cooperative breeding programs (§ 15.26(c)) in the **Federal Register**. The Service notes that this is a new program, and exotic wild birds and their conservation will benefit from the Service's receiving information from all knowledgeable members of the public in granting approval to cooperative breeding programs. Therefore, this requirement is not changed in the final rule.

Comments Pertaining to Section 15.21: General Application Procedures

All applications should be submitted to the Service's Office of Management Authority. In all cases, any additional requirements in 50 CFR parts 13, 14, 17, 21, and 23 must also be met. For the four types of permits, each section (§§ 15.22–15.25) is organized in the following manner: (1) Application requirements, which contains the information the applicant must provide to the Service; (2) Issuance criteria, which includes the findings the Service must make before a permit can be issued; and (3) Permit conditions; All permits are subject to the general conditions set forth in 50 CFR part 13, as well as any special conditions. Approval of cooperative breeding programs, § 15.26, is organized in the following manner: (1) Application requirements, which contains the information the applicant must provide to the Service; (2) Approval criteria, which include the findings the Service must make before approval can be granted; (3) Approval conditions: All approvals are subject to the general conditions set forth in 50 CFR part 13. An approved cooperative breeding program is required to maintain records of birds imported and their immediate progeny, and their disposition, which shall be made available to the Service on request; and (4) Publication in the **Federal Register**. Requests for approval will be published in the **Federal Register** for public comment.

One commenter was supportive of this section, while another inquired if cooperative breeding programs in the United States are subject to approval. The Service stresses that the only cooperative breeding program that needs to apply for approval under this part 15 is a program that intends to import exotic birds into the United States. The Service is not proposing to regulate breeding of exotic birds within the United States, nor is such regulation called for under the WBCA.

Comments Pertaining to Section 15.22: Permits for Scientific Research

Five commenters, including one ornithologist and one commenter on behalf of 14 organizations, agreed with the proposed rule. Four commenters considered the application requirements to be too restrictive or burdensome for scientific researchers. Comments pertaining to a number of issues were discussed above, in the general introduction to subpart C, as they pertain to all or most of the types of permits. In addition, comments were received regarding the following application requirements in paragraph (a) of this section:

Comments Pertaining to Section 15.22(a)(4): Description of Scientific Research

Several commenters considered it excessive to request information on a formal research protocol. The Service disagrees. Since the Service is required by the statute to determine that the import is exclusively for the stated purpose, in this case scientific research, the Service is by necessity required to ascertain the nature of the scientific research. One commenter felt that the application requirements for scientific research could discourage valid research, by requiring excessive information. The Service disagrees, since the information required is, in the Service's experience, standard information contained in research grant applications, and would not require additional work to provide that information to the Service. The Service agrees with some of the comments that the requirements for scientific research permits may appear excessive, and, in addition to those modifications addressed under "General Comments Pertaining to Subpart C," above, has made some modifications.

Section 15.22(a)(4)(i): In the proposed rule, the Service had required details on the funding of the research. Several commenters considered this excessive, unnecessary information. The Service agrees that this information is not necessary in all cases, and has removed

the requirement, but notes that it will accept such information for any relevant permit for scientific research, particularly in the case of Appendix I, endangered, or threatened species.

Comments Pertaining to Section 15.22(a)(5): Qualifications Statement

Several commenters considered it excessive to request information on the qualifications of the principal investigator conducting the proposed research.

The Service agrees that the information requested in the proposed rule may have been more than is necessary to make the required findings. However, the Service considers the issuance criteria in § 15.22(b) (4) and (5) to be valid, important, and consistent with the purposes of the Act. That is, the Service feels that the research for which a permit is required should have scientific merit, and the expertise, facilities, or other resources available to the applicant should be adequate for proper care and maintenance of the exotic bird, in order to successfully accomplish the stated research objectives. Such a finding is critical to the Service's being convinced that the exotic bird imported will indeed be used for the stated purpose of scientific research. The Service does not consider it appropriate to issue permits for activities that do not constitute *bona fide* scientific research, are unnecessary, or are duplicative. The Service notes that, based on its experience, unqualified individuals calling themselves researchers may attempt to engage in activities that no accredited research or zoological institution would consider to be a *bona fide* scientific research. Furthermore, one commenter requested clarification if scientific research had to be done at a public or academic institution, or if private research firms could qualify. The Service believes that nothing in this final rule precludes private institutions from receiving import permits for scientific research, under this section. The Service has modified the rule accordingly. The Service does not wish to burden legitimate, useful scientific research in a way. Therefore, instead of the detailed requirements in the proposed rule, the rule now requires only the qualifications of the scientific personnel conducting the proposed research, including applicable experience and a description of relevant past research conducted.

In summary, persons desiring to import otherwise prohibited species of exotic birds for scientific research must therefore provide information to the Service as prescribed in this section, and import permits will be valid for up to one year.

Comments Pertaining to Section 15.23: Permits for Zoological Breeding or Display

Twelve commenters considered the proposed requirements in § 15.23(a) to be too restrictive, while five agreed in principle. Two commenters requested that permits be issued only for zoological breeding and display, but not for display programs alone. The Service notes that the term "zoological breeding or display programs" is directly from the statute, and has been retained. Comments pertaining to a number of issues were discussed above, in the general introduction to subpart C, as they pertain to all or most of the types of permits. In addition, comments were received regarding the following aspects of this section:

Several commenters objected to the proposed requirement in § 15.23(a) that applicants for permits for zoological breeding or display programs provide information on their breeding and inventory records, including hatching, survival and mortality records, as well as causes of any mortalities and efforts made to correct any problems. These commenters felt that such a requirement was unnecessary and burdensome on zoological institutions. The Service disagrees. Permit applications for species that suffer high mortality in captivity need to be evaluated as to how such mortality affects the need for further removal of wild-caught birds from their natural populations. Furthermore, in order to evaluate further applications for the same species from the same facility, the Service will benefit from knowing the mortalities and survival rates of a given species at a facility.

Several zoological institutions suggested that the information provided in a given application might also be pertinent for one or more other applications submitted by the same institution. The Service agrees; such would be the case in particular for information on the same or similar species, a history of the facility's programs, husbandry practices, and other facility information. Some institutions suggested that the Service maintain facility files that an applicant can refer to in a permit application, to avoid sending duplicate information. The Service accepts this suggestion, although it will be implemented as a matter of policy and not as a regulation in this Part 15. The Service will endeavor to maintain a master file for each institution with multiple applications. However, a separate application will still be required to be submitted for each separate importation of exotic birds, in order to obtain the permits under this section. It is the responsibility of the applicant to guarantee that the information available to the Service from previous permit applications is current and accurate.

