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

WHO: The Office of the Federal Register.

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

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

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(two briefings)

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WHERE: Office of the Federal Register
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CHICAGO, IL

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Rules and Regulations

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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

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 93–138–3]

Imported Fire Ant Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the imported fire ant regulations by adding Laurens County, SC, as a quarantined area. We are also adding a boundary to the existing quarantined area in York County, SC. This action expands the quarantined areas and imposes certain restrictions on the interstate movement of quarantined articles from those areas, and corrects an editorial error in an interim rule that expanded the quarantined areas in several States, including South Carolina. This action is necessary to prevent the artificial spread of the imported fire ant to noninfested areas of the United States.

DATES: Interim rule effective May 2, 1994. Consideration will be given only to comments received on or before July 1, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–138–3. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Brittingham, Operations Officer, Plant Protection and Quarantine, APHIS, USDA, room 640, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8247.

SUPPLEMENTARY INFORMATION:

Background

The imported fire ant regulations (contained in 7 CFR 301.81 through 301.81–10, and referred to below as the regulations) quarantine infested States or infested areas within States and impose restrictions on the interstate movement of certain regulated articles for the purpose of preventing the artificial spread of the imported fire ant.

Imported fire ants, *Solenopsis invicta* Buren and *Solenopsis richteri* Forel, are aggressive, stinging insects that, in large numbers, can seriously injure or even kill livestock, pets, and humans. The imported fire ant feeds on crops and builds large, hard mounds that damage farm and field machinery. The imported fire ant is not native to the United States. The regulations prevent the imported fire ant from spreading throughout its ecological range within this country.

The regulations in § 301.81–3 provide that the Administrator of the Animal and Plant Health Inspection Service (APHIS) will list as a quarantined area each State, or each portion of a State, that is infested with imported fire ants. The Administrator will designate less than an entire State only under the following conditions: (1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles listed in § 301.81–2 that are equivalent to the interstate movement restrictions imposed by the regulations; and (2) designating less than the entire State will prevent the spread of the imported fire ant. The Administrator may include uninfested acreage within a quarantined area due to its proximity to an infestation or its inseparability from the infested locality for quarantine purposes.

We are amending § 301.81–3(e) by designating all of Laurens County, SC, as a quarantined area. We are designating all of Laurens County, SC, as a quarantined area because recent surveys conducted by APHIS and State and county agencies reveal that the imported fire ant has spread to that county.

We are also adding a boundary to the existing quarantined area in York County, SC, published in the **Federal Register** and effective on January 21, 1994 (59 FR 3313–3316, Docket No. 93–138–1). In that earlier interim rule, we inadvertently omitted a portion of the quarantined area for York County, SC.

See the rule portion of this document for specific descriptions of the new quarantined areas.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the artificial spread of imported fire ant to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action affects the interstate movement of regulated articles from specified areas in Laurens and York counties in South Carolina. Based on information compiled by the Department, we have determined that approximately 24 small entities in Laurens and York counties could be affected by this interim rule. Primarily family-owned, these small nurseries produce nursery and greenhouse crops, with average annual sales of about $110,000, for both the local and interstate markets.

Entities that ship containerized nursery stock to nonquarantined areas will be required to mix bifenthrin with potting media to ensure that imported fire ants do not become established in potted nursery stock. Granular bifenthrin currently retails for about $38.00 per 50-pound bag. We have estimated that the 24 affected entities could apply bifenthrin to about 5,000 cubic yards of potting media annually. These potting media treatments could increase costs for each of these nurseries by about $1,600 annually. This annual cost increase could reduce producer income by about 1.5 percent. Further, the overall economic impact from this action is estimated to be approximately $38,000.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

Two environmental assessments and findings of no significant impact have been prepared for the imported fire ant regulatory program. The assessments provide a basis for the conclusion that the methods employed to regulate the imported fire ant will not significantly affect the quality of the human environment. Based on the findings of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessments and findings of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under FOR FURTHER INFORMATION CONTACT.

Paperwork Reduction Act

The information collection and recordkeeping requirements contained in §§ 301.81 through 301.81–10 have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) under OMB control number 0579–0102.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 301.81–3, paragraph (e), the list of quarantined areas is amended as follows:

a. By adding, in alphabetical order, an entry for Laurens County, SC, to read as set forth below.

b. In the entry for York County, SC, after the second reference to "South Carolina Highway 5", by adding a new boundary to read as set forth below.

§ 301.81–3 Quarantined areas.

* * * * *

(e) * * *

* * * * *

South Carolina

* * * * *

Laurens County. The entire county.

* * * * *

York County. * * * to its intersection with York County Road 1041; then northeast along York County Road 1041 * * *

* * * * *

Done in Washington, DC, this 25th day of April 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–10408 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 1240

[AMS–FV–93–704C]

RIN: 0581–AB23

Honey Research, Promotion, and Consumer Information Order and Rules and Regulations Issued Thereunder; Termination of Order Provision and Conforming Correction of the Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This document terminates a provision of the Honey Research, Promotion, and Consumer Information Order (Order) and deletes conflicting and confusing language in the Rules and Regulations issued under the Order. This action is being taken to clarify and correct the Order and rules and regulations which were amended in August 1991.

DATES: This interim final rule is effective May 2, 1994. Comments must be received May 2, 1994.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Research and Promotion Branch, F&V, AMS, USDA, Room 2535 South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours. Comments concerning the information collection requirements contained in this action should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503, attn: Desk Officer for the Agricultural Marketing Service, USDA.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456,

Room 2535–So., Washington, DC 20090–6456; telephone (202) 720–9915.

SUPPLEMENTARY INFORMATION: These amendments to the Plan are issued pursuant to the Honey Research, Promotion, and Consumer Information Act, as amended on November 28, 1990 [104 Stat. 3904, 7 U.S.C. 4601 *et seq.*], hereinafter referred to as the Act.

This rule is being issued in conformance with Executive Order No. 12866.

This interim rule has been reviewed under Executive Order 12778, Civil Justice reform. It is not intended to have retroactive effect. This rule will not preempt any state or local laws, regulation, 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 10 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule in the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has a principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided that a complaint is filed within 20 days after the date of 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 proposed action on small entities.

There are an estimated 145 handlers, 510 producer-packers, 8,300 producers, and 350 importers who are currently subject to the provisions of the Order. The majority of these persons may be classified as small agricultural producers and small agricultural service firms. Small agricultural producers are 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, which include importers, are defined as those having annual receipts of less than $3,500,000.

In accordance with the Paperwork Reduction Act (PRA) of 1980 (44 U.S.C. chapter 35), and Office of Management and Budget (OMB) regulations (5 CFR part 1320), the information collection and recordkeeping requirements contained in this action were submitted to the OMB and approved under OMB control numbers 0581–0093 and 0505–0001. Comments concerning the information collection requirements contained in this action should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC, 20503, attn: Desk Officer for the Agricultural Marketing Service, USDA.

On November 28, 1990, the Act was amended by the Food, Agriculture, Conservation and Trade Act of 1990. One of the amendments to the Act redefined the requirements for honey that is exempted from assessments under the Act.

Prior to the Act's 1990 amendment, a producer or a producer-packer who produced or handled or produced and handled less than 6,000 pounds of honey per year or an importer who imported less than 6,000 pounds of honey per year were exempt from assessment. Such producers, producer-handlers, and importers applied to the Honey Board for a certificate of exemption which would be presented to the handler of the exemptee's honey. Reporting requirements for handlers included listing those producers claiming exemption.

Under the 1990 amendment to the Act, however, producers, producer-packers, and importers who produce or import during any year less than 6,000 pounds of honey are exempt from paying assessments only if that honey is (1) consumed at home, (2) donated by the producer or importer to a nonprofit, government, or other entity that is determined appropriate by the Secretary, or (3) distributed directly through local retail outlets (e.g., farmers markets and roadside stands).

Since exempted honey may no longer be sold through handlers, handlers are no longer required to provide information to the Board on exempted honey. However, in the amendment to the Order and rules and regulations published as a final rule in the August 7, 1991, **Federal Register** (50 FR 37453), conforming changes to sections 1240.50 and 1240.114 which incorporated these changes to the Act were inadvertently not made. As published, these sections may be confusing and are in conflict with the amended Order and rules and regulations.

Section 13 of the Act provides that whenever the Secretary finds that any provision of any order issued under the Act obstructs or does not tend to effectuate the declared purpose of the Act, the Secretary shall terminate such provisions. Therefore, this action deletes obsolete and confusing language from paragraph (a) of section 1240.50 of the Order and from paragraph (b) of section 1240.114 of the regulations issued under the Order.

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

After consideration of all relevant material presented with regard to the termination of provisions in the Order and the rules and regulations as hereinafter set forth, it is found that these provisions no longer tend to effectuate the declared policy of the Act.

All written comments received in response to this publication by the date specified herein will be considered prior to finalizing this action.

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action terminates provisions of the Order and the rules and regulations consistent with the 1990 amendments to the Act; (2) a 30-day comment period is provided to allow interested parties to comment prior to finalization; and (3) no useful purpose would be served by a delay of the effective date.

List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR Part 1240 is revised to read as follows:

Authority: 7 U.S.C. 4601–4612.

§ 1240.50 [Amended]

2. In § 1240.50, paragraph (a), the words "including those producers who claim exemption from assessment; copy of statement claiming exemption from assessment from those who claim such exemption" are removed.

§ 1240.114 [Amended]

3. In § 1240.114, paragraph (b), the words "Producers who are exempt from assessment must present their certificates of exemption to their first handler in order to not be subject to

assessment on honey. First handlers, except as otherwise authorized by the Honey Board are required to maintain records showing the exemptee's name and address along with their certificate number assigned by the Board," are removed.

Dated: April 20, 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–10220 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Parts 1413 and 1427

RIN 0560–AD22

1994 Extra Long Staple Cotton Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On October 13, 1993, the Commodity Credit Corporation (CCC) issued a proposed rule (58 FR 52928) with respect to the 1994 Production Adjustment Program for Extra Long Staple (ELS) Cotton, which is conducted by the CCC in accordance with the Agricultural Act of 1949 (1949 Act), as amended. The 1994 ELS Cotton Acreage Reduction Program (ARP) percentage has been determined to be 15 percent. This final rule amends the regulations to set forth the ARP, the established (target) price, and the price support rate. No paid land diversion (PLD) program will be implemented for the 1994 crop of ELS cotton.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Broussard, Fibers and Rice Analysis Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, room 3758–S, P.O. Box 2415, Washington, DC 20013–2415 or call 202–720–9222.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. Based on information compiled by the USDA, it has been determined that this final rule:

(1) Would have an annual effect on the economy of less than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or rights and obligations of recipients thereof; and

(5) Would not raise novel, legal, or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 128866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of final rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are: Cotton Production Stabilization—10.052.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of the final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR parts 1413 and 1427 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. 35.

Final Regulatory Impact Analysis

The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of the implementation of the selected option is available on request from the above-named individual.

Background

This final rule amends 7 CFR part 1413 to set forth determinations on the 1994 Production Adjustment Program and the PLD Program and 7 CFR part 1427 to set forth the determinations on the 1994 price support level. General descriptions of the statutory basis for the 1994 ELS ARP percentage determination in this final rule were set forth in the proposed rule at 58 FR 52928 (October 13, 1993).

One comment was received during the comment period. The respondent recommended that a 15-percent ARP level would be sufficient to maintain a stable level of supplies. Concerns were expressed that an ARP higher than 15 percent would result in an unnecessary negative impact on many Pima growers and the Pima cotton industry.

In accordance with statutory requirements, the Secretary of Agriculture (Secretary) announced the 1994 price support level and target price, 85.03 and 102.0 cents per pound, respectively, on December 1, 1993. After considering the comment, the Secretary announced a 15-percent ARP level on January 5, 1994. The Secretary determined that a 15-percent ARP would maintain U.S. competitiveness in world markets while balancing the risks of excessive supplies and possible shortages. A 15-percent ARP reflects the current supply situation while signaling to domestic and foreign customers that the U.S. will be a reliable supplier.

Acreage Reduction

In accordance with section 103(h)(5) of the 1949 Act, an ARP has been established for the 1994 crop of ELS cotton at 15 percent. Accordingly, producers will be required to reduce their 1994 acreage of ELS cotton for harvest from the crop acreage base established for ELS cotton by at least this established percentage in order to be eligible for price support loans, purchase, and payments.

Paid Land Diversion

In accordance with section 103(h)(5)(B) of the 1949 Act, a PLD Program will not be implemented for the 1994 crop of ELS cotton.

Price Support Rate

In accordance with section 193(h)(2) of the 1949 Act, the price support rate

has been established with respect to the 1994 crop of ELS cotton at 85.03 cents per pound.

Established (Target) Price

In accordance with section 103(h)(3)(B) of the 1949 Act, the established (target) price has been established with respect to the 1994 crop of ELS cotton at 102.00 cents per pound.

List of Subjects

7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

7 CFR Part 1427

Cotton, Loan programs/agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Accordingly, 7 CFR parts 1413 and 1427 are amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended by:

A. Revising paragraphs (a)(5)(ii) and (a)(5)(iii), and

B. Adding paragraphs (a)(5)(iv) and (d)(4) to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(5) * * *

(ii) 1992 ELS cotton, 5 percent;

(iii) 1993 ELS cotton, 20 percent; and

(iv) 1994 ELS cotton, 15 percent.

* * * * *

(d) * * *

(4) For the 1994 crop:

(i)–(iii) [Reserved]

(iv) Shall not be made available to producers of ELS cotton.

* * * * *

3. Section 1413.104 is amended by revising paragraphs (a)(8)(ii) and (a)(8)(iii), adding paragraph (a)(8)(iv) and revising paragraph (b) to read as follows:

§ 1413.104 Established (target) prices.

(a) * * *

(8) * * *

(ii) 1992 ELS cotton—$1.058/lb;

(iii) 1993 ELS cotton—$1.057/lb; and

(iv) 1994 ELS cotton—$1.02/lb.

(b) ELS cotton target price for the 1995 crop will be established as 120 percent of the loan rate for ELS cotton.

PART 1427—COTTON

4. The authority citation for 7 CFR part 1427 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

5. Section 1427.8 is amended by:

A. Revising paragraphs (a)(2)(ii) and (a)(2)(iii), and

B. Adding paragraph (a)(2)(iv) to read as follows:

§ 1427.8 Amount of loan.

(a) * * *

(2) * * *

(ii) 1992 ELS cotton, 88.15 cents per pound;

(iii) 1993 ELS cotton, 88.12 cents per pound; and

(iv) 1994 ELS cotton, 85.03 cents per pound.

* * * * *

Signed at Washington, DC on April 22, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–10216 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–05–P

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7 CFR Parts 1413 and 1427

RIN 0560–AD21

1994 Upland Cotton Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: On October 5, 1993, the Commodity Credit Corporation (CCC) issued a proposed rule with respect to the 1994 Upland Cotton Production Adjustment Program, which is conducted by the CCC in accordance with the Agricultural Act of 1949 (1949 Act), as amended. The 1994 Upland Cotton Acreage Reduction Program (ARP) percentage has been determined to be 11.0 percent. This final rule amends the regulations to set forth the ARP and the price support rate for the 1994 crop of upland cotton. No paid land diversion (PLD) program will be implemented for the 1994 crop of upland cotton. These actions are required by section 103B of the 1949 Act, as amended.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Carol Skelly, Fibers and Rice Analysis Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture (USDA), room 3754–S, P.O. Box 2415, Washington, DC 20013–2415 or call 202–720–6734.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866. Based on information compiled by the USDA, it has been determined that this final rule:

(1) Would have an annual effect on the economy of more than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of recipients thereof; and,

(5) Would not raise novel, legal, or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Final Regulatory Impact Analysis

The final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of the implementation of the selected option is available on request from the above-named individual.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since CCC is not required by section 105(b) of the 1949 Act to request comments with respect to the subject matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Cotton Production Stabilization—10.052.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of the final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Paperwork Reduction Act

The amendments to 7 CFR parts 1413 and 1427 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. 35.

Background

This final rule amends 7 CFR part 1413 to set forth determinations on the 1994 ARP and PLD programs, and 7 CFR part 1427 to set forth the determination of the 1994 price support level. General descriptions of the statutory basis for the 1994 upland cotton ARP percentage determination in this final rule were set forth at 58 FR 51934 (October 5, 1993).

A total of thirteen comments was received regarding the ARP level. One respondent recommended the lowest possible level. One respondent suggested an ARP of 10 percent. Five respondents favored an ARP of no more than 14 percent and one other respondent recommended a level of 14 percent. One respondent suggested 15 percent, one suggested 22.5 percent, and one recommended a level of no more than 17.5 percent. Two respondents favored setting the ARP at the statutory maximum of 25 percent.

After considering these comments, the Secretary of Agriculture (Secretary) on November 1, 1993, announced a 17.5-percent ARP level and a price support level of 50.00 cents per pound for the 1994 marketing year. On January 4, 1994, a final ARP requirement of 11.0 percent was announced for the 1994 crop of upland cotton. The Secretary determined that, based upon the most recent projections of carryover and total disappearance, a 11.0-percent ARP would result in a ratio of carryover to total disappearance of 30 percent.

Acreage Reduction

In accordance with section 103B(e)(1) of the 1949 Act, an ARP of 11.0 percent has been established for the 1994 crop of upland cotton. Accordingly, producers will be required to reduce their 1994 acreage of upland cotton for harvest from the crop acreage base established for upland cotton by at least this established percentage in order to be eligible for price support loans and payments.

Paid Land Diversion

In accordance with section 103B(e)(5) of the 1949 Act, a PLD program will not be implemented for the 1994 crop of upland cotton.

Price Support Rate

In accordance with section 103B(a)(1)(3) of the 1949 Act, the price support rate has been established with respect to the 1994 crop of upland cotton at 50.00 cents per pound.

List of Subjects

7 CFR Part 1413

Acreage allotments, Cotton, Disaster assistance, Feed grains, Price support programs, Reporting and recordkeeping requirements, Rice, Soil conservation, Wheat.

7 CFR Part 1427

Cotton, Loan programs/agriculture, Packaging and containers, Price support programs, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

Accordingly, 7 CFR parts 1413 and 1427 are amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended by:

A. Revising paragraph (a)(3)(ii) and (a)(3)(iii),

B. Adding paragraph (a)(3)(iv),

C. Republishing paragraph (d)(4), introductory text, and

D. Adding paragraph (d)(4)(iii) to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(3) * * *

(ii) 1992 upland cotton, 10 percent;

(iii) 1993 upland cotton, 7.5 percent; and

(iv) 1994 upland cotton, 11.0 percent.

* * * * *

(d) * * *

(4) For the 1994 crop:

* * * * *

(iii) Shall not be made available to producers of upland cotton.

* * * * *

PART 1427—COTTON

3. The authority citation for 7 CFR part 1427 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1425, 1444, and 1444–2; 15 U.S.C. 714b and 714c.

4. Section 1427.8 is amended by:

A. Revising paragraph (a)(1)(ii) and (a)(1)(iii); and

B. Adding paragraph (a)(1)(iv) to read as follows:

§ 1427.8 Amount of loan.

(a) * * *

(1) * * *

(ii) 1992 upland cotton, 52.35 cents per pound;

(iii) 1993 upland cotton, 52.35 cents per pound; and

(iv) 1994 upland cotton, 50.00 cents per pound.

* * * * *

Signed at Washington, DC, on April 22, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–10217 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–05–P

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 93–144–2]

Validated Brucellosis-Free States; Kansas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of swine by adding Kansas to the list of validated brucellosis-free States. We have determined that Kansas meets the criteria for classification as a validated brucellosis-free State. This interim rule relieved certain restrictions on the interstate movement of breeding swine from Kansas.

EFFECTIVE DATE: June 1, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Arnold Taft, Senior Staff Veterinarian, Swine Health Staff, Veterinary Services, APHIS, USDA, suite 204, Presidential

Building, 6525 Belcrest Road, Hyattsville, MD 20782, (301) 436–7767.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective and published in the **Federal Register** on December 28, 1993 (58 FR 68505–68506, Docket No. 93–144–1), we amended the brucellosis regulations in 9 CFR part 78 by adding Kansas to the list of validated brucellosis-free States in § 78.43.

Comments on the interim rule were required to be received on or before February 24, 1994. We did not receive any comments. The facts presented in the interim rule still provide a basis for the rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12778, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule amending 9 CFR part 78.43 that was published at 58 FR 68505–68506 on December 28, 1993.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 25th day of April 1994.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–10407 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 94–06]

RIN 1557–AB27

Rules, Policies and Procedures for Corporate Activities: Merger, Consolidation, Purchase and Assumption

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is adopting final procedures for national banks to follow in merging or consolidating with Federal savings associations. This action is necessary because the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), which authorized national bank mergers and consolidations with Federal Savings associations, did not establish procedures for such transactions. To the extent appropriate, the procedures imposed here parallel the statutory and regulatory procedures governing mergers and consolidations between national banks and state-chartered financial institutions.

EFFECTIVE DATE: This rule is effective on May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Jerome L. Edelstein, Senior Counsel, Corporate Organization and Resolutions Division, (202) 874–5300; Nancy Cody, National Bank Examiner/Senior Analyst, Bank Organization and Structure, (202) 874–5060, 250 E St. SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

Sections 501(a) and 502(b) of title V of the FDICIA, Public Law 102–242, amended the National Bank Act, at 12 U.S.C. 215c, and the Federal Deposit Insurance Corporation Act (FDI Act), at 12 U.S.C. 1815(d)(3), to authorize national banks, subject to certain limitations, to acquire or be acquired by Federal savings associations. Acquisitions, within the meaning of title V, include mergers and consolidations in addition to purchase and assumption transactions. Title V clearly authorizes national banks to merge or consolidate with Federal savings associations if the transaction meets the requirements set forth in title V.

The authority to merge or consolidate with Federal savings associations, granted in Title V of FDICIA, supplements long-standing national bank authority to merge or consolidate with other national banks or with state chartered financial institutions, including savings associations. National banks also have had the authority to engage in purchase and assumption transactions with both Federal and state chartered depository institutions, including savings associations.

The existing statutes permitting national bank consolidations and mergers provide procedures for such activities including, under Federal law at 12 U.S.C. 214(a), 214a, 215, and 215a, specific procedures for shareholder approval and dissenter's rights for mergers and consolidations between national banks and with state chartered banking institutions. The FDICIA did not address such matters for mergers and consolidations between national banks and Federal savings associations. Thus, there is significant uncertainty about procedures for national banks merging or consolidating with Federal savings associations.

Purpose

To address the uncertainty, the OCC, on November 3, 1992, published an interim rule with request for comment. That rule established procedures for national banks to merge or consolidate with Federal savings associations (57 FR 49639). The interim rule, to the extent appropriate, applied the statutory procedures for mergers and consolidations between national banks and with state-chartered banking institutions. The preamble to the interim rule as published at 57 FR 49639–49642 provided a complete explanation. In summary, these procedures addressed:

—Approval by the board of directors of each institution proposing to engage in such a merger or consolidation;
—Notice to and approval by the shareholders of such institutions;
—Rights of shareholders who dissent from the proposed transaction and procedures for valuing their shares; and
—Succession of the resulting institution to all property and rights of the consolidating or merging institutions.

In addition, the interim rule made various technical changes to 12 CFR § 5.33 governing merger, consolidation, and purchase and assumption transactions by national banks. These changes make it clear that the provisions also apply to mergers and consolidations between national banks and Federal savings associations. These provisions include:

—The requirement that all participating depository institutions file relevant proxy material or information with the OCC;
—The application of the OCC's policy on name changes when the resulting bank selects a new title; and
—The OCC's option to examine any institution proposing to merge into or be consolidated with a national bank and to charge the applicants a fee for the examination.

Another change clarifies the authority of national banks to temporarily retain nonconforming assets acquired in a merger or consolidation with another depository institution.

The interim rule also provides that the OCC has no approval authority over a merger or consolidation transaction where the resulting institution is not a national bank. It requires a national bank to notify the OCC when it intends to be merged or consolidated into a depository institution with a different type of charter.

This final rule, adopted by the OCC pursuant to its authority under the National Bank Act, including 12 U.S.C. 93a and 215c, finalizes the interim rule. There is one change between the final rule and the interim rule. The change, which addresses a national bank's retention of nonconforming assets acquired in a merger or consolidation with another banking institution, is discussed below.

Comments on the Interim Rule

The OCC received four comment letters on the interim rule—three filed on behalf of banks and one filed by the Federal Home Loan Bank of Atlanta (FHLB).

The comment filed by the FHLB concerned § 5.33(b)(8) of the interim rule, which states that the OCC may permit a national bank to acquire nonconforming assets through merger (or consolidation) and retain and carry those assets until they can be divested. The FHLB was concerned that FHLB stock would have to be divested although the resulting national bank intended to become an FHLB member. Subject to OCC approval, a national bank may retain FHLB stock while it takes actions necessary to become an FHLB member. The interim rule did not require divestiture of FHLB stock under these circumstances.

Nevertheless, the OCC agrees that there could be confusion regarding this requirement. Therefore, in this final rule, the OCC has revised § 5.33(b)(8) to reflect that the OCC may approve a national bank to hold nonconforming assets for a reasonable time until such assets can be made to conform.

One bank commenter was concerned that the interim rule unintentionally required shareholder approval for branch purchases and sales between national banks and Federal savings associations. The commenter's concern arises because § 5.33(b)(1) of the interim rule indicates the term merger refers to a merger, consolidation, or purchase and assumption, unless the context indicates otherwise. The provision addressing shareholder approval requirements, 12 CFR 5.33(c), however, specifically refers to mergers and consolidations, thus in context, clearly indicating that the general definition of the term "merger" is inapplicable and that the shareholder approval provision does not apply to branch purchases and sales. The OCC believes that § 5.33 (b)(1) and (c) are sufficiently clear and, therefore, is adopting these provisions without change.

The two other bank commenters raised issues beyond the scope of this rulemaking. One bank commenter dealt with the time period for processing applications for mergers, consolidations, and purchase and assumption transactions between national banks and various types of banking institutions in light of certain provisions of the FDICIA. The interim rule specifically did not address the scope or applicability of the statutory timeframes; consequently, the OCC does not believe that it is appropriate to address those issues in this final rule.

The other bank commenter dealt with procedures to affect mergers and consolidations between national banks and mutual savings associations. As stated, the purpose of the interim rule was simply to apply existing statutory and regulatory procedures governing certain national bank mergers and consolidations to mergers and consolidations between national banks and Federal savings associations. The OCC will continue to process applications where mutual savings associations convert to the stock form of organization and subsequently merge or consolidate with, or convert into a national bank.

Reasons for Immediate Effective Date

Because statutory law currently authorizes mergers and consolidations between national banks and Federal savings associations, and because the procedures in this final rule are already in effect, the OCC finds that a delay in implementation is unnecessary. Moreover, the OCC has made only one change from the interim rule. That change, regarding retention of nonconforming assets, relieves a restriction. Thus, this final rule is being adopted effective immediately.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule imposes only minimal costs on national banks, regardless of size.

Executive Order 12866

It has been has determined that this document is not a significant regulatory action as defined in Executive Order 12866.

List of Subjects in 12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

Accordingly, the interim rule amending 12 CFR part 5, published at 57 FR 49639–49644 on November 3, 1992, is adopted as a final rule with the following change:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a.

2. In § 5.33, paragraph (b)(8) is revised to read as follows:

§ 5.33 Merger, consolidation, purchase and assumption.

* * * * *

(b) * * *

(8) *Nonconforming assets.* A national bank seeking to acquire and retain nonconforming assets in a merger shall identify those assets as required by the OCC's merger application. OCC, in its discretion, may permit the bank to retain the assets for a reasonable time to allow it to dispose of or conform the assets. Retention may be subject to conditions and an OCC determination of the carrying value of the retained assets.

* * * * *

Dated: April 25, 1994.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 94–10392 Filed 4–29–94; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 93–AWS–1; Special Condition No. 29–ASW–12]

Special Condition: European Helicopter Industries, Ltd., Model EH–101 Helicopter, Electronic Instrument System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition.

SUMMARY: This special condition is issued for the European Helicopter Industries, Ltd., Model EH–101 helicopter. This helicopter will have a novel or unusual design feature associated with the Electronic Instrument System. This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Carroll Wright, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111; telephone (817) 222–5120.

SUPPLEMENTARY INFORMATION:

Background

European Helicopter Industries, Ltd., which consists of Westland Helicopters of England and Agusta Helicopters of Italy, submitted applications for type certificates dated September 20, 1988, to the FAA Brussels Certification Office through the Civil Airworthiness Authorities of the United Kingdom for the passenger carrying version of the EH–101 and through the Registro Aeronautico Italiano of Italy for the utility version.

The passenger version is a 30 passenger, long range helicopter powered by three GE CT 7–6A engines with a maximum takeoff weight of 31,000 lbs. The utility version is a cargo or mixed passenger and cargo helicopter that differs principally from the passenger version in that the utility version has a ramp door incorporated in the rear fuselage.

Type Certification Basis

The certification basis established for the Model EH–101 helicopter consists of 14 CFR part 29, including Amendments 29–1 through 29–27, and 14 CFR parts 21 and 36; Amendments 21–61 and 36–14, respectively.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these helicopters because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49 after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2) for changes to the type certificates. In addition to the applicable airworthiness regulations and special conditions, the Model EH–101 must comply with the noise certification requirements of part 36, Amendments 36–1 through 36–14.

Novel or Unusual Design Feature

The European Helicopter Industries, Ltd., Model EH–101 helicopter, at the time of application, was identified as incorporating one and possibly more electrical or electronic systems that will be performing functions critical to the continued safe flight and landing of the helicopter. The Electronic Instrument System displays attitude, flight data, navigation data, engine, and transmission information. The display of attitude, altitude, and airspeed to the pilot is critical to the continued safe flight and landing of the helicopter for instrument flight rules (IFR) operations in Instrument Meteorological Conditions.

If it is determined that this helicopter will incorporated other electrical or electronic systems performing critical functions, those systems also will be required to comply with the requirements of this special condition.

Discussion of Comments

Notice of Proposed Special Condition No. SC–93–1–SW was published in the **Federal Register** on January 8, 1993 (58 FR 3239). No comments were received. Therefore, the special condition is adopted as proposed.

Conclusion

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

List of Subjects in 14 CFR Part 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

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

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the European Helicopter, Ltd., Model EH–101 helicopter.

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on April 14, 1994.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 94–10287 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 29

[Docket No. 94–ASW–1; Special Condition 29–ASW–13]

Special Condition: Sikorsky Model S76C Helicopter, Electronic Flight Instrument System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition; request for comments.

SUMMARY: This special condition is issued for the Sikorsky Model S76C helicopter modified by Sikorsky Aircraft, a Division of United Technologies Corporation. This helicopter will have a novel or unusual design feature associated with the Electronic Flight Instrument System. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these critical function systems from the effects of external high intensity radiated fields (HIRF). This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

DATES: The effective date of this special condition is May 2, 1994. Comments must be received on or before June 1, 1994.

ADDRESSES: Comments may be mailed in duplicate to: Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attn: Rules Docket No. 94–ASW–1, Fort Worth, Texas 76193–0007, or delivered in duplicate to the Office of the Assistant Chief Counsel, 2601 Meacham Blvd., room 663, Fort Worth, Texas 76137.

Comments must be marked Docket No. 94–ASW–1. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 9 a.m. and 3 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, FAA, Rotorcraft Directorate, Policy and Procedures Group, Fort Worth, Texas 76193–0112; telephone (817) 222–5121.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the approval design and thus delay delivery of the affected helicopter. These notice and comment procedures are also considered unnecessary since the public has been previously provided with a substantial number of opportunities to comment on substantially identical special conditions and their comments have been fully considered. Therefore, good cause exists for making this special condition effective upon issuance.

Comments Invited

Although this final special condition was not subject to notice and opportunity for prior public comment, comments are invited on this final special condition. Interested persons are invited to comment on this final special condition by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered. This special condition may be changed in light of comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 94–ASW–1." The postcard will be date and time stamped and returned to the commenter.

Background

On October 12, 1993, Sikorsky Aircraft, West Palm Beach, Florida, applied for a Supplemental Type Certificate for installation of an Electronic Flight Instrument System in a Sikorsky Aircraft Model S76C helicopter. This is a 13 passenger, twin engine, 11,400 pound transport category helicopter.

Type Certification Basis

The certification basis established for the Sikorsky Model S76C helicopter includes: 14 CFR part 29 (part 29) effective February 1, 1965, Amendments 29–1 through 29–11; in addition, portions of Amendments 29–12, specifically, §§ 29.67, 29.71, 29.75, 29.141, 29.173, 29.175, 29.931, 29.1189(a)(2), 29.1555(c)(2), 29.1557(c); portions of Amendment 29–13, specifically § 29.965; § 29.1325 of Amendment 29–24; § 29.811 of Amendment 29–30; Amendment 36–14 of part 36, appendix H; instrument flight criteria for S–76 (interim) dated February 10, 1977; Special Conditions 29–82–NE–3 (Docket No. 17721) dated March 27, 1978; Equivalent Safety Finding for § 29.173(b), National Environmental Act of 1969; Noise Control Act of 1972; § 29.865 including § 29.25 of Amendment 29–12, when cargo hook system, P/N 76255–02000, is installed; and for external load operations, part 133, including Amendments 1–4. Compliance with the following optional requirements has been established: Ditching provisions § 29.563 including §§ 29.801 and 29.807(d) and excluding §§ 29.1411, 29.1415, and 29.1561 of Amendment 29–12, when emergency flotation gear, P/N 76076–02002, is installed. For over-water operations, compliance with the operating rules and §§ 29.1411, 29.1415, and 29.1561 must be shown.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this helicopter because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 and become part of the type certification basis in accordance with § 21.101(b)(2). Provision is made for the public comment period in § 11.28.

Discussion

The Sikorsky Model S76C helicopter, at the time of the application for modification by Sikorsky Aircraft, was identified as having modifications that incorporate one and possibly more electrical, electronic, or combination of electrical and electronic (electrical/electronic) systems that will perform functions critical to the continued safe flight and landing of the helicopters. The electronic flight instrument system performs the attitude display function. The display of attitude, altitude, and airspeed is critical to the continued safe flight and landing of the helicopters for IFR operations in instrument meteorological conditions. After the design is finalized, Sikorsky Aircraft will provide the FAA with a preliminary hazard analysis that will identify any other critical functions performed by the electrical/electronic systems that are critical to the continued safe flight and landing of the helicopters.

Recent advances in technology have prompted the design of aircraft that include advanced electrical and electronic systems that perform functions required for continued safe flight and landing. However, these advanced systems respond to the transient effects of induced electrical current and voltage caused by the high intensity radiated fields (HIRF) incident on the external surface of the helicopters. These induced transient currents and voltages can degrade the performance of the electrical/electronic systems by damaging the components or by upsetting the systems' functions.

Furthermore, the electromagnetic environment has undergone a transformation not envisioned by the current application of § 29.1309(a). Higher energy levels radiate from operational transmitters currently used for radar, radio, and television; the number of transmitters has increased significantly.

Existing aircraft certification requirements are inappropriate in view of these technological advances. In addition, the FAA has received reports of some significant safety incidents and accidents involving military aircraft equipped with advanced electrical/electronic systems when they were exposed to electromagnetic radiation.

The combined effects of technological advances in helicopter design and the changing environment have resulted in an increased level of vulnerability of the

electrical and electronic systems required for the continued safe flight and landing of the helicopters. Effective measures to protect these helicopters against the adverse effects of exposure to HIRF will be provided by the design and installation of these systems. The following primary factors contributed to the current conditions:

(1) Increased use of sensitive electronics that perform critical functions, (2) reduced electromagnetic shielding afforded helicopter systems by advanced technology airframe materials, (3) adverse service experience of military aircraft using these technologies, and (4) an increase in the number and power of radio frequency emitters and the expected increase in the future.

The FAA recognizes the need for aircraft certification standards to keep pace with technological developments and a changing environment and in 1986 initiated a high priority program to (1) determine and define electromagnetic energy levels; (2) develop guidance material for design, test, and analysis; and (3) prescribe and promulgate regulatory standards

The FAA participated with industry and airworthiness authorities of other countries to develop internationally recognized standards for certification.

The FAA and airworthiness authorities of other countries have identified a level of HIRF environment that a helicopter could be exposed to during IFR operations. While the HIRF requirements are being finalized, the FAA is adopting a special condition for the certification of aircraft that employ electrical/electronic systems that perform critical functions. The accepted maximum energy levels that civilian helicopter system installations must withstand for safe operation are based on surveys and analysis of existing radio frequency emitters. This special condition will require the helicopters' electrical/electronic systems and associated wiring to be protected from these energy levels. These external threat levels are believed to represent the worst-case exposure for a helicopter operating under IFR.

The HIRF environment specified in this special condition is based on many critical assumptions. With the exception of takeoff and landing at an airport, one of these assumptions is that the aircraft would be not less than 500 feet above ground level (AGL). Helicopters operating under visual flight rules (VFR) routinely operate at less than 500 feet AGL and perform takeoffs and landings at locations other than controlled airports. Therefore, it would be expected that the HIRF environment experienced by a helicopter operating VFR may exceed the defined environment by 100 percent or more.

This special condition will require the systems that perform critical functions, as installed in the aircraft, to meet certain standards based on either a defined HIRF environment or a fixed value using laboratory tests.

The applicant may demonstrate that the operation and operational capabilities of the installed electrical/electronic systems that perform critical functions are not adversely affected when the aircraft is exposed to the defined HIRF environment. The FAA has determined that the environment defined in Table 1 is acceptable for critical functions in helicopters operating at or above 500 feet AGL. For critical functions of helicopters operating at less than 500 feet AGL, additional factors must be considered.

The applicant may also demonstrate by a laboratory test that the electrical/electronic systems that perform critical functions can withstand a peak electromagnetic field strength in a frequency range of 10 KH_z to 18 GH_z. If a laboratory test is used to show compliance with the defined HIRF environment, no credit will be given for signal attenuation due to installation. A level of 100 v/m and other considerations, such as an alternate technology backup that is immune to HIRF, are appropriate for critical functions during IFR operations. A level of 200 v/m and further considerations, such as an alternate technology backup that is immune to HIRF, are more appropriate for critical functions during VFR operations. Applicants must perform a preliminary hazard analysis to identify electrical/electronic systems that perform critical functions. The term "critical" means those functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the helicopters. The systems identified by the hazard analysis as performing critical functions are required to have HIRF protection.

A system may perform both critical and noncritical functions. Primary electronic flight display systems and their associated components perform critical functions such as attitude, altitude, and airspeed indications. HIRF requirements would apply only to the systems that perform critical functions.

Compliance with HIRF requirements will be demonstrated by tests, analysis, models, similarity with existing systems, or a combination of these methods. The two basic options of either testing the rotorcraft to the defined environment or laboratory testing may not be combined. The laboratory test allows some frequency areas to be under tested and requires other areas to have some safety margin when compared to the defined environment. The areas required to have some safety margin are those shown, by past testing, to exhibit greater susceptibility to adverse effects from HIRF; and laboratory tests, in general, do not accurately represent the aircraft installation. Service experience alone will not be acceptable since such experience in normal flight operations may not include an exposure to HIRF. Reliance on a system with similar design features for redundancy, as a means of protection against the effects of external HIRF, is generally insufficient because all elements of a redundant system are likely to be concurrently exposed to the radiated fields.

The modulation that represents the signal most likely to disrupt the operation of the system under test, based on its design characteristics, should be selected. For example, flight control systems may be susceptible to 3 H_z square wave modulation while the video signals for electronic display systems may be susceptible to 400 H_z sinusoidal modulation. If the worst-case modulation is unknown or cannot be determined, default modulations may be used. Suggested default values are a 1 KH_z sine wave with 80 percent depth of modulation in the frequency range from 10 KH_z to 400 MH_z and 1 KH_z square wave with greater than 90 percent depth of modulation from 400 MH_z to 18 GH_z. For frequencies where the unmodulated signal would cause deviations from normal operation, several different modulating signals with various waveforms and frequencies should be applied.

Acceptable system performance would be attained by demonstrating that the critical function components of the system under consideration continue to perform their intended function during and after exposure to required electromagnetic fields. Deviations from system specifications may be acceptable but must be independently assessed by the FAA on a case-by-case basis.

TABLE 1.—FIELD STRENGTH VOLTS/METER

Frequency	Peak	Average
10–100 KH_z	50	50
100–500	60	60
500–2000	70	70
2–30 MH_z	200	200
30–100	30	30
100–200	150	33

TABLE 1.—FIELD STRENGTH VOLTS/METER—Continued

Frequency	Peak	Average
200–400	70	70
400–700	4020	935
700–1000	1700	170
1–2 GH_z	5000	990
2–4	6680	840
4–6	6850	310
6–8	3600	670
8–12	3500	1270
12–18	3500	360
18–40	2100	750

Conclusion

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

The substance of this special condition for similar installations in a variety of helicopters has been subjected to the notice and comment procedure and has finalized without substantive change. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the helicopter, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impractical, and good cause exists for adopting this special condition immediately. Therefore, this special condition is being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to prior opportunities for comment.

List of Subjects in 14 CFR Part 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citations for this special condition are as follows:

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

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Sikorsky Model S76C helicopter:

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Fort Worth, Texas, on April 14, 1994.

Mark R. Schilling,

Acting Manager, Rotorcraft Directorate Aircraft Certification Service.

[FR Doc. 94–10288 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ACE–04]

Establishment of Class E Airspace; Ankeny, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at the Ankeny Regional Airport, Ankeny, Iowa. The development of a new standard instrument approach procedure (SIAP) at the Ankeny Regional Airport, Ankeny, Iowa, utilizing a new non-directional beacon (NDB) on the airport as a navigational aid has made this action necessary. Controlled airspace extending from 700 to 1200 feet above ground level (AGL) is needed for aircraft executing the approach. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

EFFECTIVE DATE: 0901 UTC, August 18, 1994.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, System Management Branch, ACE–530c, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On January 7, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at the Ankeny Regional Airport, Ankeny, Iowa (59 FR 4609).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This rule is the same as that proposed in the notice. Class E airspace designations for airspace areas extending upward from 700 feet or more above ground level are published in paragraph 6005 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Ankeny, Iowa, extending upward from 700 feet above the surface excluding that portion within the Des Moines, Iowa, Class C and E airspace.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

ACE IA E5 Ankeny, IA [New]

Ankeny Regional Airport, IA
(lat. 41°41′28″ N, long. 93°34′40″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Ankeny Regional Airport, Iowa, excluding that portion within the Des Moines, Iowa, Class C and E airspace.

* * * * *

Issued in Kansas City, Missouri, on April 13, 1994.

Clarence E. Newbern,

Manager, Air Traffic Division, Central Region.

[FR Doc. 94–10377 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–ACE–05]

Establishment of Class E Airspace; Harrisonville, MO, Lawrence Smith Memorial Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Lawrence Smith Memorial Airport, Harrisonville, Missouri. The development of a standard instrument approach procedure (SIAP) at the Lawrence Smith Memorial Airport, Harrisonville, Missouri, utilizing the Butler, Missouri, Very High Frequency Omnidirectional Radio Range/Tactical Air Navigational Aid (VORTAC) has made this action necessary. Controlled airspace extending from 700 to 1200 feet above ground level (AGL) is needed for aircraft executing the approach. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, System Management Branch, ACE–530b, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

History

On January 7, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at the Lawrence Smith Memorial Airport, Missouri (59 FR 4610).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This rule is the same as that proposed in the notice. Class E airspace designations for airspace areas extending upward from 700 feet or more above ground level are published in paragraph 6005 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Lawrence Smith Memorial Airport, Harrisonville, Missouri, extending upward from 700 feet above ground level (AGL) to 1200 AGL. The development of a new SIAP based on the Butler, Missouri, VORTAC made this action necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the VOR SIAP at Lawrence Smith Memorial Airport, Harrisonville, Missouri.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending from 700 feet or more above the surface of the earth

* * * * *

ACE MO E5 Harrisonville, MO [New]

Lawrence Smith Memorial Airport, MO
(lat. 38°36′20″ N, long. 94°20′46″ W)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Lawrence Smith Memorial Airport.

* * * * *

Issued in Kansas City, Missouri, on April 13, 1994.

Clarence E. Newbern,

Manager, Air Traffic Division, Center Region.

[FR Doc. 94–10379 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–AGL–22]

Class D Airspace; Mosinee, WI; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the airspace designation of the Class D airspace for Mosinee, Wisconsin, published in a final rule on March 30, 1994 (59 FR 14744), Airspace Docket Number 93–AGL–22.

EFFECTIVE DATE: 0901 U.T.C., June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Robert J. Woodford, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 94–7452, Airspace Docket 93–AGL–22, published on March 30, 1994 (59 FR 14744), revised the designation of airspace for Mosinee, Wisconsin. An error was discovered in the description of Class D airspace. This action corrects that error by changing the vertical limits set forth in the airspace description.

Correction to Final Rule

This action corrects the error in the vertical limits of Class D airspace for

Mosinee, Wisconsin, by adding the following sentence: "That airspace extending upward from the surface to and including 3,800 feet MSL."

Accordingly, pursuant to the authority delegated to me, the airspace designation for the Mosinee, Wisconsin, Class D airspace, as published in the **Federal Register** on March 30, 1994, (59 FR 14744), (**Federal Register** Document 94–7452; page 14745, column 2), is corrected in the amendment to the incorporation by reference in 14 CFR 71.1 as follows:

PART 71.1—[CORRECTED]

§ 71.181 Designation [Corrected]

Paragraph 5000 Class D airspace.

AGL WI D Mosinee, WI [Corrected]

Mosinee, Central Wisconsin Airport, WI
(lat. 44°46′42″ N., long. 89°39′59″ W.)

That airspace extending upward from the surface to and including 3800 feet MSL, within a 4.4-mile radius of Central Wisconsin Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport Facility/Directory.

* * * * *

Issued in Des Plaines, Illinois on April 18, 1994.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–10375 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

15 CFR Part 290

[Docket No. 931239–4088]

RIN 0693–AB27

Regional Centers for the Transfer of Manufacturing Technology

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Final rule.

SUMMARY: The National Institute of Standards and Technology is today issuing a final rule making revisions to regulations found at part 290 of title 15 of the Code of Federal Regulations, which implement the Regional Centers for the Transfer of Manufacturing Technology. This change revises the matching fund requirements in the fifth and sixth years of operation to reflect program experience during the first five years. With this change, the maximum allowable Federal funding will be one third of total expenses during years five and six. This change also modifies the requirements for cash match. With this change, at least half of the match must be in cash or full-time personnel loaned to the operating organization.

EFFECTIVE DATE: This rule is effective on May 2, 1994.

FOR FURTHER INFORMATION CONTACT: To receive additional program information, contact Philip Nanzetta at (301) 975–3414.

SUPPLEMENTARY INFORMATION: On January 27, 1994, the National Institute of Standards and Technology published a notice of proposed rulemaking in the **Federal Register** (59 FR 3803). No comments were received in response to this notice. Accordingly, the National Institute of Standards and Technology announces changes to the matching funds requirements for the Regional Centers for the Transfer of Manufacturing Technology (Manufacturing Technology Centers, MTC) program found at Part 290 of title 15 of the Code of Federal Regulations. The MTC program provides financial and technical assistance to regional centers (MTCs) which work directly with small and medium sized manufacturing firms to advance their level of manufacturing technology. The MTCs are selected on a competitive basis in accordance with the regulation at 15 CFR part 290.

Part of the funding for each MTC is provided by a Federal cooperative agreement and the balance (the "match") is provided through a variety of means by the operating organization. The match is generally provided as a combination on non-Federal public funds or in-kind match, contributions of cash or in-kind resources from private sources, and earned income of the MTC. The authorizing legislation allows Federal funding of up to half the total budget (cash and in-kind) in the first three years and requires that the Secretary adopt regulations which specify a declining level of Federal support during the next three years. The regulation, prior to the change announced today, specified those maximum funding levels to be 40 percent, 30 percent, and 20 percent in years four through six respectively. The changes made today to Part 290 specify those maximum funding levels to be 40 percent, ⅓, and ⅓ in years four through six respectively.

Also, the regulation had required that 55 percent of the match be in cash or full-time personnel. The changes made today to Part 290 specify that half of the match be in cash or full-time personnel, effective immediately. This immediate effective date is different from what NIST had proposed in the notice of January 27. In the January 27 notice, NIST had proposed that the relaxation of restrictions on the host contribution apply to all awards issued or extended after September 30, 1994. Since no public opposition was expressed about this change, and in order to avoid any possibility of confusion as to effective date of the revisions contained in this notice, NIST has decided to make all changes to part 290 effective immediately.

Classification

This rule was determined to be not significant for purposes of Executive Order 12866. The General Counsel certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule will not have a significant economic effect on a substantial number of small entities requiring a flexibility analysis under the Regulatory Flexibility Act because the proposed rule changes will affect only those governmental units that are selected to receive funding under the Program. The program is entirely voluntary for the participants that seek funding. It is not a major federal action requiring an environmental assessment under the National Environment Policy Act. The Regional Centers for the Transfer of Manufacturing Technology Program does not involve the mandatory payment of any matching funds from a state or local government, and does not affect directly any state or local government. Accordingly, the Technology Administration has determined that Executive Order 12372 is not applicable to this program. This notice does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612. Since the rule relieves funding restrictions that had previously been imposed on funding recipients, under section 553(d) of the Administrative Procedure Act (5 U.S.C. 553(d)) it may and is being made effective without a 30 day delay in effective date.

List of Subjects in 15 CFR Part 290

Science and technology, Business and industry, Small business.

Dated: April 20, 1994.

Samuel Kramer,

Associate Director, National Institute of Standards and Technology.

For reasons set forth in the preamble, title 15, part 290 of the Code of Federal Regulations is amended as follows:

PART 290—REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

1. The authority section for part 290 is revised to read as follows:

Authority: 15 U.S.C. 278k.

2. Section 290.4 is amended by revising Table 1 in paragraph (b) and paragraph (c)(5) to read as follows:

§ 290.4 Terms and Schedule of Financial Assistance.

* * * * *

(b) * * *

TABLE 1.—SCHEDULE OF NIST MATCHING FUNDS

Year of center operation	Maximum NIST share
1–3	½
4	⅖
5–6	⅓

(c) * * *

(5) In-kind contribution of part-time personnel, equipment, software, rental value of centrally located space (office and laboratory) and other related contributions up to a maximum of one-half of the host's annual share. Allowable capital expenditures may be applied in the award year expended or in subsequent award years.

[FR Doc. 94–10391 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order amending part 30 order.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is amending condition (2)(f) of the part 30 Order issued on February 17, 1993 to the Tokyo Grain Exchange (the "Exchange" or "TGE") to provide that TGE member firms granted relief under rule 30.10 may require its customers resident in the United States who, in connection with disputes arising under transactions subject to part 30, elect arbitration at the National Futures Association ("NFA") to exhaust certain mediation procedures made available by the TGE prior to initiating such arbitration proceeding.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq., or Francey L. Youngberg, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581; Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION: On February 17, 1993, the Commission issued an Order under rules 30.3(a) and 30.10:[1]

(1) Authorizing certain option contracts traded on the Exchange to be offered or sold to persons located in the United States; and

(2) Granting an exemption to designated members of the Exchange from the application of certain of the foreign futures and option rules based on substituted compliance with certain comparable regulatory and self-regulatory requirements of a foreign regulatory authority.

Among other conditions, the Order required that members of the TGE seeking rule 30.10 relief consent to the following:

(f) [the Firm] [c]onsents to participate in any NFA arbitration program which offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under part 30, and consents to notify customers resident in the United States of the availability of such a program; *Provided, however,* that until the Exchange adopts a procedure for an 'on the papers' hearing applicable to all Exchange arbitrations, consents to notify such customers that if they elect Exchange arbitration, they or their agent could be required to appear personally at a hearing, and if the customer elects NFA arbitration, consents to participate in such proceeding even in circumstances where the dispute arises primarily out of delivery, clearing, settlement or floor practices * * *. 58 FR 10956.

By letter dated March 31, 1994, the Exchange through its counsel, requested that the Commission amend the Order to accommodate mediation procedures available at the Exchange.[2] In particular, it has requested that customers resident in the United States who elect to arbitrate a dispute involving transactions subject to part 30 at NFA be required to exhaust certain mediation procedures made available by the Exchange prior to initiating such NFA arbitration proceeding.