Comments Pertaining to Expertise of a Zoological Institution

One commenter inquired what was meant by a zoological institution, in order to determine what type of facility could apply for permits under this section. The Service considers a zoological institution, or zoo, to be one that is open to the public, has animals on public display, and in the context of this section, one that has a breeding or educational protocol that includes providing educational materials to the general public on the ecology and/or conservation of the species. Some commenters recommended only allowing applications for permits under this section to zoological institutions accredited by the American Association of Zoological Parks and Aquariums (AAZPA). Some commenters considered issuance criterion § 15.23(b)(5) to be unnecessary if only AAZPA-accredited institutions were eligible. Other commenters considered application requirement § 15.23(a)(5) unnecessary (the requirement for a description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards of the public display community). The Service disagrees. The Service agrees that AAZPA accreditation is an important indicator of a facility's level of professionalism and expertise, and such accreditation is an indicator that the facility meets the professionally recognized standards of the public display community. However, the Service is also aware that there is a possibility that a facility might meet those standards, and satisfy the issuance criteria in § 15.23(b), without being accredited by AAZPA. Furthermore, the U.S. Government cannot limit applicants for permits authorized by statute to facilities recognized or accredited by a private entity, whose standards are not subject to government review or the Administrative Procedure Act.

Some commenters requested that zoological institutions be subject to the same requirements as cooperative breeding programs. The Service notes that the WBCA explicitly differentiated between the two, and this rule is consistent with the distinctions in the statute. One commenter felt that the zoological breeding community needs

more structure and integration of programs, particularly as regards genetic management plans. Indeed, the Service notes that no zoological institution is precluded from participating in a cooperative breeding program approved under § 15.26, and applying for an import permit under § 15.24. The Service is supportive of cooperative breeding efforts that involve coordination between private and public programs or institutions.

In summary, persons desiring to import otherwise prohibited species of exotic birds for zoological breeding or display must provide information to the Service as prescribed in this section, and import permits will be valid for up to one year.

Comments Pertaining to Section 15.24: Permits for Cooperative Breeding

Four commenters agreed in principle with the proposed rule, while 48 considered the proposed rule to be too restrictive, burdensome, or unnecessary. Several commenters recommended overview of applicants by approved avicultural organizations, which is the case in this rule. Comments pertaining to a number of issues were discussed above, in the general introduction to supart C, as they pertain to all or most of the types of permits. In addition, comments were received regarding the following aspects of this section:

Several commenters expressed concerns that requirements for approval of cooperative breeding programs were excessive and/or prohibitive of captive breeding: they are discussed under § 15.26, below. Several commenters were confused as to the "two-tiered" system for cooperative breeding programs. The Service notes that a cooperative breeding program may apply for approval under § 15.26. If a cooperative breeding program is approved, for importation of otherwise prohibited species, individuals affiliated with that program may apply to import birds under § 15.24. This process is expedited by requiring approval first of the program, and information that the Service would have needed to require from all applicants will only be required for the approval of the program. Information required from individual applicants refers to specific imports of specific exotic birds by a person.

Several commenters were confused about whether or not the Service had proposed to regulate interstate commerce in captive-bred exotic birds, or in general to regulate captive breeding of exotic birds in the United States. The Service stresses that that is not the case, and any person not wishing to import exotic birds need not apply for a permit under this part 15, and any cooperative breeding program that does not intend to import exotic birds does not need to apply for approval. Some commenters raised concerns about marking requirements; none were proposed in the proposed rule of August 12, 1993, and none are found in this final rule. Other general comments pertaining to captive breeding in general will be discussed under § 15.26, below.

Comments Pertaining to Origin of Birds

One commenter objected to requiring information from applicants on the origin of the birds to be imported (wild-caught or captive-bred), as being unnecessary information for captive breeding purposes. The Service disagrees, and feels that this information is vital to making the required non-detriment finding. This information is also for the benefit of the applicant, since a less strict test of non-detriment will be employed in the case of captive-bred birds to be imported.

Comments Pertaining to Recordkeeping, Section 15.24(a)(5)(iii)

Several commenters opposed or expressed concern about the requirement for details on recordkeeping. The Service clarifies that it does not want all records kept by a participant in a cooperative breeding program. Rather, applicants are required to provide recordkeeping details pertaining to the relationship of the exotic bird to be imported to the cooperative breeding program approved under § 15.26. This is to assist the Service in being certain that records are kept that allow the cooperative breeding program to exercise the necessary oversight, to comply with the requirements of § 15.26, and to satisfy the intent of Congress that permittees for birds for cooperative breeding keep track of birds and their progeny. This issue is discussed further under § 15.26, below. The Service notes that it has removed the requirement for veterinary details, as being redundant with other requirements.

In summary, persons desiring to import otherwise prohibited species of exotic birds for cooperative breeding programs must first be affiliated with a cooperative breeding program approved under the provisions of § 15.26. If a person is affiliated with an approved program, to apply for a permit they must provide information to the Service as prescribed in this section. Import permits will be valid for up to one year.

Comments Pertaining to Section 15.25: Permits for Personal Pets

Several commenters expressed concerns about the Service's intentions regarding birds that have previously been exported from the United States and are being returned to the United States. The Service has modified the rule, and discussed this issue under § 15.12, above.

Comments Pertaining to Section 15.25(a): Two Birds Per Individual

In the proposed rule, the Service had required that no household be able to import more than two birds as pets in any year, although section 112 of the WBCA clearly states that the restriction is on two birds per individual. Some commenters felt that limiting imports to two birds per household was an unnecessary restriction when compared with the requirements of statute. The Service agrees, and in this final rule the restriction is on two birds per individual per year. The Service had proposed household rather than individual, for a number of reasons, including to avoid situations where persons would purchase birds for each member of their family, and import them for commercial purposes. The Service has however returned to the original language of the statute. If a household wishes to import more than two birds, individual members of that household must each apply for import permits. The Service is still required to make the required findings, including whether the import is detrimental to the species in the wild. The Service has retained the permit condition that the exotic birds cannot be imported with the intention to sell. One commenter requested that the rule limit imports to one per individual rather than two birds; the Service has retained the two bird limit, as that is contained in the statute.

Comments Pertaining to Section 15.25(a): One Year Resident Outside of the United States

Several commenters were concerned about the requirement that in order to obtain a permit to import a personally owned pet bird acquired outside of the United States, individuals are required to show documentation that they have continually resided outside of the United States for a minimum of one year. Several commenters noted that the WBCA states that individuals must have been "continuously out of the country for a minimum of one year"; these commenters felt that the residence requirement was more restrictive than the statute. Actually, the opposite is the

case. The Service is aware of many situations where U.S. citizens are stationed overseas for several years (and thereby reside outside of the United States), but they have not actually been physically out of the country for the entire time, as they make frequent visits to family in the United States. The Service did not consider it the intent of Congress to prevent Foreign Service and military officers stationed outside of the United States for one or more years to import their birds, if perchance they had visited the United States during that period. The proposed rule language has not been changed. Another commenter recommended increasing the required period of residency outside of the United States to two years; the Service disagrees, since one year is specified in the WBCA, the one year requirement has been retained.

One commenter objected to requiring information from applicants on the origin of their pet bird (wild-caught or captive-bred), as being information unavailable to the general public. The Service disagrees, and feels that this information is vital to making the required non-detriment finding, and considers the detail of information requested to not be excessive.

Comments Pertaining to Section 15.26: Approval of Cooperative Breeding Programs

Sixteen commenters considered the provisions of the proposed rule to be too restrictive, redundant, or unnecessary, while five agreed in principle. Comments pertaining to a number of issues were discussed above, in the general introduction to subpart C, as they pertain to all or most of the types of permits and to approval of cooperative breeding programs. In addition, comments were received regarding the following aspects of this section:

Some commenters expressed concerns that the proposed rule would discourage captive breeding. The Service disagrees. One commenter claimed that the "intent of the WBCA is to promote breeding of exotic avian species." The Service notes that the stated purpose of the WBCA, in section 103 of the statute, is "to promote the conservation of exotic birds", in a number of ways, with a focus on benefits to exotic birds in the wild. Nevertheless, the Service is aware of, and agrees with, exemptions provided for in the WBCA for importation of otherwise prohibited exotic bird species for cooperative breeding programs. Based on comments received and its own analysis, the Service has changed or eliminated elements of the proposed rule that relates to cooperative breeding programs (see "General comments pertaining to subpart C", above), and that may have been unnecessary.

Some commenters recommended that the Service leave any regulation of cooperative breeding programs to avicultural organizations. The Service believes that the final rule is quite self-regulating, in that cooperative breeding programs must submit information on a number of topics, but the Service has allowed for great flexibility in these topics and in how cooperative breeding programs are designed. For example, the Service has required information on a breeding protocol, genetic management plan and breeding methods, and plans for developing and maintaining a self-sustaining population in captivity of the exotic bird species; the Service has not directed cooperative breeding programs as to what breeding protocol should be used, or how to allocate birds, but rather is leaving that up to each program to coordinate. The Service notes that in the public meeting of April 15–16, 1993, there was consensus of those attending (including many aviculturists) that the most expeditious way to handle cooperative breeding programs in a rulemaking implementing the WBCA would be a two-tiered system, with approval of the entire program first, followed by applications from individual breeders.

Comments Pertaining to Section 15.26(a)(1): Birds to be Imported

One commenter suggested that individual cooperative breeding programs be eligible for approval whether or not they intend to import birds. The Service agrees that a cooperative breeding program may not have a specific importation planned, and has modified the rule accordingly to require a description of the exotic bird(s) to be imported or to be covered under the program. However, the Service notes that any program breeding exotic birds in captivity with no intent to import birds has no need to apply for approval under the WBCA.

Comments Pertaining to Recordkeeping and Tracking of Birds

Some commenters objected to the proposed requirement in § 15.26(a)(2) for submission by cooperative breeding programs of details on the system of recordkeeping and tracking of birds and their progeny. The Service however considers that requirement to be vital, and has retained it in the final rule. Congress, in the House Committee Report on the Wild Bird Conservation Act, said that it "expects that the Secretary will issue permits for the importation of birds for breeding if the applicant can demonstrate that he or she is capable and fully intends to keep track of the whereabouts of the offspring of birds that are imported under this exemption. The purpose of this requirement is to ensure that it efforts to reintroduce the species into the wild are undertaken, the location of birds that might be included in such a program and their genetic makeup will be known." To comply with the intent of Congress in this matter, the Service has retained the requirement for information on plans for disposition of progeny, a breeding protocol that includes a discussion of the proposed genetic management plan, and details on the system of recordkeeping to be used.

Comments Pertaining to Types of Facilities

One commenter felt very strongly that cooperative breeding programs for endangered species and/or CITES Appendix I be done only in closed, single-species facilities, because of disease transmission concerns; the commenter cited the Service's policy for the captive breeding of Puerto Rican Parrots. The Service agrees that there are serious risks of disease exposure in captive-breeding programs for threatened or endangered species. The Service, as a matter of policy, for Appendix I species or species listed under the Endangered Species Act, will seek to obtain information as to whether facilities are single or multi-species, where reintroduction is the stated objective of the breeding program.

Comments Pertaining to Annual Reports

One commenter felt that the proposed requirement in § 15.26(a)(5) to provide annual reports for 3 years imposes an impediment to creating new cooperative breeding programs, since there are very few such programs established for CITES Appendix II-listed species. The Service neither intended nor wishes to discourage the formation of new cooperative breeding programs. Therefore, the Service has modified the proposed requirement to ask for such information from pre-existing cooperative breeding programs, by including "if applicable " in the rule.

Comments Pertaining to Affiliation

Several commenters were unclear what is meant by professional affiliation in § 15.26, which requires a qualification statement for each individual who will be overseeing a cooperative breeding program, and requires that individuals overseeing the program demonstrate an affiliation with an avicultural, conservation or zoological organization. The proposed

rule required that this affiliation be professional. Some commenters noted that some avicultural organizations are administered by volunteers, who might be thought of as non-professionals. The Service agrees, and has removed the requirement that affiliations be professional. The Service notes however that the individuals overseeing a cooperative breeding program must be able to demonstrate some formal affiliation with the avicultural, zoological, or conservation organization, whether professional, as an officer, or otherwise.