Upon consideration of the matter, the CFTC is amending condition 2(f) of the Order issued on February 17, 1993 as follows (new language is underlined) and approving the form of consent set forth below as Exhibit A:[3]

(f) [the Firm] [c]onsents to participate in any NFA arbitration program which offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under part 30, and consents to notify customers resident in the United States of the availability of such a program; Provided, however, that the firm may require its customers resident in the United States to execute the consent attached hereto as Exhibit A concerning the exhaustion of certain mediation procedures made available by the TGE prior to bringing an NFA arbitration proceeding; and provided further that the firm must undertake to provide the customer with information concerning how to commence such procedures and documentation of the commencement of such procedures pursuant to the consent attached hereto as Exhibit A; Provided, however, that until the Exchange adopts a procedure for an 'on the papers' hearing applicable to all Exchange arbitrations, consents to notify such customers that if they elect Exchange arbitration, they or their agent could be required to appear personally at a hearing, and if the customer elects NFA arbitration, consents to participate in such proceeding even in circumstances where the dispute arises primarily out of delivery, clearing, settlement or floor practices * * *."

Exhibit A—Form of Consent

In the event that a dispute arises between you [name of customer resident in the United States] and [name of TGE firm] with respect to transactions subject to part 30 of the Commodity Futures Trading Commission's rules, various forums may be available for resolving the dispute, including courts of competent jurisdiction in the United States and Japan and arbitration programs made available both in the United States and Japan. In the event you wish to initiate an arbitration proceeding against this firm to resolve such dispute under the applicable rules of the National Futures Association ("NFA") in the United States, you hereby consent that you will first commence mediation in accordance with such procedures as may be made available by the Tokyo Grain Exchange ("TGE"), information on which is

[1] 58 FR 10953 (February 23, 1993).

[2] See letter dated March 1, 1994 from John V. Rainbolt, counsel for the Exchange to Jean A. Webb, Commission.

[3] The requirement for U.S. customers to first exhaust mediation procedures before proceeding to NFA arbitration is contained in other part 30 orders. For example, a part 30 order issued by the Commission to the Securities and Investments Board ("SIB") on May 15, 1989 allows firms to require U.S. customers to first exhaust certain mediation and conciliation procedures made available by the SIB prior to bringing an NFA arbitration proceeding. 54 FR 21599, 21601 (May 19, 1989). See also part 30 orders issued on the same day to the Association of Futures Brokers and Dealers, 54 FR 21604, The Securities Association, 54 FR 21609 and the Investment Management Regulatory Organization Limited, 54 FR 21614.

provided to you herewith. The outcome of such TGE mediation is nonbinding. You may subsequently accept this resolution, or you may proceed either to binding arbitration under the rules of the TGE or to binding arbitration in the United States under the rules of NFA. If you accept the mediated resolution or elect to proceed to arbitration, or to any other form of binding resolution under the rules of the Exchange, you will be precluded from subsequently initiating an arbitration proceeding at NFA.

You may initiate an NFA arbitration proceeding upon receipt of documentation from the Tokyo Grain Exchange:

(1) Evidencing completion of the mediation process and reminding you of your right of access to NFA's arbitration proceeding; or

(2) Representing that more than nine months have elapsed since you commenced the mediation process and that such process is not yet complete and reminding you of your right of access to NFA's arbitration proceeding.

The documentation referred to above must be presented to NFA at the time you initiate the NFA arbitration proceeding. NFA will exercise its discretion not to accept your demand for arbitration absent such documentation.

By signing this consent you are not waiving any other right to any other legal remedies available under the law.

Customer

Date

In all other respects, the terms and conditions of the Commission's part 30 Order issued to the TGE on February 17, 1993 remain unchanged.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign transactions.

Accordingly, 17 CFR part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND FOREIGN OPTION TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

Authority: Secs. 2(a)(1)(A), 4, 4c, and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix C to Part 30 is amended by revising the entry "Firms Designated by the Tokyo Grain Exchange" to read as follows:

Appendix C to Part 30

* * * * *

Firms designated by the Tokyo Grain Exchange.

FR date and citation: Feb. 23, 1993, 58 FR 10957; May 2, 1994.

Issued in Washington, DC, on April 22, 1994.

Lynn K. Gilbert,

Deputy Secretary of the Commission.

[FR Doc. 94–10267 Filed 4–29–94; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 92

[Docket No. R–94–1648; FR–3411–N–03]

RIN 2501–AB50

HOME Investment Partnerships Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development.

ACTION: Notice of waiver.

SUMMARY: This document informs the public that the Department is waiving a provision of the HOME Program rule at 92.2 on the current definition of commitment. The Department on April 19, 1994, published a rule that expanded the definition of commitment. However, that rule will not become effective until May 19, 1994. In the interim, there are participating jurisdictions (PJs) which could benefit by being able to use the newly expanded definition of commitment. This document provides a waiver of the provisions that are being amended, obviating the need for individual waiver requests from the affected PJs.

EFFECTIVE DATE: April 20, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Kolesar, Director of the Program Policy Division, Office of Affordable Housing Programs, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2470, TDD (202) 708–2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

The HOME program statute and regulations give PJs 24 months to commit their HOME funds. HOME funds not committed by the 24 month deadline must be recaptured by the Department. The Department published a rule on April 19, 1994 (59 FR 18626) which included a revision to the definition of commitment. The Department believes greater flexibility in the definition of commitment is required. In addition to commitments to specific projects, the definition of commitment is expanded to include legally binding agreements with State recipients, subrecipients, contractors to produce affordable housing and reservation of funds to Community Housing Development Organizations (CHDOs).

II. Good Cause

In expanding the definition of commitment in the regulation, the Department believed that additional flexibility was warranted because of the slow start-up of the program and the significant statutory and regulatory changes which have occurred in the program. With these major changes in the program, the ability of the PJs to operate the program effectively has substantially increased. Nonetheless, the Department recognized that to build on the momentum of these changes, an expansion of the definition would provide regulatory relief to allow funds to be committed to state recipients, subrecipients and CHDOs in a more orderly and equitable fashion. States can work with small cities and newly formed CHDOs to build capacity without fear of losing funds. Also, local PJs may tackle more difficult rental projects designed to serve very-low income or special needs populations, which often require longer development periods.

This good cause applies to PJs whose commitment deadline occurs before the effective date of the April 19, 1994 regulation.

III. Waiver

Pursuant to the authority of § 92.3, the Department waives the definition of commitment at § 92.2 for participating jurisdictions whose 24 months commitment deadline will occur before May 19, 1994. These jurisdictions may use the new definition of "Commitment" published in the **Federal Register** of April 19, 1994 (59 FR 18631).

Dated: April 25, 1994.

Andrew Cuomo,

Assistant Secretary for Community Planning and Development.

[FR Doc. 94–10305 Filed 4–29–94; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Regulatory Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment..

SUMMARY: OSM is announcing the approval, with exceptions, of a proposed amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment revises parts of the Ohio Administrative Code (OAC) pertaining to land use and revegetation success. It establishes revegetation success standards where the postmining land use is undeveloped land and sampling procedures for measuring vegetative ground cover, forage yield and tree and shrub stocking.

The amendment is intended to revise the Ohio program to be consistent with the corresponding Federal regulations, clarify ambiguities, and encourage tree planting..

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Eastland Professional Plaza, 4480 Refugee Road, Suite 201, Columbus, Ohio 43232; Telephone: (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program.
II. Discussion of the Proposed Amendment.
III. Director's Findings.
IV. Summary and Disposition of Comments.
V. Director's Decision.
VI. Procedural Determinations.

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.15, and 935.16.

II. Discussion of the Proposed Amendment

The subject of this final rule is a combination and resubmission of two prior Ohio amendments, PA 25R and PA 56R (Administrative Record No. OH–1944). This combined resubmission was submitted to OSM by Ohio on October 21, 1993. OSM announced receipt of the proposed amendment in the November 4, 1993, **Federal Register** (58 FR 58824) and in the same notice opened the public comment period and provided opportunity for a public hearing on the adequacy of the amendment. The public comment period ended on December 6, 1993. The public hearing scheduled for November 29, 1993, was not held because no one requested an opportunity to testify.

The Ohio legislature through the Joint Committee on Agency Rule Review approved the proposed amendment on November 27, 1993. The Ohio Department of Natural Resources, Division of Reclamation (Ohio), has delayed implementation of the rule until the Director of OSM makes his decision on the proposed amendment. Set forth below is the history of PA 25R and PA 56R.

Revised Program Amendment Number 25 (PA 25R)

On January 14, 1993 (58 FR 4330), the Director of OSM announced his decision on a June 22, 1992, submission of PA 25R (Administrative Record No. OH–1725). In that decision, the Director approved Ohio's proposed revision to OAC 1501:13–9–15 (J)(1) adopting the requirement that success of revegetation shall be measured using a statistically valid sampling technique with a 90-percent statistical confidence interval. However, the Director did not approve Ohio's visual (ocular) method of evaluating ground cover as a statistically valid means of performing that sampling. Therefore, the Director continued the requirement at 30 CFR 935.16(f) that Ohio amend its program to include a statistically valid sampling technique for evaluating ground cover in order to be no less effective than the corresponding Federal regulations at 30 CFR 816.116(a).

By letter dated June 11, 1994 (Administrative Record No. OH–1889), Ohio resubmitted PA 25R. In that resubmission, Ohio proposed to delete the recently approved requirements for statistical sampling of revegetation and to substitute a mixed use of ocular evaluation and statistical sampling under new paragraphs (G)(3)(b) (ii) and (iii) and revised paragraph (K)(1) of OAC 1501:13–9–15.

OSM announced receipt of new PA 25R in the July 6, 1994, **Federal Register** (58 FR 36178), and, in the same document, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on August 5, 1993. The public hearing scheduled for August 2, 1993, was not held because no one requested an opportunity to testify.

By letter dated September 13, 1993 (Administrative Record No. OH–1917), OSM provided its questions and comments to Ohio on the June 11, 1993, resubmission of PA 25R. On October 12, 1993, Ohio requested and received a one-week extension to the due date for its response to OSM's September 13, 1993, letter (Administrative Record Nos. OH–1936 and 1937).

Ohio's October 21, 1993, amendment submission, which is the subject of this final rule, was submitted in part to address OSM's September 13, 1993, questions and comments on PA 25R. Also, as part of the October 21, 1993, submission, Ohio formally withdrew its earlier June 22, 1992, submission of PA 25R, which was partially approved by the Director of OSM on January 14, 1993. On January 14, 1994, OSM sent Ohio a final issue letter which the State responded to on February 23, 1994 (Administrative Record Nos. OH–1976 and OH–1989).

Revised Program Amendment Number 56 (PA 56R)

By letter dated May 1, 1992 (Administrative Record No. OH–1690), Ohio submitted proposed PA 56. This amendment proposed changes to two Ohio rules concerning measurement of revegetation success on pasture or grazing land, undeveloped land, recreational areas, and previously disturbed areas.

As part of and in support of PA 56, Ohio also submitted four draft Policy/Procedure Directives entitled "Measurement of productivity on pasture and grazing land," "Identification of areas for which the premining land use is undeveloped land," "Planting plans for areas for which the approved postmining land use is undeveloped land," and "Verification of proper planting of tree seedlings." These proposed policy statements elaborated on and established criteria for the new requirements in the two revised Ohio rules.

OSM announced receipt of PA 56 in the June 2, 1992, **Federal Register** (57 FR 23178) and, in the same document, opened the public comment period and provided opportunity for a public

hearing on the adequacy of the proposed amendment. The public comment period ended on July 2, 1992. The public hearing scheduled for June 29, 1992, was not held because no one requested an opportunity to testify.

By letter dated January 12, 1993 (Administrative Record No. OH–1803), Ohio resubmitted PA 56R in response to OSM's questions and concerns. This revised amendment proposed additional modifications to the rule at OAC 1501:13–9–15. OSM announced receipt of new PA 56R in the March 22, 1993, **Federal Register** (58 FR 15315) and, in the same document, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on April 21, 1993. The public hearing scheduled for April 16, 1993, was not held because no one requested an opportunity to testify.

By letter dated October 14, 1993 (Administrative Record No. OH–1939), OSM provided questions and comments to Ohio on the January 12, 1993, resubmission of PA 56R. Ohio's October 21, 1993, amendment submission, which is the subject of this final rule, was submitted in part to address OSM's October 14, 1993, questions and comments. On January 14, 1994, OSM sent Ohio a final issue letter which the State responded to on February 23, 1994 (Administrative Record Nos. OH–1976 and OH–1989).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Ohio program. Only substantive changes will be discussed in detail. Revisions which are not discussed below concern nonsubstantive wording changes or revised cross-references and paragraph notations that reflect organizational changes resulting from this amendment.

The proposed amendment governs both surface mining activities and underground mining activities. The Federal counterparts are 30 CFR part 816 for surface mining activities and 30 CFR part 817 for underground mining activities. With a few exceptions, part 816 and part 817 are substantively identical. OSM will discuss the proposed changes to Ohio's rules in relation to the Federal rules governing surface mining activities at 30 CFR part 816 with the understanding that such discussion also applies to the Federal rules governing underground mining activities at 30 CFR part 817. Any exceptions will be discussed separately.

1. OAC 1501:13–4–06(E)(2)(g), Land Use Changes

Ohio is revising OAC 1501:13–4–06(E)(2)(g) to provide that a change in the postmining land use pursuant to Ohio's postmining land rules at OAC 1501:13–9–17 shall be considered a significant alteration of the mining and reclamation plan in the original permit and shall be subject to notice and hearing requirements. The Federal rules at 30 CFR 701.5 define land uses which are to be used by permit applicants to characterize premining and postmining land uses. This Federal rule further specifies that changes of land use from one category to another shall be considered as a change to an alternative land use which is subject to approval by the regulatory authority. 30 CFR 774.13(b)(2) provides for the regulatory authority to establish guidelines concerning the scale or extent of permit revisions for which all the permit application information requirements and procedures including notice, public participation, and notice of decision requirements shall apply. Such requirements and procedures are to apply, at a minimum, to all significant permit revisions. Furthermore, in the October 1, 1980, **Federal Register** (45 FR 64908), OSM published an interpretive rule, 30 CFR 784.200, pertaining to the approval of alternative postmining land uses through the permit revision procedures of 30 CFR 774.13. In this interpretive rule, OSM stated that it considered an application for a permit revision to adopt an alternative postmining land use to constitute a significant alteration from the mining operations contemplated by the original permit, and to be subject to the public notice and hearing requirements, as well as other provisions, of 30 CFR parts 773 and 775. The Director, therefore, finds that the proposed revisions to OAC 1501:13–4–06(E)(2)(g) bring this rule into conformity with the Federal interpretive rule, and are no less effective than 30 CFR 701.5 and 774.13(b)(2).

2. OAC 1501:13–9–15 (F), (G), (H), Removed and Redesignated

Ohio is proposing to remove paragraphs (F), (G), and (H) and redesignate the requirements found therein as proposed paragraphs (K), (L) and (N). The Director finds that the proposed deletions are duplicative of requirements found elsewhere in the Ohio program and do not render the program less effective than the Federal rules.

3. OAC 1501:13–9–15(F)(1), Measurement of Revegetation Success

A. General Revegetation Requirements

Ohio is proposing to require as part of OAC 1501:13–9–15(F)(1) that the general revegetation requirements found in paragraphs (B) and (C) be met in all revegetation efforts. Paragraph (B) of OAC 1501:13–9–15 requires the vegetative cover of the reclaimed area to be diverse, effective, and permanent; comprised of native species to the area; at least equal in extent of cover to the natural vegetation; and capable of stabilizing the soil surface from erosion. Paragraph (C) of OAC 1501:13–9–15 requires the reestablished plant species to be compatible with the approved postmining use; have the same seasonal characteristics of growth as the original vegetation; be capable of self-regeneration and plant succession; be compatible with the plant and animal species of the area; and meet the requirements of applicable State and Federal seed, poisonous noxious plant, and introduced species laws or regulations. The Federal rules at 30 CFR 816.116(a) contain a similar provision which requires the success of revegetation to be judged, in part, upon the satisfaction of the general standards for revegetation at 30 CFR 816.111. Therefore, the Director finds that the revised State rule is no less effective than its Federal counterpart in this respect.

Part A of Ohio's "Guidelines for Evaluating Revegetation Success" which were also submitted as part of this amendment provide that:

> At the time ground cover is evaluated to determine whether plants are established and controlling erosion, the inspector shall also evaluate species composition and diversity. This evaluation is based primarily on visual observation in the field, although receipts or tags from seed packages are also reviewed.

This language indicates that species composition and diversity will be evaluated only at the time of phase II bond release (see OAC 1501:13–9–15 (G)(2) and (M)(2) which contain similar language). However, the preamble to the Federal revegetation rules at 30 CFR 816.116 states that these parameters must be evaluated at the time of final bond release. "The final bond release inspection will evaluate achievement of the general requirements of 30 CFR 816.111 in addition to the success standards of 30 CFR 816.116 (53 FR 34641, September 7, 1988)." Therefore, the Director finds that this provision of the guidelines is less effective than the Federal rules and he is requiring that Ohio amend its program to require evaluation of the applicable parameters

set forth in OAC 1501:13–9–15 (B) and (C), the State counterparts to 30 CFR 816.111, at the time of final bond release. The methodology to be used in evaluation must be clearly identified.

B. Evaluating of Specific Revegetation Success Standards

Ohio also proposes to add language to OAC 1501:13–9–15(F)(1) to require that the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief) compile guidelines specifying statistically valid sampling techniques for measuring success of ground cover, production, or stocking at the time of final bond release. The statistical sampling techniques shall use a 90 percent confidence interval (i.e., a one-sided test with a 0.10 alpha error).

The Federal rules at 30 CFR 816.116(a)(1) state that standards of success and statistically valid sampling techniques for measuring success shall be selected by the regulatory authority and included in an approved regulatory program. In the preamble to this rule, OSM indicated that this could be accomplished through either rules or by guidelines which are incorporated into the State program by reference (48 FR 40150, September 2, 1983). Ohio has submitted to OSM a separate document titled "Guidelines for Evaluating Revegetation Success" which is proposed for incorporation into the State program to satisfy OAC 1501:13–9–15(F)(1). This document, which covers data collection, recording, and analysis, has three parts:

Part A. Ground Cover: This part outlines Ohio's adaptation of the point-intercept "stick" method developed by John C. Rennie and Robert E. Farmer *et al;* which Ohio will use to evaluate herbaceous ground cover and to evaluate tree and shrub survival concurrently with herbaceous ground cover.

Part B. Stocking of Trees and Shrubs: This part outlines Ohio's adaptation of the Rennie-Farmer method to evaluate tree and shrub survival independent of ground cover using circular plots and tree and shrub counts within those plots. It also specifies handling and planting techniques for trees and shrubs.

Part C. Productivity: This part outlines Ohio's methods for measuring hay production on pasture, grazing land, and cropland and for measuring production on cropland planted with corn, oats, and wheat.

In his January 14, 1994, issue letter to Ohio, the Director noted two errors in the proposed formula to determine sample size found on page 13 of the "Guidelines for Evaluating Revegetation Success." These errors involved the appropriate "t" value and the expression of acceptable error which appears in the denominator of the formula (Administrative Record No. OH–1976). Without correction, the formula will result in an inappropriate sample size. Ohio has agreed to make the necessary revisions but has not yet done so. The Director finds that, with this exception, Ohio's proposed procedures to estimate mean ground cover, stocking and yield are based upon and consistent with statistical sampling theory, and that this aspect of the requirements of 30 CFR 816.116(a)(1) have been satisfied. The Director notes that only the sampling techniques set forth in these guidelines may be used to evaluate revegetation success under the Ohio program.

The State has also proposed at OAC 1501:13–9–15 paragraphs (G) through (N) success standards for ground cover, production and stocking, where appropriate, for various postmining land uses and has adopted the requirement in 30 CFR 816.116(a)(2) that a 90 percent statistical confidence interval be used when testing whether the sample mean is equal to or greater than the approved success standard. The Director finds that, with the exceptions noted above, proposed OAC 1501:13–9–15(F)(1) and the document "Guidelines for Evaluating Revegetation Success" satisfy the requirements of and are no less effective than 30 CFR 816.116(a) (1) and (2). Accordingly, he is removing the existing requirement at 30 CFR 935.16(f) to include in the Ohio program statistically valid techniques for evaluating revegetation success and adding a new requirement that the document "Guidelines for Evaluating Revegetation Success" be revised to include the correct formula for determining sample size.

4. OAC 1501:13–9–15(F)(2)(b)(ii), Timing for Row Crops

For areas to be used for agricultural cropland, including prime farmland, Ohio proposes to require the five-year period of extended responsibility to commence on the date on which the initial planting of row crops has been completed. The initial planting will be subject to verification by the Chief. This proposed rule repeats the requirements of existing rules OAC 1501:13–9–15(I) (4)(a) and (5)(e), which were previously approved by the Director. The Director finds that the removal of OAC 1501:13–9–15(I) (4)(a) and (5)(e) and the reinstatement of the requirements therein as proposed OAC 1501:13–9–15(F)(2)(b)(ii) does not render the Ohio program less effective than 30 CFR 816.116(c).

5. OAC 1501:13–9–15(F)(2)(c)(ii), Rill and Gully Repair

Ohio is revising OAC 1501:13–9–15(F)(2)(c)(ii) to clarify that the Chief will classify instances of rill and gully erosion repair as either limited or extensive based on the extent of repairs needed and the cause of the erosion. The Chief will consider extensive repairs to be an augmentative practice that will restart the extended period of responsibility. Limited repair of rills and gullies will not be considered augmentative. The Director finds that this clarification is no less effective than 30 CFR 816.116(c)(4) and is consistent with the preamble which states that the "repair of rills and gullies is not always simply good husbandry" (53 FR 34642, September 7, 1988).

6. OAC 1501:13–9–15(I)(3), Removed and Redesignated

Ohio proposes to remove OAC 1501:13–9–15(I)(3), which is an introductory statement for rules governing pasture or grazing land, and redesignate and reword the contents thereof as proposed OAC 1501:13–9–15(G)—Revegetation Success Standards for Pasture or Grazing Land. The Director finds that this simplification of regulatory language and structure does not change the meaning of the provision in question and that it, therefore, can be approved.

7. OAC 1501:13–9–15(G)(3), Success Standards for Pasture or Grazing Lands

Ohio is revising OAC 1501:13–9–15 (G)(3) (a) and (b) to provide that revegetation shall be determined to be successful for phase III bond release on pasture or grazing land when the following criteria are met: (1) the production of planted and non-noxious volunteer species equal or exceed the county average yield for hay for any two years of the period of extended responsibility, except the first year, (2) the ground cover equals or exceeds 90 percent for the last year of the period of extended responsibility and one additional year, except the first year, and (3) no single area with less than 30 percent cover exceeds the lesser of 3,000 square feet or 0.3 percent of the land affected.

The success standards for areas developed for use as pasture or grazing land at 30 CFR 816.116(b)(1) require the ground cover and production of living plants on the revegetated area to equal or exceed that of a reference area or other success standards approved by the regulatory authority. Ohio has proposed

to use the average yield from all hayland in the county where the mine is located as the standard for phase III bond release. Average county yields for hay are published annually by the Ohio Department of Agriculture without classification as to soil type, management intensity, or past mining history. The Federal rules at 30 CFR 816.116(a)(2) require standards for success to include criteria representative of unmined lands in the area being reclaimed. The potential problem of including mined land in the calculation of average county yields has been evaluated by the Ohio Agricultural Statistics Service (Administrative Record No. OH–1195). It was found that there are no statistically significant differences between county means developed with and without reclaimed land. The Director, therefore, finds that the average county yield for hayland in Ohio is representative of yield on unmined land in the State and that in this respect the proposed rule at OAC 1501:13–9–15(G)(3)(a) is no less effective than 30 CFR 816.116(a)(2). Furthermore, the approval of average county yields in Ohio is consistent with the Director's decision to approve average county yield in the Tennessee Federal Program (30 CFR 942.816(f)(1)).

The Federal rules at 30 CFR 816.116(b)(1) require that success for pasture and grazing land be based not only upon production but also ground cover. Ohio has proposed a ground cover standard of 90 percent cover combined with the existing requirement that no single area with less than 30 percent cover exceeds the lesser of 3,000 square feet or 0.3 percent of the land affected. A 90 percent ground cover and the associated sparse area standard are consistent with a postmining land use of pasture or grazing land where the objective is forage production and the decision by the Director to require a similar standard under the Tennessee Federal Program (30 CFR 942.816(f)(1)). The Director, therefore, finds that the ground cover requirements proposed by Ohio for pasture and grazing land at OAC 1501:13–9–15(G)(3)(b) are no less effective than 30 CFR 816.116(b)(1).

Ohio is proposing to require for phase III bond release that the production standard be met for any two years of the period of extended responsibility except the first year and that the ground cover standard be met for the last year of the period of responsibility and one additional year, except the first year. OSM's rules at 30 CFR 816.116(c)(2) require mine operators in areas of more than 26.0 inches of annual average precipitation, who select a postmining land use of pasture or grazing land, to equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. The Ohio rule has an equivalent requirement. For this reason, the Director finds that Ohio's proposed pasture or grazing land standards at OAC 1501:13–9–15(G)(3) are no less effective than 30 CFR 816.116 (b) and (c).

8. OAC 1501:13–9–15(I)(3)(C) (a), (b), (c), Removed

Ohio proposes to remove ground cover requirements in paragraphs (I)(3)(C) (a), (b), and (c) for pasture and grazing land and replace them with the proposed standards at OAC 1501:13–9–15(G)(3). The Director finds that this removal does not render Ohio's rules less effective than the Federal rules because, as discussed in finding 7 above, the standards established in OAC 1501:13–9–15(G)(3) are consistent with Federal requirements.

9. OAC 1501:13–9–15(J)(1)(b) and (J)(2), Success Standards for Industrial, Residential, or Commercial Areas

Ohio proposes to revise OAC 1501:13–9–15(J)(1)(b) to provide that, for areas to be developed within two years after regarding is completed, revegetation success for phase III bond release shall be evaluated in the last year of the period of extended responsibility. The Federal counterpart at 30 CFR 816.116(c)(2) likewise requires that revegetation on such areas equal or exceed the applicable success standard during the growing season of the last year of the responsibility period. Accordingly, the Director finds that OAC 1501:13–9–15(J)(1)(b) is no less effective than 30 CFR 816.116(c)(2).

Ohio proposes to revise its ground cover standards for phase II and phase III bond release for areas for which an approved industrial, residential, or commercial postmining land use will not be achieved until two or more years after regrading is completed. The proposed rule at OAC 1501:13–9–15(J)(2) requires the ground cover success standards at OAC 1501:13–9–15(G)(2) to be met for phase II bond release. Paragraph (G)(2) provides that revegetation shall be determined to be successful when the species planted, in accordance with the approved reclamation plan, are established and the area has sufficient ground cover to control erosion. The Director finds that this requirement is consistent with 30 CFR 800.40(c)(2), which specifies that phase II bond release may occur when, among other things, revegetation is established in accordance with the reclamation plan.

For phase III bond release, the proposed rule provides that ground cover in the last year of the period of extended responsibility must equal or exceed 90 percent. In addition, no single area with less than 30 percent cover may exceed the lesser of 3,000 square feet or 0.3 percent of the land affected. The Federal rules do not contain specific revegetation success standards for areas to be developed for industrial, commercial, or residential use two or more years after regrading is completed. Although OSM proposed standards on March 23, 1982 (47 FR 12596), they were never adopted. The preamble to the final rule promulgated on September 2, 1983 (48 FR 40154) provides no guidance as to what standards apply to such lands. In the absence of specific Federal standards or guidance, the only applicable portion of 30 CFR 816.116(b) is the requirement that standards for success "be applied in accordance with the approved postmining land use." For areas to be developed for industrial, commercial, or residential use, ground cover is the most appropriate parameter since erosion control and stability are an integral part of the postmining land use, while woody plants (stocking) and vegetative productivity are not. Because the ground cover standard proposed by Ohio is equal to that required for pasture land, it should be sufficient to control erosion. Under OAC 1501:13–9–15(F), such areas would also have to comply with OAC 1501:13–9–15 (B) and (C), the State counterparts to the general revegetation requirements of 30 CFR 816.111, as required by 30 CFR 816.116(a). Therefore, the Director finds that Ohio's proposed phase III bond release standards for areas to be developed for industrial, commercial, or residential use two or more years after regrading is completed are consistent with the applicable provisions of 30 CFR 816.116 an no less stringent than sections 515(b) (19) and (20) of SMCRA.

10. OAC 1501:13–9–15(K)(3), General Requirements for Woody Vegetation

Where the approved postmining land use is commercial forest, noncommercial forest, or shelterbelts, Ohio proposes that the Chief shall determine the appropriate species, stocking and planting arrangements for both woody and herbaceous plants after consultation with and approval by the Ohio Division of Forestry. These same revegetation considerations will also be determined by the Chief after consultation with the approval by the Ohio Division of Wildlife (DOW) for areas where the approved postmining land use is fish and wildlife habitat or undeveloped land. The State's proposed

rule includes provisions formerly found at OAC 1501:13–9–15 (F), (G), and (H), which were previously approved as no less effective than 30 CFR 816.116(b)(3)(i), which requires that minimum stocking and planting arrangements for woody plants be specified by the regulatory authority after consultation with and approval by the State agencies responsible for the administration of forestry and wildlife programs. The Director, therefore, finds that proposed OAC 1501:13–9–15(K)(3) remains no less effective than 30 CFR 816.116(b)(3)(i).

11. OAC 1501:13–9–15(I)(8) (b), (c), (d), Removal in Part

Ohio proposes to remove paragraphs (I)(8) (b) and (c), which require tree and shrub species to be compatible with the postmining land use and herbaceous cover species to be compatible with the growth of acceptable trees and shrubs. Since the requirement for tree and shrub species to be compatible with the postmining land use duplicates OAC 1501:13–9–15(C)(1)(a), its removal will not render the Ohio program less effective than the Federal rules at 30 CFR 816.111(b)(1), which contain a similar requirement. Likewise, because there is no Federal rule which specifically requires that herbaceous species be compatible with trees and shrubs, the removal of this State rule will not render the Ohio program less effective than the Federal rules. Ohio has retained this requirement in proposed OAC 1501:13–9–15(M)(1), which applies to areas with a postmining land use of undeveloped land. In addition, both of the deleted provisions are implied requirements of OAC 1501:13–9–15(K)(3), which addresses appropriate species of trees and shrubs and appropriate mixtures of herbaceous species.

Also proposed for removal is paragraph (I)(8)(d), which provides that the five-year period of extended responsibility will begin on the date of the planting of the approved woody plant species or the last augmented seeding of the herbaceous species, whichever occurs later. This requirement is duplicative of the general requirements for measuring revegetation success at OAC 1501:13–9–15(F)(2)(b)(i), which states that the five-year period of extended responsibility shall begin on the date of the last augmented seeding, fertilizing, planting, or other work necessary to ensure successful revegetation. The Director, therefore, finds that the removal of OAC 1501:13–9–15(I)(8) (b), (c), and (d) will not render the Ohio program less effective than the Federal rules at 30 CFR 816.111 and 816.116.

12. OAC 1501:13–9–15(L)(2), Ground Cover Success Standards for Postmining Land Uses Involving Woody Vegetation

Ohio is proposing to revise OAC 1501:13–9–15(L)(2) to provide that, with respect to ground cover, revegetation shall be determined to be successful for a phase III bond release if the five-year period of extended responsibility has expired and the herbaceous ground cover in the last year is at least 70 percent. This provision applies to areas where the approved postmining land use is commercial forest, noncommercial forest, shelterbelts, or fish and wildlife habitat. The Federal rules at 30 CFR 816.116(c)(2) require areas with these approved postmining land uses to meet the applicable success standard during the growing season of the last year of the responsibility period. 30 CFR 816.116(b)(3)(iii) requires the vegetative ground cover at the time of phase III bond release to be not less than that required to achieve the approved postmining land use. In recognition of the difficulty of establishing trees and shrubs in dense herbaceous cover, OSM has previously accepted a minimum vegetative ground cover of 70 percent for postmining land uses involving woody plants in States with more than 26.0 inches of annual average precipitation (44 FR 15237, 15239–40, March 13, 1979). The Director, therefore, finds that OAC 1501:13–9–15(L)(2) is no less effective than 30 CFR 816.116(b)(3) and (c)(2).

13. OAC 1501:13–9–15(L)(2)(a), Commercial Forest

Ohio is proposing to revise OAC 1501:13–9–15(L)(2)(a) by adding the requirement that a minimum of 75 percent of the required trees per acre needed for phase III bond release where the postmining land use is commercial forest land shall be commercial tree species. OSM removed an identical provision from the Federal rules on September 2, 1983 (48 FR 40153), in order to provide States the flexibility to establish standards based on local and regional conditions. Under 30 CFR 816.116(b)(3)(i), such standards must be developed in consultation with and have the approval of the Ohio Division of Forestry. The Director finds that OAC 1501:13–9–15(L)(2)(a) is no less effective than 30 CFR 816.116(b)(3)(i), provided Ohio submits documentation to OSM indicating that approval from the Division of Forestry has been obtained. Until such time, Division of Forestry approval must be obtained on a permit-specific basis in accordance with OAC 1501:13–9–15(K)(3).

14. OAC 1501:13–9–15(L)(2)(c), Noncommercial Forest or Shelterbelts

The phrase "on each acre on which trees and shrubs are to be planted" has been added to paragraphs (L)(1)(a), (L)(2)(a), (L)(2)(b), and (L)(2)(c) to clarify that stocking rates for trees and shrubs only apply to those areas where trees and shrubs are to be planted as indicated in the approved reclamation plan. The Director finds that this clarification does not render the State's rules less effective than their Federal counterparts which also apply only to areas upon which woody plants are to be planted.

Ohio is proposing to add paragraph (L)(2)(c), which requires for phase III bond release, where the postmining land use is noncommercial forest or shelterbelts, a minimum of 450 countable trees per acre, of which 80 percent must have been in place for at least three years. The Federal rules at 30 CFR 816.116(b)(3)(i) provide that minimum stocking and planting arrangement shall be determined by the regulatory authority and that at the time of bond release, at least 80 percent of the trees and shrubs used to determine such success shall have been in place for 60 percent of the applicable minimum period of responsibility. In Ohio's case, 60 percent of the five-year responsibility period is three years. The Director, therefore, finds that OAC 1501:13–9–15 paragraph (L)(2)(c) is no less effective than 30 CFR 816.116(b)(3).

15. OAC 1501:13–9–15(I)(8)(f)(ii), Removed

Ohio is proposing to remove paragraph (I)(8)(f)(ii), which requires for phase III bond release where the postmining land use is commercial forest, noncommercial forest, shelterbelts, or fish and wildlife habitat that the herbaceous ground cover be the greater of 30 percent or sufficient to control erosion. This provision has been replaced by proposed OAC 1501:13–9–15(L)(2) which sets a new minimum ground cover standard of 70 percent for phase III bond release. Because the new standard is potentially more protective of the environment, the Director finds that the removal of OAC 1501:13–9–15(I)(8)(f)(ii) can be approved. However, the Director notes that this standard cannot supersede the general requirement of OAC 1501:13–9–15(B)(4), which provides that revegetation must be capable of stabilizing the soil surface from erosion. Therefore, if 70 percent cover is inadequate to control erosion, a greater

degree of cover must be established before final bond release can be approved.

16. OAC 1501:13–9–15(M), Success Standards for Undeveloped Land

A. Background and Description of Proposed Amendment

Undeveloped land is defined by Ohio at OAC 1501:13–9–17(C)(10) as "land that is not currently being used or managed or, if previously used or managed, is land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession." This is identical to the Federal definition of "undeveloped land or land with no current use or management" at 30 CFR 701.5.

Under OAC 1501:13–9–17, undeveloped land can be approved as a postmining land use; however, the proposed success standards for undeveloped land will apply only in those situations where the premining land use is undeveloped land. Where both the premining and postmining land use is undeveloped land, the permittee will be required to reclaim the disturbed area to the undeveloped land use success standards in OAC 1501:13–9–15(M). Where the postmining land use is undeveloped land, but the premining land use is not, the permittee is required to obtain approval for a land use change and to reclaim the disturbed area to the forestland/fish and wildlife habitat revegetation standards found at OAC 1501:13–9–15(L).

Ohio's proposed success standards for undeveloped land at OAC 1501:13–9–15(M) will require the success of revegetation to be determined on the basis of ground cover and the proper planting of appropriate tree and shrub species specified in the permittee's approved planting plan. To be acceptable, a planting plan must include tree or shrub planting on 10 to 50 percent of the revegetated area. Planting locations must include slopes steeper than 20 degrees and the area along drainways and permanent sources of water.

The requirements of OAC 1501:13–9–15(M) are supplemented by Policy/Procedure Directive, Regulatory 94–2, "Planting plans for areas for which the approved postmining land use is undeveloped land" which became effective on March 15, 1994. The purpose of this Policy/Procedure Directive is to provide standard criteria for use by the Division of Reclamation's (DOR) Permitting Section to review the planting plans for areas where the approved postmining land use is undeveloped land. Under the directive, permittees will be required to plant a minimum of 600 seedlings per acre on the portion of the permit area where planting of trees or shrubs is to be required. Ten to 30 percent of the permit area must be planted to trees and shrubs where herbaceous cover has been planted and the permittee has obtained an approved postmining land use change from pastureland to undeveloped land. Thirty to 50 percent of the permit area must be planted to trees and shrubs where a permittee has obtained a postmining land use change to undeveloped land prior to the planting of herbaceous cover or where undeveloped land is the approved postmining land use at the time of permit application approval. An acceptable planting plan must include at least four hardwood tree species or shrub species selected from the State's approved list and at least one coniferous tree species selected from the State's approved list. The approved species list to part of the directive.

The Directive also specifies acceptable seed mixes of herbaceous species. These seed mixes are designed to enhance wildlife habitat and to be compatible with tree planting efforts as required under OAC 1501:13–9–15(M)(1). Kentucky 31 Fescue (*Festuca arundinacea*) and Sericea Lespedeza (*Lespedeza cunerta*) are prohibited from all plantings on undeveloped land because neither species benefits wildlife and neither is compatible with tree planting efforts. This language in the Directive supplements the requirement of proposed OAC 1501:13–9–15(M)(1) that selected tree and shrub species and herbaceous ground cover species have value as wildlife habitat and that the herbaceous ground cover species be compatible with the growth of trees and shrubs.

Under OAC 1501:13–9–15(K)(2), which is incorporated by reference in OAC 1501:13–9–15(M)(1), quality planting stock and proven field techniques in the science of woody revegetation must be employed on all areas where the postmining land use is undeveloped land. This requirement is reinforced and elaborated upon in the document "Guidelines for Evaluating Revegetation Success," which has been incorporated into the State's regulatory program. Section B.2 of the document describes in detail the handling and planting practices for seedlings that permittees are expected to follow. Each permittee must submit to DOR, within one week of the completion of planting, a form on which to verify the planting of tree and shrub seedlings. Upon receipt of the planting verification form, the DOR shall, within one week, inspect the area that has been planted to determine whether sufficient numbers of the appropriate species have been planted in the configuration shown in the approved planting plan. If the planting is approved, the verification form is signed by the inspector and returned to the permittee for submittal with the permittee's request for phase III bond release.

In OAC 1501:13–9–15(M)(2), revegetation on undeveloped land will be found successful for phase II bond release when the herbaceous ground cover species are established and provide sufficient ground cover to control erosion. The adequacy of ground cover to control erosion will be determined by DOR's reclamation inspectors based on an ocular inspection of the disturbed area.

Under OAC 1501:13–9–15(M)(3), revegetation on undeveloped land will be found successful for a phase III bond release when the five-year period of extended responsibility has expired and acceptable species of trees and shrubs have been properly planted in accordance with the approved planting plan at a rate of 600 trees or shrubs per acre on each acre on which trees or shrubs are to be planted. In addition, the herbaceous ground cover must at least equal 70 percent on areas where trees and shrubs have been planted and at least equal 90 percent or more on areas where no trees and shrubs have been planted. Ground cover will be measured using a point-intercept, systematic sampling procedure. These standards are to be applied to the last year of the period of extended responsibility for revegetation success. Survival of tree or shrub plantings is not a requirement for phase III bond release. The permittee must show by submitting a planting verification form signed by a DOR reclamation inspector that proper planting techniques have bean used and that the trees and shrubs have been planted in approved numbers and locations.

In acting on Ohio's proposed amendment at OAC 1501:13–9–15(M), OSM is proposing to clarify agency policy concerning the appropriateness of undeveloped land as a postmining land use and the applicable revegetation performance standards.

B. Undeveloped Land as a Postmining Land Use

In the past, OSM policy concerning undeveloped land as a postmining land use has not been clearly defined. The Federal definition of "land use" at 30 CFR 701.5 has always recognized "undeveloped land or no current use or

land management" as a distinct land use category. However, the Federal regulations at 30 CFR 816.116(b) do not establish specific revegetation success standards for undeveloped land whereas such standards exist for other defined land use categories. OSM has sometimes interpreted this omission to mean that undeveloped land is not an acceptable postmining land use. At other times, OSM has treated this omission as a regulatory void that States are permitted to fill, in keeping with the concept of State primacy for the regulation of surface coal mining and reclamation operations, as established in section 101(f) of SMCRA.

On May 8, 1991 (56 FR 21270), OSM declined to approve a proposed State program amendment submitted by Louisiana that would have established undeveloped land as a separate and distinct postmining land use category. In explaining this decision, OSM stated that the agency "does not recognize undeveloped land as a postmining land use because the intention of the reclamation is to return mined land to a managed land use. Undeveloped land is not managed." Finding 10(h), 56 FR 21276. However, in finding 1(g) (57 FR 48726, 48728, October 28, 1992) of a final rule document announcing a decision on a subsequent Louisiana program amendment, OSM modified this position to recognize undeveloped land as a legitimate postmining land use under certain circumstances:

> "[U]ndeveloped land" can only be designated as a postmining land use where it was the premining land use and under no circumstances could undeveloped land be proposed as an alternative postmining land use because it does not represent a higher or better use as required at 30 CFR 816.133(a).

During the same timeframe, OSM also took several actions that did not adhere to the principles enunciated in the Louisiana program amendment decisions. On February 5, 1991 (finding 66, 56 FR 4542, 4554), OSM unconditionally approved without explanation or discussion an Alabama program amendment that contained separate and distinct revegetation success standards for lands with a postmining land use of undeveloped land. This approved of Alabama's amendment was followed by a February 28, 1992, letter from the Deputy Director of OSM, to the Director of the Surface Mining and Reclamation Division of the Texas Railroad Commission. In this letter, OSM found that the Texas regulatory authority had not abused its discretion by approving undeveloped land as a higher and better alternative postmining land use for a site with a premining land use of pastureland.

Upon careful review of the Act, its implementing regulations and their preambles, OSM has determined that the policy established in the Alabama and Texas decisions is more appropriate and better supported then the principles advanced in the Louisiana decisions. There is no language in the revegetation regulations at 30 CFR 816.116, the land use regulations at 30 CFR 816.133, the definitions of "land use" and "higher or better uses" in 30 CFR 701.5, or their preambles that would either prohibit undeveloped land as a postmining land use or restrict such designations to situations in which the premining use was undeveloped land. Consistency with SMCRA is not an issue since the Act does not identify acceptable postmining land use categories or define higher or better uses.

Furthermore, the Louisiana program amendment findings seem to be inconsistent with the preamble to the definition of "land use" in 30 CFR 701.5, as revised on September 1, 1983 (48 FR 39892, 39893), which affirms the statement in the preamble to the corresponding proposed rule that the definition's land use categories are not hierarchical for purposes of determining higher or better postmining land uses. Specifically, the preamble to the proposed rule provides that:

> [T]he ten categories of land use in the existing definition of land use are not hierarchical. That is, one land use category is not automatically a higher or better use than another. In each situation, the regulatory authority has to compare the values and benefits of the postmining alternative land use to the values and benefits of the premining land uses.
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> 47 FR 16152, 16155, April 14, 1982.

Including undeveloped land, the definition contains only ten land use categories, none of which have undergone material change since 1979. Therefore, it appears that the Secretary did not intend to exclude undeveloped land from consideration as either a postmining land use or a higher or better use.

In addition, on September 1, 1983, OSM defined "higher or better uses" as land uses that have a higher economic value or nonmonetary benefit to either the landowner or the community than the premining land uses (48 FR 39892, 39903). Since undeveloped land can provide higher ecological benefits than such premining uses as cropland and pastureland, the exclusion of undeveloped land as an acceptable alternative postmining land use category would be inconsistent with the definition.

The Director is interpreting the land use and revegetation provisions of SMCRA and the Federal regulations in a manner that will reverse the positions taken in the Louisiana program amendment decisions and will support the approval of the proposed Ohio program amendment. The Director finds that proposed OAC 1501:13–9–15(M), which establishes undeveloped land as a postmining land use, is consistent with SMCRA and does not render Ohio's rules less effective than 30 CFR 701.5, 816.116 and 816.133.

C. Revegetation Success Standards for Undeveloped Land

As noted above, the Federal regulations at 30 CFR 816.116(b) do not establish specific revegetation success standards for undeveloped land whereas such standards exist for other defined land use categories. In the case of the Louisiana program amendments discussed above, OSM interpreted this omission to mean that all mined lands, including areas with either a premining or designated postmining land use of undeveloped land, must be reclaimed to one of the land uses specifically addressed by the Federal regulations at 30 CFR 816.116(b). However, OSM did not apply this interpretation in the Alabama and Texas cases discussed above.

The Louisiana decisions suggest that revegetation success standards for undeveloped land must be equivalent to those for one or more of the managed land uses that the site was capable of supporting prior to mining. The Federal rules do not compel such a conclusion. Although the preamble to 30 CFR 816.133(b) (44 FR 14902, 15243, March 13, 1979) indicates that Congress did not intend to allow mismanagement prior to mining to reduce the standards for reclamation success, a lack of management, which would likely characterize undeveloped land, does not equate to mismanagement.

Section 515(b)(2) of SMCRA requires that land affected by surface coal mining operations be restored to a condition capable of supporting the uses which it was capable of supporting prior to any mining or to higher or better uses of which there is a reasonable likelihood. However, this capability demonstration is independent of the revegetation requirements of paragraphs (b)(19) and (b)(20) of section 515 of SMCRA. There is no language that would compel the adoption of revegetation success standards based on the land's potential uses prior to mining rather than the approved postmining land use. Indeed, in the preamble to 30 CFR 816.133(a) as

revised on September 1, 1983 (48 FR 39892, 39897), the Secretary states that:

[T]he final rule emphasizes the land's capability, both with regard to premining uses and higher or better uses, in this implementation of Section 515(b)(2) of the Act. This requirement is distinct from the revegetation or prime farmland rules, which under some circumstances may require actual production on the reclaimed land as a measure of successful reclamation.

It is also impractical to interpret section 515(b)(2) of SMCRA and 30 CFR 816.133 as requiring that revegetation success standards be adequate to demonstrate that the land has been restored to conditions that are capable of supporting the variety of uses that the land was capable of supporting prior to mining. Revegetation requirements for the various land uses that any individual site may be capable of supporting, such as forestry, pastureland and cropland, are frequently in conflict.

Furthermore, section 508(a) of SMCRA and its legislative history (S. Rep. No. 128, 95th Cong., 1st Sess. 77 (1977)), provide that the demonstration that premining capability can and will be restored must be made as part of the reclamation plan submitted with the permit application. Thus, the land use restoration requirements of section 515(b)(2) are addressed primarily through the permit application review process, and compliance is achieved by adherence to the reclamation plan and other performance standards such as those pertaining to toxic materials, topsoil, and backfilling and grading. No separate capability demonstration is necessary upon the completion of mining and reclamation.

The Director will interpret the land use and revegetation provisions of SMCRA and the Federal regulations in a manner that will reverse the positions taken in the Louisiana program amendment decisions and will support approval of Ohio's proposed program amendment. The establishment by States of separate and distinct revegetation success standards for undeveloped land is consistent with the Federal regulations which do not contain specific success standards for undeveloped land, and is in keeping with section 101(f) of SMCRA, which vests the States with the primary governmental responsibility for developing, authorizing, issuing and enforcing regulations for surface coal mining and reclamation operations.

To be approvable, all such standards must comply with 30 CFR 816.116(a), i.e., they must be consistent with the requirements of 30 CFR 816.111 and they must include a statistically valid evaluation of appropriate vegetation parameters, including ground cover, production or stocking. In addition, they must satisfy the permittee's obligation to enhance fish, wildlife, and related environmental values when practicable as required by section 515(b)(24) of SMCRA. Such enhancement will always be practicable on undeveloped land since there will be no conflict with the approved postmining land use. However, undeveloped land use standards need not meet any of the requirements of 30 CFR 816.116(b) since this paragraph applies only to the postmining land uses identified therein, none of which is undeveloped land.

In his review of proposed OAC 1501:13–9–15(M), the Director has applied the tests described above. Under the Ohio proposal, land reclaimed to an undeveloped postmining land use will be required to satisfy the general revegetation requirements found at OAC 1501:13–9–15 (B) and (C). OAC 1501:13–9–15(B) requires the permittee to establish a vegetative cover that is: (1) Diverse, effective, and permanent; (2) comprised of species native to the area, or of introduced species where desirable and necessary to achieve the approved postmining land use; (3) at least equal in extent of cover to the natural vegetation of the area; (4) capable of stabilizing the soil surface from erosion. These general revegetation requirements correspond to the general revegetation requirements at 30 CFR 816.111. The Director finds that in this respect OAC 1501:13–9–15(M) is no less effective than the Federal rules at 30 CFR 816.116(a).

Ohio's proposal meets the second criterion for approval by establishing standards for ground cover and by requiring that success in achieving these standards be accomplished using statistically valid sampling procedures. The State has proposed in OAC 1501:13–9–15(M) to require a ground cover at least equal to 70 percent where trees and shrubs have been planted and at least equal to 90 percent where no trees and shrubs have been planted. The evaluation of ground cover will be accomplished using an approved statistical sampling procedure in accordance with the "Guidelines for Evaluating Revegetation Success." The Director finds that in this respect, OAC 1501:13–9–15(M) is no less effective than 30 CFR 816.116(a) (1) and (2).

Furthermore, the Ohio program already includes rules which require the enhancement of fish, wildlife and related environmental values on undeveloped land as well as lands reclaimed to other postmining land uses. OAC 1501:13–4–05(P)(2) requires that each permit application include enhancement measures that will be used during reclamation and the postmining phase of operations to develop aquatic and terrestrial habitat. Permittees are required under OAC 1501:13–9–11(C)(5) to select plant species to be used on reclaimed areas based on their nutritional value for fish and wildlife, their use as cover for fish and wildlife and their ability to support and enhance fish and wildlife habitat after release of bonds. The distribution of plant groupings must maximize benefit to fish and wildlife. As required by proposed OAC 1501:13–9–15(K)(3), DOR has consulted with and obtained approval from the DOW for Policy/Procedure Directive, Regulatory 94–2, Planting Plans for Undeveloped Land (Administrative Record Nos. OH–1989 and OH–2011). This further assures that wildlife enhancement will be accomplished where the postmining land use is undeveloped land. The Director finds that the wildlife enhancement requirements embodied in proposed OAC 1501:13–9–15(M) and Policy/Procedure Directive 94–2 are consistent with section 515(b)(24) of SMCRA and no less effective than the Federal rules at 30 CFR 780.16 and 816.97.

Under proposed OAC 1501:13–9–15(M), permittees need only show that they have planted the approved number and species of trees and shrubs using proper planting techniques in order to obtain release of performance bond. Survival of planted trees and shrubs is not required. This differs from other postmining land uses such as fish and wildlife habitat, commercial and noncommercial forest, and shelterbelts where survival of woody plants is a requirement in both State and Federal rules. There are no specific Federal revegetation standards under 30 CFR 816.116 for land reclaimed to an undeveloped land use. Since, by definition, undeveloped land is "land that has been allowed to return *naturally* to an undeveloped state or has been allowed to return to forest through *natural* succession," and the early stages of natural succession are dominated by herbaceous and semi-woody plants, survival of woody stock planted to artificially speed the successional process is not integral to a determination of whether the land is capable of achieving a normal vegetative climax through natural succession within a reasonable period of time. Therefore, even though Ohio is proposing to require planting of trees and shrubs on undeveloped land, OSM has determined that it is not necessary

for Ohio to establish woody plant survival standards for undeveloped land. Rather, it is sufficient if the revegetation success standards meet the requirements of 30 CFR 816.111 and 816.116(a) and if the species selected for revegetation will not impede the establishment of woody plants native to the area and characteristic of natural succession in that locality. As discussed in Finding 3.A., the Director is approving Ohio's proposal that the general revegetation requirements found in paragraphs (B) and (C) of OAC 1501:13–9–15, which correspond to the requirements found in 30 CFR 816.111, be met in all revegetation efforts. Accordingly, the Director finds that the requirement found in OAC 1501:13–9–15(M) that the success of revegetation for phase III bond release be based, in part, on the proper planting of trees and shrubs, does not render the Ohio program to be less effective than 30 CFR 816.111 and 816.116(a). The Director notes that the absence of a specific survival standard for trees and shrubs does not relieve the State's responsibility to require the presence of trees where necessary to determine that a diverse vegetative cover be established on regraded areas and all other lands affected, as required in 30 CFR 816.111 and section 515(b)(19). The evaluation of diversity should consider species diversity or richness (number of species and their relative importance) and structural diversity (patchiness and vertical distribution of plants). Representation of the major life forms, e.g. trees, shrubs, grasses and forbs is an integral part of the evaluation of structural diversity (Administrative Record No. OH–2009). The Director has determined that where a major life form was present before mining, it must be represented in the postmining vegetation in order to satisfy the diversity requirement in SMCRA and the Federal rules. Specific survival standards for trees and shrubs need not be included in the Ohio rules; however, representative numbers of trees and shrubs must be present at the time of final bond release. This this end, the Director is requiring Ohio to submit documentation that it has consulted with and obtained the approval of the DOW or other responsible agency for methods to be used to evaluate diversity at the time of final bond release and that such methods be included in the document "Guidelines for Evaluating Revegetation Success."