Comments Pertaining to Country of Origin

Two commenters recommended that captive breeding of endangered species be conducted in the country of origin of the species (*in situ*) for conservation purposes and *ex situ* captive breeding programs should only be sanctioned when it is not possible to set up captive breeding programs in the country of origin. The Service feels strongly that conservation, management, and recovery programs in countries of origin should be given full consideration.

Comments Pertaining to Studbooks

One commenter objected to the requirement for information on a studbook, if one has been developed for the species, as being superfluous. The Service disagrees, and considers that if a studbook has been developed for a species, that information is useful in making the required findings.

Comments Pertaining to Publication in the **Federal Register** (§ 15.26(c))

Several commenters objected to publication in the **Federal Register** of applications for approval of cooperative breeding programs. The Service disagrees, and has retained its commitment and requirement to publish all applications for approval of cooperative breeding programs in the **Federal Register.** The Service notes that this is a new program, and exotic wild birds and their conservation will benefit from the Service's receiving information form all knowledgeable members of the public in granting approval to cooperative breeding programs. The Service notes that individual permit applications associated with approved cooperative breeding programs will not be required to be published in the **Federal Register.**

Comments Pertaining to Renewal of Approval, Section 15.26(e)

Cooperative breeding programs will be approved for two years, and can apply for renewal of approval. One commenter inquired if a cooperative breeding program that does not intend to import any more birds needs to apply for renewal. The Service stresses that no renewal would then be needed, and renewal is *not* obligatory. The Service further stresses that approval of cooperative breeding programs is *only* necessary when participants in the program intend to apply to import otherwise prohibited species of exotic birds.

In summary, cooperative breeding programs that wish to oversee the importation of otherwise prohibited species of exotic birds must be approved under this section before persons can apply for import permits under § 15.24. In applying for approval, a cooperative breeding program must provide information to the Service as prescribed in this section.

Comments Pertaining to Subpart D-Approved List of Species Listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

No comments were received on the proposed organization of this subpart. This subpart D is established in this rule; actual text will be proposed in a future proposed rulemaking. The subpart is organized as follows:

15.31 Criteria for including species in the approved list.
(a) Captive-bred species
(b) Non-captive-bred species
15.32 Species included in the approved list.
(a) Captive-bred species
(b) Non-captive-bred species

Comments Pertaining to Subpart E: Qualifying Facilities Breeding Exotic Birds in Captivity

No comments were received on the proposed organization on this subpart. This subpart E is established in this rule; actual text will be proposed in a future proposed rulemaking. The subpart is organized as follows:

Section 15.41 Criteria for including facilities as qualifying for imports.
Section 15.42 List of foreign qualifying breeding facilities.

Comments Pertaining to Subpart F: List of Prohibited Species Not Listed in the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

No comments were received on the proposed organization of this subpart. This subpart F is established in this rule; actual text will be proposed in a future proposed rulemaking. The subpart is organized as follows:

Section 15.51 Criteria for including species and countries in the prohibited list.
Section 15.52 Species included in the prohibited list.
Section 15.53 Countries of export included in the prohibited list.

General Comments

Comments Pertaining to Marking of Exotic Birds

One commenter noted that section 114 of the WBCA calls on the Secretary to review a program for labeling of exotic birds and certification of breeding facilities, and to report to Congress the results of that review by October 23, 1994. The Service has not yet begun that review, but welcomes the voluntary contribution of information or suggestions from members of the public on the way to proceed with this review. Several commenters inquired if the Service intends to propose regulations pursuant to Section 115 of the WBCA, which authorizes the Secretary to promulgate regulations requiring marking or recordkeeping for certain species of exotic birds. The Service will review that issue, and decide in the future on what regulations to propose.

Comments Pertaining to the Regulatory Flexibility Act

One commenter inquired how the Service could certify that these regulations will not have a significant economic effect on a substantial number of small entities as described by the Regulatory Flexibility Act. The Service notes that while the statute may have an economic effect, these regulations establishing permit procedures will allow the importation of otherwise prohibited species; since the regulations remove an automatic restriction, any potential economic effect is either minor or beneficial.

Effects of the Rule

The Service has determined that this rule is categorically excluded under Departmental procedures in complying with the National Environmental Policy Act (NEPA). The regulations are procedural in nature, and the environmental effects are judged to be minimal, speculative, and do not lend themselves to meaningful analysis. See 516 DM [Departmental Manual] 2, Appx. 1, Paragraph 1.10. The permits authorized under the WBCA and regulations may be subject to NEPA documentation requirements, on a case-by-case basis. For good cause as explained herein, the effective date of this final rule has not been delayed for thirty (30) days after publication in the **Federal Register** because, in accordance

with 5 U.S.C. 553(d) (1) and (3), the rule recognizes permitting exceptions to the requirements of the Wild Bird Conservation Act, which automatically imposes broad import bans as of October 23, 1993.

Executive Orders 12866, 12612, and 12630 and the Regulatory Flexibility Act

It had been previously determined that these revisions to 50 CFR Part 15 do not constitute a "major" rule under the criteria established by Executive Order 12291. Since that time, President Clinton has signed Executive Order 12866 which revokes Executive Order 12291 and requires, among other things, that agencies determine whether a regulatory action is significant. This rule is not significant as defined in Executive Order 12866. This action is not expected to have significant taking implications for U.S. citizens, as per Executive Order 12630. It has also been certified that these revisions will not have a significant economic effect on a substantial number of small entities as described by the Regulatory Flexibility Act. Since the rule applies to importation of live wild birds into the United States, it does not contain any Federalism impacts as described in Executive Order 12612.

Paperwork Reduction

The information collection requirement(s) contained in this section have been approved by the Office of Management and Budget, as required by 44 U.S.C. 3501 *et seq.* The collection of this information has been assigned approval number 1018–0084 by the Office of Management and Budget and the expiration date of August 31, 1996.

Author

The primary author of this final rule is Dr. Susan S. Lieberman, Office of Management Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/358–2093).

List of Subjects in 50 CFR Part 15

Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, part 15 of Chapter I of title 50 of the Code of Federal Regulations is hereby revised to read as follows:

PART 15—WILD BIRD CONSERVATION ACT

Subpart A—Introduction and General Provisions

Sec.
15.1 Purpose of regulations.
15.2 Scope of regulations.
15.3 Definitions.