17. OAC 1501:13–9–15(N), Success Standards for Recreation Areas

Proposed OAC 1501:13–9–15(N) establishes separate revegetation success standards for areas with a postmining land use involving developed recreation facilities, such as portions of parks, camps and amusement areas where woody vegetation would be incompatible with the postmining land use, as opposed to areas with a postmining land use involving less intensive recreational activities, such as hiking or canoeing. Revegetation success standards for developed recreational facilities would be limited to ground cover, while standards for less intensive recreational uses would include both ground cover and woody plant stocking.

The corresponding Federal regulations at 30 CFR 816.116(b)(3), which provide that revegetation success on lands with a recreational postmining land use shall be evaluated in terms of ground cover and woody plant stocking, do not distinguish between types of recreational uses. However, OSM does not believe that the Federal regulations require that trees and shrubs be planted on all portions of lands with recreational postmining land uses. Interpreting the rule in that fashion would be unduly restrictive and would conflict with achievement of the postmining land use to the extent that the approved land use involves athletic fields, golf courses, or other facilities incompatible with woody plants. For functional, aesthetic, and ecological reasons, it may also be desirable to exclude trees and shrubs from other portions of recreational areas. Therefore, the Director finds that the distinctions and separate revegetation success standards proposed by Ohio for recreational lands are not inconsistent with the Federal regulations at 30 CFR 816.116(b)(3), provided Ohio does not implement its rules in a manner that would subvert the intent of the Federal rules to require that recreational lands be planted with trees and shrubs wherever such plantings are not incompatible with the postmining land use.

For areas where the approved postmining land use is developed recreation facilities, OAC 1501:13–9–15(N)(1) requires compliance with the ground cover standards specified in OAC 1501:13–9–15 (G)(2) and (G)(3)(b) for phase II and III bond release, respectfully, except that only one ground cover evaluation in the last year of the responsibility period is necessary for phase III bond release. For phase II bond release, paragraph (G)(2) requires that revegetation be established in accordance with the approved reclamation plan with sufficient ground cover to control erosion. The Director finds that this requirement is consistent with 30 CFR 800.40(c)(2), which authorizes phase II bond release when, among other things, revegetation has been established in accordance with the approved reclamation plan. For phase III bond release, paragraph (G)(3)(b) requires that ground cover equal or exceed 90 percent. In addition, no single area with less than 30 percent cover may exceed the lesser of 3,000 square feet or 0.3 percent of the land affected. The Director finds that these standards are consistent with the Federal requirements for revegetation success standards at 30 CFR 816.116(b)(3), which provide that ground cover on recreational areas may not be less than that required to control erosion and achieve the postmining land use.

For those areas with less intensive recreational postmining land uses, OAC 1501:13–9–15(N)(2) requires compliance with the general requirements for woody vegetation in paragraph (K). In addition, for phase II bond release, the site must meet the revegetation success standards of paragraph (L)(1), which requires the planting of 600 trees or shrubs per acre on each acre on which trees and shrubs are to be planted and a herbaceous ground cover of at least 30 percent or such greater cover as is needed to control erosion. The Director finds that this requirement is consistent with 30 CFR 800.40(c)(2), which authorizes phase II bond release when, among other things, revegetation has been established in accordance with the approved reclamation plan. For phase III bond release, the site must meet the revegatation success standards of paragraph (L)(2) in the last year of the revegetation responsibility period. Under paragraph (L)(2), the herbaceous ground cover must equal at least 70 percent and there must be at least 250–450 countable trees per acre which have met time-in-place requirements.

The Federal rules at 30 CFR 816.116(b)(3) requires the success of vegetation for areas developed for recreation to be based on tree and shrub stocking and vegetative ground cover. The vegetative ground cover shall not be less than that required to achieve the postmining land use. The Director finds that the standards proposed by Ohio in paragraph (N)(2) meet these requirements. In the event 70 percent ground cover is inadequate to control erosion, OAC 1501:13–9–15(F)(1), by reference to OAC 1501:13–9–15 (B) and (C), requires a greater degree of cover (whatever is needed to control erosion). The Federal rule also requires that minimum stocking and planting arrangements for woody plants be specified by the regulatory authority after consultation with and approval by

the State agencies responsible for the administration of forestry and wildlife programs. OAC 1501:13–9–15(K)(3), which is incorporated by reference into proposed paragraph (N)(2), contains an identical requirement, but the State did not submit proof of concurrence with the specific stocking standards in this rule. Therefore, the Director finds that, while proposed OAC 1501:13–9–15(N)(2) can be approved, Ohio will need to obtain permit-specific approval of stocking standards for recreational land uses from the pertinent State agencies until such time as the State submits documentation that the appropriate State agencies have concurred with the programmatic standards in this rule.

Finally, the Federal rules at 30 CFR 816.116(c)(2) provide for phase III bond release on areas with a recreational postmining land use if the applicable success standards are met or exceeded during the growing season of the last year of the revegetation responsibility period. As noted above, paragraphs (N)(1) and (2) of the State rules both contain this requirement. Therefore, the Director finds that they are no less effective than 30 CFR 816.116(c)(2).

18. OAC 1501:13–9–17(B)(2), Removed

Ohio proposes to remove OAC 1501:13–9–17(B)(2), which provides that the postmining use for land that has not been previously mined and that had not been properly managed prior to mining shall be judged on the basis of surrounding lands which have received proper management. The State indicated in its May 1, 1992, letter to OSM that the provision has been interpreted as prohibiting the approval of undeveloped land as a designated postmining land use (Administrative Record No. OH–1690). Therefore, the State is proposing to remove the rule.

Because an identically worded Federal counterpart to this rule (former 30 CFR 816.133(b)(2)) was removed without explanation on September 1, 1983 (48 FR 39904), the Director finds that the removal of OAC 1501:13–9–18(B)(2) does not render the Ohio program less effective than 30 CFR 816.133. However, the Director notes that, even with the removal of OAC 1501:13–9–17(B)(2), the remainder of paragraph (B) still requires consideration of whether the land has been properly managed, as does its Federal counterpart at 30 CFR 816.133(b). Therefore, the Director's approval of the proposed deletion shall not be construed as an endorsement of the establishment of artificially low restoration standards resulting from improper management during the period immediately preceding mining.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment on several occasions. The National Coal Association (NCA), the Citizens Coal Council (CCC), and the Division of Wildlife, Ohio Department of Natural Resources (DOW) submitted substantive comments which are summarized and discussed below.

The NCA supported Ohio's proposal to provide for undeveloped land as a postmining land use because it would promote the reclamation of mined lands to a mix of trees and herbaceous species with increased ecological diversity and accelerate natural succession (Administrative Record No. OH–1969). NCA further explained that undeveloped land as a postmining land use falls within the directive of section 515(b)(2) of SMCRA, which requires surface coal mine operators to "* * * restore the land affected to a condition capable of supporting the uses that it was capable of supporting prior to any mining * * *," and that the Federal definition of "land use" at 30 CFR 701.5 recognizes "undeveloped land or no current use or land management" as a legitimate land use category for land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state. NCA concluded that the undeveloped postmining land use category in the amendment is consistent with and no less effective than SMCRA and the Federal rules. As discussed in Finding 16, the Director agrees with NCA's conclusion and is approving Ohio's proposed rule.

NCA also commented that, in developing the proposed success standards for undeveloped land, Ohio recognizes that existing tree and shrub survival requirements, which require restarting the extended responsibility period if the survival standards are not met, have discouraged operators from planting trees or incorporating forestry as a postmining land use. In NCA's opinion, the Ohio amendment properly balances the need to address existing regulatory disincentives to tree planting with the most critical factor to assuring success of tree plantings—the selection and planting operation. In support of these comments, NCA submitted literature citing a decline in tree planting due to SMCRA's grading, compaction and ground cover requirements and emphasizing species selection, handling, and planting techniques as the most critical factors in tree survival. The Director acknowledges that the issues raised by the NCA may be relevant to the NCA's support of Ohio's proposed undeveloped land use revegetation requirements, but notes that the basis for approval of the amendment, as more fully discussed in Finding 16, is that it is no less effective than the Federal regulations at 30 CFR 816.111, 816.116 and 816.133.

NCA specifically supported Ohio's lower standard for ground cover for those areas planted with trees and shrubs by noting that competing vegetation inhibits tree seedling survival, fosters an environment for rodent damage, and discourage the invasion of native plant species. The Director notes that Ohio has proposed a ground cover standard of 70 percent where trees and shrubs are to be planted and a ground cover standard of 90 percent where no tree and shrub planting is planned. He agrees with the NCA that these standards should be adequate to stabilize the mined area and control erosion; however, as noted in finding 15, if 70 percent cover is insufficient to stabilize the mined area, a greater degree of cover must be established before bond can be fully released.

The CCC commented that tree planting was a good idea and supported the concept of returning land to a state that closely resembles its premining use (Administrative Record No. OH–1895). The CCC also stated that past practices by State regulatory authorities and OSM in applying SMCRA have caused too many acres of forestland to be replaced with pastureland monocultures populated by introduced rather than native grass species. The CCC further expressed the belief that the current provisions of the Ohio program (OAC 1501:13–9–15(L), Success Standards for Wood Vegetation) allow the regulatory authority to require the planting of trees, shrubs and other desired species for any postmining land use and that the proposed rules on undeveloped land, without any productivity standards, are unnecessary. The CCC also stated that the real problem in Ohio was a "culture" of enforcement that fosters improper reclamation, not the regulations. The CCC argued that the approval of the proposed undeveloped land success standards in Ohio would further erode the enforcement provisions of SMCRA.

The Director agrees that, in general, slowing the conversion of forestland to pastureland is a desirable goal. He

believes that the approval of undeveloped land revegetation success standards will further attainment of this goal. The Director finds no evidence to support the CCC's charges that inadequate enforcement has fostered improper reclamation or that approval of the amendment will erode the enforcement provisions of SMCRA. The Director further finds that the question of whether the undeveloped land use category and success standards are necessary is irrelevant. Under 30 CFR 732.15 and 732.17(h)(10), the standard for review and approval of State program amendments is consistency with SMCRA and the Federal rules, not whether the amendment is necessary.

The DOW supported the proposed amendment because it will help solve a longstanding problem of lack of diversity on reclaimed lands (Administrative Record No. OH–1896). The DOW explained that vegetative diversity is a requirement for high quality wildlife habitat and that the availability of a postmining undeveloped land use category will significantly increase wildlife habitat development in an area of the State existing rich in such habitat. The DOW did not view the traditional practice in Ohio of establishing large tracts of grassland monocultures as a "higher or better" use of mined land. The Director agrees with the DOW that vegetative diversity is needed to achieve high quality wildlife habitat and that approval of the undeveloped postmining land use category and revegetation success standards should further this goal. Furthermore, he is requiring the DOR to consult with and obtain DOW's approval of the methods to be used to evaluate species and structural diversity at the time of final bond release (see findings 3A and 16).

Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from the Regional Administrator of the U.S. Environmental Protection Agency (EPA); the U.S. Department of Agriculture, Soil Conservation Service (SCS); and the heads of other Federal agencies with an actual or potential interest in the Ohio program. Only the EPA and the SCS provided substantive comments.

The EPA recommended that a surface soil and water survey be performed to ensure that the revegetation for the postmining land uses is successful. In response, the Director notes that OAC 1501:13–2–10(K)(2) requires the operator to monitor flow and quality of surface runoff from the permit area prior to treatment. This data is used by the operator to demonstrate that the quality and quantity of runoff without treatment will minimize disturbance to the prevailing hydrologic balance, meet effluent standards, and attain the prevailing postmining land use. SMCRA and its implementing regulations do not require a surface soil survey as suggested by the EPA, and the Director does not have independent authority to require one.

The EPA also commented that Ohio's proposed guidelines for the evaluation of revegetation success do not provide for adequate assessment of plant species diversity, plant community composition and stability, or percent survival of critical species required to establish desired plant communities (Administrative Record No. OH–1973). The agency stated that this assessment should be required for undeveloped lands, especially in situations where the land use goal is to provide wildlife habitat. The EPA believed the Rennie-Farmer method, which Ohio proposes to use for assessing revegetation, is adequate for percent cover only. It suggests that the Rennie-Farmer method be modified to provide quantitative data on species diversity and plant community composition by incorporating assessment of plant species (number of plants per species and total species present) at each sample point along the transect. The EPA provided an example of how it believed the restored revegetation should be evaluated and monitored. In the example, monitoring reports would be required according to a schedule in the permit. These reports would identify the criteria for evaluation and the performance standards to be met. For each habitat type, they would include the success achieved for critical evaluation parameters, and plans for remedial measures if the standard is not being met. The EPA recommended that the reports, at a minimum, address critical species, undesirable species, percent cover, species richness, species quality, and planting success. The EPA described each of these parameters and suggested that evaluations be done at the end of three and five years after initial planting.

The Director agrees that many of EPA's suggestions have technical merit. However, nothing in SMCRA or the Federal rules requires quantitative evaluation of species diversity. Therefore, the Director does not believe it would be appropriate to require Ohio to adopt a numerical standard for diversity. As previously stated in finding 16, he is requiring the DOR, in consultation with the DOW, to submit methods for evaluating diversity, which may or not include quantitative measures. Such an evaluation or diversity is expected to take into account species richness (number of species and their relative importance) and structural diversity (patchiness and vertical distribution of plants).

The SCS suggested that traditional land use designations such as wildlife habitat or woodland are better than the proposed "undeveloped land" postmining land use (Administrative Record No. OH–1701). Upon further inquiry by OSM, it expressed the belief that it was advisable to assign a "beneficial" use to reclaimed areas rather than to establish idle land as a reclamation goal. In response, the Director notes that as indicated in finding 16, undeveloped land has ecological benefits. Nothing in SMCRA or the State or Federal regulations authorizes substandard reclamation of these sites. To the contrary, they must be reclaimed to conditions that are capable of supporting all the uses that they are capable of supporting prior to mining.

SCS also commented on Policy/Procedure Directive, Regulatory 94–2 (page 3). It believed that the recommended four to six pounds per acre seeding rate for Ladino Clover was extremely high and may result in too much competition with other species (Administrative Record No. OH–1835). A rate of one-half to one pound per acre of Ladino Clover was suggested as more appropriate. OSM has reviewed the technical literature on this topic and found that most sources recommend a seeding rate of three pounds per acre when Ladino Clover is used for mined land reclamation. The four to six pounds proposed by Ohio has been approved by DOW and is within reasonable limits.

The State Historic Preservation Officer (SHPO) commented that information obtained during archaeological/architectural/historical surveys of proposed permit areas may be useful in determining premining land use for undeveloped land (OAC 1501:13–9–17(B)) (Administrative Record No. OH–1713). The Director has forwarded this comment to the State for consideration, but he finds that it has no bearing on whether the amendment can or cannot be approved under 30 CFR 732.17.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Ohio on May 1, 1992, and June 11, 1993, and revised on January 12, 1993, and

October 21, 1993. As noted in findings 3A, 13, 16, and 17, Ohio is required to revise its program to require the evaluation of diversity and other revegetation success standards during final bond release inspection and to provide documentation that it has obtained concurrence from the appropriate State agencies for the revegetation success standards which apply to areas with commercial forest and recreation as the proposed postmining land use. As noted in finding 3B, Ohio is required to revise its proposed formula for determining the size of sample needed to evaluate the revegetation success of trees and shrubs. The existing requirement to include in the Ohio program statistically valid sampling techniques for evaluating revegetation success is being removed because Ohio has fulfilled this requirement by including the document "Guidelines for Evaluating Revegetation Success" in the State program.

The Federal regulations at 30 CFR Part 935 codifying decisions concerning the Ohio program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to a State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved programs. In the oversight of the Ohio program, the Director will recognize only the approved program, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Ohio of such provisions.

VI. Procedural Determinations

Executive Order 12866

This final rule is exempt from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 21, 1994.

Alfred E. Whitehouse,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.15 is amended by adding new paragraph (qqq) to read as follows:

Section 935.15 Approval of Regulatory Program Amendments

* * * * *

(qqq) The following amendment (program amendment 25R and 56R) pertaining to the Ohio regulatory program, as submitted to OSM on May 1, 1992, and June 11, 1993, and revised on January 12, 1993, and October 21, 1993, is approved, effective May 2, 1994.

(1) Revisions to OAC 1501:13–4–06(E)(2)(g), Land Use Change; OAC 1501:13–9–15, Revegetation; and OAC 1501:13–9–17(B), Postmining Use of Land;

(2) Ohio Department of Natural Resources Guidelines for Evaluating Revegetation Success; and

(3) Division of Reclamation Policy/Procedure Directive, Regulatory 94–2, Planting Plans for Undeveloped Land.

3. Section 935.16 is revised to read as follows:

Section 935.16 Required Regulatory Program Amendments

(a) By July 1, 1994, Ohio shall submit either a proposed amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise the document "Guidelines for Evaluating Revegetation Success" to require that diversity, erosion control, and other applicable requirements of OAC 1501:13–9–15 (B) and (C) be evaluated based on identified methodologies at the time of final bond release and that the formula used to determine the size of sample needed to evaluate the success of tree and shrub plantings be revised in accordance with the Director's January 14, 1994, letter to Ohio. Consistent with OAC 1501:13–9–15(K)(3), Ohio also needs to submit documentation that it has consulted with and obtained the approval of the Ohio Division of Wildlife or other responsible agency for the methods to

be used to evaluate diversity at the time of final bond release.

(b) [Reserved]

[FR Doc. 94–10237 Filed 4–29–94; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 712 and 716

[OPPTS–82041B; FRL–4779–7]

Preliminary Assessment Information and Health and Safety Data Reporting; Removal of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule removes two chemicals from a final rule published in the **Federal Register** of February 9, 1994. Diethyl phthalate and methyl methacrylate were included in the category "OSHA Chemicals in Need of Dermal Absorption Testing" in two model information-gathering rules: the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR) and the TSCA section 8(d) Health and Safety Data Reporting Rule. Since that time, however, the Interagency Testing Committee (ITC) has received dermal absorption data which meets their needs. This rule removes diethyl phthalate (CAS No. 84–66–2) and methyl methacrylate (CAS No. 80–62–6) from the TSCA section 8(a) information gathering rule and diethyl phthalate from the section 8(d) health and safety data reporting rule.

DATES: This rule will become effective on May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. E–543, Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 9, 1994 (59 FR 5956), EPA issued a final rule which added chemicals designated by the ITC to two model information-gathering rules: the Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR) (40 CFR part 712) and the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716). This rule designated a group of chemicals of regulatory interest to the Occupational Safety and Health Administration (OSHA) for dermal absorption testing. Diethyl phthalate and methyl methacrylate were included in this group of chemicals. Since the publication of that final rule, the ITC received dermal absorption rate data for these two chemicals which was reviewed by OSHA and found adequate to meet their dermal absorption rate data needs. Because the ITC no longer believes that dermal absorption data is necessary for these two chemicals, these chemicals are being removed from the sections 8(a) and 8(d) reporting requirements that were imposed via the rule published in the **Federal Register** of February 9, 1994. Because substances are added to the rules based solely on the ITC's designation and without any public participation, where ITC believes a substance should be removed from the rule, EPA finds that public participation in the removal of such substance is unnecessary. EPA is making this rule which reduces a regulatory burden immediately effective in order to relieve the regulated community of the obligation to report on these substances on May 10, 1994.

List of Subjects in 40 CFR Parts 712 and 716

Environmental protection, Chemicals, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: April 22, 1994.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR Chapter I is amended as follows:

PART 712—[AMENDED]

1. In part 712:

a. The authority citation for part 712 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

§ 712.30 [Amended]

b. In § 712.30(x), by removing under the category "OSHA Chemicals in Need of Dermal Absorption Testing" the entire entries for CAS Numbers "80–62–6" and "84–66–2".

PART 716—[AMENDED]

2. In part 716:

a. The authority citation for part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

§ 716.120 [Amended]

b. In § 716.120(d), by removing under the category "OSHA Chemicals in Need of Dermal Absorption Testing" the entire entry for "Diethyl phthalate".

[FR Doc. 94–10316 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–11

[FTR Amendment 35]

RIN 3090–AE98

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables; 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 March 9, 1994 (59 FR 10997). This correction modifies the relocation income tax (RIT) allowance tax tables to reflect retroactive changes to Federal income tax rates made by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, August 10, 1993).

DATES: This final rule is effective January 1, 1994, and applies to RIT allowance payments made on or after January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Robert A. Clauson, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

Accordingly, the following correction is made to FR Doc. 94–5448 in the issue of March 9, 1994, on page 10997, under Appendix A to Part 302–11—Federal Tax Tables for RIT Allowance, in the table entitled "Federal Marginal Tax Rates by Earned Income Level and Filing Status—Tax Year 1993".

1. The table is correctly added to read as follows:

APPENDIX A TO PART 302–11—FEDERAL TAX TABLES FOR RIT ALLOWANCE

* * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1993

The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1993.

Marginal tax rate (percent)	Single taxpayer		Heads of household		Married filing jointly/qualifying widows and widowers		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$ 6,253	$29,075	$11,181	$41,832	$15,153	$53,837	$ 7,677	$27,035
28	29,075	65,032	41,832	96,209	53,837	112,456	27,035	55,674
31	65,032	135,204	96,209	151,017	112,456	167,399	55,674	87,153
36	135,204	275,043	151,017	270,700	167,399	276,908	87,153	146,600
39.6	275,043	.....	270,700	.....	276,908	.....	146,600	.....

Dated: April 21, 1994.

Larry A. Tucker,

Chief, Regulatory Policy Branch.

[FR Doc. 94–10234 Filed 4–29–94; 8:45 am]

BILLING CODE 6820–24–F

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48 CFR Part 533

[APD 2800.12A, CHGE 53]

General Services Administration Acquisition Regulation; Implement Revision to General Services Administration Board of Contract Appeals Rules of Procedure

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) is amended to implement changes to the GSA Board of Contract Appeals Rules. The changes took effect on January 3, 1994. Accordingly, to preclude any potential delays, the GSAR is being modified to be consistent with the new requirements in the GSBCA Rules of Procedure.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Edward J. McAndrew, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

Public comments are not being sought because the rule implements the GSBCA Rules of Procedure which were subject to the public comment process.

B. Executive Order 12866

This rule was not submitted to or approved by the Office of Management and Budget because it is not considered to be a significant rule as defined in Executive Order 12866.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this rule was not required to be published for public comment in the **Federal Register**.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 48 CFR Part 533

Government procurement.

Accordingly, 48 CFR part 533 is amended to read as follows:

PART 533—PROTESTS, DISPUTES, AND APPEALS

1. The authority citation for 48 CFR Part 533 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 533.105 is amended by republishing paragraphs (a) and (a)(1), introductory text, and by revising paragraphs (a)(1)(iii), (a)(2) and (a)(4) to read as follows:

533.105 Protest to GSBCA.

* * * * *

(a) *Notification procedure.* After receiving a protest, the contracting officer shall notify the following:

(1) All firms solicited, or those who have submitted sealed bids or offers if the protest is filed after the closing date of the solicitation, and the appropriate delegating official in the Information Resources Management Service. When giving such notification, the contracting officer should follow these procedures:

* * * * *

(iii) Use the following format:

Name (Officer, Managing Agent, or person who signed offer)

Address

A protest concerning Solicitation No. _____ has been filed with the General Services Administration Board of Contract Appeals (GSBCA). The protest was filed by (*Insert the name and address of the protester and the name of the person signing the protest.*) on (*Date*). The protest has been purportedly filed pursuant to Section 2713 of the Competition in Contracting Act, Pub. L. 98–369. Copies of the protest may be obtained from the Office of the Clerk of the GSBCA, 18th and F Streets NW, Washington, DC 20405, or from the contracting officer.

Contracting Officer's signature

(2) The agency on whose behalf GSA is making the procurement, if any. A copy of the protest complaint, including all attachments, must be forwarded to the agency by appropriate means to ensure next day delivery to both the requiring office and the agency's legal office.

* * * * *

(4) The Board, through assigned counsel, within 3 workdays after the date of filing with the GSBCA, that the notices described in paragraphs (a)(1) and (2) has been given. Written confirmation of notice and a listing of all persons and agencies receiving notice must be provided.

* * * * *

3. Section 553.7103–1 is amended by revising paragraphs (b)(1) and (b)(4) to read as follows:

533.7103–1 Preparation of appeals file.

* * * * *

(b) *Content of appeal file.*

(1) Each appeal file must be assembled in a looseleaf binder. A gummed label (NSN 7510–00–264–5460) must be used on top of the looseleaf binder to identify the case by contractor, contract number and docket number.

* * * * *

(4) Each appeal file must contain division sheets separating the different documents listed in the "Index of Exhibits." Division sheets must be tabbed and numbered consecutively commencing with number one, in whole Arabic numbers (no letters, decimals, or fractions), and continuously from each file to the next so that the complete appeal file will consist of one set of

consecutively numbered appeal file exhibits. In addition, the pages within the exhibit shall be numbered consecutively unless the exhibit already is paginated in a logical manner. Consecutive pagination of the entire file is not required.

* * * * *

Dated: April 11, 1994.

Arthur E. Ronkovich,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 94–10259 Filed 4–29–94; 8:45 am]

BILLING CODE 6820–61–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1816, 1831, and 1852

Deviation From FAR 31.205–18

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

ACTION: Interim rule.

SUMMARY: This rule provides a class deviation from the cost principle on independent research and development (IR&D). This class deviation will permit the costs of IR&D effort incurred under a cooperative arrangement with NASA, that otherwise would have been allowed as IR&D had there been no cooperative arrangement, to be used as the contractor's contribution under the arrangement and to be recoverable as indirect costs. The intended effect of this deviation will be to allow NASA to increase its technology transfer efforts and eliminate barriers to technology development as recommended by the President's National Performance Review.

DATES: *Effective Date:* This regulation is effective May 2, 1994.

Comments: Comments must be received on or before July 1, 1994.

ADDRESSEES: Submit comments to Mr. Joseph Le Cren, Procurement Analyst, Contract Pricing and Finance Division (Code HC), Office of Procurement, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, (202) 358–0444.

SUPPLEMENTARY INFORMATION:

Background

FAR 31.205–18 precludes the allowability of costs incurred for independent research and development (IR&D) by contractions in the performance of cooperative arrangements entered into with NASA on a cost-sharing basis. This prohibition reflects a policy decision which NASA wishes to change. NASA proposes a class deviation which would permit costs contributed by a contractor under a cost-sharing cooperative arrangement with NASA to be recoverable as indirect costs, as long as these costs would otherwise have been allowed as IR&D had there been no cooperative arrangement. The deviation is needed in order for NASA to increase its technology transfer efforts and to eliminate barriers to technology development as recommended by the National Performance Review (NPR). The NPR has recommended that NASA devote 10 to 20 percent of its budget to partnerships with industry. This target cannot be successfully achieved only through contracts, grants and cooperative agreements with nonprofit institutions. Cooperative arrangements with industrial firms or consortia are viewed as the most streamlined and efficient way to accomplish technology transfer on the scale envisioned by the NPR. However, this is hindered because private financing may not be adequate to support the contractor contributions to cooperative arrangements. A barrier whose elimination could significantly aid in achieving NASA's technology transfer and development efforts is the current prohibition at FAR 31.205–18. In addition to increasing the transfer of technology by NASA, the deviation will also achieve uniformity and consistency with other federal agencies in the treatment of similar costs. An example of this is the Advanced Research Projects Agency which, under the Technology Reinvestment Projects, has entered into cooperative arrangements which permit contractors to classify their contribution as IR&D and to recover those same costs as allowable indirect costs; the same result NASA wishes to achieve.

This rule is to be effective on an interim basis due to there being multiple cooperative agreements which would be detrimentally impacted if the rule were delayed.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1816, 1831, and 1852

Government procurement.

Tom Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, 48 CFR parts 1816, 1831, and 1852 are amended as follows.

1. The authority citation for 48 CFR parts 1816, 1831 and 1852 continues to read as follows:

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

PART 1816—TYPES OF CONTRACTS

2. Section 1816.307–70 is amended by adding paragraph (h) to read as follows:

1816.307–70 NASA contract clauses.

* * * * *

(h) The contracting officer shall insert the clause at 1852.216–89 in solicitations and contracts in which the clause at (FAR) 48 CFR 52.216–7 is included and to which (FAR) 48 CFR part 31, subpart 31.2 is applicable.

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

3. Section 1831.205–18 is added to read as follows:

1831.205–18 Independent research and development and bid and proposal costs.

A class deviation from (FAR) 48 CFR 31.205–18(e) exists to permit costs contributed by a contractor under a cooperative arrangement with NASA to be considered as allowable IR&D costs if the work performed would have been allowed as contractor IR&D had there been no cooperative arrangement.

This deviation does not apply to costs contributed by the contractor under cost-sharing contracts described in (FAR) 48 CFR 16.303 and 1816.303.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 1852.216–89 is added to read as follows:

1852.216–89 Allowable Cost and Payment.

As prescribed at 1816.307–70(d), insert the following clause:

Allowable Cost and Payment (April 1994)

Allowable costs shall be determined by the contracting officer in accordance with 1831.205–18 in addition to the provisions of (FAR) 48 CFR subpart 31.2.

(End of clause)

[FR Doc. 94–10422 Filed 4–29–94; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 931235–4107; I.D. 120993A]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule and approval of catch sharing plan.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, (AA) on behalf of the International Pacific Halibut Commission (IPHC), publishes regulations promulgated by the IPHC and approved by the Secretary of State governing the Pacific halibut fishery. The IPHC regulations are intended to enhance the conservation of Pacific halibut stocks in order to help rebuild and sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

The AA also announces the approval of the 1994 Catch Sharing Plan (Plan) to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian, non-Indian commercial, and non-Indian sport fishermen off the coasts of Washington, Oregon, and California (IPHC statistical Area 2A). Regulations necessary to achieve the sport fisheries allocations in the Plan are also published. These regulations specify the seasons, quotas, and bag limits in each of the sport fishery areas.

EFFECTIVE DATE: May 1, 1994.

FOR FURTHER INFORMATION CONTACT: Steven Pennoyer, Regional Director, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802, telephone 907–586–7221; J. Gary Smith, Acting Regional Director, NMFS, Northwest Region, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115, telephone 206–526–6140; or Donald McCaughran, Executive Director, IPHC, P.O. Box 5009, University Station, Seattle, WA 98105, telephone 206–624–1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has promulgated new regulations governing the Pacific halibut fishery in 1994. The regulations have been approved by the Secretary of State of the United States with the exception of IPHC regulations that pertain to domestic allocation in Area 4B. Regulations allocating catch in Area 4B have been developed by the North Pacific Fishery Management Council (NPFMC) and, if approved by the AA, will take effect for the 1994 fishery. Area 4B allocative regulations were inappropriately included in the 1994 IPHC regulations and therefore were not approved. On behalf of the IPHC, the approved IPHC regulations are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements appearing therein.

The IPHC held its annual meeting on January 24–27, 1994, in Bellevue, WA, and adopted regulations for 1994. The substantive changes from the previous IPHC regulations (58 FR 17791, April 6, 1993) include: (1) New commercial catch limits and fishing seasons; (2) new treaty Indian halibut catch limits; (3) new sport fishing limits in Area 2A; and (4) new regulations that require fishermen and processors to unload all fish when fishing period limits are in effect and to record these landings on state fish tickets. The 1994 regulations also continue the Area 4D–N experimental fishery.

Because the non-Indian commercial fishery in Area 2A is likely to exceed the sub-quota for this fishery during the first 10-hour opening, the IPHC will need to impose vessel trip limits. However, because it is unknown at this time how many vessels might participate in the Area 2A fishery, the IPHC staff will determine and announce the vessel trip limits necessary to avoid exceeding the sub-quota prior to the July 6 opening when better information is available on the number of vessels that may participate in the fishery.

Section 5 of the Halibut Act (16 U.S.C. 773c) provides that the Secretary of Commerce shall have general responsibility to carry out the Halibut Convention (Convention) between the United States and Canada, and that the Secretary shall adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. The Secretary's authority has been delegated to the AA. Section 5 of the Halibut Act (16 U.S.C. 773c(c)) also authorizes the regional fishery management council having authority for the geographic area concerned to develop regulations governing the Pacific halibut catch in U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Pursuant to this authority, NMFS requested the Pacific and North Pacific Fishery Management Councils to allocate halibut catches should such allocation be necessary.

At its January 1994 meeting, the NPFMC recommended regulations that would enhance fishing opportunities for vessels that land their total annual catch of Pacific halibut within Regulatory Area 4B. These regulations would reserve 15 percent of the Area 4B catch limit for Pacific halibut fishing periods scheduled prior to August 15. Vessels participating in these Area 4B fishing periods would be limited to a maximum catch of 10,000 pounds (4.5 mt) during each fishing period. The intended effect of these measures is to provide summer fishing opportunities for smaller vessels that land their total annual Pacific halibut catch in Area 4B. These measures would not apply to fishing periods in Area 4B after August 15.

These Area 4B regulations will be the subject of a separate notice of proposed rulemaking. The AA will decide whether to approve the proposed allocation after consideration of public comment on the proposed rule. If approved by the AA, final regulations implementing the 15-percent catch limit reservation and the fishing period limits will be published at § 301.7(f) and § 301.11(g), respectively. Therefore, these paragraphs are reserved.

The NPFMC's previous allocation recommendations were implemented in regulations published at 53 FR 20327 (June 3, 1988) and 55 FR 23085 (June 6, 1990), have been adopted by the IPHC, and are consolidated and renumbered at § 301.11(h) and (i); § 301.14(a), (b), (e), (f), (g), (h), (i) and (j); and § 301.17(i). An additional regulation pertaining to NPFMC allocation recommendations was originally published at 56 FR 19617 (April 29, 1991) and is republished at § 301.10(g) for the convenience and information of the public.

The Pacific Fishery Management Council (PFMC) has prepared catch sharing plans since 1988 to allocate the TAC of Pacific halibut between treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A off Washington, Oregon, and California. For 1994, the PFMC recommended a two-pronged, contingent recommendation which: (1) Requests that the IPHC calculate 50 percent of the harvestable surplus in subarea 2A–1 and manipulate the non-Indian commercial fishery so that the non-Indian share does not exceed 50 percent in subarea 2A–1, and that the non-Indian allocation should be divided among sport and commercial fisheries in the same proportion as the 1993 catch shares; or (2) if IPHC is unable to determine the harvestable

surplus in subarea 2A–1, then the non-Indian commercial fishery be moved south of subarea 2A–1 and the allocations among treaty Indian and non-Indian sport and commercial fisheries would be the same as in 1993 (i.e., Treaty Indian (25 percent), non-Indian commercial (37.5 percent), Washington sport (22.9 percent), and Oregon/California sport (14.6 percent).

The PFMC's recommended Plan was disapproved by the AA because it maintained a *status quo* treaty Indian allocation, or set a treaty Indian allocation based on the IPHC's calculation of half of the harvestable surplus in subarea 2A–1 that would either keep the tribal share at its present 25 percent of the Area 2A TAC, or reduce it to 20 percent if the IPHC used its past report (IPHC Scientific Report Number 74) to estimate the distribution of halibut biomass to derive "harvestable surplus" in subarea 2A–1. The AA disapproved only that portion of the PFMC's recommended allocation that affected Indian fishing rights and harvest in area 2A–1. That portion was disapproved because the information in the record did not establish that the recommendation provided the tribes with a 50-percent allocation of the harvestable surplus of halibut that passes through their usual and accustomed fishing area. The PFMC recommendations pertaining to allocations within the non-Indian fisheries were included in the proposed 1994 Plan. A complete discussion of the partial disapproval of the PFMC's recommendation and background on the development of the 1994 Plan and the proposed sport fishing regulations was published in the **Federal Register** on December 22, 1993, (58 FR 67762) with a request for public comments.

The 1994 Plan as proposed in the December 22, 1993, **Federal Register** notice, was approved because it provides the treaty Indian tribes with an allocation that is consistent with December 29, 1993, order issued by the U.S. District Court for the Western District of Washington, *Makah Indian Tribe* v. *Brown et al.* No. C85–1605 (W.D. Wash.); *United States of America et al.* v. *State of Washington, et al.*, Civil No. 9213–Phase I, subproceeding No. 92–1 (W.D. Wash.) and implements the remainder of the PFMC's recommendations on allocations between and within non-Indian fisheries reduced proportionately to accommodate the 35-percent allocation to the tribes. This action responds to public comments on the proposed Plan and proposed sport regulations and announces approval of the Plan and final sport fishing regulations.

Comments and Responses on the Proposed Rule and the Catch Sharing Plan

Three letters of comment on the proposed rule and six letters of comment on the proposed 1994 Plan were received from the Oregon State Department of Fish and Wildlife, Washington State Department of Fish and Wildlife, representatives of the treaty Indian tribes, and non-Indian sport and commercial users. Three letters expressed support for the Plan and three were opposed. The comments are summarized below with responses.

Comment 1: Treaty Indian representatives agreed with the 35-percent allocation to the tribes for 1994 and advised that the tribal estimate for the 1993 ceremonial and subsistence (C&S) fishery for all 12 tribes was 15,798 pounds. For 1994, the tribes requested that 16,000 pounds be used in the Plan as the C&S fishery estimate.

Response: The 1994 Plan and the IPHC implementing regulations were revised to use 16,000 pounds (7.3 mt) as the tribal estimate for 1994.

Comment 2: Oregon representatives and users recommended adoption of the PFMC's recommendation because the proposed Plan would establish a disproportionate harvest in the northern area of Area 2A, which is not consistent with scientific information on biomass distribution and could be detrimental to the halibut stock.

Response: The Secretary disapproved only that portion of the PFMC's recommended allocation scheme that affected treaty Indian fishing rights, because it did not provide the tribes with a 50-percent allocation of the harvestable surplus of halibut that passes through subarea 2A–1 (the treaty Indian tribes usual and accustomed fishing area). In *Makah* v. *Brown*, the U.S. Government argued that harvests should be proportionate to biomass based on the IPHC management philosophy and on IPHC Report No. 74. However, this argument was rejected. The tribes presented statistics showing that 70 percent of the Area 2A harvest has come from subarea 2A–1 for 20 years, without apparent detriment to the stock. Although the IPHC recently stated that overfishing may be occurring in Area 2A, the IPHC statement applies to the entire area, not to just subarea 2A–1, and past IPHC scientific reports have not concluded that the higher removals in subarea 2A–1 are a conservation issue. Given that there is not a clearly demonstrated conservation basis in the record for reducing the removals (70 percent of TAC) in the tribe's usual and accustomed fishing area (subarea 2A–1) at this time, and given their treaty right to 50 percent, the AA determined that 35 percent of the Area 2A TAC should be allocated to the treaty Indian tribes in 1994.

Comment 3: One commenter felt that the PFMC's recommendation should not be overturned because it was based on an established open public process based on well-debated decisions and scientific input.

Response: Only that portion of the PFMC recommendation pertaining to the allocation to treaty Indian tribes was overturned, because it was not consistent with the U.S. District Court order. When the PFMC was considering the allocation to the tribes during its public meeting, the PFMC was advised by U.S. government representatives at the PFMC's public meeting (prior to its vote) that a recommendation to reduce the harvests in subarea 2A–1 in order to reduce the tribal share was likely to be disapproved by the AA.

Comment 4: Oregon representatives and users commented that the proposed Plan establishes an inequitable opportunity to harvest halibut by all users in Area 2A and discriminates between residents of different states by setting a disproportionate allocation in subarea 2A–1 (the treaty Indian tribes' usual and accustomed fishing grounds), thereby preventing equitable use of available biomass in Oregon.

Response: This allocation provides recognition of treaty Indian fishing rights and does not restrict the location of the non-Indian commercial fishery, and therefore does not discriminate between residents of different states.

Comment 5: Oregon raised concerns about institutionalizing the halibut harvest disproportionately in a small area.

Response: The Plan is for 1994 only; allocations for 1995 and beyond could be different than the 1994 Plan. Any proposal to reduce the tribal allocation below 35 percent of the Area 2A TAC must be supported by credible information that there is a conservation necessity to reduce the amount of harvest coming out of subarea 2A–1; a proposal to shift the non-Indian harvest would not have to meet the conservation necessity test.

Comment 6: Representatives of the inside tribes commented that the proposed Plan is inconsistent in its allocation of treaty Indian and non-Indian harvests in Puget Sound in that the sport fisheries have separate sub-quotas for inside waters (Puget Sound), while no equal sub-quota is established for the Puget Sound tribes.

Response: Consistent with the U.S. District Court order, the Plan only

addresses the allocation to treaty Indian tribes in subarea 2A–1 and does not consider intertribal allocation issues.

Comment 7: Tribal representatives commented that the 72-hour restriction on the use of setline gear prior to a halibut fishing period should not apply to treaty Indian fishing as it is not necessary for regulating the treaty Indian fisheries.

Response: This comment pertains to IPHC regulations, rather than the Plan. U.S. Government representatives did raise this issue with the IPHC and the application of the 72-hour restriction on treaty Indian fishing was removed by IPHC.

Comment 8: The Washington State Department of Fish and Wildlife (WDFW), in consultation with Washington anglers and IPHC staff, had two recommendations on the sport fishing regulations to account for the decrease in TAC from 1993. WDFW recommends that the Puget Sound sport fishery season be open May 2 to July 5; and that the area between Queets River and Cape Falcon have a 2-day season on June 2 and June 9.

Response: The WDFW recommendations are within the PFMC's allocation objectives for Washington sport fisheries in 1994 as described in the Plan, and are necessary because of the revised sub-quotas in these areas (due to lowered TAC). Therefore, the proposed regulations at § 301.21(d)(2) (i) and (iii) were revised to reflect these revised seasons that are intended to achieve the allocations in these sport fishery areas. The IPHC has concurred that projected catch for these seasons is within the sub-quotas for these areas.

Comment 9: A Washington sport user stated that the one-fish bag limit in the Washington north coastal area sport fishery is not adequate, given the expense to travel to the north coast area.

Response: The one-fish bag limit was recommended by the PFMC to extend the fishing season in this area to maximize angler participation.

Comment 10: A Washington sport user commented that the Washington north coastal area sport fishery opening date should be delayed by 1 month to make the fishery more safely accessible by small boats.

Response: This area has traditionally opened in early May, as there is little other angler opportunity at this time of year. In prior years, when the sub-quota in this area was higher, a second season was set in July when more small vessels participate in the fishery. However, because quotas are no longer sufficient to have two seasons, the PFMC recommended a single opening that would extend as long as quota was available. NMFS agrees with the PFMC recommendation to maximize angler access and therefore the proposed May 3 opening was retained in the final rule.

Comment 11: A Washington sport user was opposed to the proposed closure south of Cape Flattery in the Washington north coast sport fishery, because it prevented user access to productive grounds.

Response: The closed area was recommended by the PFMC, based on input from WDFW, because the halibut caught in this area in 1993 were much larger than the average fish in the north coast area and caused the sub-quota in this area to be achieved much sooner than anticipated. NMFS concurs with the PFMC's objective in recommending closing this area to extend fishing opportunity as long as possible, and since other areas that are close to port are still available for fishing, NMFS has approved the closed area in the final sport regulations.

Accordingly, the proposed 1994 Plan and proposed regulations at § 301.21(d)(2) have been modified as described in the responses to comments. Specific regulations implementing portions of the 1994 Plan were adopted by the IPHC and are published herein. NMFS has implemented the sport fishery portion of the Plan, as applied to the Area 2A TAC, in § 301.21(d) of these regulations. A regulation published at 58 FR 17791 (April 6, 1993) that describes the fishing area of the treaty Indian tribes at § 301.20(j) is renumbered and republished at § 301.20(l). Additional regulations originally published at 58 FR 17791 (April 6, 1993) pertaining to flexible inseason management provisions for Area 2A sport fisheries are republished at § 301.21(d)(3) and (d)(5) for the convenience and information of the public. The final approved 1994 Plan for Pacific halibut in Area 2A is as follows.

1994 Catch Sharing Plan

The 1994 Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in subarea 2A–1, and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided 50 percent to commercial users and 50 percent to sport users. The sport allocation is further divided 61 percent to areas off Washington and 39 percent to areas off Oregon and California. The sport fisheries are divided into geographic areas, each having separate seasons, quotas, bag limits, and other restrictions. The Washington sport allocation applies to the coastal and inland waters off Washington, as well as waters off the coast of Oregon north of Cape Falcon. The Oregon sport allocation applies to waters off Oregon south of Cape Falcon and includes the California coast. The allocations are distributed as sub-quotas to ensure that any overage or underage by any one user group will not affect achievement of the allocation of TAC for other user groups. The Area 2A TAC of 550,000 pounds (249.5 mt) is distributed as sub-quotas between users as follows:

Treaty Indian sub-quota.	192,500 pounds (87.3 mt)
Non-Indian Commercial sub-quota.	178,750 pounds (81.1 mt)
Washington Sport sub-quota.	109,037 pounds (49.5 mt)
Oregon Sport sub-quota.	69,713 pounds (31.6 mt)
Total	550,000 pounds (249.5 mt)

The specific allocative measures in the treaty Indian, non-Indian commercial, and non-Indian sport fisheries in Area 2A are described below.

Treaty Indian Fisheries

Thirty-five percent of the Area 2A TAC is allocated to 12 treaty Indian tribes in subarea 2A–1, which includes that portion of Area 2A north of Point Chehalis, WA (46°53′18″ N. latitude) and east of 125°44′00″ W. longitude (defined in 50 CFR 301.20(c)). The treaty Indian allocation is to provide for a tribal commercial fishery and a C&S fishery. These two fisheries are to be managed separately; any overages in the commercial fishery will not affect the C&S fishery. The commercial fishery will be managed to achieve an established sub-quota, while the C&S fishery will be managed for a year-round season. The tribal C&S fishery commenced on January 1 and continues year-round through December 31. No size or bag limits apply to the C&S fishery, except that when the tribal commercial fishery is closed, treaty Indians may take and retain not more than two halibut per person per day. The tribal estimate of C&S catch for the year-round fishery in 1993 was about 16,000 pounds (7.3 mt), and it is expected that 1994 will be the same. Based on this expectation, the tribal commercial fishery will have a sub-quota of 176,500 pounds (80.1 mt), which is equal to the tribal allocation of 192,500 pounds (87.3 mt) less the tribal estimate of 16,000 pounds (7.3 mt) for a year-round C&S season. The tribal commercial fishery commenced on March 1 and continues through October 31 or until the tribal commercial sub-quota is taken, whichever occurs first. Any halibut sold by treaty Indians must

comply with the IPHC regulations on size limits for the non-Indian fishery. Halibut taken for C&S purposes may not be offered for sale or sold. Regulations necessary for the treaty Indian allocative measures are implemented in the 1994 IPHC regulations.

Commercial Fisheries (Non-Indian)

The non-Indian commercial fishery is allocated 32.5 percent of the Area 2A TAC. This Plan does not address the structuring of the commercial season(s). The 1994 commercial fishery opening date(s), duration, and vessel trip limits for Area 2A, as necessary to ensure that the sub-quota for this fishery is not exceeded, are determined by the IPHC.

Sport Fisheries (Non-Indian)

The non-Indian sport fishery is allocated 32.5 percent of the Area 2A TAC. The sport fishery allocation is further divided, with 19.8 percent of the Area 2A TAC to areas off Washington/northern Oregon and 12.7 percent to areas off Oregon/California. The sport fisheries are divided into five geographic areas, each having separate seasons, sub-quotas, bag limits, and other restrictions as necessary to achieve allocation objectives. The Washington sport allocation applies to the coastal and inland waters off Washington and includes the north coast of Oregon, north of Cape Falcon. The Oregon sport allocation applies to waters off Oregon south of Cape Falcon and includes the California coast.

The Washington sport fisheries structuring is based on the following allocation objectives adopted by the PFMC:

1. In Puget Sound, provide a stable recreational opportunity for anglers and maximize the season length;

2. On the north coast, maximize the season length; and

3. On the south coast, maximize the season length while providing for a limited halibut fishery.

The Oregon sport fisheries structuring is based on the following allocation objectives adopted by the PFMC:

1. Provide early season fishing opportunity to anglers from Cape Falcon to the California border;

2. Provide sport fishing opportunity for all Oregon ports south of Cape Falcon, especially small boat anglers;

3. Provide a short period of opportunity for all ports south of Cape Falcon that allows both charter boats and larger private boats to fish productive areas in deeper water; and

4. Provide anglers in California the opportunity to fish in a fixed season.

The details of the sport fisheries structuring for the five sport fishery areas are as follows:

1. *Washington Inside Waters (Puget Sound and Straits).*

This area is allocated 32.4 percent of the Washington sport sub-quota, which is 35,328 pounds (16.0 mt). The season will be open 6 days per week (closed Wednesdays) from May 2 until a closing date that will be based (preseason) on when the sub-quota is projected to be achieved. Due to the inability to monitor the catch in this area inseason, a fixed season is established preseason, based on projected catch per day and number of days to achievement of the sub-quota; no inseason adjustments will be made, and estimates of actual catch will be made post-season. For 1994, the sub-quota is projected to be achieved on July 5th. The bag limit will be one halibut per person per day, with no size limit.

The dividing line between this area and the Washington north coast area is the Bonilla-Tatoosh line, defined as follows: From Bonilla Point (48°35′44″ N. latitude, 124°43′00″ W. longitude) to the buoy adjacent to Duntze Rock (48°24′55″ N. latitude, 124°44′50″ W. longitude) to Tatoosh Island lighthouse (48°23′30″ N. latitude, 124°44′00″ W. longitude) to Cape Flattery (48°22′55″ N. latitude, 124°43′42″ W. longitude).

2. *Washington North Coast between the Straits and Queets River.*

This area is allocated 62.4 percent of the Washington sport sub-quota, which is 68,039 pounds (30.9 mt). The fishery will open on May 3 and continue 5 days per week (Tuesday through Saturday) until the sub-quota is taken or until September 30, whichever occurs first. The bag limit is one halibut per person per day, with no size limit.

A closure to sport fishing for halibut will be established in an area that is 19.5 nautical miles (36 km) southwest of Cape Flattery. The closed area is defined as the area within a rectangle defined by these four corners: 48°17′00″ N. latitude and 125°10′00″ W. longitude; 48°17′00″ N. latitude and 125°00′00″ W. longitude; 48°05′00″ N. latitude and 125°10′00″ W. longitude; and, 48°05′00″ N. latitude and 125°00′00″ W. longitude.

3. *Southern Washington/northern Oregon* (between Queets River and Cape Falcon, OR).

This area is allocated 5.2 percent of the Washington sport sub-quota, which is 5,670 pounds (2.6 mt). The season will be open one day per week (Thursday only) from June 2 until when the sub-quota is projected to be harvested. Due to the inability to monitor the catch in this area inseason, a fixed season will be established preseason, based on projected catch per day and number of days to achievement of the sub-quota. For 1994, the sub-quota is projected to be achieved on June 9; however, additional fishing days should be provided if the sub-quota is not taken by June 9 and additional sub-quota for this area remains unharvested that is sufficient for an additional full day of fishing. The bag limit is one halibut per person per day, with no size limit.

4. *South of Cape Falcon to the California Border.*

This area is allocated 97.4 percent of the Oregon sport sub-quota, which is 67,900 pounds (30.8 mt). The bag limit for all seasons in this area is two halibut per person per day, one with a minimum 32-inch (81.3 cm) size limit and the second with a minimum 50-inch (127.0 cm) size limit.

This area will have three seasons: The first season is allocated 79 percent of this area sub-quota; the second season is allocated 4 percent; and the third season is allocated 17 percent. The structuring of the three seasons is as follows:

1. The first season will open on May 4 and continue 5 days per week (Wednesday through Sunday) until 53,641 pounds (24.3 mt) is estimated to have been taken.

2. The second season will open the day following the closure of the first season, but only in waters inside the 30-fathom curve and continue every day until August 5 or until 2,716 pounds (1.2 mt) is estimated to have been taken, whichever occurs first.

3. The third and last season will open on August 6, with no depth restrictions. The fishery will be open 5 days per week (Wednesday through Sunday) until September 30 or until the area sub-quota of 67,900 pounds (30.8 mt) is estimated to have been taken, whichever occurs first.

Any poundage remaining after the earlier seasons will be added to the sub-quotas for the next season. If poundage added to the last season's sub-quota is sufficient to allow for additional fishing opportunity, an inseason action should be taken to add additional open days to each week.

5. *California—South of the California Border.*

This area is allocated 2.6 percent of the Oregon sport sub-quota, which is 1,813 pounds (0.8 mt). The season will commence on May 1 and continue every day until September 30. The bag limit is one halibut per person per day with a minimum 32-inch (81.3 cm) size limit. Due to the inability to monitor the catch in this area inseason, a fixed season will be established preseason based on projected catch per day and number of

days to achievement of the sub-quota; no inseason adjustments will be made, and estimates of actual catch will be made post-season.

Classification

International Pacific Halibut Commission Regulations

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, *Jensen* v. *National Marine Fisheries Service*, 512 F.2d 1189 (9th Cir. 1975), 5 U.S.C. 553 of the Administrative Procedure Act (APA) does not apply to this notice of the effectiveness and content of the IPHC regulations. Because notice of proposed rulemaking is not required, the preparation of a regulatory flexibility analysis is not required.

Sport Fishing Regulations and Catch Sharing Plan

The 1994 Plan and sport fishing regulations are consistent with the Catch Sharing Plans that have been in place since 1990. A regulatory impact review prepared by the PFMC for the 1992 Plan indicates that actions taken under the Plan will not have a significant economic impact on a substantial number of small entities. The allocations within this Plan are within the scope of the 1992 Plan and therefore preparation of a new regulatory flexibility analysis is not required under the Regulatory Flexibility Act. The General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed regulations, if adopted, would not have a significant economic impact on a substantial number of small entities.

This final rule has been determined to be not significant for purposes of E.O. 12866.

If this rule is not effective by May 1, 1994, sport fishing for Pacific halibut in Area 2A would open under last years' regulations, which provided more halibut to the sport fishery than is available this year. Therefore, this years' season would open under less restrictive regulations than promulgated by these rules, and too much of the sport allocation would be taken early in the year, defeating the goals of the approved 1994 Plan. This would cause negative economic impacts on the coastal communities and charterboat operations that are dependent on Pacific halibut fishing throughout the year. Pursuant to section 553(d)(3) of the APA, the AA finds good cause to make the final rule effective on May 1, 1994.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties.

Dated: April 22, 1994.

Henry R. Beasley,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 301 is revised to read as follows:

PART 301—PACIFIC HALIBUT FISHERIES

Sec.

301.1 Short title.
301.2 Interpretation.
301.3 Licensing vessels.
301.4 Inseason actions.
301.5 Application.
301.6 Regulatory areas.
301.7 Fishing periods.
301.8 Closed periods.
301.9 Closed area.
301.10 Catch limits.
301.11 Fishing period limits.
301.12 Size limits.
301.13 Careful release of halibut.
301.14 Vessel clearance in Area 4.
301.15 Logs.
301.16 Receipt and possession of halibut.
301.17 Fishing gear.
301.18 Retention of tagged halibut.
301.19 Supervision of unloading and weighing.
301.20 Fishing by U.S. treaty Indian tribes.
301.21 Sport fishing for halibut.
301.22 Previous regulations superseded.
Figure 1 to part 301.
Figure 2 to part 301.

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773–773k.

§ 301.1 Short title.

This part may be cited as the Pacific Halibut Fishery Regulations.

§ 301.2 Interpretation.

(a) In this part:

Automated hook stripper (commonly known as a crucifier) means a device through which the groundline can be passed during gear retrieval, which allows the groundline and hooks to pass freely, but does not allow fish to pass, thereby removing fish from the hooks.

Charter vessel means a vessel used for hire in sport fishing for halibut, but does not include a vessel without a hired operator.

Commercial fishing means fishing, the resulting catch of which either is, or is intended to be, sold or bartered.

Commission means the International Pacific Halibut Commission.

Daily bag limit means the maximum number of halibut a person may take in any calendar day from Convention waters.

Fishery officer means any State, Federal, or Provincial officer authorized to enforce this part, including, but not limited to, the National Marine Fisheries Service (NMFS), Canada's Department of Fisheries and Oceans (DFO), Alaska Department of Fish and Wildlife Protection (ADFWP), and the U.S. Coast Guard (USCG).

Fishing means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.

Fishing period limit means the maximum amount of halibut that may be retained and landed by a vessel during one fishing period.

Land, with respect to halibut, means to bring to shore and to offload.

License means a halibut fishing license issued by the Commission pursuant to § 301.3 of this part.

Maritime area, with respect to the fisheries jurisdiction of a Contracting Party, includes, without distinction, areas within and seaward of the territorial sea or internal waters of that Party.

Operator, with respect to any vessel, means the owner and/or the master or other individual on board and in charge of that vessel.

Overall length of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern (excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments).

Person includes an individual, corporation, firm, or association.

Regulatory area means an area referred to in § 301.6 of this part.

Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached.

Sport fishing means all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing.

Tender means any vessel that buys or obtains fish directly from a catching vessel and transports it to a port of landing or fish processor.

(b) In this part, all bearings are true and all positions are determined by the most recent charts issued by the National Ocean Service or the Canadian Hydrographic Service.

(c) In this part, all weights shall be computed on the basis that the heads of the fish are off and their entrails removed.

§ 301.3 Licensing vessels.

(a) No person shall operate or fish for halibut from a U.S. vessel, nor possess halibut on board a U.S. vessel, used either for commercial fishing or as a charter vessel, unless the Commission has issued a license in respect of that vessel.

(b) No person shall operate or fish for halibut from a Canadian vessel used as a charter vessel, nor possess halibut on board such vessel, unless the Commission has issued a license in respect of that vessel.

(c) A license issued in respect of a vessel referred to in paragraphs (a) and (b) of this section must be carried on board that vessel at all times and the vessel operator shall permit its inspection by fishery officers of the Contracting Parties.

(d) The Commission shall issue a license in respect of a vessel, without fee from its office in Seattle, WA, upon receipt of a completed, written, and signed "Application for Vessel License for the Halibut Fishery" form.

(e) Application forms may be obtained from fishery officers of either Contracting Party, or from the Commission.

(f) Information on "Application for Vessel License for the Halibut Fishery" form must be accurate.

(g) The "Application for Vessel License for the Halibut Fishery" form shall be completed and signed by the vessel owner.

(h) Licenses issued under this section shall be valid only during the year in which they are issued.

(i) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(j) The license required under this section is in addition to any license, however designated, that is required under the laws of Canada or any of its Provinces or the United States or any of its States.

(k) The United States may suspend, revoke, or modify any license issued under this section under policies and procedures in 15 CFR part 904.

§ 301.4 Inseason actions.

(a) The Commission is authorized to establish or modify regulations during the season after determining that such action

(1) Will not result in exceeding the catch limit established preseason for each regulatory area;

(2) Is consistent with the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, and applicable domestic law of either Canada or the United States; and

(3) Is consistent, to the maximum extent practicable, with any domestic catch sharing plans developed by the United States or Canadian governments.

(b) Inseason actions may include, but are not limited to, establishment or modification of the following:

(1) Closed areas;

(2) Fishing periods;

(3) Fishing period limits;

(4) Gear restrictions;

(5) Recreational bag limits;

(6) Size limits; or

(7) Vessel clearances.

(c) Inseason changes will be effective at the time and date specified by the Commission.

(d) The Commission will announce inseason actions under this section by providing notice to major halibut processors; Federal, State, U.S. treaty Indian, and Provincial fishery officials; and the media.

§ 301.5 Application.

(a) This part applies to persons and vessels fishing for halibut in, or possessing halibut taken from, waters off the west coast of Canada and the United States, including the southern and the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(b) Sections 301.6 through 301.19 of this part apply to commercial fishing for halibut.

(c) Section 301.20 of this part applies to fishing for halibut by U.S. treaty Indian tribes in the State of Washington.

(d) Section 301.21 of this part applies to sport fishing for halibut.

(e) This part does not apply to fishing operations authorized or conducted by the Commission for research purposes.

§ 301.6 Regulatory areas.

The following areas (see Figure 1) shall be regulatory areas for the purposes of the Convention:

(a) Area 2A includes all waters off the states of California, Oregon, and Washington;

(b) Area 2B includes all waters off British Columbia;

(c) Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (latitude 58°11′57″ N., longitude 136°38′18″ W.), and south and east of a line running 205 true from said light;

(d) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (latitude 57°41′15″ N., longitude 155°35′00″ W.) to Cape Ikolik (latitude 57°17′17″ N., longitude 154°47′18″ W.), then along the Kodiak Island coastline to Cape Trinity (latitude 56°44′50″ N., longitude 154°08′44″ W.), then 140 true;

(e) Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (latitude 54°29′00″ N., longitude 164°20′00″ W.) and south of latitude 54°49′00″ N. in Isanotski Strait;

(f) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in § 301.9 of this part that are east of longitude 172°00′00″ W. and south of latitude 56°20′00″ N.;

(g) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of latitude 56°20′00″ N.;

(h) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in § 301.9 of this part that are east of longitude 171°00′00″ W., south of latitude 58°00′00″ N., and west of longitude 168°00′00″ W.;

(i) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of longitude 168°00′00″ W.;

(j) Subarea 4D–N includes that portion of Area 4D that is north of latitude 62°30′00″ N.;

(k) Area 4E includes all waters in the Bering Sea north and east of the closed area defined in § 301.9 of this part, east of longitude 168°00′00″ W., and south of latitude 65°34′00″ N.

§ 301.7 Fishing periods.

(a) The fishing periods for each regulatory area are set out in the following tables and apply where the catch limits specified in § 301.10 of this part have not been taken.

COMMERCIAL FISHING PERIODS IN REGULATORY AREAS 2A, 2B, 2C, 3A, 3B

2A	2B	2C	3A	3B
7/06 7/19 8/03 8/16	3/01–11/15	6/06–6/07 9/12–* 10/10–*	6/06–6/07 9/12–9/13 10/10–*	6/06–6/07 9/12–9/13 10/10–*

COMMERCIAL FISHING PERIODS IN REGULATORY AREAS 4A, 4B, 4C

4A	4B	4C		
6/06–6/07	6/06–6/07	6/03–6/04	8/02–8/03	10/01–10/02
8/15	6/15	6/05–6/06	8/04–8/05	10/03–10/04
8/30–*	6/17	6/07–6/08	8/06–8/07	10/05–10/06
9/12–9/13	6/19	6/09–6/10	8/08–8/09	10/07–10/08
10/10–*	6/21	6/11–6/12	8/10–8/11	10/09–10/10
	6/23	6/13–6/14	8/12–8/13	10/11–10/12
	6/25	6/15–6/16	8/14–8/15	10/13–10/14
	6/27	6/17–6/18	8/16–8/17	10/15–10/16
	6/29	6/19–6/20	8/18–8/19	10/17–10/18
	7/01	6/21–6/22	8/20–8/21	10/19–10/20
	7/03	6/23–6/24	8/22–8/23	10/21–10/22
	7/05	6/25–6/26	8/24–8/25	10/23–10/24
	7/07	6/27–6/28	8/26–8/27	10/25–10/26
	7/09	6/29–6/30	8/28–8/29	10/27–10/28
	7/11	7/01–7/02	8/30–8/31	10/29–10/30
	7/13	7/03–7/04	9/01–9/02	
	7/15	7/05–7/06	9/03–9/04	
	7/17	7/07–7/08	9/05–9/06	
	7/19	7/09–7/10	9/07–9/08	
	7/21	7/11–7/12	9/09–9/10	
	7/23	7/13–7/14	9/11–9/12	
	7/25	7/15–7/16	9/13–9/14	
	7/27	7/17–7/18	9/15–9/16	
	7/29	7/19–7/20	9/17–9/18	
	7/31	7/21–7/22	9/19–9/20	
	8/02	7/23–7/24	9/21–9/22	
	8/04	7/25–7/26	9/23–9/24	
	8/06	7/27–7/28	9/25–9/26	
	8/08	7/29–7/30	9/27–9/28	
	8/10	7/31–8/01	9/29–9/30	
	8/12			
	8/14			
	8/15–*			
	8/30–*			

COMMERCIAL FISHING PERIODS IN REGULATORY AREAS 4D, 4D–N, 4E

4D	4D–N	4E	
8/15–*	7/01–7/02	5/02–5/04	7/16–7/18
8/30–*	7/03–7/04	5/05–5/07	7/19–7/21
	7/05–7/06	5/08–5/10	7/22–7/24
	7/07–7/08	5/11–5/13	7/25–7/27
	7/09–7/10	5/14–5/16	7/28–7/30
	7/11–7/12	5/17–5/19	7/31–8/02
	7/13–7/14	5/20–5/22	8/03–8/05
	7/15–7/16	5/23–5/25	8/06–8/08
	7/17–7/18	5/26–5/28	8/09–8/11
	7/19–7/20	5/29–5/31	8/12–8/14
	7/21–7/22	6/01–6/03	8/15–8/17
	7/23–7/24	6/04–6/06	8/18–8/20
	7/25–7/26	6/07–6/09	8/21–8/23
	7/27–7/28	6/10–6/12	8/24–8/26
	7/29–7/30	6/13–6/15	8/27–8/29
	7/31–8/01	6/16–6/18	8/30–9/01
	8/02–8/03	6/19–6/21	9/02–9/04
	8/04–8/05	6/22–6/24	9/05–9/07
	8/06–8/07	6/25–6/27	9/08–9/10
	8/08–8/09	6/28–6/30	9/11–9/13
	8/10–8/11	7/01–7/03	9/14–9/16
	8/12–8/13	7/04–7/06	9/17–9/19
		7/07–7/09	9/20–9/22
		7/10–7/12	9/23–9/25
		7/13–7/15	9/26–9/28

*Date to be announced by the Commission.

(b) Each fishing period in Area 2A shall begin at 0800 hours and terminate at 1800 hours Pacific Standard or Pacific Daylight Time, as applicable, on the dates set out in the table in paragraph

(a) of this section, unless the Commission specifies otherwise.

(c) The fishing period in Area 2B shall begin and terminate at 1200 hours Pacific Standard Time, on the dates set out in the table in paragraph (a) of this section, unless the Commission specifies otherwise.

(d) Except as provided in paragraph (e) of this section, each fishing period in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, 4E, and subarea 4D–N shall begin and terminate at 1200 hours Alaska Standard or Alaska Daylight Time, as applicable, on the dates set out in the table in paragraph (a) of this section, unless the Commission specifies otherwise.

(e) The 8/15 fishing period in Area 4A and the 6/15 through 8/14 fishing periods inclusive in Area 4B shall begin at 0800 hours and terminate at 2000 hours Alaska Standard or Alaska Daylight Time, as applicable, unless the Commission specifies otherwise.

(f) [Reserved]

(g) All commercial fishing for halibut in Area 2A shall cease at 1200 hours Pacific Standard Time on October 31.

(h) All commercial fishing for halibut in Area 2B shall cease at 1200 hours Pacific Standard Time on November 15.

(i) All commercial fishing for halibut in Areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E shall cease at 1200 hours Alaska Standard Time on October 31.

§ 301.8 Closed periods.

(a) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in § 301.7 of this part in respect of that area.

(b) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(c) Subject to § 301.17(g) and (h) of this part, this part does not prohibit fishing for any species of fish other than halibut during the closed periods.

(d) Notwithstanding paragraph (c) of this section, no person shall have halibut in his possession while fishing for any other species of fish during the closed periods.

(e) No vessel shall retrieve any halibut fishing gear during a closed period if the vessel has any halibut on board.

(f) A vessel that has no halibut on board may retrieve any halibut fishing gear during the closed period after the operator notifies a fishery officer or representative of the Commission prior to that retrieval.

(g) After retrieval of halibut gear in accordance with paragraph (f) of this section, the vessel shall submit to a hold inspection at the discretion of the fishery officer or representative of the Commission.

(h) No person shall retain any halibut caught on gear retrieved under paragraph (f) of this section.

(i) No person shall possess halibut aboard a vessel in a regulatory area during a closed period unless that vessel is in continuous transit to or within a port in which that halibut may be lawfully sold.

§ 301.9 Closed area.

All waters in the Bering Sea that are north of latitude 54°49′00″ N. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (latitude 54°36′00″ N., longitude 164°55′42″ W.) to a point at latitude 56°20′00″ N., longitude 168°30′00″ W.; thence to a point at latitude 58°21′25″ N., longitude 163°00′00″ W.; thence to Strogonof Point (latitude 56°53′18″ N., longitude 158°50′37″ W.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his possession while in those waters except in the course of a continuous transit across those waters.

§ 301.10 Catch limits.

(a) The total allowable catch of halibut to be taken during the halibut fishing periods specified in § 301.7 of this part shall be limited to the weight expressed in pounds or metric tons shown in the following table:

Regulatory area	Catch limits	
	Pounds	Metric tons
2A	178,750	81
2B	10,000,000	4,536
2C	11,000,000	4,990
3A	26,000,000	11,794
3B	4,000,000	1,814
4A	1,800,000	816
4B	2,100,000	953
4C	700,000	318
4D	665,000	302
4D–N	35,000	16
4E	100,000	45

(b) The Commission shall determine and announce to the public the date on which the catch limit for each regulatory area will be taken and the specific dates during which fishing will be allowed in each regulatory area.

(c) Notwithstanding paragraphs (a) and (b) of this section, Area 2B will close only when all Individual Vessel Quotas assigned by Canada's Department of Fisheries and Oceans are taken, or November 15, whichever is earlier.

(d) If the Commission determines that the catch limit specified in any regulatory area in paragraph (a) of this section would be exceeded in an unrestricted 24-hour, 10-hour, or 12-hour fishing period as specified in § 301.7(b), (c), or (d), the catch limit for that area shall be considered to have been taken, unless fishing period limits are implemented.

(e) Notwithstanding paragraph (a) of this section, Areas 3A and 3B shall both be closed if the catch limit of 30,000,000 pounds (13,608 mt) for the combined areas is taken.

(f) Notwithstanding paragraph (a) of this section, Areas 4A and 4B shall both be closed if the catch limit of 3,900,000 pounds (1,769 mt) for the combined areas is taken.

(g) Notwithstanding paragraph (a) of this section, the portion of Area 4E that is south and east of a line from 58°21′25″ N. latitude, 163°00′00″ W. longitude to Cape Newenham (at 58°39′00″ N. latitude, 162°10′25″ W. longitude) shall be closed to fishing for halibut when the Commission determines that 30 percent of the catch limit for Area 4E has been taken from this portion of Area 4E, except that 50 percent of the unharvested catch limit remaining on August 1 in the portion of Area 4E that is north and west of this line will be available for harvest in the portion of Area 4E that is south and east of this line, subject to the other provisions of this part.

(h) Notwithstanding paragraph (a) of this section, any catch limit remaining in subarea 4D–N at the close of the August 12–13 fishing period, specified in § 301.07 of this part, will be added to the Area 4D catch limit.

(i) When, under paragraphs (b), (c), (d), (e), (f) or (g) of this section, the Commission has announced a date on which the catch limit for a regulatory area will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

§ 301.11 Fishing period limits.

(a) It shall be unlawful for any vessel to retain more halibut than authorized by that vessel's license in any fishing period for which the Commission has announced a fishing period limit.

(b) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut to a commercial fish processor, completely offload all halibut on board said vessel to that processor and ensure that all halibut are weighed and

reported on State fish tickets or Federal catch reports.

(c) The operator of any vessel that fishes for halibut during a fishing period when fishing period limits are in effect must, upon commencing an offload of halibut other than to a commercial fish processor, completely offload all halibut on board said vessel and ensure that all halibut are weighed and reported on State fish tickets or Federal catch reports.

(d) The provisions of paragraph (c) of this section are not intended to prevent retail over-the-side sales to individual purchasers, so long as all the halibut on board is ultimately offloaded and reported.

(e) When fishing period limits are in effect, a vessel's maximum retainable catch will be determined by the Commission based on:

(1) The vessel's overall length in feet and associated length class;

(2) The average performance of all vessels within that class; and

(3) The remaining catch limit.

(f) Length classes are shown in the following table:

Overall length	Vessel class
1–25	A
26–30	B
31–35	C
36–40	D
41–45	E
46–50	F
51–55	G
56–+	H

(g) [Reserved]

(h) Notwithstanding paragraph (e) of this section, all vessels fishing in Area 4C shall be limited to a maximum catch of 10,000 pounds (4.5 mt) of halibut per fishing period.

(i) Notwithstanding paragraph (e) of this section, all vessels fishing in subarea 4D–N shall be limited to a maximum catch of 1,000 pounds (0.45 mt) of halibut per fishing period.

(j) Notwithstanding paragraph (e) of this section, all vessels fishing in Area 4E shall be limited to a maximum catch of 6,000 pounds (2.7 mt) of halibut per fishing period.

(k) A vessel that fishes during a fishing period when fishing period limits are in effect must offload its catch before fishing in any subsequent fishing period.

(l) A vessel that fishes during a fishing period when fishing period limits are in effect will not be allowed to serve as a tender until its catch has been landed and sold.

(m) No vessel that fishes for halibut in a regulatory area for which a fishing period limit is in effect shall fish in any other regulatory area during that fishing period.

§ 301.12 Size limits.

(a) No person shall take or possess any halibut that:

(1) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in Figure 2 of this part; or

(2) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in Figure 2 of this part.

(b) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of the minimum size of the halibut for the purpose of paragraph (a) of this section.

(c) No person on board a vessel fishing for, or tendering, halibut caught in Area 2A shall possess any halibut that has had its head removed.

§ 301.13 Careful release of halibut.

All halibut in excess of a vessel's fishing period limit, when fishing period limits as determined or specified in § 301.11 of this part are in effect, or halibut below the minimum size limit specified in § 301.12 of this part, shall be immediately released and returned to the sea with a minimum of injury by:

(a) Hook straightening outboard of the roller;

(b) Cutting the gangion near the hook; or

(c) Carefully removing the hook by twisting it from the halibut with a gaff.

§ 301.14 Vessel clearance in Area 4.

(a) The operator of any vessel that fishes for halibut in Areas 4A, 4B, 4C, 4D, 4E or subarea 4D–N must obtain a vessel clearance before such fishing in each such area and fishing period that applies, and before the unloading of any halibut caught in said areas and fishing periods, unless specifically exempted in paragraphs (h), (i), (j), or (k) of this section.

(b) The vessel clearances required under paragraph (a) of this section for Areas 4A, 4C, 4D, 4E or subarea 4D–N may be obtained only at Dutch Harbor or Akutan, AK, from a fishery officer of the United States, a representative of the Commission or a designated fish processor.

(c) The vessel clearances required under paragraph (a) of this section for Area 4B may only be obtained at Nazan Bay on Atka Island, AK, from a fishery officer of the United States, a representative of the Commission or a designated fish processor.

(d) The vessel operator shall specify the specific fishing period and regulatory area in which fishing will take place.

(e) Vessel clearances required under paragraph (a) of this section prior to fishing in Area 4 shall be obtained within the 120-hour period before each of the openings in that Area, between 0800 and 1800 hours, local time.

(f) No halibut shall be on board at the time of clearance required by paragraph (e) of this section.

(g) Vessel clearances required under paragraph (a) of this section after fishing in Area 4 shall be obtained within the 120-hour period after each of the closings in that Area, between 0800 and 1800 hours, local time.

(h) Any vessel that is used to fish for halibut only in Area 4B and lands its total annual halibut catch at a port within Area 4B is exempt from the clearance requirements of paragraph (a) of this section.

(i) Any vessel that is used to fish for halibut only in Area 4C and lands its total annual halibut catch at a port within Area 4C is exempt from the clearance requirements of paragraph (a) of this section.

(j) Any vessel that is used to fish for halibut only in Area 4E and lands its total annual halibut catch at a port within Area 4E, or the closed area defined in § 301.9 of this part is exempt from the clearance requirements of paragraph (a) of this section.

(k) Any vessel that is used to fish for halibut only in subarea 4D–N and lands its total annual halibut catch at a port within subarea 4D–N is exempt from the clearance requirements of paragraph (a) of this section.

§ 301.15 Logs.

(a) The operator of any vessel that is 5 net tons (4.5 mt) or greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality.

(b) The log referred to in paragraph (a) of this section shall be:

(1) Separate from other records maintained on board the vessel;

(2) Updated not later than 24 hours after midnight local time for each day fished and prior to the offloading or sale of halibut taken during that fishing period;

(3) Retained for a period of 2 years by the owner or operator of the vessel;

(4) Open to inspection by a fishery officer or any authorized representative of the Commission upon demand; and

(5) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for 5 days following offloading halibut.

(c) The poundage of any halibut that is not sold, but is utilized by the vessel operator, his crew members, or any other person for personal use, shall be recorded in the vessel's log within 24 hours of offloading.

(d) No person shall make a false entry in a log referred to in this section.

§ 301.16 Receipt and possession of halibut.

(a) No person shall receive halibut from a U.S. vessel that does not have the license required by § 301.3 of this part on board.

(b) A person who purchases or otherwise receives halibut from the owner or operator of the vessel from which that halibut was caught, either directly from that vessel or through another carrier, shall record each such purchase or receipt on State fish tickets or Federal catch reports, showing the date, locality, name of vessel, Commission license number (United States), and the name of the person from whom the halibut was purchased or received and the amount in pounds according to trade categories of the halibut.

(c) A commercial fish processor who purchases halibut directly from the owner or operator of a vessel that was engaged in fishing for halibut during a fishing period when fishing periods were in effect must accept and weigh all halibut on board said vessel at the time offloading commences, report on State fish tickets or Federal catch reports the weight of halibut offloaded, and prior to purchasing the halibut, report to NMFS poundage in excess of a fishing period limit.

(d) No person shall make a false entry on a State fish ticket or Federal catch report referred to in paragraphs (b) and (c) of this section.

(e) A copy of the fish tickets or catch reports referred to in paragraphs (b) and (c) of this section shall be:

(1) Retained by the person making them for a period of 2 years from the date the fish tickets or catch reports are made; and

(2) Open to inspection by a fishery officer or any authorized representative of the Commission.

(f) No person shall possess any halibut that he or she knows to have been taken in contravention of this part.

(g) When halibut are delivered to other than a commercial fish processor or primary fish buyer, the records required by paragraphs (b) and (c) of this section shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (e) of this section.

(h) It shall be unlawful to enter a Commission license number on a State fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

§ 301.17 Fishing gear.

(a) No person shall fish for halibut using any gear other than hook and line gear.

(b) No person shall possess halibut taken with any gear other than hook and line gear.

(c) No person shall possess halibut while on board a vessel carrying any trawl nets or fishing pots capable of catching halibut.

(d) All setline or skate marker buoys carried on board or used by any U.S. vessel used for halibut fishing shall be marked with one of the following:

(1) The vessel's name;

(2) The vessel's state license number; or

(3) The vessel's registration number.

(e) The markings specified in paragraph (d) of this section shall be in characters at least 4 inches (10.2 cm) in height and one-half inch (1.3 cm) in width in a contrasting color visible above the water and shall be maintained in legible condition.

(f) All setline or skate marker buoys carried on board or used by a Canadian vessel used for halibut fishing shall be:

(1) Floating and visible on the surface of the water; and

(2) Legibly marked with the identification plate number of the vessel engaged in commercial fishing from which that setline is being operated.

(g) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.5(a) during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(h) No vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.5(a) of this part during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(i) Notwithstanding paragraphs (g) and (h) of this section, the 72-hour fishing restriction preceding a halibut fishing period shall not apply to persons and vessels fishing for halibut in Areas 4B, 4C, 4E and subarea 4D–N as described in § 301.6 (g), (h), (j), and (k) when the closed period prior to the scheduled fishing period is less than 72 hours in duration.

(j) No person shall fish for halibut from a vessel that is equipped with, or that possesses on board, an automated hook stripper.

(k) No person shall possess halibut on a vessel that is equipped with, or that possesses on board, an automated hook stripper.

§ 301.18 Retention of tagged halibut.

(a) Nothing contained in this part prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by a fishery officer.

(b) After examination and removal of the tag by a representative of the Commission or a fishery officer, the halibut:

(1) May be retained for personal use; or

(2) May be sold if it complies with the provisions of § 301.12.

§ 301.19 Supervision of unloading and weighing.

The unloading and weighing of halibut may be subject to the supervision of fishery officers to assure the fulfillment of the provisions of this part.

§ 301.20 Fishing by U.S. treaty Indian tribes.

(a) Except as provided in this section, all regulations of the Commission in this part apply to halibut fishing in subarea 2A–1 by members of U.S. treaty Indian tribes located in the State of Washington.

(b) For purposes of this part, U.S. treaty Indian tribes means the Hoh, Jamestown Klallam, Lower Elwha Klallam, Lummi, Makah, Port Gamble Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.

(c) Subarea 2A–1 includes all waters off the coast of Washington that are north of latitude 46°53′18″ N. and east of longitude 125°44′00″ W., and all inland marine waters of Washington.

(d) Commercial fishing for halibut in subarea 2A–1 is permitted with hook and line gear from March 1 through October 31, or until 176,500 pounds (80.1 mt) is taken, whichever occurs first.

(e) Fishing periods established under this section shall begin and terminate at such times as may be set by treaty Indian tribal regulations.

(f) Ceremonial and subsistence fishing for halibut in subarea 2A–1 is permitted with hook and line gear from January 1 to December 31, and is estimated to take 16,000 pounds (7.3 mt).

(g) The 72-hour fishing restriction preceding the opening of a halibut fishing period specified in § 301.17(h) and (i) of this part shall not apply to U.S. treaty Indian tribes specified in this section while fishing in subarea 2A–1.

(h) No size or bag limits shall apply to the ceremonial and subsistence fishery except that when commercial halibut fishing is prohibited pursuant to paragraph (d) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(i) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale, or sold.

(j) All halibut sold by treaty Indians during the commercial fishing season specified in paragraph (d) of this section shall comply with the provisions of § 301.12.

(k) Any member of a U.S. treaty Indian tribe as defined in paragraph (b) of this section, who is engaged in commercial, or ceremonial and subsistence fishing under this part must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974).

(l) The following table sets forth the fishing areas of each of the 12 U.S. treaty Indian tribes fishing pursuant to this section. Within subarea 2A–1, boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

TRIBE and Boundaries

HOH—Between 47°54′18″ N. lat. (Quillayute River) and 47°21′00″ N. lat. (Quinault River), and east of 125°44′00″ W. long.

Jamestown Klallam—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown Klallam Tribe may fish under rights secured by treaties with the United States.

Lower Elwha Klallam—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha Klallam Tribe may fish under rights secured by treaties with the United States.

Lummi—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89–08 (W.D. Wash. February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.

Makah—North of 48°02′15″ N. lat. (Norwegian Memorial), west of 123°42′30″ W. long., and east of 125°44′00″ W. long.

Port Gamble Klallam—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble Klallam Tribe may fish under rights secured by treaties with the United States.

Quileute—Between 48°07′36″ N. lat. (Sand Point) and 47°31′42″ N. lat. (Queets River), and east of 125°44′00″ W. long.

Quinault—Between 47°40′06″ N. lat. (Destruction Island) and 46°53′18″ N. lat. (Point Chehalis), and east of 125°44′00″ W. long.

Skokomish—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.

Suquamish—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States.

Swinomish—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.

Tulalip—Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in *United States* v. *Washington*, 384 F. Supp. 312 (W.D. Wash. 1974), and particularly at 626 F. Supp. 1531–1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

§ 301.21 Sport fishing for halibut.

(a) No person shall engage in sport fishing for halibut using gear other than a single line with no more than two hooks attached; or a spear.

(b) In all waters off Alaska:

(1) The sport fishing season is from February 1 to December 31;

(2) The daily bag limit is two halibut of any size per person per day.

(c) In all waters off British Columbia:

(1) The sport fishing season is from February 1 to December 31;

(2) The daily bag limit is two halibut of any size per day per person.

(d) In all waters off California, Oregon, and Washington:

(1) The total allowable catch of halibut shall be limited to:

(i) 109,037 pounds (49.5 mt) north of Cape Falcon (45°46′00″ N. latitude), and

(ii) 69,713 pounds (31.6 mt) south of Cape Falcon.

(2) The sport fishing areas, area sub-quotas, fishing dates, and daily bag limits implemented by NMFS are as follows except as modified under the inseason actions in paragraph (d)(3) of this section.

(i) In Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line from the lighthouse on Bonilla Point on Vancouver Island, British Columbia (48°35′44″ N. latitude, 124°43′00″ W. longitude) to the buoy adjacent to Duntze Rock (48°24′55″ N. latitude, 124°44′50″ W. longitude) to Tatoosh Island lighthouse (48°23′30″ N. latitude, 124°44′00″ W. longitude) to Cape Flattery (48°22′55″ N. latitude, 124°43′42″ W. longitude), there is no sub-quota. This area is managed based on a season that is projected to take 35,328 pounds (16.0 mt).

(A) The fishing season is May 2 through July 5, 6 days a week (closed Wednesdays).

(B) The daily bag limit is one halibut of any size per day per person.

(ii) In the area off the north Washington coast, west of the line described in paragraph (d)(2)(i) of this section and north of the Queets River (47°31′42″ N. latitude), the sub-quota is 68,039 pounds (30.9 mt).

(A) The fishing season commences on May 3 and continues 5 days a week (Tuesday through Saturday) through September 30 or until the 68,039 pounds (30.9 mt) sub-quota is estimated to have been taken and the season is closed by the Commission, whichever occurs first.

(B) The daily bag limit is one halibut of any size per day per person.

(C) A closure to sport fishing for halibut is established in a portion of this area about 19.5 nautical miles (36 km) southwest of Cape Flattery. The closed area is defined as the area within a rectangle defined by these four corners: 48°17′00″ N. latitude and 125°10′00″ W. longitude; 48°17′00″ N. latitude and 125°00′00″ W. longitude; 48°05′00″ N. latitude and 125°10′00″ W. longitude; and, 48°05′00″ N. latitude and 125°00′00″ W. longitude.

(iii) In the area between the Queets River, WA, and Cape Falcon, OR (45°46′00″ N. latitude), there is no sub-quota. This area is managed based on a season that is projected to take 5,670 pounds (2.6 mt).

(A) The fishing season is open 1 day per week, on Thursday, on June 2 and June 9.

(B) The daily bag limit is one halibut of any size per day per person.

(iv) In the area off Oregon between Cape Falcon and the California border (42°00′00″ N. latitude), the sub-quota is 67,900 pounds (30.8 mt).

(A) The fishing seasons are:

(*1*) Commencing May 4 and continuing 5 days a week (Wednesday through Sunday) until 53,641 pounds (24.3 mt) are estimated to have been taken and the season is closed by the Commission;

(*2*) Commencing the day following the closure of the season in paragraph (d)(2)(iv)(A)(*1*) of this section, and continuing 7 days a week through August 5, in the area inside the 30-fathom curve nearest to the coastline as plotted on National Ocean Service charts numbered 18520, 18580, and 18600 from Cape Falcon to the California border, or until 2,716 pounds (1.2 mt) are estimated to have been taken (except that any poundage remaining unharvested after the earlier season will be added to this season) and the season is closed by the Commission, whichever is earlier; and

(*3*) August 6 through September 30, 5 days a week (Wednesday through Sunday), or until a total of 67,900 pounds (30.8 mt) for this area are estimated to have been taken and the season is closed by the Commission, whichever is earlier.

(B) The daily bag limit is two halibut, one with a minimum overall size limit of 32 inches (81.3 cm) and the second with a minimum overall size limit of 50 inches (127.0 cm).

(v) In the area off the California coast, there is no sub-quota. This area is managed based on a season that is projected to take 1,813 pounds (0.8 mt).

(A) The fishing season in this area is May 1 through September 30, 7 days a week.

(B) The daily bag limit is one halibut with a minimum overall size limit of 32 inches (81.3 cm).

(3) *Flexible inseason management provisions in Area 2A.* (i) The Regional Director, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), is authorized to modify regulations during the season after determining that such action:

(A) Is necessary to allow allocation objectives to be met; and

(B) Will not result in exceeding the catch limit established preseason for each area.

(ii) Flexible inseason management provisions include, but are not limited to, the following:

(A) Modification of sport fishing periods;

(B) Modification of sport fishing bag limits;

(C) Modification of sport fishing size limits; and

(D) Modification of sport fishing days per calendar week.

(iii) *Notice procedures.* (A) Actions taken under paragraph (d)(3) of this section will be published in the **Federal Register**.

(B) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 800–662–9825 (May through September) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF–FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the Notice to Mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishermen should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(iv) *Effective dates.* (A) Any action issued under paragraph (d)(3)(iii) of this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.

(B) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Director determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after the filing of the action with the **Federal Register**.

(C) Any inseason action issued under paragraph (d)(3) of this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(v) *Availability of data.* The Regional Director will compile in aggregate form all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Fisheries Management Division, 7600 Sand Point Way NE., Seattle, WA.

(4) The Commission shall determine and announce closing dates to the public for any area in which the sub-quotas under paragraph (d)(2) of this section are estimated to have been taken.

(5) When the Commission has determined that a sub-quota under paragraph (d)(2) of this section is estimated to have been taken, and has announced a date on which the season will close, no person shall sport fish for halibut in that area after that date for the rest of the year, unless a reopening of that area for sport halibut fishing is scheduled under paragraph (d)(2) or (d)(3) of this section, or announced by the Commission.

(e) Any minimum overall size limit in this section shall be measured in a straight line passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail.

(f) No person shall fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of minimum size or the number of fish caught, possessed, or landed.

(g) The possession limit for halibut in the waters off the coast of Alaska is two daily bag limits.

(h) The possession limit for halibut in the waters off British Columbia, Washington, Oregon, and California is the same as the daily bag limit.

(i) Any halibut brought aboard a vessel and not immediately returned to the sea with a minimum of injury will be included in the daily bag limit of the person catching the halibut.

(j) No person shall be in possession of halibut on a vessel while fishing in a closed area.

(k) No halibut caught by sport fishing shall be offered for sale, sold, traded, or bartered.

(l) No halibut caught in sport fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(m) The operator of a charter vessel shall be liable for any violations of this part committed by a passenger aboard said vessel.

§ 301.22 Previous regulations superseded.

This part shall supersede all previous regulations of the Commission, and this part shall be effective each succeeding year until superseded.

BILLING CODE 3510–22–P

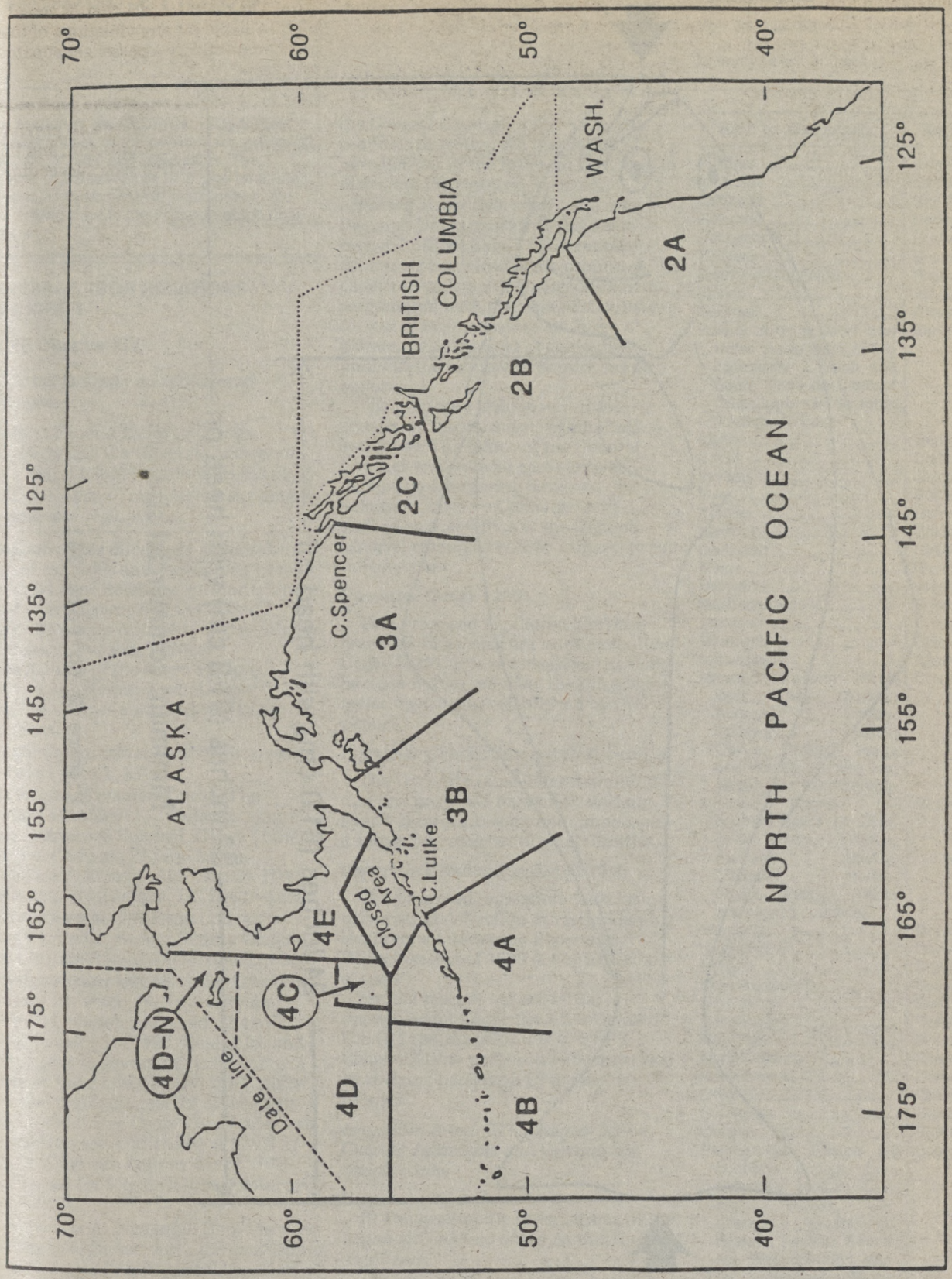

Figure 1 to Part 301

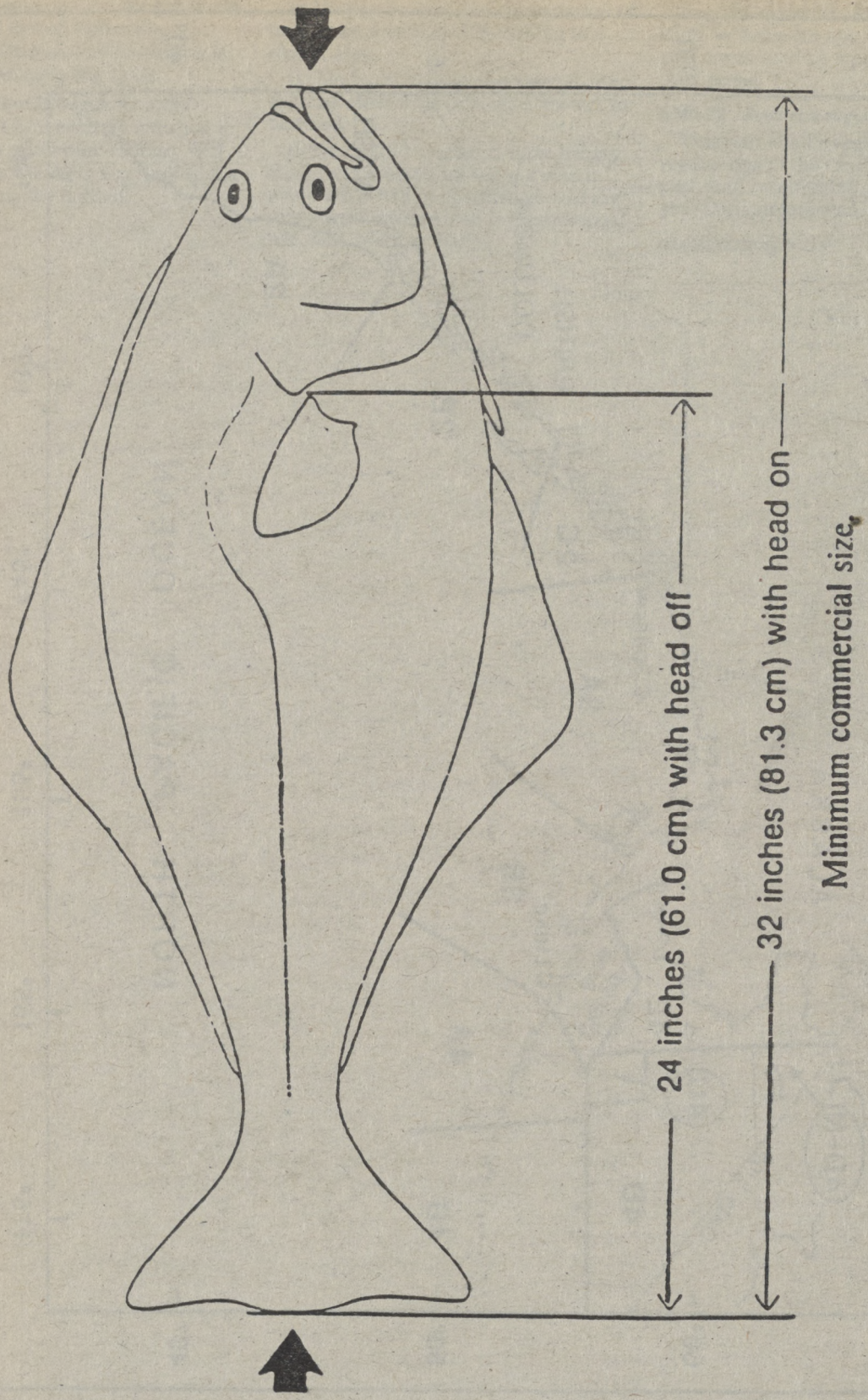

Figure 2 to Part 301

[FR Doc. 94–10410 Filed 4–29–94; 8:45 am]
BILLING CODE 3510–22–C

Proposed Rules

Federal Register
Vol. 59, No. 83
Monday, May 2, 1994

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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

Regional Offices; Jurisdictional Changes

AGENCY: Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority.

ACTION: Notice of proposed amendments to rules and regulations.

SUMMARY: This document proposes to amend the rules and regulations of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority to provide for changes in the geographical jurisdictions of the seven Regional Directors concerning unfair labor practice charges and representation petitions.

DATES: Comments should be received on or before June 1, 1994.

ADDRESSES: Comments should be addressed to David L. Feder, Acting Deputy General Counsel, Office of the General Counsel, Federal Labor Relations Authority, 607 14th St. NW, suite 210, Washington, DC 20424–0001.

FOR FURTHER INFORMATION CONTACT: David L. Feder, Acting Deputy General Counsel, (202) 482–6680 extension 203.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority and General Counsel published, at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority and the General Counsel under chapter 71 of title 5 of the United States Code. These rules and regulations are required by title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 et seq. (1993).

Appendix A, paragraph (f) of the rules and regulations sets forth the geographic jurisdictions of the Regional Directors of the Authority. In the best interest of maximizing the resources within the Office of the General Counsel and efficient and effective case processing, the General Counsel of the Authority proposes to realign the geographical jurisdictions of the Regional Directors to distribute the caseload, based on historic perspective, among the seven Regional Directors so that the seven regional offices have a substantially similar size caseload. This proposed change in geographic jurisdiction is in conjunction with the General Counsel review of regional office staffing patterns with the goal of achieving parity in the number of employees per region.

The proposed change will result in equalizing the work per regional office employee. The Office of the General Counsel will transfer cases between regions on a recurring basis, as necessary, based on caseload and staffing so that Office of the General Counsel resources will be utilized to the fullest extent.

Executive Order 12291

This proposed regulation has been reviewed in accordance with Executive Order 12291. It is not classified as major because it does not meet the criteria for major regulations established by the Order.

Regulatory Flexibility Act Certification

The General Counsel has determined that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

The proposed regulation contains no information collection or recordkeeping requirement under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 et seq.)

For the reasons set out in the preamble and under the authority of 5 U.S.C. 7134, Appendix A to 5 CFR Chapter XIV is proposed to be amended by revising paragraph (f) to read as follows:

Appendix A to 5 CFR Chapter XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(f) The geographic jurisdictions of the Regional Directors of the Authority are as follows:

State or other locality	Regional office
Alabama	Atlanta.
Alaska	Denver.
Arizona	Denver.
Arkansas	Dallas.
California	San Francisco.
Colorado	Denver.
Connecticut	Boston.
Delaware	Boston.
District of Columbia	Washington, DC.
Florida	Atlanta.
Georgia	Atlanta.
Hawaii and all land and water areas west of the continents of North and South America (except coastal islands) to long. 90 degrees East.	San Francisco.
Idaho	Denver.
Illinois	Chicago.
Indiana	Chicago.
Iowa	Chicago.
Kansas	Denver.
Kentucky	Chicago.
Louisiana	Dallas.
Maine	Boston.
Maryland	Washington, DC.
Massachusetts	Boston.
Michigan	Chicago.
Minnesota	Chicago.
Mississippi	Atlanta.
Missouri, Eastern (Scotland, Knox, Monroe, Audrain, Shelby, Callaway, Maries, Osage, Pulaski, Texas and Howell counties and all counties east thereof).	Chicago.
Missouri, Western (all counties west of Scotland, Knox, Monroe, Audrain, Shelby, Callaway, Maries, Osage, Pulaski, Texas and Howell counties).	Denver.
Montana	Denver.
Nebraska	Denver.
Nevada	Denver.
New Hampshire	Boston.
New Jersey	Boston.
New Mexico	Denver.
New York	Boston.
North Carolina	Atlanta
North Dakota	Denver.
Ohio	Chicago.
Oklahoma	Dallas.
Oregon	San Francisco.
Pennsylvania, Eastern (all counties except Erie, Crawford, Mercer, Lawrence, Beaver, Allegheny, Washington, Greene, Fayette, Somerset, Westmoreland, Warren, Indiana, Butler, Armstrong, Clarion, Venango, Forest, Cambia, Elk and McKean).	Boston.

State or other locality	Regional office
Pennsylvania, Western (Erie, Crawford, Mercer, Lawrence, Beaver, Allegheny, Washington, Greene, Fayette, Somerset, Westmoreland, Warren, Indiana, Butler, Armstrong, Clarion, Venango, Forest, Cambia, Elk and McKean counties).	Chicago.
Puerto Rico	Atlanta.
Rhode Island	Boston.
South Carolina	Atlanta.
South Dakota	Denver.
Tennessee	Atlanta.
Texas	Dallas.
Utah	Denver.
Vermont	Boston.
Virginia	Washington, DC.
Washington	San Francisco.
West Virginia	Chicago.
Wisconsin	Chicago.
Wyoming	Denver.
Virgin Islands	Atlanta.
Panama/limited FLRA jurisdiction.	Dallas.
All land and water areas east of the continents of North and South America to long 90 degrees E., except the Virgin Islands, Panama (limited FLRA jurisdiction), Puerto Rico and coastal islands.	Chicago.

(5 U.S.C. 7134)

For the Authority:

Jean McKee,

Chairman.

Pamela Talkin,

Member.

Tony Armendariz,

Member.

For the General Counsel:

Joe Swerdzewski,

General Counsel.

[FR Doc. 94–10369 Filed 4–29–94; 8:45 am]

BILLING CODE 6727–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 93–101–1]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, would be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables would be required to undergo prescribed treatments for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. This proposed action would provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

We are also proposing to make several minor changes to the regulations for the sake of clarity.

DATES: Consideration will be given only to comments received on or before June 1, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–101–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Frank E. Cooper or Mr. Peter Grosser, Senior Operations Officers, Port Operations, Plant Protection and Quarantine, APHIS, USDA, room 635, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8295.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of injurious insects that are new to or not widely distributed within and throughout the United States.

We are proposing to amend the regulations to allow additional fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables has been prohibited because of the risk that the fruits and vegetables could introduce injurious insects into the United States. We are proposing to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses [1] that indicate the fruits or vegetables can be imported under certain conditions without significant pest risk.

All of the fruits and vegetables included in this document would be subject to the requirements in § 319.56–6 of the regulations. Section 319.56–6 provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be subject to inspection, disinfection, or both, at the port of first arrival, as may be required by a U.S. Department of Agriculture (USDA) inspector to detect and eliminate plant pests. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is infested with fruit flies or other dangerous plant pests and an inspector determines that it cannot be cleaned by disinfection or treatment.