Subpart B—Prohibitions and Requirements

15.11 Prohibitions.
15.12 Requirements.

Subpart C—Permits and Approval of Cooperative Breeding Programs

15.21 General application procedures.
15.22 Permits for scientific research.
15.23 Permits for zoological breeding or display programs.
15.24 Permits for cooperative breeding.
15.25 Permits for personal pets.
15.26 Approval of cooperative breeding programs.

Subpart D—Approved List of Species Listed in the Appendices to the Convention

15.31 Criteria for including species in the approved list. [Reserved]
15.32 Species included in the approved list. [Reserved]

Subpart E—Qualifying Facilities Breeding Exotic Birds in Captivity

15.41 Criteria for including facilities as qualifying for imports. [Reserved]
15.42 List of foreign qualifying breeding facilities. [Reserved]

Subpart F—List of Prohibited Species Not Listed in the Appendices to the Convention

15.51 Criteria for including species and countries in the prohibited list. [Reserved]
15.52 Species included in the prohibited list. [Reserved]
15.53 Countries of export included in the prohibited list. [Reserved]

Authority: 61 U.S.C. 4901–4916.

Subpart A—Introduction and General Provisions

§ 15.1 Purpose of regulations.

The regulations in this part implement the Wild Bird Conservation Act of 1992, Pub. L. 102–440, 16 U.S.C. 4901–4916.

§ 15.2 Scope of regulations.

(a) The regulations in this part apply to all species of exotic birds, as defined in section 15.3.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this subchapter B that may require a permit or prescribe additional restrictions or conditions for the import, export, reexport, and transportation of wildlife.

§ 15.3 Definitions.

In addition to the definitions contained in Parts 10 and 23 of this subchapter B, and unless the context requires otherwise, in this Part:

Exotic bird means any live or dead member of the Class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof, but does not include domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, products manufactured from such birds, or birds in any of the following families: Phasianidae. Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae Rheidae, Dromaiinae, and Gruidae.

Indigenous means a species that is naturally occurring, not introduced as a result of human activity, and that currently regularly inhabits or breeds in the 50 States or the District of Columbia.

Person means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

Species means any species, any subspecies, or any district population segment of a species or subspecies, and includes hybrids of any species or subspecies. Hybrids will be treated according to the more restrictive Appendix or category in which either parental species is listed.

United States means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Subpart B—Prohibitions and Requirements

§ 15.11 Prohibitions.

(a) Except as provided under a permit issued pursuant to subpart C of this Part, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any exotic bird.

(b) It is unlawful to import into the United States any exotic bird species listed in the Appendices to the Convention that is not included in the approved list of species, pursuant to subpart D of this part, except that

(1) This paragraph (b) does not apply to any exotic bird that was bred in a foreign breeding facility listed as qualifying pursuant to subpart E of this part, and

(2) This paragraph (b) does not apply to an exotic bird species listed in

Appendix III to the Convention that originated in a country that has not listed the species in Appendix III.

(c) It is unlawful to import into the United States any exotic bird species not listed in the Appendices to the Convention that is listed in the prohibited species list, pursuant to subpart F of this Part. In addition to all other exotic birds species, this paragraph also applies to exotic bird species listed in Appendix III to the Convention that originated in a country that has not listed the species in Appendix III.

(d) It is unlawful to import into the United States any exotic bird species from any country included in the prohibited country list, pursuant to subpart F of this part.

(e) It is unlawful to import into the United States any exotic bird species from a qualifying facility breeding exotic birds in captivity, listed pursuant to subpart E of this part, if the exotic bird was not captive-bred at the listed facility.

(f) It is unlawful for any person subject to the jurisdiction of the United States to engage in any activity with an exotic bird imported under a permit issued pursuant to this Part that violates a condition of said permit.

§ 15.12 Requirements.

(a) No person shall import into the United States any exotic bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of subpart C of this part and 50 CFR part 13, or in accordance with the provisions of subparts D–F of this part 15, or in accordance with the provisions of paragraph (b) of this section.

(b) Any exotic bird can be imported to the United States if it was legally exported from the United States with a permit issued by the Service's Office of Management Authority, provided that the import is by the same person who exported the bird, the import is accompanied by a copy of the cleared CITES export permit or certificate issued by the Service that was used to export the exotic bird, and the Service is satisfied that the same bird is being imported as is indicted on the aforementioned permit or certificate.

Subpart C—Permits and Approval of Cooperative Breeding Programs

§ 15.21 General application procedures.

(a) The Director may issue a permit authorizing the importation of exotic birds otherwise prohibited by § 15.11, in accordance with the issuance criteria of this subpart, for the following purposes only: Scientific research; zoological breeding or display programs; cooperative breeding programs designed to promote the conservation and maintenance of the species in the wild; or personally owned pets accompanying persons returning to the United States after being out of the country for more than 1 year.

(b) Additional requirements as indicated in parts 13, 14, 17, 21, and 23 of this subchapter must also be met.

(c) Applications for permits under this subpart and applications for approval of cooperative breeding programs under this subpart shall be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Arlington, Virginia 22203 by the person wishing to engage in the activity. Each application must be submitted on an official application (Form 3–200) provided by the Service and must contain all of the information specified in the applicable section, § 15.22–15.26. The sufficiency of the application shall be determined by the Director in accordance with the requirements of this part and part 13 of this subchapter.

§ 15.22 Permits for scientific research.