Some of the fruits and vegetables proposed for importation would be required to undergo prescribed treatments for fruit flies or other insect pests as a condition of entry, or to meet other special conditions.

The proposed conditions of entry, which are discussed in greater detail below, appear adequate to prevent the introduction and dissemination of injurious plant pests by the importation of fruits and vegetables from certain foreign countries and localities into the United States.

Subject to Inspection and Treatment Upon Arrival

We are proposing to allow the following fruits and vegetables to be imported into the United States from the country or locality indicated in accordance with § 319.56–6 and all other applicable requirements of the regulations:

[1] Information on these pest risk analyses and any other pest risk analysis referred to in this document may be obtained by writing to the person listed under FOR FURTHER INFORMATION CONTACT.

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Artichoke, globe	*Cynara scolymus*	Immature flower head.
Belize	Mint	*Mentha* spp	Above ground parts.
Indonesia	Dasheen	*Colocasia* spp., *Alocasia* spp., and *Xanthosoma* spp.	Tuber.
Jamaica	Ivy gourd	*Coccinia grandis*	Fruit.
	Pointed gourd	*Trichosanthes dioica*	Fruit.
Mexico	Tepeguaje	*Leucaena* spp.	Fruit.
Peru	Arugula	*Eruca sativa*	Leaf and stem.
	Chervil	*Anthriscus* spp.	Leaf and stem.
	Lemongrass	*Cymbopogon* spp.	Leaf and stem.
	Mustard greens	*Brassica juncea*	Leaf.
South Africa	Artichoke, globe	*Cynara scolymus*	Immature flower head.
Spain	Tomato	*Lycopersicon esculentum*	Green fruit.

We also propose to prohibit the entry of dasheen from Indonesia into Guam, to prevent the introduction of dasheen mosaic virus. Cartons in which dasheen from Indonesia are packed must be stamped "Not for distribution in Guam."

Except for dasheen from Indonesia, pest risk analyses conducted by the Animal and Plant Health Inspection Service (APHIS) have shown that the fruits and vegetables listed above are not attacked by fruit flies or other injurious plant pests, either because they are not hosts to the pests or because the pests are not present in the country or locality of origin. In addition, we have determined that any other injurious plant pests that might be carried by the listed fruits or vegetables would be readily detectable by a USDA inspector. Therefore, the provisions in § 319.56–6 concerning inspection, disinfection, or both, at the port of first arrival, appear adequate to prevent the introduction into the United States of injurious plant pests by the importation of these fruits and vegetables.

Subject to Inspection and Treatment Upon Arrival; Additional Conditions

In addition to the fruits and vegetables listed above, we are proposing to allow the following fruits and vegetables to be imported into the United States. These commodities, like the fruits and vegetables mentioned above, would be imported into the United States in accordance with § 319.56–6 and all other applicable requirements of the regulations. However, in order to prevent the spread of certain injurious plant pests, we are attaching additional conditions to their proposed importation. These additional conditions, which are explained below, appear to be adequate to prevent the introduction into the United States of injurious plant pests by the importation of these fruits and vegetables.

Tomatoes from Spain. We are proposing to allow pink or red tomatoes (fruit) (*Lycopersicon esculentum*) from the Almeria province of Spain to be imported into the United States under certain conditions. Though pink and red tomatoes are a recorded host of the Mediterranean fruit fly (Medfly), which is known to occur in Spain, we have determined that tomatoes grown under certain conditions in the Almeria Province of Spain can be imported into the United States without presenting a significant risk of introducing Medfly. We believe the multiple safeguards discussed below would be adequate to guard against the introduction of Medfly with the pink or red tomatoes. (As shown in the list above, we are proposing to allow green tomatoes to be imported into the United States from all of Spain, subject only to requirements under § 319.56–6 of the regulations and all other applicable requirements of the regulations.)

We are proposing to allow pink or red tomatoes grown in the Almeria Province to be imported into the United States because Almeria is the only province the Spanish Government has agreed to regulate as follows. Pink or red tomatoes from Almeria could be shipped from Spain only from December 1 though April 30, and only if they were grown in greenhouses registered with and inspected by the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF). Beginning 2 months prior to shipping and continuing through April 30, MAFF would be required to set and maintain Medfly traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF would be required to place Medfly traps at a rate of four traps per square kilometer. All traps would have to be checked every 7 days.

Capture of a single Medfly in a registered greenhouse would immediately cancel exports from that greenhouse until the source of infestation is determined, all flies are eradicated, and measures are taken to preclude any future infestation. Capture of a single fly within 2 kilometers of a registered greenhouse would necessitate increasing trap density in order to determine whether there is a reproducing population in the area or if the single fly had been introduced accidentally. Capture of two flies within 2 kilometers of a registered greenhouse and within a 1-month time period would cancel exports from all registered greenhouses within 2 kilometers of the find, until the source of infestation is determined and all flies are eradicated.

We would require pink or red tomatoes to be packed within 24 hours of harvest, to be safeguarded by a flyproof mesh screen or plastic tarpaulin in transit to the packing house and while awaiting packing, and to be packed in flyproof containers for transit to the airport and subsequent shipping to the United States.

MAFF would be responsible for export certification inspection and issuance of phytosanitary certificates. The phytosanitary certificates would be required to bear the following declaration: "These tomatoes were grown in registered greenhouses in Almeria Province in Spain." These phytosanitary certificates would be required to accompany any shipment of such tomatoes.

Treatment Required

The fruits and vegetables listed below are attacked by the Medfly or other injurious insects, as specified below, in their country or locality of origin. Visual inspection cannot be relied upon to detect the insects, but the fruits and vegetables can be treated to destroy the insects. Therefore, we propose to allow these fruits and vegetables to be imported into the United States, or specified parts of the United States, only if they have been treated in accordance with the Plant Protection and Quarantine (PPQ) Treatment Manual, which has been incorporated by reference into the Code of Federal Regulations at 7 CFR 300.1.

In addition to requiring the treatment listed below for litchi imported from Taiwan, we also propose to prohibit its entry into Florida, to prevent introduction of the pest *Eriophyes lichtii*. Cartons in which litchi from Taiwan are packed must be stamped "Not for distribution in FL."

We would revise the PPQ Treatment Manual to show that treatments are required as follows for the fruits and vegetables listed below:

Country	Common name, Botanical name, and plant part(s)
Ecuador	Blueberry, *Vaccinium* spp., Fruit. Fumigation as follows for Medfly: With methyl bromide at NAP—chamber or tarpaulin: *32 g/m³ (2 lb/1000 ft³) for 3½ hours at 21 °C (70 °F) or above, with minimum gas concentrations of:* 26g (26 oz) at ½ hour after fumigation begins. 22g (22 oz) at 2 hours after fumigation begins. 21g (21 oz) at 3½ hours after fumigation begins. *32 g/m³ (2 lb/1000 ft³) for 3½ hours at 18–20.5 °C (6569 °F), with minimum gas concentrations of:* 26g (26 oz) at ½ hour after fumigation begins. 22g (22 oz) at 2 hours after fumigation begins. 19g (19 oz) at 3½ hours after fumigation begins. (Fruit must be at the indicated temperature at start of fumigation.)
Israel	Cactus, *Opuntia* spp., Fruit. Fumigation as follows for Medfly: With methyl bromide at NAP—chamber or tarpaulin: *32 g/m³ (2 lb/1000 ft³) for 3½ hours at 21 °C (70 °F) or above, with minimum gas concentrations of:* 26g (26 oz) at ½ hour after fumigation begins. 21g (21 oz) at 2 hours after fumigation begins. 21g (21 oz) at 3½ hours after fumigation begins. (Fruit must be at the indicated temperature at start of fumigation.)
Mexico	Cherry, *Prunus avium*, Fruit. Cold treatment as follows for fruit flies of the genus *Anastrepha:* 18 days at 0.55 °C (33 °F) or below. 20 days at 1.11 °C (34 °F) or below. 22 days at 1.66 °C (35 °F) or below. (Pulp of the fruit must be at or below the indicated temperature at time of beginning treatment.)
Peru	Blueberry, *Vaccinium* spp., Fruit. Fumigation for Medfly as set forth above for blueberries from Ecuador.
Taiwan	Litchi, *Litchi chinensis*, Fruit. Cold treatment as follows for fruit flies of the genus *Bactrocera* and for *Conopomorpha sinensis:* 15 days at 1 °C (33.8 °F) or below. 18 days at 1.39 °C (34.5 °F) or below (Pulp of the fruit must be at or below the indicated temperature at time of beginning treatment.)
Thailand	Asparagus, *Asparagus officinalis*, Shoot. Fumigation as follows for *Scirtothrips dorsalis:* With methyl bromide at NAP—chamber or tarpaulin: *40 g/m³ (2.5 lb/1000 ft³) for 2 hours at 26.5 °C (80 °F) or above, with minimum gas concentrations of:* 32g (oz) at ½ hour after fumigation begins 24g (oz) at 2 hours after fumigation begins *48 g/m³ (3 lb/1000 ft³) for 2 hours at 21–26 °C (70–79 °F), with minimum gas concentrations of:* 38g (oz) at ½ hour after fumigation begins. 29g (oz) at 2 or hours after fumigation begins. *64 g/m³ (4 lb/1000 ft³) for 2 hours at 15.5–20.5 °C (60–69 °F), with minimum gas concentrations of:* 48g (oz) at ½ hour after fumigation begins. 38g (oz) at 2 or hours after fumigation begins. (Fruit must be at the indicated temperature at start of fumigation.)
Uruguay	Plum, *Prunus domestica*, Fruit. Cold treatment as follows for Medfly and fruit flies of the genus *Anastrepha.* 11 days at 0 °C (32 °F) or below. 13 days at 0.55 °C (33 °F) or below. 15 days at 1.11 °C (34 °F) or below. 17 days at 1.66 °C (35 °F) or below. (Pulp of the fruit must be at or below. the indicated temperature at time of beginning treatment.)

The treatments described above have been determined to be effective against the specified insects. This determination is based on research evaluated and approved by the Department. A bibliography and additional information on this research may be obtained from the Hoboken Methods Development Center, PPQ, APHIS, USDA, 209 River Street, Hoboken, NJ, 07030.

Fruits and vegetables required to be treated for fruit flies would be restricted to North Atlantic ports of arrival if treatment has not been completed before the fruits and vegetables arrive in the United States. Climatic conditions at North Atlantic ports are unsuitable for the fruit flies listed above. Therefore, in the unlikely event that any fruit flies escape before treatment, they will not become established pests in the United States. North Atlantic ports are: Atlantic Ocean ports north of and including Baltimore; ports on the Great Lakes and St. Lawrence Seaway; Canadian border ports on the North Dakota border and east of North Dakota; and, for air shipments, Washington, DC (including Baltimore-Washington International and Dulles International airports).

Pest risk analyses conducted by APHIS have determined that any other

injurious plant pests that might be carried by the fruits and vegetables listed above would be readily detectable by a USDA inspector. As noted, the fruits and vegetables would be subject to inspection, disinfection, or both, at the port of first arrival, in accordance with § 319.56–6.

Use of Methyl Bromide

Methyl bromide is currently in widespread use as a fumigant. It is prescribed as a treatment for three of the commodities included in this proposal (blueberries from Ecuador and Peru, cactus from Israel, and asparagus from Thailand). The environmental effects of using methyl bromide, however, are being scrutinized by international, Federal, and State agencies. The U.S. Environmental Protection Agency (EPA), based on its evaluation of data concerning the ozone depletion potential of methyl bromide, published a notice of final rulemaking in the **Federal Register** on December 10, 1993 (58 FR 65018–65082). This rulemaking freezes methyl bromide production at 1991 levels and requires the phasing out of domestic use of methyl bromide by the year 2001. APHIS is studying the effectiveness and environmental acceptability of alternative treatments to prepare for the eventual unavailability of methyl bromide fumigation. Our current proposal assumes the continued availability of methyl bromide for use as a fumigant for at least the next few years.

Miscellaneous

We are also proposing to make several minor changes to the fruit and vegetable regulations for the sake of clarity. In § 319.56–2t, we are proposing to clarify prohibitions on imports into the United States of ginger from the Cook Islands and dasheen from South Korea. For both commodities, we propose to specify that their packing containers be stamped with notices stating that the commodities are not to be distributed in certain areas of the United States. These areas are already listed in the regulations.

Also in § 319.56–2t, under the entries for Israel and Mexico, we are proposing to change the listed common name for *Eruca sativa* from "Garden rocket" to "Arugula."

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would amend the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables has been prohibited because of the risk that they could introduce injurious plant pests into the United States. This proposed rule would revise the status of certain commodities from certain countries and localities, allowing their importation into the United States for the first time.

Our proposed changes are based on biological risk analyses that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The risk analyses indicate that the fruits or vegetables listed in this proposed rule could, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, would be subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables in this proposal would be required to undergo mandatory treatment for fruit flies or other injurious insects as a condition of entry, or to meet other special conditions. Thus, our proposed action would provide the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables.

Of the fruits and vegetables proposed for importation into the United States, domestic production and related import information is available only for artichokes, asparagus, blueberries, sweet cherries, dasheens, plums, and pink and red tomatoes.

We have used both published elasticities and price flexibilities to estimate the potential economic effects of allowing artichokes, asparagus, blueberries, sweet cherries, dasheens, plums, and pink and red tomatoes to be imported into the United States; both examine the relationship between changes in supply and subsequent changes in price.

Domestic production and import information was not available for the other commodities that could be imported into the United States under this proposal, because these other commodities are not produced on a large scale domestically. We anticipate, therefore, that allowing these other commodities to be imported into the United States would not have a significant economic impact on domestic producers.

Artichokes

In 1987, 67 domestic producers harvested artichokes; all but one were in California. It is likely that most of these producers would be classified as small entities using Small Business Administration (SBA) criteria (annual gross receipts of $0.5 million or less). In 1992, domestic producers harvested 118 million pounds of artichokes for the fresh market, with an estimated value of $39.2 million.

This proposed rule would allow artichokes to be imported into the United States from Argentina and South Africa under certain conditions. Argentina produces approximately 165 million pounds of artichokes annually. We estimate that Argentina could export to the United States about 44,000 pounds of artichokes per year over the next three years. This volume of artichoke imports would constitute about 2.0 percent of current total imports to the United States, less than 0.10 percent of current domestic production, and less than 0.10 percent of the current total artichoke supply in the United States (domestic and imports).

Assuming that a less than 0.10 percent increase in the supply of artichokes would lead to an approximately 0.12 percent decrease in the domestic price of artichokes (using the price elasticity for fresh vegetables, −0.320), we estimate that this increase in supply would result in a price decrease of about $0.038 per hundredweight (cwt), or $0.00038 per pound, from an original price of $33.40 per cwt. As a result of the price decrease, there could be a decrease in the total revenue of domestic artichoke producers of about $45,000, roughly 0.12 percent of their total revenue of $39.2 million. We anticipate, therefore, that allowing artichokes to be imported into the United States from Argentina would not have a significant economic impact on domestic producers.

Allowing artichokes to be imported from South Africa would have an even smaller impact on domestic producers. Production data for South Africa is not available. South Africa's total exports of artichokes were less than 2,000 pounds in 1991 and less than 700 pounds in 1992. Even if South Africa exported 2,000 pounds annually to the United States, which is unlikely, the price decrease would be negligible, as would be the decrease in total revenue.

Therefore, allowing artichokes to be imported from South Africa also would not have a significant economic impact on domestic artichoke producers.

Asparagus

In 1987, 3,033 domestic producers harvested asparagus. It is likely that most of these producers would be classified as small entities by SBA standards. In 1992, domestic producers harvested 135 million pounds of asparagus for the fresh market, with an estimated value of $116 million.

This proposed rule would allow asparagus to be imported into the United States from Thailand under certain conditions. In 1992, Thailand produced approximately 26.5 million pounds of asparagus and exported 5.5 million pounds. Japan imported 80 percent of Thailand's asparagus exports (4.4 million pounds), with the remaining 20 percent imported by five other countries. Currently, there is no reported excess supply of asparagus in Thailand.

We expect annual asparagus imports into the United States from Thailand would be minimal, possibly 220,000 pounds, as a result of this rule. This volume of asparagus would constitute about 0.38 percent of current total imports to the United States, about 0.16 percent of current domestic production, and about 0.11 percent of the current total asparagus supply in the United States.

Assuming that an 0.11 percent increase in the supply of asparagus would lead to a decrease of about 0.36 percent in the domestic price of asparagus (using the price elasticity for fresh vegetables, −0.320), we estimate that this increase in supply would result in a price decrease of about $0.31 per cwt, or $0.0031 per pound, from an original price of $86.00 per cwt. As a result of the price decrease, there could be a decrease in total revenue of domestic asparagus producers of about $415,000, roughly 0.36 percent of the original total revenue of $116 million. We anticipate, therefore, that allowing asparagus to be imported from Thailand would not have a significant economic impact on domestic asparagus producers.

Blueberries

In 1987, 3,911 farms in 36 states harvested 109.4 million pounds of cultivated blueberries. Additionally, 501 farms in six of the same states harvested 32.6 million pounds of wild blueberries. It is likely that most of these producers would be classified as small entities by SBA standards. In 1992, domestic producers harvested 44.7 million pounds of blueberries for the fresh market, with an estimated value of $48.0 million.

This proposed rule would allow blueberries to be imported into the United States from Ecuador and Peru under certain conditions. Blueberry production and export data are not available for either Ecuador or Peru. Blueberries are not a formal crop in either country; they only grow wild. There is limited local consumption near the production areas. We anticipate that an insignificant amount of blueberries, if any, would be exported to the United States from either country as a result of this proposal. We anticipate, therefore, that allowing blueberries to be imported from Ecuador and Peru would not have a significant economic impact on domestic blueberry producers.

Sweet Cherries

In 1987, 7,171 domestic producers harvested sweet cherries. It is likely that most of these producers would be classified as small entities by SBA standards. In 1992, domestic producers harvested 191 million pounds of sweet cherries produced for the fresh market, with an estimated value of $115 million.

This proposed rule would allow sweet cherries to be imported into the United States from Mexico. In 1992, Mexico produced approximately 225,000 pounds of cherries, both sweet and sour. We anticipate that any cherry imports from Mexico as a result of this proposal would be minimal, since presently, most of Mexico's cherry production is consumed locally. However, in the unlikely event that Mexico exported into the United States 225,000 pounds of sweet cherries, it would constitute only about 4.9 percent of current total imports, about 0.12 percent of current U.S. production and about 0.12 percent of the current total sweet cherry supply in the United States (domestic and imports).

Assuming that an 0.12 percent increase in the supply of sweet cherries would lead to a decrease of about 0.054 percent in the domestic price (using the price flexibility for sweet cherries, −0.470), we estimate that this increase in supply would result in a price decrease of about $0.65 per ton, or $0.00032 per pound, from an original price of $1,200 per ton. As a result of the price decrease, there could be a decrease in total revenue of sweet cherry producers of about $62,000, which is roughly 0.054 percent of the original total revenue of $115 million. Therefore, we anticipate that allowing sweet cherries to be imported from Mexico would not have a significant economic impact on domestic sweet cherry producers.

Dasheen (Taro)

In 1987, 191 domestic producers harvested taro, 187 in Hawaii. It is likely that most of these producers would be classified as small entities by SBA standards. In 1991, domestic producers harvested 7.0 million pounds of taro for the fresh market, with an estimated value of $3.0 million.

This proposed rule would allow taro to be imported into the United States from Indonesia. Production and export data for taro are not available for Indonesia. Taro consumption is limited mostly to the local areas, although Indonesia exports small quantities to Japan, Hong Kong, Korea, Malaysia, Singapore and Taiwan. We anticipate that very little, if any, taro would be exported to the United States as a result of this rule. We anticipate, therefore, that allowing taro to be imported from Indonesia would not have a significant economic impact on domestic taro producers.

Plums

In 1987, 8,789 domestic producers harvested plums and prunes. It is likely that most of these producers would be classified as small entities by SBA standards. In 1992, domestic producers harvested 537 million pounds of plums and prunes for the fresh market, with an estimated value of $67.7 million.

This proposed rule would allow plums to be imported into the United States from Uruguay. Plum production and export data is not available for Uruguay, and we anticipate that an insignificant amount of plums would be exported to the United States as a result of this rule. Consequently, we anticipate that allowing plums to be imported from Uruguay would not have a significant economic impact on domestic plum producers.

Tomatoes

In 1987, 14,542 domestic producers harvested tomatoes. It is likely that most of these producers would be classified as small entities by SBA standards. In 1992, domestic producers harvested 3.6 billion pounds of tomatoes for the fresh market, with an estimated value of $1.3 billion.

This proposed rule would allow pink and red tomatoes to be imported into the United States from the Almeria Province of Spain if they meet with the stringent growing and shipping requirements outlined above. Annual production in the Almeria Province of Spain averages between 4.4 million and 6.6 million pounds. Spanish officials

anticipate that annual tomato exports to the United States will range from 440,000 to 660,000 pounds and will occur from December to April.

If the volume of tomatoes to be imported from the Almeria Province were to reach 660,000 pounds, it would constitute about 0.15 percent of current total imports to the United States, about 0.018 percent of current domestic production and about 0.016 percent of the current total tomato supply in the United States (domestic and imports).

Assuming that an 0.016 percent increase in the supply of tomatoes would lead to a decrease of about 0.046 percent in the domestic price (using the price flexibility for tomatoes, −0.355), we estimate that this increase in supply would result in a price decrease of about $0.017 per cwt, or $0.00017 per pound, from an original price of $36.30 per cwt. As a result of the price decrease, there could be a decrease in total revenue of tomato producers of about $600,000, which is roughly 0.046 percent of the original total revenue of § 1.3 billion. Therefore, we anticipate that allowing pink or red tomatoes to be imported from Almeria, Spain would not have a significant economic impact on domestic tomato producers.

The aggregate economic impact of this proposed rule is expected to be positive. U.S. consumers would benefit from a greater availability of fruits and vegetables. U.S. importers would also benefit from a greater availability of fruits and vegetables to import. It is not likely that any U.S. producers, large or small, of fruits and vegetables would be affected in a significant economic way by the easing of importation restrictions on these particular commodities.

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

Executive Order 12778

This proposed rule would allow certain fruits and vegetables to be imported into the United States from certain parts of the world. If this proposed rule is adopted, State and local laws and regulations regarding the importation of fruits and vegetables under this rule would be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this proposed rule. The assessment provides a basis for the conclusion that the importation of fruits and vegetables under the conditions specified in this proposed rule would not present a significant risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384, August 28, 1979, and 44 FR 51272–51274, August 31, 1979).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, title 7, chapter III, of the Code of Federal Regulations would be amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would be revised to read as follows:

Authority: 7 U.S.C. 150ee, 161, 162; 7 CFR 2.17, 2.51, and 371.2(c).

2. In § 300.1, paragraph (a) would be revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) The Plant Protection and Quarantine Treatment Manual, which was revised and reprinted November 30, 1992, and includes all revisions through _____, has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450; 21 U.S.C. 136 and 136a; 7 CFR 2.17, 2.51, and 371.2(c).

4. In § 319.56–2t, the table would be amended by adding, in alphabetical order, the following:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
Argentina	Artichoke, globe	*Cynara scolymus*	Immature flower head.
*	*	*	*
Belize:			

Country/locality	Common name	Botanical name	Plant part(s)
* * *	* * *	* * *	
	Mint	*Mentha* spp.	Above ground parts.
* * *	* * *	* * *	
Indonesia and	Dasheen	*Colocasia* spp., *Xanthosoma* spp.	*Alocasia* spp., and Tuber (Prohibited entry into Guam due to dasheen mosaic virus. Cartons in which dasheen is packed must be stamped "Not for distribution in Guam.") .
* * *	* * *	* * *	
Jamaica:			
* * *	* * *	* * *	
	Ivy gourd	*Coccinia grandis*	Fruit.
* * *	* * *	* * *	
	Pointed gourd	*Trichosanthes dioica*	Fruit.
* * *	* * *	* * *	
Mexico:			
* * *	* * *	* * *	
	Tepeguaje	*Leucaena* spp.	Fruit.
* * *	* * *	* * *	
Peru:			
	Arugula	*Eruca sativa*	Leaf and stem
* * *	* * *	* * *	
	Chervil	*Anthriscus* spp.	Leaf and stem.
* * *	* * *	* * *	
	Lemongrass	*Cymbopogon* spp.	Leaf and stem
	Mustard greens	*Brassica juncea*	Leaf.
* * *	* * *	* * *	
South Africa	Artichoke, globe	*Cynara scolymus*	Immature flower head.
* * *	* * *	* * *	
Spain	Tomato	*Lycopersicon esculentum*	Green fruit (pink or red fruit from Almeria Province may be imported only in accordance with § 319.56–2cc).

* * * * *

5. In § 319.56–2t, the table would be amended for the Cook Islands and South Korea entries, under the heading *Plant Part(s)*, by adding a sentence to each as follows:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
* * *	* * *	* * *	
Cook Islands:			
* * *	* * *	* * *	
	Ginger	* * *	* * * Cartons in which ginger is packed must be stamped "Not for distribution in PR, VI, or Guam.")
* * *	* * *	* * *	
South Korea:			

Country/locality	Common name	Botanical name	Plant part(s)
* * *	* * *	* * *	* * *
Dasheen	* * *	* * * Cartons in which dasheen is packed must be stamped "Not for distribution in Guam.".	

* * * * *

6. In § 319.56–2t, the table would be amended for the Israel and Mexico entries, under the heading *Common name*, by removing the word "Garden Rocket" from both entries and adding "Arugula" in its place in both entries.

7. In § 319.56–2x, paragraph (a), the table would be amended by adding, in alphabetical order, the following:

§ 319.56–2x Administrative instructions: conditions governing the entry of certain fruits and vegetables for which treatment is required.

(a) * * *

Country/locality	Common name	Botanical name	Plant part(s)
* * *	* * *	* * *	* * *
Ecuador	Blueberry	*Vaccinium* spp.	Fruit.
* * *	* * *	* * *	* * *
Israel	Cactus	*Opuntia* spp.	Fruit.
* * *	* * *	* * *	* * *
Mexico	Cherry	*Prunus avium*	Fruit.
* * *	* * *	* * *	* * *
Peru	Blueberry	*Vaccinium* spp.	Fruit.
Taiwan	Litchi	*Litchi chinensis*	Fruit.(Prohibited entry into Florida due to *Eriophyes litchii*. Cartons in which litchi are packed must be stamped "Not for distribution in FL").
* * *	* * *	* * *	* * *
Thailand	Asparagus	*Asparagus officinalis*	Shoot.
Uruguay	Plum	*Prunus domestica*	Fruit.

* * * * *

8. A new § 319.56–2cc, would be added to read as follows:

§ 319.56–2cc Administrative instructions: conditions governing the entry of pink or red tomatoes from Spain.

(a) Pink or red tomatoes (fruit) *(Lycopersicon esculentum)* from Spain may be imported into the United States only under the following conditions:

(1) The tomatoes must be grown in the Almeria Province of Spain in greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Medfly traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single medfly in a registered greenhouse shall immediately cancel exports from that greenhouse until the source of infestation is determined, all flies are eradicated, and measures are taken to preclude any future infestation. Capture of a single fly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area or if the single fly has been introduced accidentally. Capture of two flies within 2 kilometers of a registered greenhouse and within a 1 month time period shall cancel exports from all registered greenhouses within 2 kilometers of the find, until the source of infestation is determined and all flies are eradicated;

(5) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a flyproof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in flyproof containers for transit to the airport and subsequent shipping to the United States.

(6) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. A phytosanitary certificate issued by MAFF and bearing the following declaration, "These tomatoes were grown in registered greenhouses in Almeria Province in Spain," must accompany the shipment.

(b) [*Reserved*]

Done in Washington, DC, this 25 day of April 1994.

Patricia Jensen,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 94–10409 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–34–P

Commodity Credit Corporation

7 CFR Part 1468

RIN 0560–AD19

Support Prices for Shorn Wool, Wool on Unshorn Lambs, and Mohair for the 1994 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The National Wool Act of 1954, as amended (Wool Act), requires the Secretary of Agriculture (Secretary), through the Commodity Credit Corporation (CCC), to make loans and payments available to producers of wool and mohair through December 31, 1995. The Wool Act further provides that, in the case of the 1994 and 1995 marketing years, the payments shall be 75 percent and 50 percent, respectively, of the amount otherwise determined in accordance with section 704(a) of the Wool Act. This proposed rule would amend the regulations to set forth the support levels for shorn wool, wool on unshorn lambs, and mohair for the 1994 marketing year.

DATES: Comments must be received on or before June 1, 1994, in order to be assured of consideration.

ADDRESSES: Comments must be mailed to Director, Fibers and Rice Analysis Division (FRAD), Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA), room 3760–S, PO Box 2415, Washington, DC 20013–2415.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmont, FRAD, ASCS, USDA, room 3756–S, PO Box 2415, Washington, DC 20013–2415 or call 202–720–6734.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866. Based on information compiled by USDA, it has been determined that this proposed rule:

(1) Would have an annual effect on the economy of more than $100 million;

(2) Would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(4) Would not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and

(5) Would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: National Wool Act Payments—10.059.

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of the proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1468 set forth in this proposed rule will not result in any change in the public reporting burden. Therefore, the information collection requirements of the Paperwork Reduction Act are not applicable to this amendment.

Preliminary Regulatory Impact Analysis

The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of the implementation of each option is available on request from the above-named individual.

Comments

Comments are requested with respect to this proposed rule and such comments shall be considered in developing the final rule.

Background

Section 703(a) of the Wool Act provides that the Secretary shall, through the CCC, make loans and payments available to producers of wool and mohair through December 31, 1995. Proposed regulations concerning a recourse loan program will be issued in the near future.

Section 703(b) of the Wool Act provides that the support price for shorn wool for each of the marketing years 1991 through 1995 shall be 77.5 percent of an amount which is determined by multiplying 62 cents (the support price in 1965) by the ratio of: (i) The average of the parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the calendar year in which such support price is being determined and announced to (ii) the average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent.

Based on current reported parity indices, the calculation for the 1994 shorn wool support price (grease basis) is as follows:

(1) Average parity index, calendar years 1990–1992:
1990–1267
1991–1298
1992–1317
–3882 divided by 3 ..... 1294.0
(2) Average parity index, 1958–1960 ..... 297.3
(3) Ratio of 1294.0 to 297.3 ..... 4.3525
(4) 4.3525×62 cents/lb. (1965 support price) $2.6986
(5) 77.5%×$2.6986 ..... $2.0914
(6) $2.0914 rounded to nearest cent $2.09

Section 703(c) of the Wool Act provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, which is determined to maintain normal marketing practices for pulled wool, and which is determined necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Section 703(c) further provides that the support price for mohair must be within a range of 15 per centum above or below the comparable percentage of parity at which shorn wool is supported.

Section 704(a) provides that payments shall be such as the Secretary determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for the commodity equal to the support price level, and that, in the case of the 1994 and 1995 marketing years, the payments shall be 75 and 50 percent, respectively, of the amount otherwise determined in accordance with such section.

Section 703(e) of the Wool Act provides that, to the extent practicable, support price levels for wool and mohair shall be established and announced sufficiently in advance of each marketing year, as will permit producers to plan their production for such marketing year. Accordingly, the following methods for calculating the support prices for wool on unshorn lambs and for mohair for the 1994 marketing year are being proposed.

A. *Support Price—Wool on Unshorn Lambs.* The support price for wool on unshorn lambs for the 1994 marketing year cannot be determined until the 1994 national average market price for shorn wool is calculated. This will occur by April 1995. It is proposed that the method for calculating the support price for wool on unshorn lambs shall be as follows: Once the 1994 national average market price for shorn wool is determined, the support price for wool on unshorn lambs will be determined by taking 80 percent of the difference between the 1994 support price for shorn wool and the 1994 national average market price for shorn wool, multiplied by 5 pounds (the average grease wool yield per hundredweight of live, unshorn lambs marketed). Historically, this formula has provided equitable support for wool on unshorn lambs relative to shorn wool and has helped to maintain normal marketing practices for pulled wool. In accordance with section 704(a) of the Wool Act, the 1994 marketing year payment for wool on unshorn lambs shall be 75 percent of the amount otherwise determined in accordance with such formula.

B. *Support Price—Mohair.* It is proposed that the support price for mohair for the 1994 marketing year shall be determined based on the October 1993 parity prices for mohair and shorn wool. The following percentages of parity at which shorn wool is supported are being considered in the final computation of the mohair support price: 85, 100, and 115 percent.

The support programs conducted pursuant to the Wool Act are subject to the provisions of the Balanced Budget and Deficit Reduction Act of 1985, as amended. As a result, the proposed program support levels announced in this rule may be recalculated to comply with this Act.

Accordingly, comments are requested with respect to the support price calculation methods for wool on unshorn lambs and mohair. The final determination will be set forth at 7 CFR part 1468.

List of Subjects in 7 CFR Part 1468

Assistance grant programs—agriculture, Livestock, Mohair, Reporting and recordkeeping requirements, Wool

Accordingly, it is proposed that 7 CFR part 1468 be amended as follows:

PART 1468—WOOL AND MOHAIR

1. The authority citation for 7 CFR part 1468 continues to read as follows:

Authority: 7 U.S.C. 1781–1787; 15 U.S.C. 714b and 714c.

2. Section 1468.4 is amended by revising paragraph (b) to read as follows:

§ 1468.4 Eligibility for payments.

* * * * *

(b)(1) The shorn wool support price for the 1991 through 1995 marketing years shall be 77.5 percent of an amount which is determined by multiplying 62 cents (the support price in 1965) by the ratio of:

(i) The average of the parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the calendar year in which such support price is being determined and announced to

(ii) The average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent. The shorn wool support price wool shall be as follows:

(A) 1991—$1.88 per pound.

(B) 1992—$1.97 per pound.

(C) 1993—$2.04 per pound.

(D) 1994—$2.09 per pound.

(2) The payment rate for wool on unshorn lambs for the 1991 through 1995 marketing years shall be 80 percent of the difference between the national average price received by producers for shorn wool during a specified marketing year and the shorn wool support price multiplied by 5 (the average grease wool yield per hundredweight of live, unshorn lambs marketed). The payment rate for wool on unshorn lambs shall be as follows:

(i) 1991—$5.32 per hundredweight.

(ii) 1992—$4.92 per hundredweight.

(iii) 1993—an amount equal to 80 percent of the difference between the national average price received by producers for shorn wool for the 1993 marketing year and the 1993 shorn wool support price, multiplied by 5.

(vi) 1994—an amount equal to 80 percent of the difference between the national average price received by producers for shorn wool for the 1994 marketing year and the 1994 shorn wool support price, multiplied by 5.

(3) The mohair support price for the 1991 through 1995 marketing years shall be established at such level, in relationship to the support price for shorn wool, which is determined necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The mohair support price shall be set within a range of 15 per centum above or below the comparable percentage of parity at which shorn wool is supported, as determined and announced by CCC. The support price for mohair shall be as follows:

(i) 1991—$4.448 per pound.

(ii) 1992—$4.613 per pound.

(iii) 1993—$4.738 per pound.

(iv) 1994—an amount within a range of 15 per centum above or below the comparable percentage of parity at which shorn wool is supported, as determined and announced by CCC.

* * * * *

3. Section 1468.8 is amended by revising paragraphs (a)(1) and (b) to read as follows:

§ 1468.8 Computation of payment.

(a)(1) The amount of the shorn wool or shorn mohair support payment shall be computed by applying the rate of payment to the net sales proceeds for the wool or mohair marketed during the specified marketing year, less the assessment due as specified in § 1468.15. In the case of the 1994 and 1995 marketing years, the payments shall be 75 percent and 50 percent, respectively, of the amount otherwise determined in accordance with this part. For shorn wool payments, if there is a purchase by the producer of unshorn lambs, the resultant amount shall be reduced by an amount resulting from multiplying the liveweight of such lambs reported in the application for payment by the calculated wool on shorn lambs support for such marketing year. If the amount of the reduction exceeds the payment computed on the shorn wool marketed, the liveweight of lambs which corresponds to the excess amount shall be carried forward and used to reduce payments on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or subsequent years.

* * * * *

(b) The amount of the wool support payment due to a producer for wool on unshorn lambs shall be computed by applying the rate of payment to the liveweight of the lambs sold or moved to slaughter during the specified marketing year, reduced, on account of the purchase or importation by the producer of unshorn lambs, by the liveweight of such lambs reported in the application for payments, less the assessment due as specified in § 1468.15. In the case of the 1994 and 1995 marketing years, the payments shall be 75 percent and 50 percent, respectively, of the amount otherwise determined in accordance with this part. If the amount of the reduction exceeds the liveweight of the unshorn lambs sold or moved to slaughter during said marketing year, such excess liveweight shall be carried forward and used to reduce payments on the wool on unshorn lambs marketed or slaughtered or shorn wool marketed in the current or subsequent years.

* * * * *

Signed at Washington, DC, on April 22, 1994.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 94–10218 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–05–P

Farmers Home Administration

7 CFR Part 1951

RIN 0575–AB55

Offsets of Federal Payments to FmHA Borrowers

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations on offsets of Federal payments to FmHA borrowers by removing repetitious directions and ambiguous guidance used by FmHA field offices to determine salary offset feasibility. The intended effect of this action is to add further guidance on salary offset eligibility criteria and to clarify the language of the regulation.

DATES: Comments must be submitted on or before July 1, 1994.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, FmHA, USDA, South Building, room 6348, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jeanne Hudec, Financial Analyst, FmHA, USDA, Ag Box 0724, Washington, DC 20250–0724, telephone (202) 720–4356.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this proposed rule in conformance with Executive Order 12866, and we have determined that it is not a "significant regulatory action." Based on information compiled by the Department, we have determined that this proposed rule: (1) Would have an effect on the economy of less than $100 million; (2) would not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (3) would not create a serious inconsistency or otherwise interfere with an action taken by another agency; (4) would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; and (5) would not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575–0119 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This proposed rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for USDA, Washington, DC 20503. Please send a copy of your comments to Jack Holston, Agency Clearance Officer, USDA, FmHA, Ag Box 0743, Washington, DC 20250.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Intergovernmental Review

The programs to which this regulation may apply are listed in the Catalog of Federal Domestic Assistance under the following:

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
(Section 502—Rural Housing Loans)
10.411 Rural Housing Site Loans
(Section 523 and 524 Site Loans)
10.414 Resource Conservation and Development Loans
10.415 Rural Rental Housing Loans
10.416 Soil and Water Loans (SW Loans)
10.418 Water and Waste Disposal Systems for Rural Communities
10.419 Watershed Protection and Flood Prevention Loans
10.420 Rural Self-Help Housing Technical Assistance
(Section 523—Technical Assistance)
10.421 Indian Tribes and Tribal Corporation Loans
10.422 Business and Industrial Loans
10.423 Community Facility Loans
10.428 Economic Emergency Loans
10.433 Housing Preservation Grants
10.434 Nonprofit Corporations Loan and Grant Program
10.435 Agricultural Loan Mediation Program

Programs listed under numbers 10.404, 10.406, 10.407, 10.410, 10.417, 10.421, 10.428, and 10.435 are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983.)

Programs listed under numbers 10.405, 10.411, 10.414, 10.415, 10.416, 10.418, 10.419, 10.420, 10.422, 10.423, 10.427, 10.433, and 10.434 are subject to the provisions of Executive Order 12372 (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

Civil Justice Reform

The proposed regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and 2(b)(2) of that Order. Provisions within this part which are inconsistent with state law are controlling. All administrative remedies pursuant to 7 CFR part 1900 subpart B must be exhausted prior to filing suit.

Regulatory Flexibility Act

The Administrator of Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

Background Information

FmHA has an obligation to protect the Government's interest by collecting the maximum amount possible within a reasonable period of time. Therefore, FmHA proposes to weigh the long-term collectibility of the debt through offset against whether to accept a settlement offer and release of an existing debt.

The current procedures to establish salary offset in FmHA Instruction 1951–C, § 1951.111 contain repetitious directions and ambiguous guidance for FmHA field offices to determine salary offset feasibility. Therefore, FmHA proposes to amend these instructions by retaining the Authorities and Definitions paragraphs in § 1951.111 and moving the remainder of this section to §§ 1951.112 through 1951.117.

The same basic information that was in § 1951.111, paragraphs (c) through (s) will remain in the new sections. However, some information will be deleted or reorganized. For example, the current introduction includes a reference that if a Federal salary was listed on the Farm and Home Plan for a farmer programs borrower and this income used for purposes other than payment on the FmHA loan, salary offset would not be considered. This reference is being deleted because obtaining a salary offset would protect the Government's interest and might eventually bring the loan current, thus helping the borrower retain the farming operation.

List of Subjects in 7 CFR Part 1951

Account servicing, Loan programs—agriculture, Accounting, Credit, Low and moderate income housing loans—servicing.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is proposed to be amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Offsets of Federal Payments to FmHA Borrowers

2. Section 1951.101 is amended by adding a new fourth sentence to read as follows:

§ 1951.101 General.

* * * However, offsets may not be sought against full-time active duty members of the Armed Forces whose FmHA loans are covered by the Soldiers' and Sailors' Civil Relief Act. * * *

3. Section 1951.103 is amended by revising paragraphs (b) and (d), by adding new sixth and seventh sentences preceding the last sentence of paragraph (e), and adding paragraph (i) to read as follows:

§ 1951.103 Procedures for FmHA-initiated administrative offset.

(a) * * *

(b) Before requesting offset from another Federal agency, the debtor must have been given at least 30-days notice using FmHA Form Letter 1951–C–1 and given the rights set out in this section. Also, to be eligible for administrative offset, an FmHA borrower of a Farmer Programs loan (as defined in 7 CFR 1951.906) must have completed all primary servicing options available at the time of offset processing, any appeals concerning that servicing have been concluded, and the borrower's account has been accelerated. For borrowers other than Farmer Programs borrowers, the debtor's account must have been accelerated and all appeals concluded. A delinquent amount does not have to be reduced to judgment or be undisputed before offset can be used, and the payment does not have to be covered by an FmHA instrument.

* * * * *

(d) Administrative offset will be used only where it is feasible. Administrative offset can be determined feasible even though collections by offset are less than the annual interest accrual. Administrative offset is not feasible where, for example, the cost to process the offset exceeds the amount collectible. Administrative offset will not be requested for delinquent amounts of less than $100.

(e) * * * Federal Crop Insurance Corporation and its associated insurance companies cannot honor administrative offset requests to garnish crop insurance claims. Do not initiate administrative offset on accounts that have been referred to the Department of Justice for litigation. * * *

* * * * *

(i) The recovery potential from administrative offsets should be considered when evaluating debt settlement options.

4. Section 1951.104 is amended by revising the reference "FmHA Instruction 2018–E" to "FmHA Instruction 2018–F" in paragraph (a)(1), revising the word "ask" to "request" and adding the words "in writing" after the word "request" in the introductory text of paragraph (b), removing the word "Request" and inserting the phrase "Make a request for" in its place in paragraph (b)(2), adding the words "in writing" after the word "responds" in the first sentence of paragraph (e), revising the first sentence in the introductory text of paragraph (a), and adding new sentences before and after the fourth sentence of paragraph (g), and revising the word "regulation" to "subpart" in the first sentence and revising the second sentence of paragraph (j) to read as follows:

§ 1951.104 Procedures for FmHA-initiated offset.

(a) The use of administrative offset will be initiated by sending FmHA Form Letter 1951–C–1 to the debtor. * * *

* * * * *

(g) * * * The farm operating expenses listed in § 1962.17(b)(2)(ii) of subpart A of part 1962 of this chapter are not included in this determination of essential family living expenses for administrative offset purposes. * * * Where available, the County Supervisor should get documentary evidence such as bills or receipts from the borrower that support the hardship claim. * * *

* * * * *

(j) * * * The borrower may request a hearing if the borrower believes the previous offset actions by FmHA are contrary to the administrative offset procedures found in §§ 1951.103 through 1951.104 of subpart C of part 1951 of this chapter.

5. Section 1951.105(b)(3) is amended by adding the words "or Exhibit L" after the word "Exhibit B" in the second sentence and adding a sentence at the end of the paragraph to read as follows:

§ 1951.105 Procedures for taking funds by administrative offset.

* * * * *

(b) * * *

(3) * * * Prepare FmHA Form Letter 1951–5 to request offset refunds.

* * * * *

6. Section 1951.111 is amended by revising the introductory text, paragraph (b)(1), introductory text of paragraph (b)(2)(ii), and (b)(3), and removing paragraphs (c) through (s) to read as follows:

§ 1951.111 Salary offset.

Salary offset may be used by FmHA to collect delinquent debts from borrowers or debtors who are Federal employees. It may also be used by other Federal agencies to collect delinquencies or other debts owed to them by FmHA employees, excluding County Committee members. Administrative offset rather than salary offset, will be used to collect money from Federal and military retirement benefits. Decisions made under the following sections are not appealable under subpart B of part 1900 of this chapter. This section establishes policies and procedures to implement salary offset.

* * * * *

(b) *Definitions*—(1) *Certifying Officials*—State Directors; the Assistant Administrator, Finance Office; and the Assistant Administrator for Budget, Finance and Management, National Office.

(2) * * *

(ii) *Other debts*—An amount owed to the United States by an employee for salary overpayments, underwithholding of amounts payable for life and health insurance, etc. Also included are monetary losses where the employee has been determined to be liable due to the employee's negligent, willful, unauthorized or illegal acts, including but not limited to:

* * * * *

(3) *Defalcation account*—An account established in the Finance Office for other debts (see paragraph (b)(2)(ii) of this section) owed the Federal government by an employee or former employee.

* * * * *

7. Sections 1951.112 through 1951.117 are added to read as follows:

§ 1951.112 Standards for initiating salary offset.

Salary offset will not be initiated until after all servicing options available have been utilized. The debt does not have to be reduced to judgment or be undisputed, and the payment does not have to be covered by a security agreement.

(a) *Feasibility of salary offset.* Certifying Officials must determine on a case-by-case basis if salary offset is feasible. If an offset is feasible, review paragraph (b) of this section to determine if a borrower is ineligible, and follow § 1951.113 of this subpart to establish the offset. If the Certifying Official determines that salary offset is not feasible, the reasons supporting this decision will be documented in the debtor's running case record in the case of delinquent debt, or in the "For Official Use Only" file in cases of other debt. An offset is feasible when the following situations apply:

(1) The cost to process the offset should not exceed the amount the Certifying Official believes would be collectible by the use of salary offset. Salary offset can be determined feasible even though collections by offset are less than the annual interest accrual. County Committee members are exempt from salary offset because the amount collected by offset would be so small as to be impractical.

(2) The debt should be collected by lump-sum when possible.

(3) Payments may be made in installments not to exceed 15 percent of the debtor's disposable pay, unless the debtor agrees to a larger amount. If possible, the installment payment will be sufficient in size and frequency to liquidate the debt in approximately 3 years. The offset should bear a reasonable relation to the size of the debt and the debtor's ability to pay.

(4) Installment payments of less than $25 per pay period or $50 per month will be accepted only in the most unusual of circumstances.

(b) *Borrowers ineligible for salary offset.* All Federal employee debtors are eligible for salary offset unless they meet one or more of the following criteria:

(1) Account has been discharged in bankruptcy or is under the jurisdiction of a bankruptcy court and the debt has not been reaffirmed. Existence of a bankruptcy action pending flag is not a determining factor.

(2) Account has been referred to OGC for foreclosure and, based on the legal opinion required by § 1951.103(c) of this subpart, a collection by offset would jeopardize the litigation under State law. Existence of a foreclosure action pending flag is not a determining factor.

(3) Account has a delinquency workout agreement in effect and payments under the agreement are current.

(4) The debtor is a Farmer Programs borrower and has not completed all primary servicing options available at the time offset is considered and/or any appeals concerning this servicing have not been concluded.

(5) Account is under a moratorium.

(6) Account has been paid current, paid in full, or otherwise satisfied.

(7) Rescheduling is in process.

(8) Borrower is an active duty member of the armed forces whose FmHA loan is covered by the Soldiers' and Sailors' Civil Relief Act.

(9) Account is past due by less than $100, or if the debtor has multiple loans, the net amount past due is less than $100.

(10) Account has a suspend code.

(11) Account is current under an SAA.

(12) Account has been referred to the Department of Justice for litigation.

§ 1951.113 Procedures for initiating offset.

(a) *Notice to debtor.* After the Certifying Official determines that salary offset is feasible, FmHA Form Letter 1951–C–4 will be sent within 15 calendar days after that determination. This form letter will notify the debtor of intended salary offset at least 30 days before the salary offset begins. Personally deliver FmHA Form Letter 1951–C–4 to the debtor or send by certified mail, return receipt requested. Also send a copy by regular mail on the same day. If the certified mail receipt is returned as being refused, the date the debtor received the letter will be established and the time limits set out in FmHA Form Letter 1951–C–4 will run from that date. If delivery by certified mail is not accomplished, FmHA will assume that the debtor received the letter by regular mail on the day the certified mail was refused or was unable to be delivered. If both the certified and regular mail letters are returned as undeliverable, contact the Financial and Management Analysis Division (FMAD) at the National Office for guidance.

(b) *Debtor's response to the notice.*

(1) *Review records.* If a debtor responds to FmHA Form Letter 1951–C–4 by asking to review and copy FmHA's records relating to the debt, the Certifying Official will promptly respond by sending a letter which tells the debtor the location of the debtor's FmHA files and that the files may be reviewed and copied within the next 30 days. Copying costs (see FmHA Instruction 2018–F available in any FmHA office) will be set out in the letter, as well as the hours the files will be available each day. If a debtor asks to have FmHA copy the records, a copy will be made within 30 days of the request.

(2) *Repay debt.* If a debtor responds to FmHA Form Letter 1951–C–4 by offering to repay the debt, the offer may be accepted by the Certifying Official, if it would be in the best interest of the Government. FmHA Form Letter 1951–C–8 will be used if a repayment offer for an FmHA loan or grant is accepted. Upon receipt of an offer to repay, the Certifying Official will delay instituting salary offset until a decision is made on the repayment offer. Within 60 days after the initial offer to repay was made, the Certifying Official must decide

whether to accept or reject the offer. This decision will be documented in the running case record or the "For Official Use Only" file, as appropriate, and the debtor will be sent a letter which sets out the decision to accept or reject the offer to repay. If the offer is rejected, it should be based upon a realistic budget or Farm and Home Plan and according to the servicing regulations for the type of loan(s) involved.

(3) *Request hearing.* If a debtor responds within 15 days from receipt of FmHA Form Letter 1951–C–4 by asking for a hearing on FmHA's determination that a debt exists and/or is due, or on the percentage of net pay to be deducted each pay period, the Certifying Official will notify the debtor in accordance with this subpart and request the debtor's case file or the "For Official Use Only" file.

(4) *Change offset payment amount.* If a debtor wants to have more or less than 15 percent of the disposable pay sent to FmHA, FmHA Form Letter 1951–C–8 must be prepared and signed by the debtor, approved by the Certifying Official, and a copy placed in the debtor's case file or the "For Official Use Only" file. The original form letter will be forwarded with FmHA Form Letter 1951–C–10 when requesting the salary offset. (See § 1951.115 (a) of this subpart.)

(5) *Request debt settlement.* A debtor who is an FmHA borrower may request debt settlement at any time (the account does not have to be in collection-only status or be an inactive account for which there is no security). The Certifying Official must inform the borrower of how to apply for debt settlement. Any application will be considered independently of the salary offset. A salary offset should not be delayed because the borrower applied for debt settlement.

(6) *Time limits.* The time limits set in FmHA Form Letter 1951–C–4 and in paragraphs (b)(1), (2), and (3) of this section run concurrently. For example, if a debtor asks to review the FmHA file and offers to repay the debt, the debtor cannot take 30 days to ask to review the file and then take another 30 days to offer to repay. The request to review the file and the offer to repay must both be made within 30 days of the date the debtor receives the notification letter.

(7) *Negotiated grievance procedure.* If an employee is included in a bargaining unit which has a negotiated grievance procedure that does not specifically exclude salary offset proceedings, the employee must grieve the matter in accordance with the negotiated procedure in lieu of a hearing as set forth in § 1951.114 of this subpart. Employees who are not covered by a negotiated procedure must use the salary offset proceedings as outlined in FmHA Form Letter 1951–C–4. The employee must be informed, in writing, which procedure to follow and, as appropriate, reference should be made to the appropriate sections of the negotiated agreement.

§ 1951.114 Salary offset hearings.

(a) *Debtor's request for a hearing.* The debtor must file a written petition requesting a hearing. This petition must have the original signature of the debtor, be sent to the Certifying Official who issued FmHA Form Letter 1951–C–4, and be received and date stamped at the Certifying Official's office no later than 15 days after the debtor received the form letter. Petitions received from debtors after the 15-day time limitation expires will be accepted only if the debtor can show the delay was caused by circumstances beyond his/her control.

(1) *Valid reasons for a hearing.* The debtor's petition must fully identify and explain all the information and evidence that supports his/her position. If the request is not valid, a hearing should not occur. The debtor's request for a hearing must be based on the following reasons only:

(i) The debtor challenges the existence of the debt;

(ii) The debtor challenges the amount of the debt; and/or

(iii) The debtor challenges the percentage of his/her disposable pay to be deducted each pay period.

(2) *Debtor notification.* Certifying Officials are responsible for determining if the debtor's petition for a hearing has been submitted in a timely fashion and lists valid reasons for a hearing. Certifying Officials are required to provide written notification to the debtor of the acceptance or non-acceptance of the debtor's petition for a hearing. An acceptance notice will state that the debtor's case file has been forwarded to the National Office to be given to the hearing officer and that acceptance of the petition for hearing will put a hold on any offset collections until the results of the hearing are known. Any payments collected in error due to untimely or delayed filing beyond the debtor's control will be refunded unless there are applicable contractual or statutory provisions to the contrary.

(3) *Send hearing request to the National Office.* If the Certifying Official has accepted the debtor's petition for a hearing and has notified the debtor of this acceptance, send a copy of the debtor's case file, including the acceptance letter and the original letter requesting the hearing to the National Office, FMAD.

(b) *Hearing officers.* The hearing must be conducted by a hearing officer who is either an ALJ or someone who is not an employee of the USDA. An ALJ is normally unavailable to handle salary offset hearings in a timely manner. Therefore, FMAD will arrange for a hearing officer when the debtor's case file is received. The hearing officer will contact the debtor as to when and where the hearing will take place and whether or not the hearing will be a documentary review of the case file or in person.

(c) *Hearings.* (1) The hearing will be based on written submissions and documentation provided by the debtor and FmHA unless:

(i) The debtor requests reconsideration of the debt and the hearing officer determines that the question of the indebtedness cannot be resolved by a review of the documentary evidence; for example, when the validity of the debt turns on an issue of credibility or truth.

(ii) The hearing officer determines that an oral hearing is appropriate.

(2) Oral hearings may be conducted by conference call at the request of the debtor or at the discretion of the hearing officer. The hearing officer's determination that the offset hearing is on the written record is final and is not subject to review.

(3) The hearing officer will issue a written decision not later than 60 days after the filing of the petition requesting the hearing, unless the debtor requests and the Certifying Official grants a delay in the proceedings. The written decision will state the facts supporting the nature and origin of the debt, the hearing officer's analysis, findings and conclusions as to the amount and validity of the debt, and repayment schedule. Both the debtor and FmHA will be provided with a copy of the hearing officer's written decision on the debt.

§ 1951.115 Procedures for requesting offset from an employing agency.

(a) *Offset request letter.* FmHA Form Letter 1951–C–10 will be prepared, signed and submitted by the Certifying Official to the National Office, FMAD, for coordination and forwarding to the debtor's employing agency if:

(1) The borrower does not respond to FmHA Form Letter 1951–C–4 within 30 days.

(2) The borrower responds to FmHA Form Letter 1951–C–4 and:

(i) Has had an opportunity to review the file, if requested within 30 days of receipt;,

(ii) Has received a hearing, if requested within 15 days of receipt; and

(iii) A decision has been made by the hearing officer to uphold the offset.

(b) *Finance Office copy.* A copy of FmHA Form Letter 1951–C–10 will be sent to the Finance Office, St. Louis, MO 63103, Attn: Accounts Settlement Unit.

(c) *Monthly report.* State Offices shall prepare a monthly report showing salary offset activity. The report should list State, month, debtor name, case number, date FmHA Form Letter 1951–C–4 was sent, date a hearing was requested (if any), date FmHA Form Letter 1951–C–10 was sent, date the offset started, and the average amount collected through salary offset per month. The latter two items can be found on the on-line history screen. After requesting an offset, periodically check to see if the offset has started. Send the report by the 10th of the month for the preceding month to the National Office, FMAD.

(d) *Offset percentage.* If the debtor and FmHA have agreed to have more or less than 15 percent of the disposable pay sent to FmHA, a copy of the debtor's letter (FmHA Form Letter 1951–C–8) authorizing this must be attached to FmHA Form Letter 1951–C–10.

(e) *Offset deductions.* Deductions will be made only from basic pay, incentive pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay. If there is more than one salary offset, the maximum deduction for all salary offsets against an employee's disposable pay is 15 percent unless the employee has agreed in writing to a greater amount.

(f) *Payment notification.* Field offices will be notified of payments received from salary offset by referring to the on-line history screen for that debtor.

(g) *Application of payments, refunds and overpayments.*

(1) If a debtor is delinquent or indebted on more than one FmHA loan or debt, amounts collected by offset will be applied as determined by FmHA. The check date will be used as the date of credit in applying payments to the borrower's accounts.

(2) If a court or agency orders FmHA to refund the amount obtained by salary offset, a refund will be requested promptly by the Certifying Official in accordance with the order by sending FmHA Form Letter 1951–5 to the Finance Office. Processing FmHA Form Letter 1951–5 in the Finance Office will cause a refund to be sent to the debtor through the County Office or other appropriate FmHA office. Unless required by law, refunds shall not bear any interest.

(3) If a debtor does not request a hearing within the required time and it is later determined that the delay was due to circumstances beyond the debtor's control, any amount collected before the hearing decision is made will be refunded promptly by the Certifying Official in accordance with paragraph (g)(2) of this section.

(4) If FmHA receives money through an offset but the debtor is not delinquent or indebted at the time or the amount received is in excess of the delinquency or indebtedness, the entire amount or the amount in excess of the delinquency or indebtedness will be refunded promptly to the debtor by the Certifying Official in accordance with paragraphs (g) (1) and (2) of this section.

(h) *Adjustment in rate of repayment.* (1) When an employee who is indebted receives a reduction in basic pay that would cause the current deductions to exceed 15 percent of disposable pay, and the employee has not consented in writing to a greater amount, the offset will be reduced to 15 percent of the new amount of disposable pay. Upon an increase in basic pay which results in the current deductions to be less than the specified percentage, the offset will be increased accordingly. In either case, when a change is made the employee should be notified in writing by the employing agency.

(2) When an employee is being offset and has an existing reduced repayment schedule because of financial hardship, the creditor agency may arrange for a new repayment schedule, taking into account the offset amount.

(i) *Interest, penalties and administrative costs.* Additional interest, penalties, and administrative costs will be assessed on delinquent loans only in accordance with FmHA regulations permitting such charges.

(j) *Cancellation of offset.* If a debtor's name has been submitted to another agency for offset and the debtor's account is brought current or otherwise satisfied, the Certifying Official will notify the National Office, FMAD, that the offset is being canceled. The Certifying Official will write a letter to the employer, at the address confirmed by FMAD, identifying the debtor by name and social security number and state that salary offset should be canceled. A copy of the cancellation document will be sent to the debtor, the Finance Office, Attn: Account Settlement Unit, and to FMAD.

(k) *Liquidation from final checks.* Upon the determination that an employee owing a debt to FmHA is to retire, resign, or employment otherwise ends, the Certifying Official should immediately telephone FMAD with the appropriate employee identification and amount of the debt. FMAD will request the debt be collected from final salary/lump sum leave or other funds due the employee, and, if necessary, to put a hold on the retirement funds. Collection from retirement funds will be in accordance with the Administrative Offset procedures in §§ 1951.103 through 1951.105 of subpart C of part 1951 of this chapter.

(l) *Non-waiver of rights.* An employee's involuntary payment of all or any portion of the debt collected under 5 U.S.C. 5514 will not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutory or contractual provisions to the contrary.

§ 1951.116 Establishing offsets for other debts of FmHA employees/former employees.

(a) *Agency/National Finance Center (NFC) responsibility for other debts.* (1) FmHA will inform NFC about other indebtedness by transmitting to NFC FmHA Form Letter 1951–C–10. The NFC will process the documents through the Payroll/Personnel System, calculate the net amount of the adjustment and generate a salary offset notice. This notice will be sent to the employee's employing office along with a duplicate copy for the FmHA's records. The FmHA is responsible for completing the necessary information and forwarding the employee's notice to the employee.

(2) Other indebtedness falls into two categories:

(i) An agency-initiated indebtedness (i.e. improper personal telephone calls, property damages, etc.).

(ii) An NFC-initiated indebtedness (i.e. duplicate salary payments, etc.). The NFC will send the salary offset notice to the employing office.

(b) *Establishing employee or former employee defalcation accounts and non-cash credits to borrower accounts.* In cases where a borrower made a payment on an FmHA account(s) and, due to theft, embezzlement, fraud, negligence, or some other action on the part of an FmHA employee or employees, the payment is not transmitted to the Finance Office for application to the borrower's account(s), certain accounting actions must be taken by the Finance Office to establish non-cash credits to the borrower's account and an employee defalcation account.

(1) The Certifying Official will advise the Assistant Administrator, Finance Office by memorandum to establish a defalcation account. The memorandum must state the following information:

(i) Employee's name (or former),

(ii) Social Security Number (SSN),

(iii) Present or last known address,

(iv) Date of payment, and

(v) Amount of the defalcation account.

(2) If a non-cash credit to a borrower's account(s) is required, the letter to the Finance Office will include:

(i) Borrower's name and case number,

(ii) Fund code and loan code,

(iii) Date and amount of missing payment,

(iv) Copy of receipt issued for the missing payment, and

(v) Name of employee who last had custody of the missing funds.

(3) To assist and assure proper accounting for defalcation accounts and non-cash credits, the request should be made at the same time. Should requests be made separately, be sure to identify appropriately.

(4) The Certifying Official shall furnish a copy of the memorandum and supporting documentation for paragraphs (b)(1) and (2) of this section to the Deputy Administrator for Management for distribution to the FMAD and Employee Relations Branch, Personnel Division.

§ 1951.117 Procedures for salary offset against FmHA employees who owe other Federal agencies.

(a) *Coordination with other agencies.* When an employee of FmHA owes a debt to another Federal agency, salary offset may be used only when the Federal agency certifies that the person owes the debt and that the Federal agency has complied with its regulations. The request must include the creditor agency's certification as to the indebtedness, including the amount, and that the agency has satisfied the requirements of 5 U.S.C. 5514 with regard to the employee. When a request for offset is received, FmHA will notify the employee and NFC and arrange for offset.

(b) *Deductions by the NFC.* The NFC will automatically deduct the full amount of the delinquency or indebtedness if less than 15 percent of disposable pay or 15 percent of disposable pay if the delinquency or indebtedness exceeds 15 percent, unless the creditor agency advises otherwise. Deductions will begin the second pay period after the 30-day notification period has expired unless FmHA issues the notice. If FmHA issues the notice, the NFC will begin deductions on the first pay period after receipt of the Form AD–343, "Payroll Action Request."

8. Section 1951.121 is amended by revising the heading from "Internal Revenue Service (IRS) offset" to "IRS offset."

9. Section 1951.122 is amended by revising the reference "FmHA Instruction 1950–C" to "subpart C of part 1950 of this chapter" in paragraph (a)(7), adding a new second sentence in the introductory text, removing paragraph (d), adding paragraphs (a)(9), (a)(10), (c)(3), (c)(4), and revising paragraph (a)(8), introductory text of paragraph (b), paragraph (b)(4), introductory text of paragraph (c), and paragraph (c)(2) to read as follows:

§ 1951.122 Finance Office screening.

* * * Individuals owing other debts as described in § 1951.111 (b)(2)(ii) of this subpart will be included. * * *

(a) * * *

* * * * *

(8) Account is current under an SAA.

(9) Account is current, paid in full, or otherwise satisfied.

(10) Account has been referred to the Department of Justice for litigation.

(b) *Single Family Housing borrowers.* In addition to the criteria set forth in § 1951.122 (a), accounts of delinquent SFH borrowers which meet the following criteria are not eligible for IRS offset:

* * * * *

(4) Account has a delinquency workout agreement in effect and the borrower is current under the agreement.

(c) *Farmer Programs borrowers.* In addition to the criteria set forth in § 1951.122(a) of this subpart, accounts of delinquent FP borrowers which meet the following criteria are not eligible for IRS offset:

* * * * *

(2) Account is less than 180 days past due.

(3) Borrower has not completed all servicing options available (including appeals) at the time of final offset screening by the field and the borrower's account has not been accelerated.

(4) If the account was accelerated prior to instituting servicing in 1987 in accordance with subpart S of part 1951 of this chapter, the borrower's loans are being serviced under subpart S of part 1951, the borrower requested an appeal under subpart S of part 1951 and the appeal has not been concluded.

§ 1951.124 [Amended]

10. Section 1951.124 is amended in the first sentence by revising the words "FmHA Form Letter 1951–C–6" to "a due process notice."

11. Section 1951.125 is amended in the first sentence by revising the words "FmHA Form Letter 1951–C–6" to "the due process notice," and adding a sentence at the end of the paragraph to read as follows:

§ 1951.125 Processing borrower's requests not to exercise IRS offset.

* * * The County Supervisor's review decision is not appealable under FmHA Instruction 1900–B.

§ 1951.134 [Amended]

12. Section 1951.134 is amended in the first sentence by revising the words "refund was" to "refunds were."

13. Sections 1951.136 is added to read as follows:

§ 1951.136 Protection of IRS tax information.

This section explains the policies and procedures for the protection of IRS tax information received from the IRS offset program. The procedures contained in this section are in accordance with and mandated by the Internal Revenue Code (IRC) and IRS Publication 1075, Tax Information Security Guidelines. The FmHA will establish the appropriate safeguards for the protection of IRS tax information received under the IRS offset program. The FmHA must protect this information from unauthorized disclosure and unauthorized use. The procedures outlined in this section apply to all Federal tax information regardless of the media on which it is recorded.

(a) *Employee awareness.* (1) All FmHA employees who have access to IRS tax information must be briefed annually on the security procedures outlined in this section.

(2) Each employee must be advised of the provisions of IRC, section 7213(a), which makes unauthorized disclosure of Federal returns or return information a crime that may be punishable by a $5,000 fine, 5 years imprisonment, or both. The awareness program requires that copies of the law must be provided to each employee.

(3) All FmHA employees who have access to Federal tax information must also be advised annually of the provisions of the IRC, section 7431, which permits a taxpayer to bring suit for civil damages in the U.S. District Court for unauthorized disclosure of returns and return information. This section allows for punitive damages in case of willful disclosure or gross negligence, as well as the cost of the action. A copy of this law must also be given to each employee.

(4) The immediate supervisor is responsible for ensuring that all FmHA employees who have access to Federal tax information receive annual training. A certification of training must be maintained in the office. Training materials and lesson plans can be obtained from the Operational Security Staff, mail code FC–35B, in the Finance Office.

(b) *Recordkeeping requirements.* The FmHA is authorized under the IRC, section 6103, to receive Federal tax information. This section requires FmHA to establish a permanent system of standardized records of requests made by or to FmHA for disclosure of Federal tax returns or return information. These records must be maintained for 5 years. Each FmHA office which receives Federal tax information will establish a record that includes the following:

(1) The date the request was made.

(2) Who made the request.

(3) The reason for the request.

(4) What tax information was requested.

(5) Was a disclosure made.

(c) *Minimizing access to Federal tax information.* (1) To avoid inadvertent disclosures to unauthorized persons, Federal tax information must be kept separate from other information.

(2) Each FmHA office will maintain a separate file(s) for Federal tax information. The file(s) will be clearly labeled to indicate that the file(s) contains Federal tax information. All files containing Federal tax information must be stored in a locked cabinet or safe.

(d) *Magnetic media.* After it has served its purpose, magnetic media containing Federal tax data must not be made available for reuse by other offices or released for destruction without first being subjected to electromagnetic erasing. The FmHA will completely overwrite all data tracks. If reuse is not intended, the tape should be destroyed by cutting into lengths of 18 inches or less, or by burning to effect complete incineration. The FmHA will ensure that all magnetic media used for storage of Federal tax information will comply with the above requirements when the information is no longer needed.

(e) *Use of contractors.* Disclosure of tax returns or return information to contractors is prohibited by tax laws. Federal tax information in identifiable form will not be released to contractors by FmHA. All FmHA offices which use contractors will ensure that contract employees do not have access to files containing Federal tax information or the area/cabinet in which the files are stored.

(f) [Reserved]

(g) *Physical protection of field offices.* All field office locations which receive Federal tax information must be structured so public and non-public areas of the office are well defined as follows:

(1) Signs must be posted which state "FmHA Authorized Personnel Only."

(2) Visitors to the office must be escorted while in the non-public areas.

(3) All new leasing agreements must incorporate and implement the following excerpts from the Finance Office, Solicitation for Offers for Small Lease Packages. These should also be implemented under the present leasing agreements, to the extent practical.

(i) All exterior walls and walls which border public access or other agency space must be slab-to-slab construction.

(ii) All doors which border public access or exterior of the building or other agency space shall, at a minimum, be constructed of solid core wood. They shall have the hinges installed or modified so that the pins of the hinges cannot be removed when the door is in the closed position.

(iii) All locking devices on doors shall, at a minimum, be a five-pin tumbler lockset with a deadlatch or deadbolt feature. Doors must have an auxiliary deadbolt locking device which is capable of a 1-inch throw of the bolt into a fully encased strike box. All wood doors must be reinforced around the locking device.

(h) *Need and use.* The FmHA receives Federal tax information for use in the IRS offset program as stated in § 1951.121 of this subpart. The FmHA will not use the information received for any purposes outside of the offset program.

(i) *Disposal of tax information upon completion of use.* Federal tax information must never be released to private contractors for unsupervised destruction. Destruction of the information must be witnessed by an FmHA employee in a manner to safeguard the information from unauthorized disclosure. All FmHA offices will mail Federal tax information which is no longer needed to the Operational Security Staff, Finance Office, mail code FC–35B, for destruction. Label the package "Open By Addressee Only," but do not label that it contains IRS information.

(j) *Identification of Federal tax information.* The following reports contain Federal tax information and must be afforded the protections outlined in this section.

(1) Form FmHA 389–764, "Weekly Offset Report (Cash Collections) IRS Offset," Report Code: 222–C.

(2) Form FmHA 389–763, "Weekly Claims Report IRS Offset," Report Code: 222–D.

Dated: November 20 1993

Bob J. Nash.

Under Secretary, Small Community and Rural Development.

[FR Doc. 94–10219 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–07–U

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 93–008E]

RIN 0583–AB68

Poultry Products Produced by Mechanical Deboning and Products in Which Such Poultry Products Are Used

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On March 3, 1994, the Food Safety and Inspection Service (FSIS) published an advance notice of proposed rulemaking (ANPR) announcing its intent to pursue the development of amendments to the Federal poultry products inspection regulations to define and standardize, or establish other requirements for poultry products produced by mechanical deboning, including possible provisions for the composition, characteristics, and use of such products, and requirements for manufacturing and labeling such products. FSIS has received requests to extend the comment period so that additional data and information can be provided. FSIS has determined that the requests should be granted and, therefore, is extending the comment period for 30 days.

DATES: Comments must be received on or before June 1, 1994.

ADDRESSES: Written comments to: Policy Office, Attn: Diane Moore, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments should be directed to Mr. John W. McCutcheon, (202) 720–2709.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McCutcheon, Deputy Administrator, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, Area Code (202) 720–2709.

SUPPLEMENTARY INFORMATION: On June 15, 1993, FSIS published in the Federal

Register an advance notice of proposed rulemaking (ANPR) (58 FR 33040) soliciting comments, information, scientific data, and recommendations regarding its consideration of the need for labeling of poultry product produced by mechanical deboning and products in which such poultry product is used. FSIS received 2,744 comments in response to the ANPR, most of which were general reactions to the labeling issues. The Agency also issued on March 3, 1994, an ANPR (59 FR 10230) announcing its intent to pursue the development of amendments to the Federal poultry products inspection regulations to define and standardize, or establish other requirements for poultry products produced by mechanical deboning, including possible provisions for the composition, characteristics, and use, and requirements for manufacturing and labeling such products.

The ANPR provided an in-depth discussion on the labeling of mechanically deboned poultry, as well as other issues related to boneless poultry product produced by mechanical deboning and expressed the Agency's tentative positions regarding these issues. The ANPR stated that FSIS was considering, among other things, that certain poultry products produced by mechanical deboning, i.e., those with greater than 0.6 percent bone solids content, but no more than 1 percent bone solids content, be separately identified on the labels of products in which they are used as ingredients by a distinct name. Also, the ANPR stated that FSIS was considering, among other things, that some boneless poultry products derived from mechanical deboning machinery, i.e., those with 0.6 percent or less bone solids, be identified on the label of products in which they are used as poultry or poultry meat, e.g., "chicken" and "turkey meat." FSIS's intent in issuing the March 1994 ANPR was to ascertain the information and data necessary to solidify its position on the labeling, use, and production of poultry products produced by mechanical deboning in order to help the regulation development process.

Interested persons were given until May 2, 1994, in which to comment on the ANPR. FSIS has received requests from several meat and poultry manufacturers and trade associations to extend the comment period to allow additional time for data to be gathered and submitted. FSIS recognizes that the ANPR solicited information on a number of new concepts; e.g., labeling of products with greater than 0.6 percent bone solids content. It is important to the Agency to get substantive data on these concepts as the Agency further develops its policy position. FSIS is interested in receiving this data and is, therefore, extending the comment period for 30 days.

Done at Washington, DC, on April 26, 1994.

William J. Hudnall,

Acting Administrator, Food Safety and Inspection Service.

[FR Doc. 94–10497 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–DM–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 335

RIN 3064–AB32

Securities of Nonmember Insured Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Rule.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing amendments to its securities disclosure regulations. The proposed regulations relate to registration and reporting requirements for non-member insured banks with securities registered under section 12 of the Securities Exchange Act of 1934 (Exchange Act or Act).

Section 12(i) of the Exchange Act requires that the FDIC issue regulations substantially similar to those of the Securities and Exchange Commission (SEC) or publish its reasons for not doing so. The proposed amendments are intended to comply with section 12(i) and to update the regulations. The SEC has amended its Exchange Act regulations, relating to Small Business Initiatives, Executive Compensation Disclosure, and Regulation of Communications Among Shareholders. The FDIC is proposing to amend its Exchange Act regulations to incorporate, in substance, the SEC changes noted above.

In conjunction with this proposed rule, the FDIC also seeks written comments from interested persons relative to the following: Should the FDIC consider proposing a revision to its securities disclosure regulation, to incorporate by cross-reference the comparable rules of the SEC, rather than continue to maintain the separate but substantially similar body of rules as is done presently?

DATES: Written comments must be received by the FDIC on or before July 1, 1994.

ADDRESSES: Written comments shall be addressed to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. Comments may be hand-delivered to Room F–400, 1776 F Street NW., Washington, DC on business days between 8:30 a.m. and 5 p.m. (FAX number: (202) 898–3838). Comments will be available for inspection in room 7118, 550 17th Street NW., Washington, DC between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: M. Eric Dohm, Staff Accountant, Division of Supervision (202–898–8921) or Gerald J. Gervino, Senior Attorney, Legal Division (202–898–3723), Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background

Section 12(i) of the Exchange Act grants authority to the FDIC to promulgate regulations applicable to the securities of insured banks (including foreign banks having an insured branch) which are neither members of the Federal Reserve System nor District banks (Nonmember Banks). These regulations must be substantially similar to the SEC's regulations under sections 12 (securities registration), 13 (periodic reporting), 14(a) (proxies and proxy solicitation), 14(c) (information statements), 14(d) (tender offers), 14(f) (arrangements for changes in directors), and 16 (beneficial ownership and reporting) of the Exchange Act. Section 12(i) does not require the FDIC to promulgate substantially similar regulations in the event that the FDIC finds that implementation of such regulation is not necessary or appropriate in the public interest or for protection of investors and the FDIC publishes such findings with detailed reasons therefor in the **Federal Register**. This proposed amendment is intended to satisfy that requirement.

Amendments to Part 335

A. Small Business Initiatives

Recognizing that smaller banks are disproportionately affected by complexities in the disclosure requirements of banks registered under section 12 of the Exchange Act, the FDIC is proposing to amend its regulations by permitting "small business issuers" (as defined under the SEC's Exchange Act rules) to provide financial and other item disclosure in conformance with Regulation S-B of the Securities and Exchange Commission (17 CFR part 228) in lieu of certain disclosure requirements in FDIC Forms

F–1, F–2, F–4, F–5, F–5A and the annual report to security holders. The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

For additional information and discussion, reference is made to the preamble contained in "Small Business Initiatives", SEC Release No. 34–30968, 57 FR 36442 (August 13, 1992); and in "Additional Small Business Initiatives", SEC Release No. 34–32231, 58 FR 26509 (May 4, 1993).

B. Executive Compensation Disclosure

The SEC's regulations, as would be referenced by the FDIC's Exchange Act rules, require disclosure of the compensation of the chief executive officer (CEO) regardless of the amount of compensation, and the four most highly compensated senior executive officers, excluding the CEO, who earn more than $100,000 per year in salary and bonus. Additionally, the regulations require a comprehensive three year compensation table, a table which discloses awards granted pursuant to long term incentive plans, and two disclosure tables relative to options and stock appreciation rights. The SEC's regulations also require:

(a) Disclosure of all forms of director compensation, employment contracts and termination agreements which require payments in excess of $100,000;

(b) A compensation committee report to shareholders which details compensation policies and the basis for the CEO's compensation for the last fiscal year;

(c) Proxy statement disclosure of the existence of certain relationships between directors and the bank if specific circumstances exist; and

(d) A graphical chart, which illustrates for the previous five years, the cumulative total return to shareholders, of stock appreciation and dividends.

For additional information and discussion, reference is made to the preamble contained in "Executive Compensation Disclosure", SEC Release No. 34–31327, 57 FR 48125 (October 21, 1992); in "Executive Compensation Disclosure", SEC Release No. 34–32723, 58 FR 42882 (August 12, 1993); and in "Executive Compensation Disclosure", SEC Release No. 34–33229, 58 FR 63010 (November 29, 1993).

C. Regulation of Communications Among Shareholders

The proposed amendments to the proxy rules and other related provisions would generally improve the effectiveness of the proxy-voting process and its effect on corporate governance of nonmember insured banks subject to part 335. These proposed amendments are the result of an effort to eliminate from the FDIC proxy rules, any unnecessary regulatory impediments to communication among shareholders and others and to the effective use of shareholder voting rights. Accordingly, the FDIC proposes to revise its rules relative to the solicitation of proxy authority to allow management and other persons seeking proxy authority to get their case to the shareholders in a more efficient and effective manner. The FDIC has determined that modifications in the current rules are desirable to achieve the purposes set forth in the Exchange Act.

The FDIC proposes to eliminate Form F–6—Form for Statement in Election Contests (§ 335.221) and also proposes to adopt new Form F–6A—Notice of Exempt Solicitation (§ 335.222). Disclosures relative to each participant in an election contest, which were previously provided on Forms F–6, are now required to be included on Form F–5—Form for Proxy Statement (§ 335.212). Form F–6A requirements would apply to large shareholders who are disinterested in the subject matter of a shareholder vote and who are engaging in certain solicitations which are exempt from the regulatory requirements of the proxy rules.

It should also be noted that the FDIC retains its existing rules which generally require the filing of preliminary proxy material and preliminary information statements with the FDIC for staff review and comment, prior to distribution of the definitive materials. The FDIC proposes to amend its rules however, to require that preliminary materials be deemed immediately available for public inspection upon filing, unless confidential treatment is obtained pursuant to § 335.204(f)(2).

The proposed amendments, if adopted, will make the FDIC's proxy and related disclosure rules substantially similar to the SEC's recently amended comparable rules. Prior to amendment of its rules, the SEC conducted an extensive three-year examination focused on the role of its former proxy and disclosure rules in impeding shareholder communication and participation. As a result of its examination, the SEC concluded that the demonstrated effect of its rules as previously written was contrary to Congress's intent that the rules assure fair, and effective shareholder suffrage. For additional information and discussion, reference is made to the preamble contained in "Regulation of Communications Among Shareholders", SEC Rel. No. 34–31326, 57 FR 48276 (October 22, 1992).

D. Other

As described previously, the FDIC proposes to eliminate Form F–6—Form For Statement In Election Contests (§ 335.221) and also proposes to adopt new Form F–6A—Notice Of Exempt Solicitation (§ 335.222). In addition, several technical amendments are proposed to correct various errors which appear in the Code of Federal Regulations.

Request for Public Comment

The Board hereby requests comment on all aspects of the proposed rule, particularly those specifically mentioned above. In conjunction with this proposed rule, the FDIC also seeks written comments relative to the following: Should the FDIC consider proposing a revision to Part 335, to incorporate by cross-reference the comparable rules of the SEC, rather than continue to maintain the separate but substantially similar body of rules contained in Part 335 as is done presently? Interested persons are asked to address: (1) the benefits and disadvantages of cross-referencing as a method for assuring substantial similarity between the FDIC's and the SEC's regulations; (2) the potential cost savings or cost burden of cross-referencing; (3) whether the FDIC should continue to review preliminary proxy materials and information statements; and (4) any other issues regarding a cross-referencing proposal which commenters believe pertinent. Written comments are invited to be submitted during a 60-day comment period.

Regulatory Flexibility Act

The Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, the provisions of that Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) do not apply. This proposed rule would not impose significant burdens on depository institutions of any size and would not have the type of impact addressed by the Act.

Paperwork Reduction Act

The collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review and approval pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501

et seq.). Comments on the accuracy of the burden estimate, and suggestions for reducing the burden, should be directed to the Office of Management and Budget, Paperwork Reduction Project (3064–0030), Washington, DC 20503, with copies of such comments to Steven F. Hanft, Office of the Executive Secretary, room F–400, 550 17th Street, NW., Washington, DC 20429.

The revisions to the collection of information in this proposed rule are found in § 335.102, § 335.201, § 335.202, § 335.203, § 335.204, § 335.205, § 335.207, § 335.210, § 335.212, § 335.213, § 335.214, § 335.220, § 335.221, § 335.222, § 335.301, § 335.309a, § 335.310, § 335.312, § 335.321, § 335.330, § 335.331, and § 335.622. The most significant of these revisions relate to executive compensation disclosure, small business initiatives, and communications among shareholders. The proposed rules remove § 335.221, eliminating Form F–6—Form For Statement In Election Contests. The previous disclosure requirements of the Form F–6 are now included in Form F–5 (§ 335.212). The requirement to file Form F–6A—Notice Of Exempt Solicitation (§ 335.222), is also added. It is estimated that, relative to the proposed rule, the aggregate effect of all changes in burden is *de minimus* and that the changes counterbalance each other.

The total estimated reporting burden for all collections of information in this proposed regulation is summarized as follows:

Number of Respondents: 4,368.
Number of Responses Per Respondent: 1.42.
Total Annual Responses: 6,214.
Hours Per Response: 8.89.
Total Annual Burden Hours: 55,276.

Cost Benefit Analysis

These proposed amendments will significantly reduce the costs and burdens that have been imposed on "small business issuers", those who wish to communicate with shareholders, and others regarding management performance and matters submitted to a shareholder vote. Costs will also be reduced by the changes to the proxy statement delivery requirements. The proposed amendments should result in cash and manpower savings for "small business issuers" and all those who would no longer be required to prepare and file proxy materials with the FDIC pursuant to the proposed exemptions for solicitations not seeking proxy authority. Even those who would be required to submit a Notice of Exempt Solicitation (new Form F–6A) would have a significantly reduced compliance burden. The proposed amendments to the shareholder list provisions should not change substantially the costs or burdens to either the bank registrant or the requesting party. While some additional disclosure will be required relative to executive compensation, stock performance, and tabulation procedures and voting results, the overall cost resulting from these changes to banks should be minimal and is outweighed in any event by the benefits to shareholders and investors at large resulting from the enhanced information.

Statutory Basis

The proposed amendments to the FDIC's rules under sections 12, 13, 14(a), 14(c), 14(d), 14(f) and 16 of the Exchange Act, are being adopted by the FDIC pursuant to Exchange Act section 12(i).

List of Subjects in 12 CFR Part 335

Accounting, Banks, banking, Confidential business information, Reporting and recordkeeping requirements, Securities.

Text of Proposed Rules

In accordance with the foregoing, part 335 of chapter III of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 335—SECURITIES OF NONMEMBER INSURED BANKS

1. The authority citation for part 335 continues to read as follows:

Authority: Sec. 12(i) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78*l*(i)).

2. Section 335.102 is amended by revising the first sentence of paragraph (y); by redesignating paragraphs (oo), (pp), (qq), (rr) and (ss) as paragraphs (pp), (qq), (rr), (ss) and (tt); by adding a new paragraph (oo); and by republishing newly designated paragraph (pp) introductory text and revising newly designated paragraph (pp)(3) to read as follows:

§ 335.102 Definitions.

* * * * *

(y) The term *officer* or *principal officer* or *executive officer* means Chairman of the Board of Directors, Vice Chairman of the Board, Chairman of the Executive Committee, President, Vice President (except as indicated in the next sentence), Cashier, Treasurer, Secretary, Comptroller, and any other person who participates in major policymaking functions of the bank.

* * *

* * * * *

(oo) The term *Small Business Issuer* shall be defined in the same manner as currently defined in 17 CFR 240.12b–2.

(pp) The terms *solicit* and *solicitation* mean:

* * * * *

(3) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy. The terms do not apply, however, to:

(i) The furnishing of a form of proxy to a security holder upon the unsolicited request of such security holder;

(ii) The performance by the bank of acts required by § 335.210;

(iii) The performance by any person of ministerial acts on behalf of a person soliciting a proxy; or

(iv) A communication by a security holder who does not otherwise engage in a proxy solicitation (other than a solicitation exempt under § 335.202) stating how the security holder intends to vote and the reasons therefor, provided that the communication:

(A) Is made by means of speeches in public forums, press releases, published or broadcast opinions, statements, or advertisements appearing in a broadcast media, or newspaper, magazine or other bona fide publication disseminated on a regular basis;

(B) Is directed to persons to whom the security holder owes a fiduciary duty in connection with the voting of securities of a bank held by the security holder; or

(C) Is made in response to unsolicited requests for additional information with respect to a prior communication by the security holder made pursuant to this paragraph (pp)(3)(iv).

* * * * *

3. Section 335.201 is amended by revising the reference "(See 12 CFR 335.102(gg) and (oo))" in paragraph (a) to read "(See § 335.102(gg) and (pp))"; and adding paragraph (d) to read as follows:

§ 335.201 Requirement of statement.

* * * * *

(d) The provisions of paragraph (a) of this section shall not apply to a communication made by means of speeches in public forums, press releases, published or broadcast opinions, statements, or advertisements appearing in a broadcast media, newspaper, magazine or other bona fide publication disseminated on a regular basis, provided that:

(1) No form of proxy, consent or authorization or means to execute the

same is provided to a security holder in connection with the communication; and

(2) At the time the communication is made, a definitive proxy statement is on file with the FDIC pursuant to § 335.204(c).

4. Section 335.202 is amended by revising the introductory text; adding new paragraph (f); and removing the Note at the end of the section to read as follows:

§ 335.202 Exceptions.

The requirements of this subpart (except §§ 335.204(l), 335.206, and 335.210) shall not apply to the following:

* * * * *

(f) Any solicitation by or on behalf of any person who does not, at any time during such solicitation, seek directly or indirectly, either on its own or another's behalf, the power to act as proxy for a security holder and does not furnish or otherwise request, or act on behalf of a person who furnishes or requests, a form of revocation, abstention, consent or authorization. *Provided, however,* that the exemption set forth in this paragraph shall not apply to:

(1) The bank or an affiliate or associate of the bank (other than an officer or director or any person serving in a similar capacity);

(2) An officer or director of the bank or any person serving in a similar capacity engaging in a solicitation financed directly or indirectly by the bank;

(3) An officer, director, affiliate or associate of a person that is ineligible to rely on the exemption set forth in this paragraph (other than persons specified in paragraph (b)(1)(i) of this section), or any person serving in a similar capacity;

(4) Any nominee for whose election as a director proxies are solicited;

(5) Any person soliciting in opposition to a merger, recapitalization, reorganization, sale of assets or other extraordinary transaction recommended or approved by the board of directors of the bank who is proposing or intends to propose an alternative transaction to which such person or one of its affiliates is a party;

(6) Any person who is required to report beneficial ownership of the bank's equity securities on a Form F–11 (§ 335.407), unless such person has filed a Form F–11 and has not disclosed pursuant to Item 4 thereto an intent, or reserved the right, to engage in a control transaction, or any contested solicitation for the election of directors;

(7) Any person who receives compensation from an ineligible person directly related to the solicitation of proxies, other than pursuant to § 335.203(c);

(8) Any person who, because of a substantial interest in the subject matter of the solicitation, is likely to receive a benefit from a successful solicitation that would not be shared pro rata by all other holders of the same class of securities, other than a benefit arising from the person's employment with the bank; and

(9) Any person acting on behalf of any of the foregoing in paragraphs (f)(1) through (8) of this section.

5. Section 335.203 is amended by adding a "Note to Small Business Issuers" following the introductory text of paragraph (a); and removing paragraph (c) and Instructions 1, 2 and 3 following paragraph (c) to read as follows:

§ 335.203 Annual report to security holders to accompany statements.

(a) * * *

Note to Small Business Issuers: A "small business issuer", as defined under 17 CFR 240.12b-2 has the option of providing financial and other item disclosure in conformance with Regulation S–B of the Securities and Exchange Commission (17 CFR Part 228) in lieu of the disclosure requirements set forth by paragraphs (a)(1) and (a)(3) through (a)(8) of this section. If there is no comparable disclosure requirement in Regulation S–B, a small business issuer need not provide the information requested. The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

* * * * *

6. Section 335.204 is amended by revising paragraph (f); revising the reference "§ 335.220(e)" to read "§ 335.220(c)" in each place it appears in paragraph (h); and adding new paragraph (l), to read as follows:

§ 335.204 Material required to be filed.

* * * * *

(f)(1) All copies of preliminary proxy statements and forms of proxy filed pursuant to paragraph (a) of this section shall be clearly marked "Preliminary Copies", and shall be deemed immediately available for public inspection unless confidential treatment is obtained pursuant to paragraph (f)(2) of this section.

(2) If action is to be taken with respect to any matter specified in Item 12 of Form F–5, all copies of the preliminary proxy statement and form of proxy filed pursuant to paragraph (a) of this section shall be for the information of the FDIC only and shall not be deemed available for public inspection until filed with the FDIC in definitive form, provided that:

(i) The proxy statement does not relate to a matter or proposal subject to § 335.409; and

(ii) The filed material is marked "Confidential, For Use of the FDIC Only". In any and all cases, such material may be disclosed to any department or agency of the United States Government and to the Congress, and the FDIC may make such inquiries or investigation in regard to the material as may be necessary for an adequate review thereof by the FDIC.

* * * * *

(l) Solicitations subject to § 335.202(f).

(1) Any person who:

(i) Engages in a solicitation pursuant to § 335.202(f); and

(ii) At the commencement of that solicitation owns beneficially securities of the class which is the subject of the solicitation with a market value of over $5 million, shall furnish or mail to the FDIC, not later than three days after the date the written solicitation is first sent or given to any security holder, three copies of a statement containing the information specified in the Notice of Exempt Solicitation (Form F–6A, § 335.222) which statement shall attach as an exhibit all written soliciting materials. Three copies of an amendment to such statement shall be furnished or mailed to the FDIC, in connection with dissemination of any additional communications, not later than three days after the date the additional material is first sent or given to any security holder. Three copies of the Notice of Exempt Proxy Solicitation and amendments thereto shall, at the same time the materials are furnished or mailed to the FDIC, be furnished or mailed to each national securities exchange upon which any class of securities of the bank is listed and registered.

(2) Notwithstanding paragraph (l)(1) of this section, no such submission need be made with respect to oral solicitations (other than with respect to scripts used in connection with such oral solicitations), speeches delivered in a public forum, press releases, published or broadcast opinions, statements, and advertisements appearing in a broadcast media, or a newspaper, magazine or other bona fide publication disseminated on a regular basis.

7. Section 335.205 is amended by revising paragraphs (a)(3) and (a)(4) to read as follows:

§ 335.205 Solicitation prior to furnishing required proxy statement.

(a) * * *

(3) The identity of the participants in the solicitation (as defined in

Instruction 3 to Item 3 of Form F–5 (§ 335.212)) and a description of their interests direct or indirect, by security holdings or otherwise, are set forth in each communication published, sent or given to security holders in connection with the solicitation; and

(4) A written proxy statement meeting the requirements of this regulation is sent or given to security holders solicited pursuant to this section at the earliest practicable date.

* * * * *

8. Section 335.207 is amended by revising paragraph (a); revising the first sentence of paragraph (b)(1); redesignating paragraph (d) introductory text and paragraphs (d)(1) through (d)(4) as paragraph (d)(1) introductory text and paragraphs (d)(1)(i) through (d)(1)(iv); republishing newly designated paragraph (d)(1) introductory text; designating paragraph (d) concluding text as paragraph (d)(2) and revising it; and adding a new paragraph (f), to read as follows:

§ 335.207 Requirements as to proxy.

(a) The form of proxy:

(1) Shall indicate in bold-face type whether or not the proxy is solicited on behalf of the bank's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold face type the identity of the persons on whose behalf the solicitation is made;

(2) Shall provide a specifically designated blank space for dating the proxy; and

(3) Shall identify clearly and impartially each separate matter intended to be acted upon, whether or not related to or conditioned on the approval of other matters, and whether proposed by the bank or by security holders. No reference need be made, however, to matters as to which discretionary authority is conferred under paragraph (c) of this section.

(b)(1) Means shall be provided in the form of proxy whereby the person solicited is afforded an opportunity to specify by boxes a choice between approval or disapproval of, or abstention with respect to each separate matter referred to therein as intended to be acted upon, other than elections to office. * * *

* * * * *

(d)(1) No proxy shall confer authority:

* * * * *

(2) A person shall not be deemed to be a bona fide nominee and he shall not be named as such unless he has consented to being named in the proxy statement and to serve if elected. *Provided, however,* That nothing in this section shall prevent any person soliciting in support of nominees who, if elected, would constitute a minority of the board of directors, from seeking authority to vote for nominees named in the bank's proxy statement, so long as the soliciting party:

(i) Seeks authority to vote in the aggregate for the number of director positions then subject to election;

(ii) Represents that it will vote for all the bank nominees, other than those bank nominees specified by the soliciting party;

(iii) Provides the security holder an opportunity to withhold authority with respect to any other bank nominee by writing the name of that nominee on the form of proxy; and

(iv) States on the form of proxy and in the proxy statement that there is no assurance that the bank's nominees will serve if elected with any of the soliciting party's nominees.

* * * * *

(f) No person conducting a solicitation subject to this subpart B shall deliver a form of proxy, consent or authorization to any security holder unless the security holder concurrently receives, or has previously received, a definitive proxy statement that has been filed with, or mailed for filing to, the FDIC pursuant to § 335.204(c).

9. Section 335.210 is revised to read as follows:

§ 335.210 Obligations of banks to provide a list of, or mail soliciting material to, security holders.

(a) If the bank has made or intends to make a proxy solicitation in connection with a security holder meeting, upon the written request by any record or beneficial holder of securities of the class entitled to vote at the meeting to provide a list of security holders or to mail the requesting security holder's materials, regardless of whether the request references this section, the bank shall:

(1) Deliver to the requesting security holder within five business days after receipt of the request:

(i) Notification as to whether the bank has elected to mail the security holder's soliciting materials or provide a security holder list if the election under paragraph (b) of this section is to be made by the bank;

(ii) A statement of the approximate number of record holders and beneficial holders, separated by type of holder and class, owning securities in the same class or classes as holders which have been or are to be solicited on management's behalf, or any more limited group of such holders designated by the security holder if available or retrievable under the bank's or its transfer agent's security holder data systems; and

(iii) The estimated cost of mailing a proxy statement, form of proxy or other communication to such holders, including to the extent known or reasonably available, the estimated costs of any bank, broker, and similar person through whom the bank has solicited or intends to solicit beneficial owners in connection with the security holder meeting or action;

(2) Perform the acts set forth in either paragraphs (a)(2)(i) or (a)(2)(ii) of this section, at the bank's or requesting security holder's option, as specified in paragraph (b) of this section:

(i) Mail copies of any proxy statement, form of proxy or other soliciting material furnished by the security holder to the record holders, including banks, brokers, and similar entities, designated by the security holder. A sufficient number of copies must be mailed to the banks, brokers and similar entities for distribution to all beneficial owners designated by the security holder. The bank shall mail the security holder material with reasonable promptness after tender of the material to be mailed, envelopes or other containers therefor, postage or payment for postage and other reasonable expenses of effecting such mailing. The bank shall not be responsible for the content of the material; or

(ii) Deliver the following information to the requesting security holder within five business days of receipt of the request: A reasonably current list of the names, addresses and security positions of the record holders, including banks, brokers and similar entities, holding securities in the same class or classes as holders which have been or are to be solicited on management's behalf, or any more limited group of such holders designated by the security holder if available or retrievable under the bank's or its transfer agent's security holder data systems; the most recent list of names, addresses and security positions of beneficial owners as specified in § 335.214(b), in the possession, or which subsequently comes into the possession, of the bank. All security holder list information shall be in the form requested by the security holder to the extent that such form is available to the bank without undue burden or expense. The bank shall furnish the security holder with updated record holder information on a daily basis or, if not available on a daily basis, at the shortest reasonable intervals, *provided, however,* the bank need not provide beneficial or record holder information more current

than the record date for the meeting or action.

(b) If the bank is soliciting or intends to solicit with respect to a proposal that is subject to § 335.409, the requesting security holder shall have the option set forth in paragraph (a)(2) of this section. With respect to all other requests pursuant to this section, the bank shall have the option to either mail the security holder's material or furnish the security holder list as set forth in paragraph (a)(2) of this section.

(c) At the time of a list request, the security holder making the request shall:

(1) If holding the bank's securities through a nominee, provide the bank with a statement by the nominee or other independent third party, or a copy of a current filing made with the FDIC and furnished to the bank, confirming such holder's beneficial ownership; and

(2) Provide the bank with an affidavit, declaration, affirmation or other similar document provided for under applicable state law identifying the proposal or other corporate action that will be the subject of the security holder's solicitation or communication and attesting that:

(i) The security holder will not use the list information for any purpose other than to solicit security holders with respect to the same meeting or action by consent or authorization for which the bank is soliciting or intends to solicit or to communicate with security holders with respect to a solicitation commenced by the bank; and

(ii) The security holder will not disclose such information to any person other than a beneficial owner for whom the request was made and an employee or agent to the extent necessary to effectuate the communication or solicitation.

(d) The security holder shall not use the information furnished by the bank pursuant to paragraph (a)(2)(ii) of this section for any purpose other than to solicit security holders with respect to the same meeting for which the bank is soliciting or intends to solicit or to communicate with security holders with respect to a solicitation commenced by the bank; or disclose such information to any person other than an employee, agent, or beneficial owner for whom a request was made to the extent necessary to effectuate the communication or solicitation. The security holder shall return the information provided pursuant to paragraph (a)(2)(ii) of this section and shall not retain any copies thereof or of any information derived from such information after the termination of the solicitation.

(e) The security holder shall reimburse the reasonable expenses incurred by the bank in performing the acts requested pursuant to paragraph (a) of this section.

10. Section 335.212 is amended by adding in Form F–5 Proxy Statement "Note to Small Business Issuers" after "General Instructions"; revising paragraph (a)(2) in Item 3, and adding Instruction 3 to Item 3; revising paragraphs (a)(2) and (b) in Item 4, and adding an instruction to Item 4; revising the text preceding the table in paragraph (d)(2) in Item 5; revising paragraph (a) in Item 7; removing paragraphs (b), (c), (d), (e), and (h), and all instructions and general instructions to paragraphs (a), (b), (c), (d), (e), and (h) in Item 7, and redesignating paragraphs (f), (g), and (i) of Item 7 as paragraphs (b), (c), and (d), respectively; revising Item 9, the instructions to Item 9, and Item 18; and removing the "Option Disclosure Instruction" and the following option disclosure table along with notes thereto, which follow Item 21, to read as follows:

§ 335.212 Form for proxy statement (Form F–5).

Form F–5—Proxy Statement

General Instructions

* * * * *

Note to Small Business Issuers: a "small business issuer", as defined under 17 CFR 240.12b–2 has the option of providing financial and other item disclosure in conformance with Regulation S–B of the Securities and Exchange Commission (17 CFR Part 228) in lieu of the disclosure requirements set forth in this section by Item 4, paragraph (b)(1)(xi); Item 5, paragraph (d); Item 6, paragraphs (a) through (d): Item 7, paragraphs (a) and (c); Item 8, paragraph (c); Item 10, paragraph (b); Item 12, paragraphs (a)(3)(vi), (a)(5), (a)(6), (a)(7), (b)(1) through (b)(8), (c)(1) through (c)(4), and (e); and Item 13. If there is no comparable disclosure requirement in Regulation S–B, a small business issuer need not provide the information requested. The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

Information Required in Statement

* * * * *

Item 3—Persons Making the Solicitation.

(a) * * *

(1) * * *

(2) If the solicitation is made otherwise than by the bank, so state and give the names of the participants in the solicitation, as defined in paragraphs (a)(iii), (iv), (v) and (vi) of Instruction 3 to this item.

* * * * *

Instructions. * * *

3. For purposes of this Item 3 and Item 4 of this Form F–5:

(a) The terms "participant" and "participant in a solicitation" include the following:

(i) The bank;

(ii) Any director of the bank, and any nominee for whose election as a director proxies are solicited;

(iii) Any committee or group which solicits proxies, any member of such committee or group, and any person whether or not named as a member who, acting alone or with one or more other persons, directly or indirectly takes the initiative, or engages, in organizing, directing, or arranging for the financing of any such committee or group;

(iv) Any person who finances or joins with another to finance the solicitation of proxies, except persons who contribute not more than $500 and who are not otherwise participants;

(v) Any person who lends money or furnishes credit or enters into any other arrangements, pursuant to any contract or understanding with a participant, for the purpose of financing or otherwise inducing the purchase, sale, holding or voting of securities of the bank by any participant or other persons, in support of or in opposition to a participant; except that such terms do not include a bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of securities and who is not otherwise a participant; and

(vi) Any person who solicits proxies.

(b) The terms "participant" and "participant in a solicitation" do not include:

(i) Any person or organization retained or employed by a participant to solicit security holders and whose activities are limited to the duties required to be performed in the course of such employment;

(ii) Any person who merely transmits proxy soliciting material or performs other ministerial or clerical duties;

(iii) Any person employed by a participant in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the duties required to be performed in the course of such employment;

(iv) Any person regularly employed as an officer or employee of the bank or any of its subsidiaries who is not otherwise a participant; or

(v) Any officer or director of, or any person regularly employed by, any other participant, if such officer, director or employee is not otherwise a participant.

Item 4—Interest of Certain Persons in Matters To Be Acted Upon.

(a) Solicitations not subject to § 335.220.

* * *

(1) * * *

(2) If the solicitation is made otherwise than on behalf of the bank, each participant in the solicitation, as defined in paragraphs (a)(iii), (iv), (v), and (vi) of Instruction 3 to Item 3 of this Form F–5.

* * * * *

(b) Solicitations subject to § 335.220.

(1) Describe briefly any substantial interest, direct or indirect, by security holdings or otherwise, of each participant as defined in

paragraphs (a)(ii), (iii), (iv), (v) and (vi) of Instruction 3 to Item 3 of this Form F–5, in any matter to be acted upon at the meeting, and include with respect to each participant the following information, or a fair and accurate summary thereof:

(i) Name and business address of the participant.

(ii) The participant's present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

(iii) State whether or not, during the past ten years, the participant has been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer need not be included in the proxy statement or other soliciting material.

(iv) State the amount of each class of securities of the bank which the participant owns beneficially, directly or indirectly.

(v) State the amount of each class of securities of the bank which the participant owns of record but not beneficially.

(vi) State with respect to all securities of the bank purchased or sold within the past two years, the dates on which they were purchased or sold and the amount purchased or sold on each such date.

(vii) If any part of the purchase price or market value of any of the shares specified in paragraph (b)(1)(vi) of this item is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities, so state and indicate the amount of the indebtedness as of the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

(viii) State whether or not the participant is, or was within the past year, a party to any contract, arrangements or understandings with any person with respect to any securities of the bank, including, but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profit, division of losses or profits, or the giving or withholding of proxies. If so, name the parties to such contracts, arrangements or understandings and give the details thereof.