(a) Application requirements for permits for scientific research. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported, including:

(i) The common and scientific names of the species, number, age or age class, and, when known, sex; and

(ii) A statement as to whether, at the time of the application, the exotic bird is still in the wild, has already been removed from the wild, or was bred in captivity;

(2) If the exotic bird is in the wild or was taken from the wild, include:

(i) The country and region where the removal will occur or occurred;

(ii) A description of the status of the species in the region of removal; and

(iii) A copy of any foreign collecting permit or authorizing letter, if applicable;

(3) If the exotic bird was bred in captivity, include:

(i) Documents or other evidence that the bird was bred in captivity, including the name and address of the breeder, and when known, hatch date and identity of the parental birds; and

(ii) If the applicant is not the breeder, documentation showing the bird was acquired from a breeder and a history of multiple transactions, if applicable:

(4) A statement of the reasons the applicant is justified in obtaining a permit, and a complete description of the scientific research to be conducted on the exotic bird requested, including:

(i) Formal research protocol with timetable;

(ii) The relationship of such research to the conservation of the species in the wild;

(iii) A discussion of possible alternatives and efforts to obtain birds from other sources; and

(iv) Plans for disposition of the exotic birds and any progeny upon completion of the research project;

(5) Qualifications of the scientific personnel conducting the proposed research, including applicable experience and a description of relevant past research conducted;

(6) A description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards, including:

(i) The name and address of the facility where the exotic bird will be maintained;

(ii) Dimensions of existing enclosures for the birds to be imported and number of birds to be housed in each; and

(iii) Husbandry practices.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in Part 13 of this subchapter, the following factors:

(1) Whether the purpose of the scientific research is adequate to justify removing the exotic bird from the wild or otherwise changing its status;

(2) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic bird was bred in captivity or was (or will be) taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the permit, if issued, would conflict with any known program intended to enhance the survival of the population from which the exotic bird was or would be removed;

(4) Whether the research for which the permit is required has scientific merit;

(5) Whether the expertise, facilities, or other resources available to the applicant appear adequate for proper care and maintenance of the exotic bird and to successfully accomplish the research objectives stated in the application.

(c) Permit conditions. In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be

subject to special conditions as the Director may deem appropriate.

(d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit, but in no case will these permits be valid for longer than one year.

§ 15.23 Permits for zoological breeding or display programs.

(a) Application requirements for permits for zoological breeding or display programs. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported, including:

(i) The common and scientific names of the species, number, age or age class, and, when known, sex; and

(ii) A statement as to whether, at the time of the application, the exotic bird is still in the wild, has already been removed from the wild, or was bred in captivity;

(2) If the exotic bird is in the wild or was taken from the wild include:

(i) The country and region where the removal will occur or occurred;

(ii) A description of the status of the species in the region of removal; and

(iii) A copy of any foreign collecting permit or authorizing letter, if applicable;

(3) If the exotic bird was bred in captivity, include:

(i) Documents or other evidence that the bird was bred in captivity, including the name and address of the breeder, and when known, identity of the parental birds, and hatch date; and

(ii) If the applicant is not the breeder, documentation showing the bird was acquired from a breeder and a history of multiple transactions, if applicable;

(4) A statement of the reasons the applicant is justified in obtaining a permit, and a complete description of the breeding or display program to be conducted with the exotic bird requested, including:

(i) A breeding or education protocol that provides information on educational materials on the ecology and/or conservation status of the species provided to the general public;

(ii) Plans, if any, for developing or maintaining a self-sustaining population of the exotic bird species in captivity;

(iii) A statement on efforts to obtain birds from alternative sources or sources within the United States;

(iv) The relationship of such a breeding or display program to the conservation of the species in the wild; and

(v) Plans for disposition of the exotic birds and any progeny.

(5) A description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards of the public display community, including:

(i) The name and address of the facility where the exotic bird will be maintained;

(ii) Dimensions of existing enclosures for the birds to be imported and number of birds to be housed in each;

(iii) Husbandry practices;

(6) A history of the zoological facility's breeding programs with the same or similar species, including:

(i) participation in any cooperative breeding programs;

(ii) breeding and inventory records for the last two years, including hatching, survival, and mortality records; and

(iii) causes of any mortalities and efforts made to correct any problems.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors:

(1) Whether the zoological breeding or display program is adequate to justify removing the exotic bird from the wild or otherwise changing its status;

(2) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic bird was bred in captivity or was (or will be) taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the permit, if issued, would conflict with any known program intended to enhance the survival of the population from which the exotic bird was or would be removed;

(4) Whether the breeding or display program for which the permit is required has conservation merit; and

(5) Whether the expertise, facilities or other resources available to the applicant appear adequate for proper care and maintenance of the exotic bird and to successfully accomplish the zoological breeding or display objectives stated in the application.

(c) Permit conditions. In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to special conditions as the Director may deem appropriate.

(d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit, but in no case will these permits be valid for longer than one year.

§ 15.24 Permits for cooperative breeding.

(a) Application requirements for permits for cooperative breeding. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported, including:

(i) The common and scientific names of the species, number, age or age class, and, when known, sex; and

(ii) A statement as to whether, at the time of the application, the exotic bird is still in the wild, has already been removed from the wild, or was bred in captivity;

(2) If the exotic bird is still in the wild or was taken from the wild include;

(i) The country and region where the removal will occur or occurred;

(ii) A description of the status of the species in the region of removal; and

(iii) A copy of any foreign collecting permit or authorizing letter, if applicable;

(3) If the exotic bird was bred in captivity, include;

(i) Documents or other evidence that the bird was bred in captivity, including the name and address of the breeder, when known, the identity of the parental birds and hatch date; and

(ii) If the applicant is not the breeder, documentation showing the bird was acquired from the breeder and a history of multiple transactions, if applicable;

(4) A statement of the reasons the applicant is justified in obtaining a permit, and a statement detailing the applicant's participation in a cooperative breeding program approved under section 15.26 of this chapter, including;

(i) Copies of any signed agreements or protocols with the monitoring avicultural, conservation, or zoological organization overseeing the program; and

(ii) Applicable records of the cooperative breeding program of any other birds imported, their progeny, and their disposition;

(5) A complete description of the relationship of the exotic bird to the approved cooperative breeding program, including;

(i) A statement of the role of the exotic bird in a breeding protocol;

(ii) A plan for maintaining a self-sustaining captive population of the exotic bird species;

(iii) Details on recordkeeping; and

(iv) Plans for disposition of the exotic birds and any progeny produced during the course of this program.