(ix) State the amount of securities of the bank owned beneficially, directly or indirectly, by each of the participant's associates and the name and address of each such associate.

(x) State the amount of each class of securities of any parent or subsidiary of the bank which the participant owns beneficially, directly or indirectly.

(xi) Furnish for the participant and associates of the participant the information required by § 335.212, Item 7(c).

(xii) State whether or not the participant or any associates of the participant have any arrangement or understanding with any person—

(A) With respect to any future employment by the bank or its affiliates; or

(B) With respect to any future transactions to which the bank or any of its affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(2) With respect to any person, other than a director or executive officer of the bank acting solely in that capacity, who is a party to an arrangement or understanding pursuant to which a nominee for election as director is proposed to be elected, describe any substantial interest, direct or indirect, by security holdings or otherwise, that such person has in any matter to be acted upon at the meeting, and furnish the information called for by paragraphs (b)(1)(xi) and (xii) of this item.

Instruction: For purposes of this Item 4, beneficial ownership shall be determined in accordance with § 335.403.

Item 5—Voting Securities and Principal Holders Thereof.

* * * * *

(d)(1) * * *

(2) *Security ownership of management.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the bank or any of its parents or subsidiaries other than directors' qualifying shares, beneficially owned by all directors and nominees, naming them, each of the named executive officers as defined in 17 CFR 229.402(a)(3), and directors and executive officers of the bank as a group, without naming them. Show in column (3) the total number of shares beneficially owned and in column (4) the percent of class so owned. Of the number of shares shown in column (3), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have a right to acquire beneficial ownership as specified in § 335.403(d)(1).

* * * * *

Item 7—Compensation and Other Transactions With Management and Others.

* * * * *

(a) *Compensation of directors and executive officers.* Furnish the information required by the applicable and currently effective SEC regulations contained in Item 8 of SEC Schedule 14A (17 CFR 240.14a–101, Item 8).

* * * * *

Item 9—Compensation Plans.

If action is to be taken with respect to any plan pursuant to which cash or noncash compensation may be paid or distributed, furnish the following information:

(a) *Plans subject to security holder action.*

(1) Describe briefly the material features of the plan being acted upon, identify each class of persons who will be eligible to participate therein, indicate the approximate number of persons in each such class, and state the basis of such participation.

(2)(i) In the tabular format specified below, disclose the benefits or amounts that will be received by or allocated to each of the following under the plan being acted upon, if such benefits or amounts are determinable:

NEW PLAN BENEFITS

Plan name	Dollar value ($)	No. of units
CEO		
A		
B		
C		
D		
Executive Group		
Non-Executive Director Group.		
Non-Executive Officer Employee Group.		

Instruction to New Plan Benefits Table: Additional columns should be added for each plan with respect to which security holder action is to be taken.

(ii) The table required by paragraph (a)(2)(i) of this item shall provide information as to the following persons:

(A) Each person (stating name and position) specified in 17 CFR 229.402(a)(3);

(B) All current executive officers as a group;

(C) All current directors who are not executive officers as a group; and

(D) All employees, including all current officers who are not executive officers, as a group.

(iii) If the benefits or amounts specified in paragraph (a)(2)(i) of this item are not determinable, state the benefits or amounts which would have been received by or allocated to each of the following for the last completed fiscal year if the plan had been in effect, if such benefits or amounts may be determined, in the table specified in paragraph (a)(2)(i) of this item:

(A) Each person (stating name and position) specified in 17 CFR 229.402(a)(3);

(B) All current executive officers as a group;

(C) All current directors who are not executive officers as a group; and

(D) All employees, including all current officers who are not executive officers, as a group.

(3) If the plan to be acted upon can be amended, otherwise than by a vote of security holders, to increase the cost thereof to the bank or to alter the allocation of the benefits as between the persons and groups specified in paragraph (a)(2) of this item, state the nature of the amendments which can be so made.

(b) *Additional information regarding specified plans subject to security holder action.* (1) With respect to any pension or retirement plan submitted for security holder action, state:

(i) The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid and the estimated annual payments necessary to pay the total amount over such period; and

(ii) The estimated annual payment to be made with respect to current services. In the case of a pension or retirement plan, information called for by paragraph (a)(2) of this item may be furnished in the format specified by 17 CFR 229.402(f)(1).

(2)(i) With respect to any specific grant of or any plan containing options, warrants or

rights submitted for security holder action, state:

(A) The title and amount of securities underlying such options, warrants or rights;

(B) The prices, expiration dates and other material conditions upon which the options, warrants or rights may be exercised;

(C) The consideration received or to be received by the bank or subsidiary for the granting or extension of the options, warrants or rights;

(D) The market value of the securities underlying the options, warrants, or rights as of the latest practicable date; and

(E) In the case of options, the federal income tax consequences of the issuance and exercise of such options to the recipient and the bank; and

(ii) State separately the amount of such options received or to be received by the following persons if such benefits or amounts are determinable:

(A) Each person (stating name and position) specified in 17 CFR 229.402(a)(3);

(B) All current executive officers as a group;

(C) All current directors who are not executive officers as a group;

(D) Each nominee for election as a director;

(E) Each associate of any of such directors, executive officers or nominees;

(F) Each other person who received or is to receive 5 percent of such options, warrants or rights; and

(G) All employees, including all current officers who are not executive officers, as a group.

Instructions to Item 9

1. The term "plan" as used in this item means any plan as defined in 17 CFR 229.402(a)(7)(ii).

2. If action is to be taken with respect to a material amendment or modification of an existing plan, the item shall be answered with respect to the plan as proposed to be amended or modified and shall indicate any material differences from the existing plan.

3. If the plan to be acted upon is set forth in a written document, three copies thereof shall be filed with the FDIC at the time copies of the proxy statement and form of proxy are first filed pursuant to § 335.204(a).

4. Paragraph (b)(2)(ii) of this item does not apply to warrants or rights to be issued to security holders as such on a pro rata basis.

* * * * *

Item 18. Voting Procedures.

As to each matter which is to be submitted to a vote of security holders, furnish the following information:

(a) State the vote required for approval or election, other than for the approval of auditors.

(b) Disclose the method by which votes will be counted, including the treatment and effect of abstentions and broker non-votes under applicable state law as well as bank charter and by-law provisions.

* * * * *

11. Section 335.213 is amended by adding 2 paragraphs of text to follow the existing text in the Note preceding Item 1 to read as follows:

§ 335.213 Form for information statement (Form F–5A).

Form F–5A—Information Statement

Note: * * *

Except as otherwise specifically provided, where any item calls for information for a specified period in regard to directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which such person did not hold any such position or relationship provided a statement to that effect is made.

Small Business Issuers: A "small business issuer", as defined under 17 CFR 240.12b-2 has the option of providing financial and other item disclosure in conformance with Regulation S-B of the Securities and Exchange Commission (17 CFR Part 228) in lieu of the following referenced disclosure requirements set forth in § 335.212 Item 4(b)(1)(xi); Item 5, paragraph (d); Item 6, paragraphs (a) through (d); Item 7, paragraphs (a) and (c); Item 8, paragraph (c); Item 10, paragraph (b); Item 12, paragraphs (a)(3)(vi), (a)(5), (a)(6), (a)(7), (b)(1) through (b)(8), (c)(1) through (c)(4), and (e); and Item 13. If there is no comparable disclosure requirement in Regulation S-B, a small business issuer need not provide the information requested. The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

* * * * *

12. Section 335.214 is amended by revising the introductory text in paragraph (a); by revising paragraphs (a)(1)(i)(A), (a)(3), (a)(4), (a)(5), Note 2 and Note 3 to paragraph (a), paragraph (d), and adding a new Note 4 to paragraph (a); by revising the reference "17 CFR 240.14b-1(c) or 17 CFR 240.14b-2 (e)(2) and (3)" in paragraph (a)(1)(i)(C) to read "17 CFR 240.14b-1(b)(3) or 17 CFR 240.14b-2(b)(4)(ii) and (iii)"; by revising the reference "17 CFR 240.14b-1(c) and 17 CFR 240.14b-2 (e)(2) and (3)" in paragraph (a)(1)(ii)(A), the introductory text to paragraph (b), and paragraph (c) to read "17 CFR 240.14b-1(b)(3) and 17 CFR 240.14b-2(b)(4)(ii) and (iii)"; by revising the reference "17 CFR 240.14b-2(a)(1)" to read "17 CFR 240.14b-2(b)(1)(i)" in paragraph (a)(2); and by revising the reference "17 CFR 240.14b-2(e)(1)" to read "17 CFR 240.14b-2(b)(4)(i)" in paragraph (b)(1) to read as follows:

§ 335.214 Obligation of banks in communicating with beneficial owners.

(a) If the bank knows that securities of any class entitled to vote at a meeting are held of record by a broker, dealer, bank, association or other entity that exercises fiduciary powers in nominee name or otherwise, the bank shall:

(1) * * *

(i) * * *

(A) Whether other persons are the beneficial owners of such securities, and if so, the number of copies of the proxy and other soliciting material (or if applicable, the number of copies of the information statement) necessary to supply such material to such beneficial owners.

* * * * *

(3)(i) Make the inquiry required by paragraph (a)(1) of this section:

(A) If the bank intends to solicit proxies, consents or authorizations:

(*1*) At least 20 business days prior to the record date of the meeting of security holders; or

(*2*) If such inquiry is impracticable 20 business days prior to the record date of a special meeting, as many days before the record date as practicable; or

(*3*) If consents or authorizations are solicited, and such inquiry is impracticable 20 days before the earliest date on which they may be used to effect corporate action, as many days before that date as is practicable; or

(*4*) At such later time as the rules of a national securities exchange on which the class of securities in question is listed may permit for good cause shown); or

(B) If the bank does not intend to solicit proxies, consents or authorizations, the earlier of:

(*1*) At least 20 business days prior to the record date of the meeting of security holders or the record date of written consents in lieu of a meeting; or

(*2*) At least 20 business days prior to the date the information statement is required to be sent or given pursuant to § 335.201(b);

(ii) *Provided however*, That if a record holder or respondent bank has informed the bank that a designated office(s) or department(s) is to receive such inquiries, the inquiry shall be made to such designated office(s) or department(s);

(4) Supply in a timely manner, each record holder and respondent bank of whom the inquiries required by paragraphs (a)(1) and (a)(2) of this section are made with copies of the proxy, other proxy soliciting material (or if applicable, copies of the information statement), and/or the annual report to security holders, in such quantities, assembled in such form and at such place(s), as the record holder may reasonably request in order to send such material to each beneficial owner of securities who is to be furnished with such material by the record holder or respondent bank; and

(5) Upon the request of any record holder or respondent bank that is supplied with proxy soliciting material, information statements, and/or annual reports to security holders pursuant to paragraph (a)(4) of this section, pay its reasonable expenses for completing the mailing of such material to beneficial owners.

* * * * *

Note 2: The attention of banks is called to the fact that each broker, dealer, bank, association or other entity that exercises fiduciary powers has an obligation under 17 CFR 240.14b-1 and 17 CFR 240.14b-2 (except as provided therein with respect to employee benefit plan securities held in nominee name) and, with respect to brokers and dealers, applicable self-regulatory requirements to obtain and forward, within the time periods prescribed therein: Proxies (or in lieu thereof requests for voting instructions) and proxy soliciting materials (or if applicable, copies of the information statement) to beneficial owners on whose behalf it holds securities; and annual reports to security holders to beneficial owners on whose behalf it holds securities, unless the bank has notified the record holder or respondent bank that it has assumed responsibility to mail such material to beneficial owners whose names, addresses and securities positions are disclosed pursuant to 17 CFR 240.14b-1(b)(3) and 17 CFR 240.14b-2(b)(4)(ii) and (iii).

Note 3: The attention of banks is called to the fact that banks have an obligation, pursuant to paragraph (d) of this section, to cause proxies (or in lieu thereof requests for voting instructions), proxy soliciting material (or if applicable, copies of the information statement) and annual reports to security holders to be furnished, in a timely manner, to beneficial owners of exempt employee benefit plan securities.

Note 4: The requirement for sending an annual report to security holders of record having the same address will be satisfied by sending at least one report to a holder of record at that address provided that those holders of record to whom the report is not sent agree thereto in writing. This procedure is not available, however, where banks, associations, other entities that exercise fiduciary powers, brokers, dealers and other persons hold securities in nominee accounts or "street names" on behalf of beneficial owners, and such persons are not relieved of any obligation to obtain or send such annual report to the beneficial owners.

* * * * *

(d) If a bank furnishes information statements to, or solicits proxies, consents or authorizations from record holders and respondent banks who hold securities on behalf of beneficial owners, the bank shall cause proxies (or in lieu thereof requests for voting instructions), proxy soliciting material (or if applicable, copies of the information statement) and annual reports to security holders to be furnished, in a timely manner, to beneficial owners of exempt employee benefit plan securities.

13. Section 335.220 is amended by removing paragraphs (b) and (c) and redesignating paragraphs (d) through (h) as paragraphs (b) through (f), respectively; and revising newly redesignated paragraphs (b) and (e), to read as follows:

§ 335.220 Special provisions applicable to election contests.

* * * * *

(b) *Solicitations prior to furnishing required statement.* Notwithstanding the provisions of § 335.201 a solicitation subject to § 335.220 may be made prior to furnishing security holders a written statement containing the information specified in Form F–5 with respect to such solicitation: *Provided,* That—

(1) No form of proxy is furnished to security holders prior to the time the written proxy statement required by § 335.201 is furnished to security holders: *Provided, however,* That this paragraph (b)(1) shall not apply where a proxy statement then meeting the requirements of Form F–5 has been furnished to security holders by or on behalf of the person making the solicitation;

(2) The identity of the participants in the solicitation (as defined in Instruction 3 of Item 3 of Form F–5 (§ 335.212)) and a description of their interests, direct or indirect, by security holdings or otherwise, are set forth in each communication published, sent or given to security holders in connection with the solicitation;

(3) A written proxy statement meeting the requirements of this subpart B is sent or given to security holders solicited pursuant to this paragraph (b) at the earliest practicable date.

* * * * *

(e) *Application of § 335.204.* The provisions of § 335.204(c) through (f) shall apply, to the extent pertinent, to soliciting material subject to paragraphs (c) and (d) of this section.

* * * * *

§ 335.221 [Removed and Reserved]

14. Section 335.221 (Form F–6) is removed and reserved.

15. Section 335.222 (Form F–6A) is added to subpart B to read as follows:

§ 335.222 Notice of Exempt Solicitation to be included in statements submitted by or on behalf of a person pursuant to § 335.204(l) (Form F–6A).

Form F–6A—Notice of Exempt Solicitation

1. Name and address of the Bank:

2. Name of person relying on exemption:

3. Address of person relying on exemption:

4. *Written materials.* Attach written material required to be submitted pursuant to § 335.204(l).

16. Section 335.301 is amended by revising the reference "(27 CFR 249.220f)" to read "(17 CFR 249.220f)"; and adding a "Note to Small Business Issuers" immediately following the existing text to read as follows:

§ 335.301 Requirement of registration statement.

* * * * *

Note to Small Business Issuers: a "small business issuer", as defined under 17 CFR 240.12b–2 has the option of providing the disclosure required by SEC Form 10–SB, optional form for the registration of securities of a small business issuer (17 CFR 249.210b), in lieu of the disclosure requirements set forth in Form F–1 (§ 335.309a). The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

17. Section 335.309a (Form F–1) is amended by adding a new paragraph immediately preceding the "General Instructions" portion of Form F–1; revising Item 7 and Item 8; and revising paragraphs 7(b)(1), 7(b)(2) and 7(c) under the heading "Instructions as to Exhibits" at the end of the section, to read as follows:

§ 335.309a Form for registration of securities of a bank under section 12(b) or section 12(g) of the Securities Exchange Act of 1934 (Form F–1).

Form F–1

* * * * *

Indicate by check mark if the bank, as a "small business issuer" as defined under 17 CFR 240.12b–2, is providing alternative disclosures as permitted for small business issuers in this Form F–1. [ ]

* * * * *

Item 7—Compensation of Directors and Executive Officers

Set forth the same information as is required to be furnished by item 7(a) of Form F–5 (§ 335.212).

Item 8—Interest of Management and Others in Certain Transactions

Set forth the same information for the past three years, as is required to be furnished by items 7 (b), (c) and (d) of Form F–5 (§ 335.212).

Note: The information required by items 7 (b), (c) and (d) of Form F–5 need not be included for any nominee for election as a director.

* * * * *

Instructions as to Exhibits

* * * * *

7. (a) * * *

(b) * * *

(1) Directors, officers, promoters, voting trustees, or security holders named in answer to item 5 are parties thereto except where the contract merely involves purchase or sale of current assets having a determinable market price, at such price.

(2) It calls for the acquisition or sale of fixed assets for a consideration exceeding 15 percent of the value of all fixed assets of the bank and its subsidiaries.

* * * * *

(c) Any management contract or any compensatory plan, contract or arrangement, including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) in which any director or any of the named executive officers of the bank, as defined by 17 CFR 229.402(a)(3), participates shall be deemed material and shall be filed; and any other management contract or any other compensatory plan, contract, or arrangement in which any other executive officer of the bank participates shall be filed unless immaterial in amount or significance except as follows: Notwithstanding the above, any compensatory plan, contract, or arrangement which pursuant to its terms is available to employees, officers or directors generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

* * * * *

18. Section 335.310 is amended by adding a "Note to Small Business Issuers" immediately following paragraph (c) to read as follows:

§ 335.310 Requirement of annual reports and annual reports of predecessors.

* * * * *

Note to Small Business Issuers: a "small business issuer", as defined under 17 CFR 240.12b–2 has the option of providing the disclosure required by SEC Form 10–KSB, optional form for annual and transitional reports of small business issuers (17 CFR 249.310b), in lieu of the disclosure requirements set forth in Form F–2 (§ 335.312). The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

19. Section 335.312 (Form F–2) is amended by adding a new paragraph immediately following the second line entitled "(Title of class)" in the introductory portion of Form F–2; adding to Item 11, new paragraph (a)(3) to immediately precede the instruction to paragraph (a); and revising paragraph (c)(3)(ii) of Item 11, to read as follows:

§ 335.312 Form for annual report of bank (Form F–2).

Form F–2—Annual Report Under Section 13 of the Securities Exchange Act of 1934

* * * * *

Indicate by check mark if the bank, as a "small business issuer" as defined under 17 CFR 240.12b-2, is providing alternative disclosures as permitted for small business issuers in this Form F–2. [ ]

* * * * *

Item 11—Exhibits, Financial Statement Schedules, and Reports on Form F–3.

(a) * * *

(3) Those exhibits required by paragraph (c) of this Item 11. Identify in the list each management contract or compensatory plan or arrangement required to be filed as an exhibit to this form pursuant to paragraph (c)(3)(ii) of this Item 11.

* * * * *

(c) * * *

(3) * * *

(ii) Any management contract or any compensatory plan, contract or arrangement, including but not limited to plans relating to options, warrants or rights, pension, retirement or deferred compensation or bonus, incentive or profit sharing (or if not set forth in any formal document, a written description thereof) in which any director or any of the "named executive officers" of the bank, as defined by 17 CFR 229.402(a)(3), participates shall be deemed material and shall be filed; and any other management contract or any other compensatory plan, contract, or arrangement in which any other executive officer of the bank participates shall be filed unless immaterial in amount or significance except as follows: notwithstanding the above, any compensatory plan, contract, or arrangement which pursuant to its terms is available to employees, officers or directors generally and which in operation provides for the same method of allocation of benefits between management and nonmanagement participants.

* * * * *

20. Section 335.321 (Form F–3) is amended by revising paragraph (c) and Instructions 3 and 4 of Item 9 to read as follows:

§ 335.321 Form for current report of a bank (Form F–3).

Form F–3.—Current Report

* * * * *

Item 9—Submission of Matters to a Vote of Security Holders.

* * * * *

(c) A brief description of each matter voted upon at the meeting and state the number of votes cast for, against or withheld, as well as the number of abstentions and broker non-votes, as to each such matter, including a separate tabulation with respect to each nominee for office.

* * * * *

Instructions

* * * * *

3. Paragraph (b) need not be answered if: Proxies for the meeting were solicited pursuant to subpart B of this part; there was no solicitation in opposition to the management's nominees as listed in the proxy statement; and all of such nominees were elected. If the bank did not solicit proxies and the board of directors as previously reported to the FDIC was reelected in its entirety, a statement to that effect in answer to paragraph (b) will suffice as an answer thereto.

4. Paragraph (c) must be answered for all matters voted upon at the meeting, including both contested and uncontested elections of directors.

* * * * *

21. Section 335.330 is amended by adding a "Note to Small Business Issuers" at the end of the section to read as follows:

§ 335.330 Quarterly reports.

* * * * *

Note to Small Business Issuers: a "small business issuer", as defined under 17 CFR 240.12b-2 has the option of providing the disclosure required by SEC Form 10–QSB, optional form for quarterly and transitional reports of small business issuers (17 CFR 249.308b), in lieu of the disclosure requirements set forth in Form F–4 (§ 335.330). The definition of "small business issuer", generally includes banks with annual revenues of less than $25 million, whose voting stock does not have a public float of $25 million or more.

22. Section 335.331 is amended by adding a new paragraph immediately following the line entitled "(Former name, former address and former fiscal year, if changed since last report)" in the introductory portion of Form F–4 to read as follows:

§ 335.331 Form for quarterly report of a bank (Form F–4).

Form F–4

* * * * *

Indicate by check mark if the bank, as a "small business issuer" as defined under 17 CFR 240.12b-2, is providing alternative disclosures as permitted for small business issuers in this Form F–4. [ ]

* * * * *

23. Section 335.622 is amended by revising paragraph (g)(1) to read as follows:

§ 335.622 General notes to statement of income.

* * * * *

(g) Disclosure of selected quarterly financial data in notes to financial statements—(1) *Exemption.* This paragraph (g) shall not apply unless the bank meets the tests prescribed by 17 CFR 229.302(a)(5).

* * * * *

By Order of the Board of Directors.

Dated at Washington, DC this 12th day of April, 1994.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Acting Executive Secretary.

[FR Doc. 94–9731 Filed 4–29–94; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR–94–10]

Petition for Rulemaking, Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of rulemaking (14 CFR part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. 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 July 1, 1994.

ADDRESSES: Send comments on any petition in triplicate to Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket No., 800 Independence Avenue SW., Washington, DC 20592.

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–200), room 915G, FAA Headquarters Building (FOB 10A),800 Independence Ave., 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 (b) and (f) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on April 18, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Rulemaking

Docket No.: 27549.

Petitioner: Mr. James H. Owens.

Regulations Affected: 14 CFR 91.417(a)(2)(i).

Description of Rulechange Sought: To allow owners and operators of airplanes with reciprocating engines of 750 horsepower or less to be excepted from the time in service maintenance record keeping requirement for each engine and each propellor.

Petitioner's Reason for the Request: The petitioner feels that the current regulation places an unrealistic burden on the owner/operator, in that it is impractical for most part 91 operators and those air carriers operating under part 135.411(a)(i) to maintain a records keeping system that will allow record tracking of the complete engine, propeller or parts thereof.

[FR Doc. 94–10295 Filed 4–25–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Chapter I

[Summary Notice No. PR–94–9]

Petition for Rulemaking; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of petitions for rulemaking received and of dispositions of prior petitions; Correction.

SUMMARY: This action makes a correction to the summary described for Docket No. 26995 in a notice of petitions for rulemaking published on March 30, 1994, (59 FR 14795). This action corrects that error.

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.

SUPPLEMENTARY INFORMATION: In the original publication of the petition summary on March 30, 1994, the petitioner was stated to be Mr. John A. Cohen. This error should be corrected to properly show the petitioner as the Benedict Canyon Protection League.

Issued in Washington, DC on April 18, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 94–10291 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 94–ANE–02]

Airworthiness Directives; General Electric Company CF6–80C2 Series Turbofan Engines

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 General Electric Company (GE) CF6–80C2 series turbofan engines. This proposal would require a repetitive oil quantity check after engine start-up and prior to taxi, and installation of a flame arrestor plug support (FAPS) in the aft end of the center vent tube as a terminating action to the repetitive oil quantity checks. This proposal is prompted by three reports of uncontained engine failure due to separation of the fan mid shaft. The actions specified by the proposed AD are intended to prevent an uncontained engine failure and inflight engine shutdown due to fuel contamination of the oil system.

DATES: Comments must be received by June 1, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–02, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from General Electric Aircraft Engines, CF6 Distribution Clerk, room 132, 111 Merchant Street, Cincinnati, OH 45246. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Glorianne Messemer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park,

Burlington, MA 01803–5299; telephone (617) 238–7132, fax (617) 238–7199.

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 should 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 94–ANE–02." 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, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94–ANE–02, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received three reports of uncontained engine failures due to separation of the fan mid shafts on General Electric Company (GE) CF6–80C2 series turbofan engines. Separation of the fan mid shaft results from sustained fires in the forward fan shaft cavity, due to fuel contamination of the oil system. The GE CF6–80C2 series engine has a lube system center vent design which releases air and oil vapor axially through the engine and into the centerbody cavity. The vapor then goes overboard through a hole in the aft centerbody exhaust plug. If fuel enters the engine oil system, fuel vapor passes through this center vent system. In the centerbody cavity, the center vent air is allowed to circulate and contact hot surfaces. These surfaces are hot enough to ignite heavily fuel-laden air. The pressure rise in the centerbody cavity from such an ignition results in backflow of the sump vent system, which can cause a flame to travel forward up the center vent tube (CVT). This may result in a sustained fire in the forward fan shaft cavity which can cause separation of the fan mid shaft. Installation of a flame arrestor plug support (FAPS) prevents the movement of a flame up the CVT, sustained burning in the forward fan shaft cavity, and subsequent fan mid shaft separations. Until such time as the FAPS is installed, operators must perform a repetitive oil quantity check for fuel contamination after engine start-up but prior to taxi. If the oil quantity indicates 5 gallons (20 quarts) or more, operators must troubleshoot and flush the oil system prior to further flight in accordance with the applicable maintenance manual. This condition, if not corrected, could result in an uncontained engine failure and inflight engine shutdown due to fuel contamination of the oil system.

The FAA has reviewed and approved the technical contents of GE CF6–80C2 Service Bulletin (SB) No. 72–648, Revision 1, dated January 11, 1993, and GE CF6–80C2 SB No. 72–095, Revision 2, dated January 11, 1993. These SB's describe procedures for installation of the CVT FAPS.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed airworthiness directive (AD) would require a repetitive oil quantity check after engine start-up and prior to taxi, and installation of a FAPS in the aft end of the CVT as a terminating action to the repetitive oil quantity checks. The manufacturer has advised the FAA that they will have manufactured all the parts needed for the entire fleet by the compliance end-date of August 1, 1994. The FAA has determined that the problem of fuel contamination of the oil system is not dependent upon cyclic or hourly usage and therefore proposes a compliance end-date of August 1, 1994. The actions would be required to be accomplished in accordance with the service bulletins described previously.

The FAA estimates that 1,570 engines installed on aircraft of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per engine to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $2,316. Out of the 1,570 engines, the manufacturer has advised the FAA that 96 percent of the fleet have accomplished the requirements of this AD. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $173,077.

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:

General Electric Company: Docket No. 94–ANE–02.

Applicability: General Electric Company (GE) CF6–80C2 series turbofan engines installed on, but not limited to, Airbus A300

and A310 series, Boeing 747 and 767 series, and McDonnell Douglas MD–11 series aircraft.

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained engine failure and inflight engine shutdown due to fuel contamination of the oil system, accomplish the following:

(a) Before each flight, perform an oil quantity inspection for fuel contamination at least 30 seconds after the engine reaches stabilized idle but prior to taxi. If the oil quantity indicates 5 gallons (20 quarts) or more, maintenance investigation is required prior to takeoff.

(b) If the oil quantity indicates 5 gallons (20 quarts) or more, flush and troubleshoot the oil system for fuel contamination prior to further flight.

(c) For engines with No. 6 bearing plug, Part Number (P/N) 1375M78G01, replace the No. 6 bearing plug with center vent tube (CVT) flame arrestor plug support (FAPS) in accordance with GE CF6–80C2 Service Bulletin (SB) No. 72–648, Revision 1, dated January 11, 1993, prior to August 1, 1994.

(d) For engines with No. 6 bearing plug, P/N 9362M36G01, replace the fan mid shaft assembly, the mid fan duct assembly, and the retaining ring, in accordance with GE CF6–80C2 SB No. 72–095, Revision 2, dated January 11, 1993, and replace the No. 6 bearing plug with CVT FAPS in accordance with GE CF6–80C2 SB No. 72–648, Revision 1, dated January 11, 1993, prior to August 1, 1994.

(e) Installation of the CVT FAPS in accordance with paragraphs (c) or (d) of this AD, constitutes terminating action for paragraphs (a) and (b) of this AD.

(f) The oil quantity inspection required by paragraph (a) of this AD may be performed by the pilot. The checks must be recorded in accordance with Federal Aviation Regulation (FAR) section 43.9, and records maintained by the owner/operator as required by FAR section 121.380(a)(2)(v), or 91.417(a)(2)(v), as applicable.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on April 13, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–10393 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 71

[Airspace Docket No. 94–ASO–4]

Proposed Establishment of Class D Airspace; Class E2 Airspace and Proposed Amendment of Class E Airspace; Athens, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace at the Athens/Ben Epps Airport, Athens, GA and to establish Class E4 airspace due to commissioning of a Non-Federal Air Traffic Control Tower, March 14, 1994, at the Athens/Ben Epps Airport. This Action also would amend the Class E2 surface airspace at Athens/Ben Epps Airport to indicate part-time when the control tower is not in operation. The intended effect of this proposal is to require pilots to establish two-way radio communications prior to entering the airspace during the hours the control tower is in operation.

DATES: Comments must be received on or before June 3, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 94–ASO–4, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, room 530, 1701 Columbia Avenue, College Park, Georgia 30337; telephone (404) 305–5200.

FOR FURTHER INFORMATION CONTACT: Wade T. Carpenter, Jr., Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5585.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed. stamped postcard on which the following statement is made: Comments to Airspace Docket No. 94–ASO–4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 530, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class D airspace area and Class E4 airspace at the Athens/Ben Epps Airport, Athens, Georgia. This action also would amend the Class E2 surface airspace at Athens/Ben Epps Airport to indicate part time. The establishment of this Class D airspace area will require pilots, prior to entering the airspace, to establish two-way radio communications with the newly commissioned air traffic control tower providing air traffic services. The coordinates for this airspace docket are based on North American Datum 83. Class D, Class E2 and Class E4 airspace areas, are respectively published in Para 5000, Para 6002 and Para 6004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1. The Class D, E2 and E4 airspace areas listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 25 FR 9565, 3CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Para 5000 Class D Airspace

* * * * *

ASO GA D Athens, Georgia [New]

Athens/Ben Epps Airport, Athens, Georgia (lat. 35°56′54″N, long, 83°19′37″W)

That airspace extending upward from the surface to and including 3300 feet MSL within a 4-mile radius of the Athens/Ben Epps Airport. This Class D airspace area is effective during the specified dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Para 6004 Class E airspace designated as an extension to a Class D surface area.

* * * * *

ASO GA E4 Athens, Georgia [New]

Athens/Ben Epps Airport, Athens, Georgia (lat. 35°56′54″N, long. 83°19′36″W)

That airspace within 3 miles each side of the Athens VORTAC 195° radial, extending from the 4-mile radius to 7 miles south of the VORTAC and within 3 miles each side of the Athens VORTAC 076° radial, extending from the 4-mile radius to 7 miles east of the VORTAC.

* * * * *

Para 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

ASO GA E2 Athens, Georgia [Amend]

Athens/Ben Epps Airport, Athens, Georgia (lat. 35°56′54″N, long. 83°19′36″W)

Within a 4-mile radius of the Athens/Ben Epps Airport and within 3 miles each side of the Athens VORTAC 195° radial, extending from the 4-mile radius to 7 miles south of the VORTAC and within 3 miles each side of the Athens VORTAC 076° radial, extending from the 4-mile radius to 7 miles east of the VORTAC.

This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effected date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on April 12, 1994.

Michael J. Powderly,

Acting Manager, Air Traffic Division Southern Region.

[FR Doc. 94–10382 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–ACE–13]

Proposed Removal of Class E Airspace; Higginsville, MO, Higginsville Industrial Municipal Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to remove Class E airspace at Higginsville, Missouri. The only standard instrument approach procedure (SIAP) for the Higginsville Industrial Municipal Airport was cancelled on September 19, 1991. The reason for this cancellation was the Higginsville Very High Frequency Omnidirectional Range (VOR) was permanently out of service, and this was the navigation aid upon which the SIAP was based.

DATES: Comments must be received on or before June 1, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, System Management Branch, ACE–530, Federal Aviation Administration, Docket No. 94–ACE–13, 601 East 12th Street, Kansas City, Missouri 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Regional Office at the address shown above, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Office of the Manager, System Management Branch, Air Traffic Division, at the address shown above.

FOR FURTHER INFORMATION CONTACT: Dale L. Carnine, Airspace Specialist, System Management Branch, ACE–530b, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426–3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption ADDRESSES. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–ACE–13." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the System Management Branch, Air Traffic Division, at 601 East 12th Street, Kansas City, Missouri, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, Air Traffic Division, 601 East 12th Street, Kansas City, Missouri 64106. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to remove Class E airspace at Higginsville, Missouri. The only SIAP for the airport was cancelled on September 19, 1991. The approach was based on the Higginsville VOR which has been out of service for several years. A previous proposal to remove the airspace was published in the **Federal Register** on May 24, 1991, as Airspace Docket 91–ACE–21 (56 FR 23820). The proposal was cancelled because of a plan to restore the VOR to normal operation. This plan never materialized. Therefore, the FAA is proposing to remove the Class E airspace at Higginsville, Missouri. Class E airspace areas extending from 700 feet AGL for airports are published in Paragraph 6005 of FAA Order 7400.9A, dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation for Higginsville, Missouri, listed in this document would be removed from this order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporated by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E2 Higginsville, MO [Removed]

* * * * *

Issued in Kansas City, Missouri, on April 13, 1994.

Clarence E. Newbern,

Manager, Air Traffic Division, Central Region.

[FR Doc. 94–10384 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AGL–13]

Modification of Class E Airspace; Newark, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify existing Class E airspace, specifically Class E5 Airspace near Newark, Ohio, to accommodate a new Simplified Directional Facility (SDF) Runway 9 Standard Instrument Approach Procedure (SIAP) to Newark-Heath Airport. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before June 7, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 94–AGL–13, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Robert J. Woodford, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 204–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects to the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AGL–13." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date of comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to modify Class E airspace at Newark, Ohio, to provide controlled airspace from 700 feet to 1200 feet AGL for aircraft executing the SDF Runway 9 SIAP into Newark-Heath Airport. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. Aeronautical maps and charts would reflect the defined area, which would enable pilots to circumnavigate the area in order to comply with applicable visual flight rules requirements.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Newark, OH [Revised]

Newark-Heath Airport, OH
(lat. 40°01′29″N., long. 82°27′43″W.)
Hebron, Buckeye Executive Airport, OH
(lat. 39°57′42″N, long 82°32′27″W.)

That airspace extending upward from 700 feet above the surface within an 8.5 mile radius of Newark-Heath Airport, and within 1.3 miles either side of the 324° bearing from Newark-Heath Airport, within 5.5 miles north and 4 miles south of the 273° bearing from Newark-Heath Airport, extending to 15 miles west of the Airport, excluding that portion within the Port Columbus, Ohio Class E airspace area; within a 6 mile radius of Buckeye Executive Airport, and within 6 miles either side of the 351° bearing from the Airport, extending to 12.5 miles north of the Airport.

* * * * *

Issued in Des Plaines, Illinois on April 18, 1994

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–10385 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AGL–14]

Establishment of Class E Airspace; Griffith, Indiana

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E5 airspace at Griffith, Indiana, to accommodate a new VOR/DME Runway 26 Standard Instrument Approach Procedure (SIAP) to Griffith-Merrillville Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. The intended effect of this proposal is to provide segregation of aircraft using instrument approach procedure in instrument conditions from other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before June 7, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 94–AGL–14, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, System Management Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Robert J. Woodford, Air Traffic Division, System Management Branch, AGL–530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (708) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AGL–14." The postcard will be date/

time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Griffith, Indiana, to provide controlled airspace from 700 feet to 1200 feet AGL for aircraft executing the new VOR/DME Runway 26 SIAP into Griffith-Merrillville Airport. The intended effect of this action is to provide segregation of aircraft using instrument approach procedures in instrument conditions from other aircraft operating in visual weather conditions. Aeronautical maps and charts would reflect the defined area, which would enable pilots to circumnavigate the area in order to comply with applicable visual flight rules requirements.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9A date June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria for the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 99565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Griffith, IN [New]

Griffith-Merrillville Airport
(Lat. 41°31′11″ N., long. 87°24′04″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3 mile radius of the Griffith-Merrillville Airport, excluding that area within the Chicago, IL Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on April 18, 1994.

Roger Wall,

Manager, Air Traffic Division.

[FR Doc. 94–10383 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

Wyoming Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Wyoming permanent regulatory program (hereinafter, the "Wyoming program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of proposed statutory changes to the Wyoming Environmental Quality Act (EQA) pertaining to recovery of costs and expenses (including attorney's fees) incurred in connection with administrative and judicial proceedings.

This document sets forth the times and locations that the Wyoming program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., m.d.t. June 1, 1994. If requested, a public hearing on the proposed amendment will be held on May 27, 1994. Requests to present oral testimony at the hearing must be received by 4 p.m., m.d.t. on May 17, 1994. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the Wyoming program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy V. Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement; 100 East B Street, Room 2128; Casper,

WY; 82601–1918. Telephone: (307) 261–5776.

Dennis Hemmer, Director; Wyoming Department of Environmental Quality; Herschler Building, Fourth Floor West; 122 West 25th Street; Cheyenne, Wyoming; 82002. Telephone: (307) 777–7758.

FOR FURTHER INFORMATION CONTACT: Guy V. Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the Wyoming Program

On November 26, 1980, the Secretary of the Interior conditionally approved the Wyoming program. General background information on the Wyoming program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Wyoming program can be found in the November 26, 1980, **Federal Register** (45 FR 78637). Subsequent actions concerning Wyoming's program and program amendments can be found at 30 CFR 950.11, 950.12, 950.15, and 950.16.

On January 24, 1994 (59 FR 3513), the Secretary of the Interior approved with certain exceptions, Wyoming's program amendments regarding the recovery of costs and expenses, including attorney fees, incurred in connection with administrative review proceedings under the Wyoming program. As a result of this decision 30 CFR 950.11(c) was modified to require Wyoming to revise section 35–11–437 of the Wyoming Statutes (W.S.) to be consistent with the Federal requirements at section 525(e) of SMCRA (30 U.S.C. 1275(e)) and 43 CFR 4.1290 through 4.1295 concerning the award of costs and expenses incurred in connection with administrative and judicial proceedings.

II. Discussion of Proposed Amendment

By letter dated April 13, 1994, (Administrative Record No. WY–27–01) Wyoming submitted a proposed amendment to its permanent program pursuant to SMCRA. The Wyoming proposed amendment consists of statutory changes to the Wyoming Environmental Quality Act (EQA) through Enrolled Act 4, Original House Bill No. 98 (1994 Budget Session), which was signed into law on March 16, 1994. Enrolled Act 4 revises 1) W.S. 35–11–437(f) by amending the introductory language, changing the word "director" to "council," and adding the language "or subsequent judicial review proceedings;" 2) W.S. 35–11–437(f)(i) and (iii) by repealing them in their entirety; and 3) W.S. 35–11–437(g) by repealing it in its entirety.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Wyoming program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commentor's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., m.d.t. May 17, 1994. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

Compliance with Executive Order 12866

This proposed rule is exempted from review by the office of Management and Budget under Executive Order 12866 (Reduction of Regulatory Burden).

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731 and 732 have been met.

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Compliance With the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for

which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 950

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 19, 1994.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 94–10236 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGDO2–94–019]

RIN 2115–AE46

Memphis in May Sunset Symphony, Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes adopting a regulation for the Memphis in May Sunset Symphony which will be held on the Lower Mississippi River near Memphis, Tennessee on May 28, 1994. This regulation is needed to control vessel traffic in the immediate vicinity of the event. The regulation will restrict general navigation in the regulated area for the safety of spectators, participants and through traffic.

DATES: Comments must be received on or before May 23, 1994.

ADDRESSES: Comments may be mailed to Commander (bb), Second Coast Guard District, 1222 Spruce Street, St. Louis, MO 63103–2832, Attention: Docket CGD2–94–019. Comments may also be delivered to room 2.202C at the above address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. For information concerning comment the telephone number is (314) 539–3971.

The Boating Safety Division, Second Coast Guard District, maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying in room 2.202C at the above address.

FOR FURTHER INFORMATION CONTACT: LCDR J. O. Jaczinski, Boating Safety Division, Second Coast Guard District, (314) 539–3971.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD2–94–019], identify the specific section of this proposal to which each comment applies, and give the reason for each comment. Each person who wants an acknowledgment of the receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. The Coast Guard may change the proposal in view of the comments.

The Coast Guard does not plan to hold a public hearing. Persons may request a public hearing by writing to the Docket Clerk at the address under **ADDRESSES.** If the Coast Guard determines that the opportunity to make oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

The comment period for this regulation has been shortened to 20 days because the application was not received in time to allow for the normal 60 day comment period. The Coast Guard has determined that because of the local nature of this event and the limited duration of the required closure of the river, 30 days will be a sufficient period of time to receive and review any comments.

Drafting Information

The principal persons involved in drafting this document are LCDR J. O. Jaczinski, Project Officer, Second Coast Guard District, Boating Safety Division and LCDR A. O. Denny, Project Attorney, Second Coast Guard District Legal Office.

Background and Purpose

The Memphis in May Sunset Symphony begins at 12 noon and will end at approximately 10 p.m. The event consists of an orchestra performance by the Memphis Symphony, followed by 10 to 12 minutes of fireworks over the river at the conclusion of the evening. In order to provide for the safety of spectators and participants, and for the safe passage of through traffic, the Coast Guard will restrict vessel movement in the regatta area, immediately before and during the fireworks display. The river will be closed from 8 p.m. to 10 p.m., local time, to all vessel traffic except participants, official regatta vessels, and patrol craft. These regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35.

Regulatory Evaluation

This proposal is not a significant regulatory action under Executive Order 12866 and is not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979), it will not have a significant economic impact on a substantial number of small entities, and it contains no collection of information requirements.

A full regulatory analysis is unnecessary because the Coast Guard expects the impact of this regulation to be minimal due to its short duration.

Small Entities

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

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant impact on a substantial number of small entities. If however, you think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a comment (see **ADDRESSES**) explaining why you think your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

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

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not

have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2 of Commandant instruction M16475.1B, this regulation is categorically excluded from further environmental documentation because promulgation of changes to the regulations have been found to not have a significant effect on human environment. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (Water), Records and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

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

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

2. A temporary § 100.35 T02–019 is added, to read as follows:

§ 100.35 T02–019 Lower Mississippi River, Memphis, Tennessee.

(a) *Regulated area.* Lower Mississippi River from mile 736.0 to 736.5.

(b) *Special local regulations.* (1) Except for participants in the Memphis in May Sunset Symphony, no person or vessel may enter or remain in the regulated area without permission of the Patrol Commander.

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

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

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

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

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

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

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

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

(c) *Effective date.* This section becomes effective from 8 p.m. to 10 p.m. local time on May 28, 1994.

Dated: April 15, 1994.

Paul M. Blayney,

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

[FR Doc. 94–10443 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 165

[OPP–190001A; FRL–4777–8]

Standards for Pesticide Containers and Containment; Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: Pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA proposed container design requirements for refillable and nonrefillable pesticide containers, and procedures, standards and label language to facilitate removal of pesticides from containers prior to disposal and standards for pesticide containment structures (59 FR 6712, February 11, 1994). EPA is extending the public comment period for that proposed rule for 60 days, from May 12, 1994 to July 11, 1994.

DATES: Comments must be received on or before July 11, 1994.

ADDRESSES: Submit written comments on the proposed rule, bearing the document identification number OPP–190001, by mail to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Deliver comments in person to: Public Docket and Freedom of Information Section, Field Operations Division (7506C), Office of Pesticide Programs, U.S. Environmental Protection Agency, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

In addition, EPA requests that a disk copy in Wordperfect or ASCII be submitted, if possible. Comments may be submitted electronically to e-mail address: pestrule.pmds@epamail.epa.gov.

Information submitted in any comment concerning the proposal may be claimed as confidential by marking any or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. Comments will be available for public inspection in Room 1132 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail for the proposed Standards for Pesticide Containers and Containment: Janice Jensen, Pesticide Management and Disposal Staff, Office of Pesticide Programs (7507C), U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460, (703) 305–5288.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA proposed container design requirements for refillable and nonrefillable pesticide containers, and procedures, standards and label language to facilitate removal of pesticides from containers prior to disposal and standards for pesticide containment structures (59 FR 6712, February 11, 1994). EPA is extending the public comment period for that proposed rule for 60 days, from May 12, 1994 to July 11, 1994. The proposed rule was corrected at 59 FR 10228, March 3, 1994 and at 59 FR 15966, April 5, 1994. EPA has been requested to extend the comment period to give persons

interested in commenting on the numerous issues in the proposed rule more time to draft thorough comments. Therefore, the comment period is being extended for an additional 60 days.

Dated: April 20, 1994.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 94–10439 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–F

Notices

Federal Register
Vol. 59, No. 83
Monday, May 2, 1994

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

Intent To Prepare an Environmental Statement, Eldorado National Forest et al; CA

AGENCY: Forest Service, USDA.

ACTION: Revision of notice of intent to prepare an environmental impact statement.

SUMMARY: On May 13, 1992, the Forest Service filed a notice of intent in the **Federal Register** to prepare an environmental impact statement (EIS) to analyze revision of management guidelines for the Desolation Wilderness on the Pacific and Placerville Ranger Districts of the Eldorado National Forest and the Lake Tahoe Basin Management Unit, El Dorado County, California. This notice is being filed because the draft EIS has been delayed more than 6 months.

ADDRESSES: Craig Harasek, District Ranger, Pacific Ranger District, Eldorado National Forest, ATTN: Desolation Wilderness EIS, Pacific Ranger District, Pollack Pines, CA. 95726, phone 916–644–2349.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Karen Leyse, Interdisciplinary Team Leader, Pacific Ranger District, Pollock Pines, CA. 95726, phone 916–644–2349.

SUPPLEMENTARY INFORMATION: The *Eldorado National Forest Land and Resource Management Plan* (1989), the *Lake Tahoe Basin Management Unit Land and Resource Management Plan* (1988), and the 1964 Wilderness Act have provided general management direction for Desolation Wilderness. The current Desolation Wilderness Management plan was completed in 1978; both Forest Plans indicate the need to review the existing Desolation Wilderness Plan and to revise it as needed. The decision may result in amendment to the Forest Plans.

A great deal of scoping has been completed since the original notice of intent was filed. Through scoping, the following issues have been identified:

1. Fire. Fire suppression has affected the development and maintenance of natural plant communities and the resulting ecosystems. Current fire management policy and suppression techniques are not consistent with maintaining natural processes and wilderness characteristics.

2. Fisheries. Stocking of fish in wilderness lakes provides recreational opportunities for the public, but this practice affects naturally occurring biodiversity and ecosystems, which are protected by wilderness designation.

3. Range. Current grazing practices may impact water quality, vegetation, meadow and riparian areas, wildlife, and archaeological sites. Grazing is a historical use; however, the presence of cattle disturbs some visitors.

4. Water quality. Current use and management practices may be creating unacceptable water quality conditions in the wilderness.

5. Wood fires. Many wilderness users value campfires as part of the wilderness experience; however, collection of firewood and presence of firerings, ashes, and other campfire debris degrades campsites and eliminates down, woody debris, an important part of the ecosystem.

6. Visitor impacts. Some areas of the wilderness, especially lakeshores and easily accessed sites, are being damaged by visitor use, Users, including recreational stock users, may impact the vegetation, soils, wildlife, and cultural sites.

7. Quotas and group size. The number and distribution of users and the size of groups (including stock) affect the values and character of the wilderness and the quality of the wilderness experience.

8. Aircraft Overflights. Overflights are common and intrude on the wilderness experience.

9. Dogs. The presence of dogs disturbs some visitors, adds to sanitation problems, and may harass wildlife.

10. Recreational shooting. Some visitors feel that the responsible use of guns should be allowed. Others are disturbed by the noise and the harassment of wildlife and have expressed concern for their own safety.

11. Trails. Management and development of trailheads and trails may affect the amounts and patterns of use and the quality of the wilderness experience.

In preparing the EIS, the Forest Service will be considering a range of alternatives for future management of the wilderness. The Forest Service is in the process of developing these alternatives, which range from maximum recreational use of the wilderness to maximum wilderness protection. These preliminary alternatives may be revised before the draft EIS is issued as new information is developed or new comments are received:

Maximum Opportunity. This alternative would increase the use of the wilderness by expanding the trail system and signing, maintaining all trails, and upgrading unimproved trails. Camping would be allowed in all zones. Fisheries opportunities would be increases. Campfires would be permitted in designated firerings, back country toilets would be installed, group sizes of 25 would be permitted, and quotas for overnight camping would be raised. There would be no limits for recreational stock. No fees would be charged.

No Action. The current situation would continue unchanged. There would continue to be unlimited day use with quotas on overnight use in the 3-month summer period. Camping would be permitted in all zones. Maintenance and reconstruction of existing trails would continue. Fish stocking of lakes and operation of stream flow management dams would continue. Wood fires would continue to be prohibited. All fires, including lightening caused fires, would be suppressed. Sanitation recommendations would continue to include a 100-foot setback from water. There would be no limits on recreational shooting or recreational stock. The forests would continue to pursue charging a permit reservation fee.

Enhanced Wilderness Experience. The quality of the wilderness experience would be improved by restricting the number of day users in heavily used areas and by slightly reducing the number of overnight users permitted over a 5-month summer period. Group sizes would be reduced in remote areas.

The number of stock permitted per group would be limited, and recreational shooting would be limited during the heavy use season. There would be a leash requirement for dogs. Fish stocking would continue at reduced levels, and catch-and-release regulations would be encouraged. Overnight wilderness permits would be issued by zone or by destination, with no camping in heaviest use areas. "No trace" wood fires would be allowed in designated areas. The use of loop trails in heaviest use areas would be considered; other trails would be made more primitive. Directional signing would be found only in the heaviest use areas. Prescribed natural fire would be allowed in areas of the wilderness where fire hazard is low.

Physical Restoration. The number of day and overnight users would be further reduced from the Enhanced Wilderness Experience alternative during a 6-month summer quota period. Group sizes for users and stock would be reduced. Grazing would be permitted only where appropriate based on wilderness resource conditions. Recreational shooting would be limited to the less pristine areas. Camping and outfitter/guide use would be regulated by zone. Dogs would be required to be on a leash in popular areas and would be prohibited in pristine areas. Fish stocking would be reduced, and riparian areas would be revegetated. Some trails could be removed and others would be re-routed in sensitive areas. Planned and natural prescribed fire would be used to return interior areas of the wilderness to pre-historial conditions. Reservation and permit fees (if legal) would be collected.

Enhanced Ecosystem. Group sizes for users and stock would be further reduced from the other alternatives, and the numbers of overall visitors would be reduced. Cattle would be excluded from riparian areas within the wilderness. Stocking of non-native fish species would be precluded in more pristine areas. Dogs, recreational shooting, and campfires would be prohibited. The number of signs, stream maintenance dams, and trails would be reduced. Trails would be re-routed away from sensitive areas; stream crossings would be repaired; riparian areas would be revegetated. Planned and natural prescribed fire would be used throughout the wilderness. Reservation and permit fees (if legal) would be collected.

Maximum Wilderness Preservation. The wilderness would be managed for very primitive to pristine conditions. Stock and human use levels would be reduced. Dogs, shooting, and campfires would be prohibited. Signing, stream-flow maintenance dams, some campsites, and many trails would be removed. Fish stocking would cease. Reservation and permit fees (if legal) would be collected.

Ronald E. Stewart, Regional Forester, Pacific Southwest Region, San Francisco, California, is the responsible official.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September 1994. At that time the EPA will publish a notice of availability of the draft EIS in the Federal Register.

The comment period on the draft EIS will be 45 days from the date EPA's notice of availability appears in the Federal Register. It is very important that reviewers participate at that time. To be the most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final EIS. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed by January 1995. The Forest Service is required to respond in the final EIS to the comments received (40 CFR 1503.4). The responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision and rationale in the Record of Decision. That decision will be subject to appeal pursuant to 36 CFR 215.

Dated: April 20, 1994.