(6) A statement outlining the applicant's attempts to obtain the exotic bird in a manner that would not cause its removal from the wild, and attempts

to obtain the specimens of the exotic bird species from stock available in the United States;

(7) A description of the care and maintenance of the exotic bird, and how the facility meets professionally recognized standards, including:

(i) The name and address of the facility where the exotic bird will be maintained;

(ii) Dimensions of existing enclosures for birds to be imported and number of birds to be housed in each; and

(iii) Husbandry practices;

(8) A history of the applicant's past participation in cooperative breeding programs with the same or similar species, including:

(i) breeding and inventory records for at least the last two years;

(ii) hatching, survival, and mortality records;

(iii) causes of any mortalities and efforts made to correct any problems.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in part 13 of this subchapter, the following factors:

(1) Whether the cooperative breeding program is adequate to justify removing the exotic bird from the wild or otherwise changing its status;

(2) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic bird was bred in captivity or was (or will be) taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the cooperative breeding program for which the permit is required would be likely to enhance or promote the conservation of the exotic bird species in the wild or result in a self-sustaining population of the exotic bird species in captivity; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate for proper care and maintenance of the exotic birds and to successfully accomplish the cooperative breeding objectives stated in the application.

(c) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to special conditions as the Director may deem appropriate.

(d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit, but in no case will these permits be valid for longer than one year.

§ 15.25 Permits for personal pets.

(a) Application requirements for personal pets not intended for sale. No individual may import more than two exotic birds as pets in any year. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird to be imported, including:

(i) The common and scientific names, number, age, and, when known, sex;

(ii) A band number, house name, or any other unique identifying feature; and

(iii) A statement as to whether the exotic bird was bred in captivity or taken from the wild;

(2) A statement of the reasons the applicant is justified in obtaining a permit;

(3) Documentation showing that the applicant has continually resided outside of the United States for a minimum of one year;

(4) A statement of the number of exotic birds imported during the previous 12 months as personal pets by the applicant;

(5) Information on the origin of the exotic bird, including:

(i) Country of origin; and

(ii) A description and documentation of how the exotic bird was acquired, including a copy of any Convention permit under which the bird was re-exported or exported. If there is no such permit, a sales receipt or signed statement from seller with name and address of seller, date of sale, species, and other identifying information on the bird or signed breeder's certificate or statement with name and address of breeder, date of sale or transfer, species and hatch date.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in Part 13 of this subchapter, the following factors:

(1) Whether the proposed import would be detrimental to the survival of the exotic bird species in the wild;

(2) Whether the exotic bird to be imported is a personal pet owned by the applicant, who has continuously resided outside the United States for a minimum of one year, and who has no intention to sell the bird; and

(3) Whether the number of exotic birds imported in the previous 12 months by the applicant does not exceed two.

(c) Permit conditions. In addition to the general conditions set forth in part 13 of this subchapter, every permit issued under this section shall be subject to special conditions that no individual may import more than two exotic birds as personal pets in any year, the exotic birds cannot be sold after importation into the United States, and any other conditions as the Director may deem appropriate.

(d) Duration of permits. The duration of the import permits issued under this section shall be designated on the face of the permit.

§ 15.26 Approval of cooperative breeding programs.

Upon receipt of a complete application, the Director may approve cooperative breeding programs. Such approval will allow individuals to import exotic birds otherwise prohibited by section 15.11, with permits under section 15.24. Such approval for cooperative breeding programs shall be granted in accordance with the issuance criteria of this section.

(a) Application requirements for approval of cooperative breeding programs. Each application shall provide the following information and such other information that the Director may require:

(1) A description of the exotic bird(s) to be imported or to be covered under the program, including the common and scientific names of the species, number, sex ratio (if applicable), and age class;

(2) A statement of the reasons the applicant is justified in obtaining this approval, and a description of the cooperative breeding program requested for the exotic bird species, including:

(i) A breeding protocol, including a genetic management plan and breeding methods;

(ii) A statement on the plans for developing and maintaining a self-sustaining population in captivity of the exotic bird species;

(iii) Details on the system of recordkeeping and tracking of birds and their progeny, including how individual specimens will be marked or otherwise identified;

(iv) A statement on the relationship of such a breeding program to the conservation of the exotic bird species in the world;

(v) Details on the funding of this program; and

(vi) Plans for disposition of the exotic birds and any progeny;

(3) A qualification statement for each individual who will be overseeing the cooperative breeding program. This statement should include information on the individual's prior experience

with the same or similar bird species. Individuals overseeing the program will be required to demonstrate an affiliation with an avicultural, conservation, or zoological organization;

(4) A statement of the oversight of the program by the avicultural, zoological, or conservation organization, including their monitoring of participation in the program, criteria for acceptance of individuals into the program, and the relationship of the cooperative breeding program to enhancing the propagation and survival of the species; and

(5) A history of the cooperative breeding program, including an annual report for the last 3 years (if applicable), mortality records, breeding records, and a studbook if one has been developed for the species.

(b) Issuance criteria. Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a cooperative breeding program should be approved. In making this decision, the Director shall consider, in addition to the general criteria in Part 13 of this subchapter, the following factors:

(1) Whether the cooperative breeding program for which the approval is requested is adequate to justify removing the exotic bird from the wild or otherwise changing its status;

(2) Whether the granting of this approval would be detrimental to the survival of the exotic bird species in the wild, including whether the exotic birds were bred in captivity or will be taken from the wild, taking into consideration the conservation status of the species in the wild;

(3) Whether the granting of this approval would conflict with any known program intended to enhance the survival of the population from which the exotic bird species was or would be removed;

(4) Whether the cooperative breeding program for which the permit is requested would be likely to enhance or promote the conservation of the exotic bird species in the wild or result in a self-sustaining population of the exotic bird species in captivity; and

(5) Whether the expertise or other resources available to the program appear adequate to successfully accomplish the objectives stated in the application.

(c) Publication in the **Federal Register**. The Director shall publish notice in the **Federal Register** of each application submitted under Section 15.26(a). Each notice shall invite the submission from interested parties of written data, views, or arguments with respect to the application. The Director shall publish periodically a notice as appropriate in the **Federal Register** of the list of approved cooperative breeding programs.

(d) Approval conditions. In addition to the general conditions set forth in part 13 of this subchapter, every approval issued under this paragraph shall be subject to the special condition that the cooperative breeding program shall maintain records of all birds imported under permits issued under this subpart and their progeny, including their sale or transfer, death, or escape, and breeding success. These records shall be made available to the Service on request and when renewing an approval.

(e) Duration of approval. Cooperative breeding programs shall be approved for two years, at which time applicants may apply to the Service for renewal of a program's approval. Applications for renewal of approval shall comply with the general conditions set forth in part 13 of this subchapter.

Subpart D—Approved List of Species Listed in the Appendices to the Convention

§ 15.31 Criteria for including species in the approved list. [Reserved].

§ 15.32 Species included in the approved list. [Reserved].

Subpart E—Qualifying Facilities Breeding Exotic Birds in Captivity

§ 15.41 Criteria for including facilities as qualifying for imports. [Reserved].

§ 15.42 List of foreign qualifying breeding facilities. [Reserved].

Subpart F—List of Prohibited Species Not Listed in the Appendices to the Convention

§ 15.51 Criteria for including species and countries in the prohibited list. [Reserved].

§ 15.52 Species included in the prohibited list. [Reserved].

§ 15.53 Countries of export included in the prohibited list. [Reserved].

Dated: October 19, 1993.

Bruce Blanchard,

Deputy Director, U.S. Fish and Wildlife Service.

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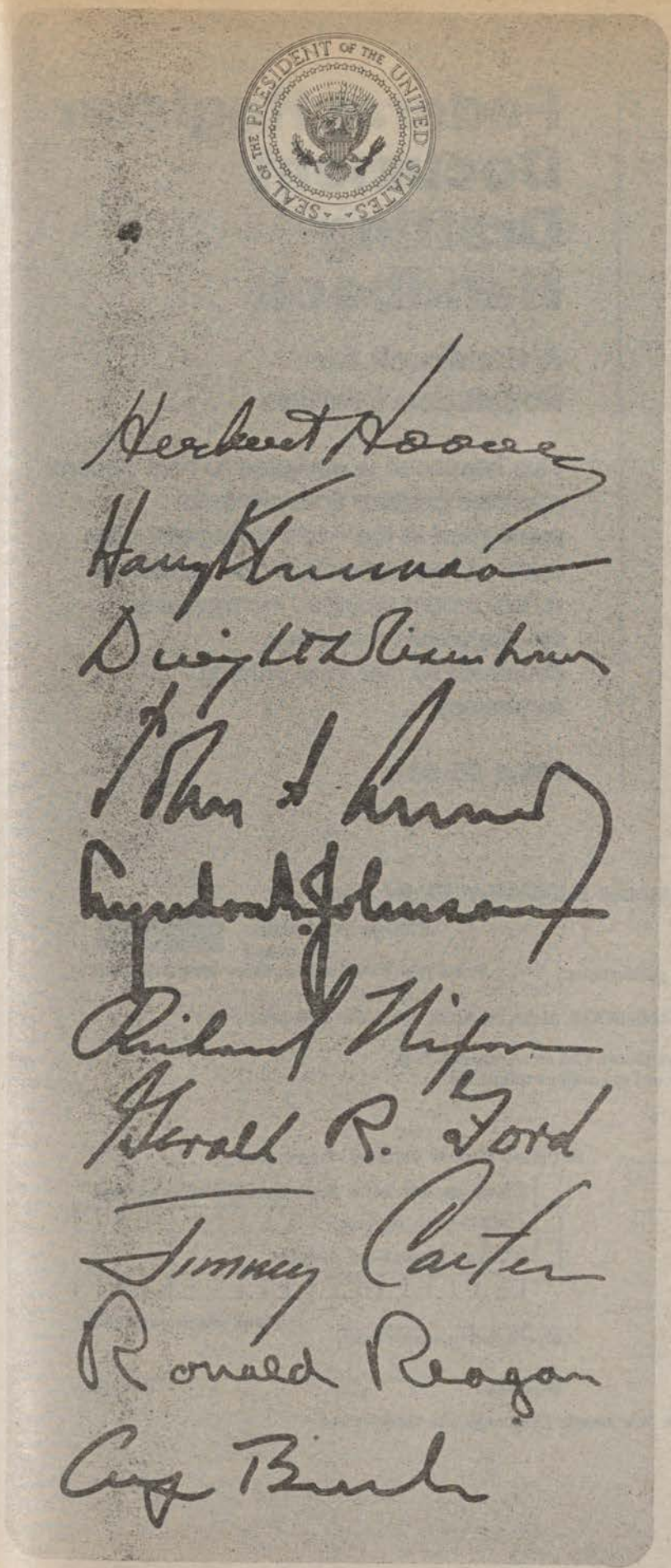

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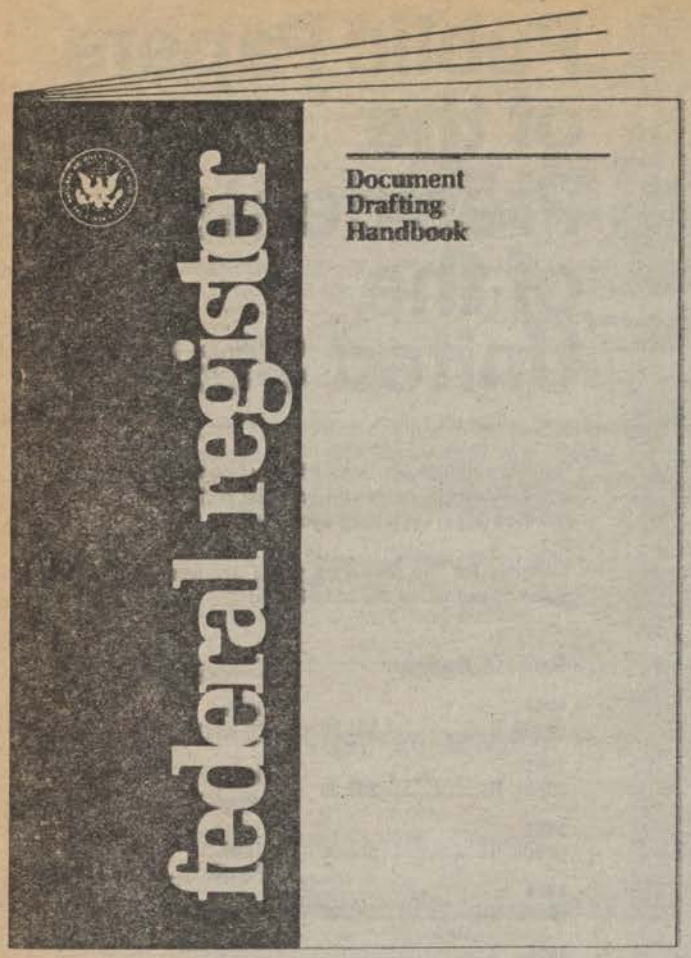

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