Susan R. Swinson,

Acting Forest Supervisor, Lake Tahoe Basin Management Unit.

Dated: April 14, 1994.

Robert E. Harris,

Acting Forest Supervisor, Eldorado National Forest.

[FR Doc. 94–10397 Filed 4–29–94; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Wahoo Creek Watershed, Saunders County, NE

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for Wahoo Creek Watershed, Saunders County, Nebraska.

FOR FURTHER INFORMATION CONTACT: Ronald E. Moreland, State Conservationist, Soil Conservation Service, Federal Building, room 152, 100 Centennial Mall North; Lincoln, NE 68508–3866; telephone: (402) 437–5300.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Ronald E. Moreland, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for flood prevention, water quality and recreation improvement. Alternatives under consideration to reach these objectives include systems for conservation land treatment, structural measures, and non-structural measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have a special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Meetings will be held

at various locations within the watershed and announced thirty days prior to date to be held to determine the scope of the evaluation of the proposed action. Further information on the proposed action or the scoping meetings may be obtained from Ronald E. Moreland, State Conservationist, at the above address or telephone (402) 437–5300.

Dated: April 20, 1994.

Ronald E. Moreland,

State Conservationist.

[FR Doc. 94–10398 Filed 4–29–94; 8:45 am]

BILLING CODE 3210–16–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the California 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 California Advisory Committee to the Commission will convene from 6 p.m. and adjourn at 9 p.m. on Friday, May 20, 1994, and reconvene at 9:00 a.m. and adjourn at 12 p.m. on Saturday, May 21, 1994, at the Courtyard by Marriott, 2101 River Plaza Drive, Sacramento, California 95833. The purpose of the meeting is to first have all subcommittees (education, administration of justice, government operations, and employment) discuss projects to be presented to the full Committee.

Persons desiring additional information, or planning a presentation to the Committee, should contact Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). 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, April 21, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–10399 Filed 4–29–94; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the Idaho 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 Idaho Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Wednesday, May 18, 1994, at the Doubletree Hotel, 475 Parkcenter Blvd., Boise, Idaho 83705. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gladys Esquibel or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–0508). 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, April 21, 1994.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 94–10400 Filed 4–29–94; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 03/16/94–04/15/94

Firm name	Address	Date petition accepted	Product
Pennsylvania Woven Carpet Mills, Inc.	401 E. Allegheny Avenue, Philadelphia, PA 19134.	03/17/94	Wool is woven on Wilton Looms to produce Wilton and Axminster Carpeting.
Woodies Cajun Lures	P.O. Box 850, 44 Z Beavers Road, Pineville, LA 71360.	03/17/94	Artificial baits and flies.
Diamon Images Incorporated.	120 C Albright Way, Los Gatos, CA 95030.	03/25/94	Photo Masks for use in the manufacture of integrated circuit products.
Hytek Finishes Co., Inc	8127 South 216th Street, Kent, WA 98032.	03/25/94	Aerospace parts.
Precision Gear, Inc	48–09 108th Street, Corona, NY 11368.	03/28/94	Aircraft gear assemblies.
Welsh Company	1535 S. Eighth Street, St. Louis, MO 63104.	03/31/94	Baby carriages and Jenny Lind cribs.
Jacqueline Manufacturing Corporation.	Box 579, Richlands, VA 24641.	03/31/94	Ladies' nightwear of cotton and cotton polyester.
U.S. Metal Forming, Inc	592 New Britain Ave., Farmington, CT 06034–0886.	04/04/94	Metal stamped and welded subassemblies for circuit breakers and misc. metal stampings.
Snow River Wood Products, Inc.	RR 6 Vernon Road, Brattleboro, VT 05301.	04/05/94	Utility boards: Various styles of cutting boards and counter boards.
Martin & Richardson Seafood Co., Inc.	801 Jefferson Avenue, Newport News, VA 23607.	04/06/94	Food & Bevg.—Fresh crabmeat.
Sperry Marine, Inc	1070 Seminole Trail, Charlottesville, VA 22901.	04/07/94	Gyropilots and Gyro Compasses, Radar and Radar Displays.
Diamond Research & Development Company, Inc.	2735 Cheshire Lane, Plymouth, MN 55447.	04/07/94	Portable Quartz Halogen Floodlights and replacement bulbs.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 03/16/94–04/15/94—Continued

Firm name	Address	Date petition accepted	Product
ALTEC International Limited Partnership.	2191 Ward Avenue, La Crosse, WI 54601.	04/07/94	Brazed Aluminum Plate-Fin Heat Exchangers and Steel Composit Pipe Joints.
Champion Fasteners, Inc ...	500 Campus Drive, Mt. Holly, NJ 08060.	04/07/94	Metal products—Steel and Aluminum Welding Studs.
Celebration Fun Flowers	9402 Fruitland Avenue, East, Puyallup, WA 98371.	04/07/94	Flowers—Artificial.
Tidland Corporation	2305 SE 8th Avenue, Camas, WA 98607–0008.	04/07/94	Metal Products—Shafts and Chucks and Slitting Frams and Accessories.
Precision Metal Works	145 Union Street, Holbrook, MA 02343.	04/08/94	Precision Metal Stamped Components.
American Grape Harvesters, Inc.	1600 ½ Ross Street, Selma, CA 93662–3600.	04/08/94	Mach. & Equip.—Grape harvesters.
Inter-State Dyeing & Finishing Co. Inc.	35 8th Street, Passaic, NJ 07055.	04/08/94	Dyed and finished woven fabric made of synthetic fiber.
Quiet Sport, Inc	60 Southeast Kennedy Drive, Duvall, WA 98109.	04/08/94	Footwear—Neoprene waders and hip boots, dog vests, water ski bindings and fisherman float tubes.
Library Bureau, Inc	801 Park Avenue, Herkimer, NY 13350.	04/08/94	Furniture—wood and steel shelving for library furniture market.
Liberty Tool Corporation	350 Buell Road, Rochester, NY 14692.	04/08/94	Mach. & Equip.—milling machines.
Innotec Group, Inc	61 W. Moreland Road, Simi Valley, CA 93065.	04/12/94	Thin film deposition systems for use in the manufacture of semiconductors.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: April 21, 1994.

Pedro R. Garza,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 94–10450 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–24–M

International Trade Administration

[A–301–602]

Initiation of Administrative Review and Request for Revocation in Part of the Antidumping Duty Order on Certain Fresh Cut Flowers From Colombia

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of initiation of administrative review and request for revocation in part of the antidumping duty order on certain fresh cut flowers from Colombia.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct an administrative review of the antidumping duty order on certain fresh cut flowers from Colombia. Requests for revocation from the antidumping order were also received from specific exporters/growers. In accordance with the Department's regulations, we are initiating this administrative review for the period March 1, 1993 through February 28, 1994. We are initiating this review for those named exporters/growers for whom a request for review was received. The Department is also noting those exporters/growers who have requested revocation from the antidumping duty order.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: J. David Dirstine, Daniel Manzoni, or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests in accordance with 19 CFR 353.22 (a)(1), (a)(2), and (a)(3) of the Department's regulations for an administrative review of the antidumping duty order on certain fresh cut flowers from Colombia. The Department has also received requests for revocation from the exporters/growers noted.

Initiation of Review

In accordance with 19 CFR 353.22(c) of the Department's regulations, we are initiating an administrative review of the antidumping duty order on certain fresh cut flowers from Colombia. 19 CFR 353.22(c). The Department is not initiating an administrative review of any Colombian exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under 19 CFR 353.22(a). We intend to issue the final results of this review no later than March 31, 1995.

We received requests for review of the following specifically-named exporters/growers:

Abaco Tulipanes de Colombia
Achalay
Aga
Agrex de Oriente
Agricola Acevedo Ltda.

Agricola Altiplano
Agricola Arenales Ltda.
Agricola Benilda Ltda.
Agricola Bojaca Ltda.
Agricola Bonanza Ltda.
Agricola Circasia Ltda.
Agricola de la Fontana Ltda.
Agricola de Los Alisos Ltda.
Agricola de Occidente
Agricola del Monte
Agricola el Cactus S.A.
Agricola el Jardin
Agricola el Redil Ltda.
Agricola Guali S.A.
Agricola Jicabal
Agricola La Celestina
Agricola La Corsaria Ltda.
Agricola La Maria
Agricola La Siberia
Agricola Las Cuadras
Agricola Los Arboles S.A.
Agricola Malqui
Agricola Megaflor Ltda.
Agricola Monteflor Ltda.
Agricola Sagasuca Ltda.
Agricola Usatama
Agricola Yuldama
Agriflora
Agrobloom Ltda.
Agrocaribu Ltda.
Agro de Narino
Agrodex/Ukrania
Agrodex Group
  Agricola el Retiro Ltda.
  Agricola los Gaques Ltda.
  Agrodex Ltda.-Adelaida
  Degaflores Ltda.
  Flores Camino Real Ltda.
  Flores de la Comuna Ltda.
  Flores de La Mercedes Ltda.
  Flores de Los Amigos Ltda.
  Flores de Los Arrayanes Ltda.
  Flores De Mayo Ltda.
  Flores de Pueblo Viejo Ltda.
  Flores del Gallinero Ltda.
  Flores del Potrero Ltda.
  Flores el Trentino Ltda.
  Flores la Conejera Ltda.
  Flores Manare Ltda.
  Florlinda Ltda.
  Horticola Montecarlo Ltda.
  Horticola El Triunfo Ltda.
  Inversiones Santa Rosa Arw Ltda.
Agroindustria del Rio Frio Ltda.
Agroindustrial Don Eusebio Ltda. Group
  Agroindustrial Don Eusebio Ltda.
  Celia Flowers
  Passion Flowers
  Primo Flowers
  Temptation Flowers
Agroindustrial Madonna S.A.
Agroindustrias De Narino Ltda.
Agrokoralia
Agromonte Ltda.
Agropecuria Cuernavaca Ltda.
Agropecuaria la Marcela
Agropecuaria Mauricio
Agrocosas
Agrotabio Kent
Aguacarga
Alcala
Alstroflores Ltda.
Amoret
Ancas Ltda.
Andes Group
  Cultivos Buenavista Ltda.
  Flores de los Andes Ltda.
  Flores Horizonte Ltda.
  Inversiones Penas Blancas Ltda.
A.Q.
Arboles Azules Ltda.
Aspen Gardens
Astro Ltda.
Bali Flowers
Becerra Castellanos y Cia.
Bellavista
Bloomshare Ltda.
Bogota Flowers
Caico
Caicedo Group
  Exportaciones Bochica S.A.
  Floral Ltda.
  Flores del Cauca S.A.
  Aranjuez S.A.
  Productos El Zorro
  Andalucia
Cantarrana Group
  Cantarrana Ltda.
  Deer Field Flowers/Agricola los Venados Ltda.
Carcol Ltda.
Catu S.A.
Ciba Geigy
Cienfuegos Groups
  Cienfuegos Ltda.
  Flores la Conchita De German
  Flores la Conchita German Ribon y Cia S. en C.
Cigarral Group
  Flores Cigarral
  Flores Tayrona
Classic
Claveles Colombianos Group
  Claveles Colombianos Ltda.
  Fantasia Flowers Ltda.
  Splendid Flowers Ltda.
  Sun Flowers Ltda.
Claveles de los Alpes Ltda.
Claveles Tropicales de Colombia Ltda.
Clavelez
Coexflor
Colflores
Colibri Flowers Ltda.
Colony International Farm
Color Explosion
Combiflor
Comercializadora Caribbean
Conflores Ltda.
Consorcio Agroindustrial Columbiano S.A.
Cota
Crest D'or
Crop S.A.
Clutivos Guameru
Cultiflores Ltda.
Cultivos el Lago Ltda.
Cultivos Medillin Ltda.
Cultivos Miramonte
Cultivos Tahami Ltda.
Cypress Valley
Daflor Ltda.
Degaflor
De La Pava Guevara E Hijos Ltda.
Del Monte
Del Tropico Ltda.
Dianticola Colombiana Ltda.
Disagro Ltda.
Diveragricola
Dynasty Roses Ltda.
El Antelio S.A.
El Dorado
Elite Farms
Elite Flowers
El Milagro
El Timbul Ltda.
Emeral Farms
Envy Farms Ltda.
Euroflora
Exoticas
Exotic Flowers
Exotico
Expoflora Ltda.
Exporosas
Exportadors
F. Salazar
Falcon Farms de Colombia S.A. (formerly Flores de Cajibio Ltda.)
Fernando de Mier
Ferson Trading
Flamingo Flowers
Flor Colombia S.A.
Flor y Color
Flora Bellisima Ltda.
Flora Intercontinental Ltda.
Floralex Ltda.
Florandia Herrera Camacho & Cia.
Floreales Group
  Floreales Ltda.
  Kim Baya
Florenal Ltda.
Flores Abaco S.A.
Flores Acuarela S.A.
Flores Agromonte
Flores Aguila Ltda.
Flores Ainsuca Ltda.
Flores Alborado
Flores Alcala Ltda.
Flores Alfaya Ltda.
Flores Andinas Ltda.
Flores Ainsus
Flores Arco Iris
Flores Aurora
Flores Bachue Ltda.
Flores Balu
Flores Calichana
Flores Canelon
Flores Carmel S.A.
Flores Catalina
Flores Casablanca S.A.
Flores Colon Ltda.
Flores Comercial
Flores Cerezangos
Flores Corola
Flores de Aposentos Ltda.
Flores de Colombia (FLORCOL) Ltda.
Flores de Fragua
Flores de Guasca
Flores de Hacaritama
Flores de Hunza Ltda.
Flores de Iztari
Flores de Memecon/Corinto
Flores de Oriente
Flores de Serrenzuela S.A.
Flores de Suba Ltda.
Flores de Suesca S.A.
Flores de Tenjo Ltda.
Flores de la Cuesta
Flores de la Hacienda
Flores de la Maria
Flores de la Montana
Flores de la Parcelita
Flores de la Pradera Ltda.
Flores de la Sabana S.A.
Flores de la Vega
Flores de la Vereda S.A.
Flores del Campo Ltda.
Flores del Cielo Ltda.
Flores del Cortijo
Flores del Hato

Flores del Lago Ltda.
Flores del Rio Group
Agricola Cardenal
Flores de Rio S.A.
Indigo S.A.
Flores del Molino
Flores del Prado
Flores del Salitre Ltda.
Flores del Tambo
Flores Depina S.A.
Flores el Lobo Ltda.
Flores el Majui
Flores el Molino S.A.
Flores el Rosal Ltda.
Flores el Talle Ltda.
Flores el Tandil Ltda.
Flores el Zorro
Flores Flamingo Ltda.
Flores Fusu
Flores Galia Ltda.
Flores Generales Ltda.
Flores Gicro Ltda.
Flores Gloria
Flores Guaicata Ltda.
Flores Hacienda Bejucol
Flores Intercontinentales
Flores Juanambu
Flores Juncalito Ltda.
Flores la Cabanuela
Flores la Fragrancia
Flores la Gioconda
Flores la Lucerna
Flores la Macarena
Flores la Pampa
Flores la Union
Flores la Union-Gomez Arango & Cia. S. en C.
Flores la Union/Santana
Flores la Valvanera Ltda.
Flores las Caicas
Flores Marandua Ltda.
Flores Las Mesitas
Flores Los Sauces Ltda.
Flores Mapara
Flores Mocari S.A.
Flores Monserrate Ltda.
Flores Montecarlo
Flores Naturales
Flores Palimana
Flores Petaluma Ltda.
Flores Ramo Ltda.
Flores Rio Grande
Flores S.A.
Flores Sagaro
Flores Saint Valentine
Flores Sairam Ltda.
Flores San Andres
Flores San Carlos
Flores San Juan S.A.
Flores San Mateo Ltda.
Flores Santa Fe Ltda.
Flores Santa Lucia
Flores Sausalito
Flores Selectas
Flores Silvestres
Flores Sindamanoi
Flores Suasuque
Flores Tejas Verdes Ltda.
Flores Tenerife Ltda.
Flores Tiba S.A.
Flores Tibati Ltda.
Flores Tocarinda
Flores Tomine Ltda.
Flores Urimaco
Flores Violette
Florex Group
Agricola Guacari S.A.
Flores Altamira S.A.
Flores de Exportacion S.A.
Four Farmers
Florex S.A.
Florexpo
Floricola
Floricola la Gaitana S.A.
Florimex Colombia Ltda.
Florisol
Florpacifico
Floval
Flower Factory
Flowers of the World/Rosa
Four Seasons
Fracolsa
Fresh Flowers
Fribir Ltda.
Funza Group
Flores Alborada
Flores de Funza
Flores del Bosque
Garden and Flowers Ltda.
German Ocampo
Granja
Green Flowers
Groex S.A.
Grupo Andes
Cultivos Buenavista Ltda.
Flores de los Andes
Flores Horizonte Ltda.
Inversiones Penas Blancas
Grupo Florex
Agricola Gucari S.A.
Flores Altamira S.A.
Flores de Exportacion S.A.
Guacatay Group
Agricola Guacatay S.A.
Jardines Bacata Ltda.
Gypso Flowers
Hacienda La Embarrada
Hacienda Matute
Hacienda Susata
Hana/Hisa Group
Flores Hana Ichi de Colombia Ltda.
Flores Tokai Hisa
Herando Monroy
Hill Crest Gardens
Horticultura de la Sasan
Horticultura Montecarlo
Horticultura el Molino
Illusion Flowers
Happy Candy Group
Flores Tropicales Ltda.
Happy Candy Ltda.
Mercedes Ltda.
Rosas Colombianas Ltda.
Hosa Group
Horticultura de la Sabana S.A.
Innovacion Andina S.A.
Minispray S.A.
Industria Santa Clara
Industrial Agricola
Industrial Terwengel Ltda.
Ingro Ltda.
Innovacion Andina S.A.
Inpar
Interflora Ltda.
Inter Flores Ltda.
Internacional Flowers
Inverfloral Ltda.
Invernavas
Inverpalmas
Inversiones Almer Ltda.
Inversiones Bucarelia
Inversiones Cota
Inversiones del Alto
Inversiones Cubivan
Inversiones el Bambu Ltda.
Inversiones el Eden
Inversiones Kluar
Inversiones Maya Ltda.
Inversiones Morcote
Inversiones Nativa Ltda.
Inversiones & Producciones Tecnicas
Inversiones Playa
Inversiones Santa Rita Ltda.
Inversiones Silma
Inversiones Sima
Inversiones Supala S.A.
Inversiones Valley Flowers
Iturrama S.A.
Jardin
Jardin de Carolina
Jardines Choconta
Jardines Darpu
Jardines de America
Jardines de Chia Ltda.
Jardines de Los Andes
Jardines de Timana
Jardines del Muna
Jardines Fredonia
Jardines Natalia Ltda.
Jardines Tocarema
J.M. Torres
Karla Flowers
Kimbaya
Kingdom S.A.
La Colina
La Embairada
La Flores Ltda.
La Floresta
La Florida
La Marotte S.A.
La Plazoleta Ltda.
Las Amalias S.A./Pompones Ltda.
Las Flores Ltda.
Laura Flowers
L.H.
Linda Colombiana
Loma Linda
Loreana Flowers
Los Geranios Ltda.
Luisa Flowers
M. Alejandra
Manjui Ltda.
Merastec
M.G. Consultores Ltda.
Miraflores Group
Inversiones Miraflores S.A.
Inversiones Oro Verde S.A.
Mauricio Uribe
Maxima Group
Agricola Los Arboles
Rainbow Flowers
Polo Flowers
Maxima Farms
Monteverde Ltda.
Morcoto
Morrosquillo
My Flowers Ltda.
Naranjo
Nasino
Natuflora
Olga Rincon
Orquideas Acatayama
Otono
Papagayo Group
Agricola Papagayo Ltda.
Inversiones Calypso S.A.
Petalos Colombia Ltda.
Pinar Guameru

Piracania
Pisochago Ltda.
Plantaciones Delta Ltda.
Plantas Ornamentales de Colombia Ltda.
Planata S.A.
Prismaflor
Proflores Ltda.
Propagar Plantas S.A.
Queens Flowers de Colombia Ltda.
Reme Salamanca
Rosa Bella
Rosaflor Ltda.
Rosales de Colombia Ltda.
Rosales de Suba Ltda.
Rosalina Ltda.
Rosas de Colmbia Ltda.
Rosas Sabanilla Group
  Flores la Colmena Ltda.
  Rosas Sabanilla Ltda.
  Inversiones la Serena Ltda.
  Agricola la Capilla Ltda.
Rosas Tesalia Ltda.
Rosas y Flores Ltda.
Rosas y Jardines
Rose
Roselandia S.A.
Rosex Ltda.
Rosicler Ltda.
Sabana Flowers
San Ernesto
San Martin Bloque B Ltda.
San Valentine
Sansa Flowers Ltda.
Santa Helena S.A.
Santa Rose Group
  Flores Santa Rosa Ltda.
  Floricola la Ramada Ltda.
Santana Flowers group
  Santana Flowers Ltda.
  Hacienda Curubital Ltda.
  Inversiones Istra Ltda.
Sarena
S.B. Talle
Select Pro
Senda Brava Ltda.
Shasta Flowers Compania Ltda.
Shila
Siempreviva
Siete Flores S.A.
Soagro Group
  Agricola el Mortino Ltda.
  Flores Aguaclara Ltda.
  Flores del Monte Ltda.
  Flores la Estancia
  Jaramillo y Daza
Solor Flores Ltda.
Starlight
Sunbelt Florals
Sunset Farms
Superflora Ltda.
Susca
Sweet Farms Ltda.
Tag Ltda. Siata
Tecnica Agricola Ganadera
Tempest Flowers
The Beall Company
The Rose
Tinzuque Ltda.
Tomino
Toto Flowers
Tropical Garden
Tropiflor
Tuchany Group
  Tuchany S.A.
  Flores Sibate
  Flores Tikiya
  Flores Munya
Uniflor Ltda.
Universal Flowers
Vegaflor Ltda.
Velez De Monchaux e Hijos y Cia. S. en C.
Victoria Flowers
Villa Cultivos Ltda.
Villa Diana Ltda.
Vuelven Ltda.
Zipa Flowers

In addition to the names listed above, we received requests for other firms for which we are not initiating an administrative review. These include Flores Timana Ltda., which was specifically excluded on March 18, 1987, from the antidumping order covering this merchandise (see Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Fresh Cut Flowers from Colombia (52 FR 4893)), and Flores Condor, which was revoked from the order on March 31, 1994 (see flower case Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Review, and Notice of Revocation of Order (In Part) (59 FR 15159)).

Also, an administrative review was requested for a number of firms based on incorrect names. However, the Department is already initiating reviews for the firms based on the correct name. Listed below are the names of all firms for which administrative review was requested under a variant name and, in parenthesis, the correct name of the firm under which we are initiating a review for the firm in question:

Abaco (Abaco Tulipanes de Colombia)
Agri-fontana (Agricola de la Fontana Ltda.)
Agricola Fontana Ltda. (Agricola de la Fontana Ltda.)
Agricola Jicaral (Agricola Jicabal)
Agrodex el Retiro (Agricola el Retiro Ltda.)
Agrodex Ltda. (Agrodex Group)
Almer (Inversionses Almer Ltda.)
Astroflores Ltda. (Alstroflores Ltda.)
Aurora (Flores Aurora)
Austroflor (Alstroflores Ltda.)
Bochica Group (Caicedo Group)
Cabanuela (Flores la Cabanuela)
Canelon (Flores Canelon)
Cantana Rana Group (Cantarrana Group)
Cantaranna Ltda. (Cantarrana Ltda.)
Canta Rana Ltda. (Cantarrana Ltda.)
D' La Pava (De La Pava Guevara E Hijos Ltda.)
El Rosal (Flores el Rosal Ltda.)
Florcol (Flores de Colombia (FLORCOL) Ltda.)
Flores Alisos (Agricola de los Alisos Ltda.)
Flores Chia (Jardines de Chia Ltda.)
Flores de la Conjera (Flores la Conejera Ltda.)
Flores de Montana (Flores de la Montana)
Flores de Pueblo Viejo (Flores de Pueblo Viejo Ltda.)
Flores de Santa Fe (Flores Santa Fe Ltda.)
Flores de Santa Rosa (Flores Santa Rosa Ltda.)
Flores de Savanilla (Rosas Sabanilla Group)
Flores del Tropico Ltda. (Del Tropico Ltda.)
Flores el Lobo (Flores el Lobo Ltda.)
Flores Envy Farms Ltda. (Envy Farms Ltda.)
Flores F. Cortijo (Flores del Cortijo)
Flores Intercontinental (Flora Intercontinental Ltda.)
Flores la Union/Esmeralda (Flores la Union)
Flores Monserate/Rosas (Flores Monserrate Ltda.)
Flores Monteverde (Monteverde Ltda.)
Flores Morcari (Flores Mocari S.A.)
Flores Santana (Santana Flowers Ltda.)
Flores Tenerife/Statice (Flores Tenerife Ltda.)
Floresa (Flores S.A.)
Jardines Natalia/Maria Alejandra (Jardines Natalia Ltda.)
La Comuna (Flores de la Comuna Ltda.)
La Macarena (Flores la Macarena)
La Maria (Flores de la Maria)
La Plazuleta (La Plazoleta Ltda.)
Los Gaques (Agricola los Gaques Ltda.)
Mansui Ltda. (Manjui Ltda.)
Meraste (Merastec)
Miraflores (Miraflores Group)
Monserrate (Flores Monserrate Ltda.)
Morandua (Flores Marandua Ltda.)
Natalia (Jardines Natalia Ltda.)
Oroverde (Inversiones Oro Verde S.A.)
Papagayo (Papagayo Group)
Plazoleta (La Plazoleta Ltda.)
San Carlos (Flores San Carlos)
Santa Fe (Flores Santa Fe Ltda.)
Santa Rosa (Santa Rosa Group)
Tambo (Flores del Tambo)
Tenjo (Flores de Tenjo Ltda.)
Tocarinda (Flores Tocarinda)

We have received requests for revocation from the antidumping duty order for the following exporters/growers:

Agricola Circasia
Catu S.A.
Cultivos Miramonte
Flores Aurora
Flores de la Vereda S.A.
Flores Del Rio Group
  Flores Del Rio
  Agricola Cardenal
  Indigo
Flores el Molino
Flores La Valvanera
Flores Santa Fe
Floricola la Gaitana
Florex Group
  Flores de Exportacion
  Flores Altamira
  Agricola Guacari
  Four Farmers
Guacatay Group
  Jardines Bacata
  Agricola Guacatay
Inverpalmas
Jardines de Chia
M.G. Consultores
Senda Brava Ltda.
Tinzuque Ltda.

Interested parties must submit applications for administrative protective orders in accordance with 19 CFR 353.34(b) of the Department's regulations.

This initiation and notice are in accordance with Section 751(a) of the

Tariff Act of 1930, as amended. 19 U.S.C. 1675(a) and 19 CFR 353.22(c).

Dated: April 25, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–10454 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–818]

Personal Word Processors From Japan; Final Results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order; Termination of Anticircumvention Inquiry

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order; Termination of Anticircumvention Inquiry.

SUMMARY: On March 24, 1994, the Department of Commerce published the Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review, Consideration of Revocation of Order, Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke Order on personal word processors from Japan (59 FR 13930). We have completed this review and are revoking the antidumping duty order on PWPs from Japan. We are also terminating the ongoing anticircumvention inquiry of this order.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas O. Barlow or Wendy J. Frankel, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–5256 and 482–0367, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 28, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 42593) an antidumping duty order on personal word processors (PWPs) from Japan (the order). On August 20, 1992, (57 FR 37770), the Department published an amended order. On February 15, 1994, Smith Corona Corporation (Smith Corona), the petitioner in the underlying less-than-fair-value (LTFV) investigation, submitted a request for a changed circumstances administrative review and revocation of the order based on the represented fact that the order no longer is of interest to the domestic interested parties. For the same reasons, in its February 15, 1994, request, Smith Corona withdrew its petition requesting an investigation to determine whether the order was being circumvented pursuant to section 781(a) of the Tariff Act of 1930, as amended (the Act). Smith Corona made the withdrawal of that petition and the revocation contingent upon termination of the suspended antidumping investigation on portable electric typewriters from Singapore (A–559–806). Smith Corona also made representations that other U.S. producers of this merchandise (Canon Business Machines and Brother Industries (USA), Inc.) consented to revocation of the order.

On March 24, 1994, the Department published the Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review, Consideration of Revocation of Order, Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke Order on PWPs from Japan (59 FR 13930). In that notice the Department preliminarily determined that the order no longer is of interest to domestic interested parties and notified the public of its intent to revoke the order. The Department gave interested parties an opportunity to comment on the preliminary results and none of the interested parties commented. On April 8, 1994, Brother Industries (USA), Inc., the petitioner in the investigation of portable electric typewriters from Singapore (A–559–806), submitted its request, pursuant to 19 CFR 353.17(a), to terminate the suspended investigation in that case. A notice of such termination will be published simultaneously with this notice.

Scope of Review

The scope of the order covers personal word processors from Japan as defined in the Department's antidumping duty order on PWPs from Japan (56 FR 42593, August 28, 1991), as amended (57 FR 37770, August 20, 1992). PWPs are currently classifiable under item number 8469.10.00 of the Harmonized Tariff Schedule (HTS) of the United States. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Final Results of Changed Circumstances Antidumping Duty Administrative Review, Revocation of Order

Pursuant to section 751(c) of the Act, the Department may revoke an antidumping duty order if the Department determines, based on a review under section 751(b)(1) of the Act, that changed circumstances exist sufficient to warrant revocation. Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

Section 353.25(d)(2) of the Department's regulations permits the Department to conduct an administrative review under § 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 353.25(d)(1)(i) further provides that if the Department determines that the order under review is no longer of interest to domestic interested parties, the Department may revoke the antidumping duty order.

In accordance with sections 751(b)(1) and (c) of the Act and 19 CFR 353.25(d) and 353.22(f), based upon the facts of this case and the fact that none of the interested parties objected to or otherwise commented on our preliminary results, we have determined that the order no longer is of interest to domestic interested parties. The Department determines that the requirement for revocation based on the changed circumstance that the order no longer is of interest to domestic interested parties has been met. Therefore, we are hereby revoking the antidumping duty order on PWPs from Japan. We are also terminating the ongoing anticircumvention inquiry of the order on PWPs from Japan.

These final results will apply to all shipments of the merchandise entered, or withdrawn from warehouse, for consumption on or after August 1, 1993 (the day after the last administrative review period for which automatic liquidation instructions were sent to the U.S. Customs Service). We intend to instruct the U.S. Customs Service to liquidate all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after August 1, 1993, without regard to antidumping duties.

We will instruct the U.S. Customs Service to refund with interest any estimated antidumping duties collected with respect to those entries.

This administrative review, revocation, and notice are in accordance with sections 751(b)(1) and (c) of the

Act and §§ 353.22(f) and 353.25(d) of the Department's regulations.

Dated: April 22, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10451 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–DS–P

A–588–087

Portable Electric Typewriters From Japan; Final Results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of Changed Circumstances Antidumping Duty Administrative Review; Revocation of Order.

SUMMARY: On March 24, 1994, the Department of Commerce published the Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review, Consideration of Revocation of Order, Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke Order on portable electric typewriters from Japan (59 FR 13932). We have completed this review and are revoking the antidumping duty order on PETs from Japan.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Thomas Prosser or Wendy J. Frankel, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1130 and 482–0367, respectively.

SUPPLEMENTARY INFORMATION:

Background:

On May 9, 1980, the Department of Commerce (the Department) published in the **Federal Register** (53 FR 40926) an antidumping duty order on Portable Electric Typewriters (PETs) from Japan (the order). On February 15, 1994, Smith Corona Corporation (Smith Corona), the petitioner in the underlying less-than-fair-value (LTFV) investigation, submitted a request for a changed circumstances administrative review and revocation of the order based on the represented fact that the order no longer is of interest to the domestic interested parties. Smith Corona submitted this request contingent upon termination of the suspended antidumping investigation on portable electric typewriters from Singapore (A–559–806). Smith Corona also made representations that other U.S. producers and potential U.S. producers of this merchandise (Nakajima All Manufacturing Limited, Canon Business Machines, and Brother Industries (USA), Inc.) consented to revocation of the order.

On March 24, 1994, the Department published the Notice of Initiation of Changed Circumstances Antidumping Duty Administrative Review, Consideration of Revocation of Order, Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke Order on PETs from Japan (59 FR 13932). In that notice the Department preliminarily determined that the order no longer is of interest to domestic interested parties and notified the public of its intent to revoke the order. The Department gave interested parties an opportunity to comment on the preliminary results and none of the interested parties commented. On April 8, 1994, Brother Industries (USA) Inc., the petitioner in the investigation of portable electric typewriters from Singapore (A–559–806), submitted its request, pursuant to 19 CFR 353.17(a), to terminate the suspended investigation in that case. A notice of such termination will be published simultaneously with this notice.

Scope of Review

The scope of the order covers PETs, automatic PETs (PATs), PETs incorporating a calculating mechanism, and certain personal word processors (PWPs). On August 7, 1990, in Preliminary Scope Ruling; Portable Electric Typewriters from Japan (55 FR 32107), the Department clarified the scope of the order, ruling that "* * * certain later-developed PETS, including so-called 'personal word processors' are presumptively of the same class or kind as PETs within the scope of the order * * *." The Department determined that to be of the same class or kind as a PET, a typewriter must meet the following seven physical criteria:

(1) Be easily portable, with a handle and/or carrying case, or similar mechanism to facilitate portability;

(2) Be electric, regardless of source of power;

(3) Be comprised of a single, integrated unit;

(4) Have a keyboard embedded in the chassis or frame of the machine;

(5) Have a built-in printer;

(6) have a platen (roller) to accommodate paper; and

(7) Only accommodate its own dedicated or captive software. The final scope ruling was published on November 13, 1990 (55 FR 47358).

PETs, PATs, and certain PWPs are currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8469.10.00, 8469.21.00, and 8469.29.00. The HTS subheadings are provided for convenience and Customs purposes. Our written description of the scope of this order is dispositive.

This changed circumstance administrative review covers all manufacturers/exporters of PETs and PATs, and PETs incorporating a calculating mechanism manufactured in Japan, and all manufacturers/exporters of those PWPs falling within the scope of the PETs order that are manufactured in Japan.

Final Results of Changed Circumstances Antidumping Duty Administrative Review, Revocation of Order

Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the Department may revoke an antidumping duty order if the Department determines, based on a review under section 751(b)(1) of the Act, that changed circumstances exist sufficient to warrant revocation. Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

Section 353.25(d)(2) of the Department's regulations permits the Department to conduct an administrative review under § 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. § 353.25(d)(1)(i) further provides that if the Department determines that the order under review is no longer of interest to domestic interested parties, the Department may revoke the antidumping duty order.

In accordance with sections 751(b)(1) and (c) of the Act and 19 CFR 353.25(d) and 353.22(f), based upon the facts of this case and the fact that none of the interested parties objected to or otherwise commented on our preliminary results, we have determined that the order no longer is of interest to domestic interested parties. The Department determines that the requirement for revocation based on the changed circumstance that the order no longer is of interest to domestic interested parties has been met. Therefore, we are hereby revoking the

antidumping duty order on PETs from Japan.

The Department is terminating the administrative reviews covering the following periods: May 1, 1990, through April 30, 1991 (initiated on June 18, 1991 (56 FR 27943)); May 1, 1991, through April 30, 1992 (initiated on June 18, 1992 (57 FR 27212)); and May 1, 1992, through April 30, 1993 (initiated on June 25, 1993 (58 FR 34414)).

For all companies for which an administrative review has been requested but not completed, the effective date of revocation will be May 1, 1990. May 1, 1990, is the first day after the most recent period for which an administrative review has been completed for all of these companies. For all other companies subject to this antidumping duty order, the effective date of revocation will be May 1, 1993. May 1, 1993, is the first day for which automatic liquidation instructions have not been issued for these other companies. We will instruct the U.S. Customs Service to liquidate all entries of subject merchandise in accordance with the above effective dates of revocation. We will instruct the U.S. Customs Service to refund with interest any estimated antidumping duties collected with respect to entries made on or after May 1, 1990, for which a review has been requested but not completed, and we will instruct the U.S. Customs Service to refund with interest any estimated antidumping duties collected on or after May 1, 1993, with respect to all other entries made.

This administrative review, revocation, and notice are in accordance with sections 751(b)(1) and (c) of the Act and §§ 353.22(f) and 353.25(d) of the Department's regulations.

Dated: April 22, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10452 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–824]

Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Steve Alley or Andrew McGilvray, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5288 or (202) 482–0108, respectively.

FINAL DETERMINATION: We determine that silicon carbide from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the preliminary determination on November 29, 1993, (58 FR 64549, December 8, 1993), the following events have occurred:

On December 1, 1993, the Department of Commerce (the Department) received a letter from Hainan Feitian Electrontech Company, Limited (Hainan), Shaanxi Minmetals (Shaanxi) and Xiamen Abrasive Company (Xiamen), three of the six respondents in this investigation, requesting that the Department postpone the final determination to not later than April 22, 1994, or 135 days after the date of the publication of the preliminary determination. The letter from these three respondents also requested the Department to (1) collect information on third-country sales to use as foreign market value (FMV); (2) find that Treibacher and Saint-Gobain do not qualify as "interested parties" in this proceeding, bar them from further participation in this case, and re-examine the Department's decision that petitioner has standing to file the petition; and (3) verify fully respondents' answers to the Department's questionnaire. On the same day, the other three respondents in this investigation—Inner Mongolia Import and Export Corporation (IMI/E), Qinghai Metals Import and Export Corporation (QI/E), and Seventh Grinding Wheel Factory Import and Export Corporation (SGW—also requested a disclosure conference and a postponement of the final determination.

On December 7, 1993, Hainan, Shaanxi and Xiamen submitted letters alleging ministerial errors in the Department's calculations for the preliminary determination. (For specific details of these allegations and our analysis of them, see Memorandum from Richard W. Moreland to Barbara R. Stafford of December 20, 1993.) One of these exporters, Hainan, alleged that the Department made certain errors with respect to the valuation of freight rates and packing materials. The Department agreed with this one allegation, and in accordance with procedures set forth in the proposed regulations, published an amended preliminary dumping margin for Hainan (59 FR 570, January 5, 1994).

On December 29, 1993, petitioner submitted comments on issues relating to verification. On December 30, 1993, petitioner submitted publicly available information on electricity rates in India and Pakistan as well as information on electricity capacity in the PRC. Hainan, Shaanxi, and Xiamen submitted additional information on December 30 regarding the price and quantity of their U.S. sales and the mode of transportation used to transport coal. The Department sent verification agendas to all six respondents in this investigation on December 30, 1993.

On January 3, 1994, IMI/E, QI/E, and SGW submitted publicly available information about Indian electricity rates and additional information regarding freight distances. IMI/E supplemented its freight information on January 7, 1994.

On January 4, 1994, the Department wrote to SGW regarding the Department's intention to visit two other exporters during verification to confirm that U.S. sales of silicon carbide had been reported for all entities related to SGW. We also wrote to Xiamen regarding out intention to visit China Abrasives Export Corporation (CAEC), the parent corporation of Xiamen, to confirm that all U.S. sales during the period of investigation (POI) had been reported. On January 5, 1994, we requested the assistance of the Ministry of Foreign Trade and Economic Cooperation of the PRC (MOFTEC) in arranging these meetings as well as interviews with appropriate MOFTEC officials. WE wrote to MOFTEC again on January 13, 1994, to request assistance in arranging additional meetings for the verification teams with Quinghai and Inner Mongolia provincial government officials and CAEC representatives. The Department verified responses in the PRC from January 10 to February 5, 1994 and its verification reports between February 15 and March 14, 1994.

Requests for a public hearing were received by the Department on January 5, 1994, from IMI/E, QI/E, and SGW, and on January 10, 1994, from Hainan, Shaanxi, and Xiamen.

On March 1, 1994, petitioner alleged that critical circumstances exist with regard to imports of silicon carbide from the PRC. We requested shipment data from the six respondents in this investigation on March 4, 1994, and received respondents' data on March 17, 18, 21 and 22. (Because Hainan,

Shaanxi, and Xiamen failed to file public versions of their original March 11, 1994 submissions of shipment data, we rejected these submissions. Hainan, Shaanxi, and Xiamen refiled these submissions in proper form on March 17.) On March 31, 1994, we issued our preliminary affirmative determination of critical circumstances for two respondents in this investigation—Shaanxi and Xiamen. The other four respondents were found not to have massive increases in imports. In addition, the Department found that critical circumstances exist for all exporters who did not participate in this investigation (59 FR 16795, April 8, 1994). On April 6, 1994, Shaanxi and Xiamen requested that we base our calculations for critical circumstances on the date of shipment rather than the date of importation into the United States (the date used in the preliminary determination of critical circumstances). Petitioner also submitted comments on our preliminary affirmative determination of critical circumstances on April 6, 1994.

On March 11, 1994, petitioner filed information concerning the Department's surrogate value for electricity. Because this submission contained untimely filed new information, we rejected this submission. Petitioner filed new submissions regarding electricity valuation on March 23, 1994. Certain of these submissions also contained untimely filed new information and, therefore, were rejected. Petitioner and respondents submitted case briefs on March 30 and rebuttal briefs on April 4, 1994. A public hearing was held on April 6, 1994.

Scope of Investigation

The product covered by this investigation is silicon carbide, regardless of grade or form, containing by weight from 20 to 98 percent, inclusive, silicon carbide and with a grain size coarser than size 325F (as set by the American National Standards Institute), and inclusive of split sizes. Silicon carbide covered by this investigation typically contains additional impurities: iron, aluminum, silica, silicon, and carbon as well as calcium and magnesium. Silicon carbide is currently classifiable under subheadings 2849.20.10 and 2849.20.20 of the Harmonized Tariff Schedule (HTS). The HTS numbers are provided for convenience and customs purposes. The written description is dispositive.

Period of Investigation

The POI is January 1, 1993, through June 30, 1993.

Best Information Available (BIA)

As stated in the preliminary determination, the Department must receive an adequate questionnaire response from each entity requesting a separate dumping margin rate before a separate rate can be applied. Consequently, all non-respondent entities, as well as respondents that fail to demonstrate eligibility for a separate rate, must receive a single "All Other" rate. We have based our "All Other" rate on BIA.

In determining what to use as BIA, the Department follows a two-tiered methodology, whereby the Department normally assigns lower margins to those respondents who cooperated in an investigation and margins based on more adverse assumptions for those respondents who did not cooperate in an investigation or who failed to qualify for a separate rate. According to the Department's two-tiered BIA methodology outlined in the Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, and Certain Cut-to-Length Carbon Steel Plate From Belgium, 58 FR 37083 (July 9, 1993), when a company refuses to provide the information requested in the form required, or otherwise significantly impedes the Department's investigation, it is appropriate for the Department to assign to that company the *higher* of (a) the highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.

In this case, where some PRC exporters failed to respond to our questionnaire and, thus, are uncooperative, we are assigning an "All Other" rate of 406.00 percent (the highest margin calculated in the amendment petition) as BIA to the uncooperative exporters. The 406.00 percent rate also applies to all other exporters that are ineligible for separate rates.

Separate Rates

Respondents Xiamen, Hainan, and Shaanxi have requested that they be assigned separate rates. For Xiamen, we cannot consider eligibility for a separate rate because it failed to submit consolidated responses, including information on separate rates, for affiliated companies which it has stated are related to it within the meaning of section 771(13) of the Act. (See Memorandum dated April 22, 1994, from Richard W. Moreland to Barbara R. Stafford.)

For Hainan and Shaanxi, we were unable to verify certain information in their separate rates responses. Specifically, these respondents did not make available to us the bank records necessary to verify that they retain the proceeds from their export sales. Given our inability to verify Hainan's and Shaanxi's separate rate submissions, we cannot consider applying separate rates to them. (See *Ibid.*)

In addition to Xiamen, Hainan, and Shaanxi, respondents IMI/E, QI/E, and SGW have also requested that the Department issue to each of them a separate rate. These respondents have submitted completed and verified responses regarding their eligibility for separate rates.

We have analyzed the record in this investigation and agree that it is appropriate to assign separate rates to IMI/E, QI/E, and SGW. In making this determination, we have modified our separate rates policy, previously set forth in Final Determination of Sales at Less Than Fair Value; Certain Compact Ductile Iron Waterworks Fittings and Accessories Thereof From the People's Republic of China ("*CDIW*") (58 FR 37908, July 14, 1993) and Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China ("*Lock Washers*") (58 FR 48833, September 20, 1993). In *CDIW*, we took the position that state-ownership (*i.e.* "ownership by all the people") "provides the central government the opportunity to manipulate the [exporter's] prices whether or not it has taken advantage of that opportunity during the period of investigation." Thus, we concluded in *CDIW* that state-owned enterprises would not be eligible for separate rates.

However, based upon further analysis and information developed in the course of this investigation, we find that the ownership of IMI/E, QI/E, and SGW "by all the people," in and of itself, cannot be considered as dispositive in determining whether those companies can receive separate rates. At verification, Mr. Zhang Yuqing, the Division Chief of the Department of Treaty and Law of MOFTEC (the Ministry of Foreign Trade and Economic Cooperation), explained that the designation on these respondents' business licenses that they are "owned by all the people" does not mean that the central, provincial, or local governments control these companies. Instead, "ownership by the people" signifies that "no individual can take the company; it cannot become a private company." The company "belongs to the community" and the company's

employees are entrusted with the management of the company. (See Memorandum from Andrew McGilvray, to Gary Taverman, dated February 15, 1994.)

A recent analysis by the Central Intelligence Agency supports MOFTEC's statement that ownership "by all the people" is not synonymous with central government control. (See 1992 report to the Joint Economic Committee, Hearings on Global Economic and Technological Change: Former Soviet Union and Eastern Europe and China, Pt. 2 (102 Cong., 2d Sess), 143, 196 (hereinafter, "CIA report"). The report states that a state-owned enterprise was subject to central government control prior to 1980, but that "[t]he reform decade of the 1980s brought significant changes to this scheme" and that the central government devolved control of enterprises owned "by all the people". We have, therefore, come to the conclusion that ownership "by all the people" does not require the application of a single rate. Thus, we believe a PRC respondent may receive a separate rate if it establishes on a *de jure* and *de facto* basis that there is an absence of governmental control. We have, therefore, adapted and amplified the test set out in *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China* (56 FR 20588, May 6, 1991) to determine whether the respondents in this case are entitled to separate rates.

1. Absence of De Jure Control

Three enactments that have been placed on the record in this case indicate that the responsibility for managing state-owned enterprises has been shifted from the government to the enterprise itself. These are the "Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People," adopted on April 13, 1988 ("*1988 Law*"); "Regulations for Transformation of Operational Mechanism of State-owned Industrial Enterprises," approved on August 23, 1992) "*1992 Regulations*"; and the "Temporary Provisions for Administration of Export Commodities," approved on December 21, 1992 ("*Export Provisions*". The *1988 Law* states that enterprises have the right to set their own prices (see Article 26). This principle is restated in the *1992 Regulations* (see Article IX). The *Export Provisions* list those products subject to direct government control. Silicon carbide does not appear on this list and is not, therefore, subject to the constraints of these provisions.

The existence of these laws indicate that respondents IMI/E, QI/E, and SGW are not subject to *de jure* control. However, there is publicly available information indicating that the PRC central government has acknowledged that the provisions of the above-cited laws and regulations have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See* "[PRC] Government Findings on Enterprise Autonomy" in Foreign Broadcast Information Service-China-93–133 (July 14, 1993).

Given this report of uneven implementation of the PRC government's laws on devolution of government control, it is critical that we conduct a *de facto* analysis to determine whether these respondents were, in fact, not subject to governmental control.

2. Absence of De Facto Control

For the reasons stated below, we have determined that these respondents are not *de facto* controlled by the central, provincial or municipal governments. In conducting this analysis, we are aware that the CIA report stated that the central government has "decentralized the supervision and planning control over most state enterprises to provincial or municipal authorities." As elaborated below and in the responses to Comments 1 and 2, we have verified that these respondents are not, in fact, subject to provincial control. Municipal control is not an issue in this case as there is no tie between these companies and any municipality.

We have taken the following factors into account in our determination of absence of *de facto* control: First, the respondents' export prices are not set by, nor subject to approval by, a governmental authority. Second, the respondents also have authority to negotiate and sign contracts and other agreements. These points were confirmed by examination of correspondence files and other documentation relating to sales negotiations, as noted in the verification reports.

Third, we have determined, based on our investigation, that the respondents have autonomy from the central government in making decisions regarding selection of management, based on our examination of management election/evaluation forms completed by employees. Lastly, we have determined that the respondents retain the proceeds of their export sales and make independent decisions regarding disposition of profits or financing of losses. This last point was confirmed through examination of bank records, and company accounting records relating to investment and other activities. (*See also* Concurrence Memorandum and various verification reports.)

3. Conclusion

Given that the record of this investigation demonstrates a *de jure* and *de facto* absence of governmental control over the export functions of IMI/E, QI/E, and SGW, we determine that IMI/E, QI/E, and SGW are eligible for separate rates.

Surrogate Country

Section 773(c) of the Act requires the Department to value the factors of production, to the extent possible, in one or more market economy countries that are at a level of economic development comparable to that of the non-market economy country, and that are significant producers of comparable merchandise. The Department has determined that India and Pakistan are the most comparable to the PRC in terms of overall economic development, based on per capita gross national product ("GNP"), the national distribution of labor, and growth rate in per capita GNP. (*See* memorandum from the Office of Policy to Gary Taverman, dated August 17, 1993, on file in room B–099 of the Main Commerce Department Building.) Because India fulfills both requirements outlined in the statute, India is the preferred surrogate country for purposes of calculating the factors of production used in producing the subject merchandise. Accordingly, for this final determination, we have used the values for the factors of production, as appropriate, from Indian sources. As in our preliminary determination, we have used a world market price in one instance where no appropriate surrogate value was available. We have obtained and relied upon published, publicly available information, wherever possible.

Fair Value Comparisons

To determine whether sales of silicon carbide from the PRC to the United States were made at less than fair value for those exporters deemed eligible to receive a separate rate, we compared the United States price (USP) to FMV, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

United States price was calculated on the same basis as in the preliminary determination. Minor adjustments were made to the reported U.S. prices of IMI/E and SGW, pursuant to finding at verification. We also adjusted foreign inland freight based on verification

findings. (*See* Calculation Memorandum, attached to the Department's Concurrence Memorandum of April 22, 1994, on file in room B–099 of the Main Commerce Department Building.)

Foreign Market Value

We calculated FMV based on factors of production cited in the preliminary determination, making adjustments for specific verification findings (*see* Calculation Memorandum). To calculate FMV, the verified amounts for factors of production were multiplied by the appropriate surrogate values for the different inputs. We have used the same surrogate values as in the preliminary determination with the exception of the value for electricity.

In our November 29, 1993, preliminary determination, we had used publicly available information for Pakistan regarding electricity rates for industrial use during the POI. We did so because the publicly available information at the time for India either was out of date or was not necessarily specific to industrial use. After the preliminary determination, petitioner's December 30, 1993, submission provided new publicly available information from the Asian Development Bank (ADB) showing Indian electricity prices for industrial use in FY1990. Since this new ADB data shows recent electricity rates specific to industrial use for India (our first-choice surrogate), we have used the ADB data for the final determination in preference to data for Pakistan (our second-choice surrogate). (For a complete analysis of surrogate values, see Calculation Memorandum.)

Verification

As provided in section 776(b) of the Act, we verified all the information relied upon for this final determination.

Critical Circumstances

In our preliminary affirmative determination of critical circumstances of March 31, 1994, we found that critical circumstances exist for two respondents in this investigation—Shaanxi and Xiamen. We also preliminary determined that critical circumstances exist for all exporters who did not participate in this investigation.

Pursuant to section 733(e)(1) of the Act, we based that preliminary determination on a finding of 1) a history of dumping of silicon carbide in the European Community (EC), and 2) massive imports of silicon carbide over a relatively short period by examining respondents' shipment data. Because the timing of petitioner's allegation (after the completion of verification) precluded on-site verification of this information, the Department also referred to U.S. Customs IM–115 entry data to corroborate respondents' reported shipment information, pursuant to section 771(18)(E) of the Act. (See 59FR 16795, April 8, 1994).

For the final determination, we have continued to use BIA as the basis for our determination of critical circumstances for non-respondent exporters. The BIA margin (406.00 percent) for those exporters exceeds the 25 percent threshold for imputing a knowledge of dumping to the importers of the merchandise. In addition, we have adversely assumed, as BIA, a massive increase in imports from these non-respondent exporters. We, therefore, determine that critical circumstances exist for all non-respondent exporters in this investigation.

Since the preliminary determination of critical circumstances, we have determined that Hainan, Shaanxi and Xiamen are ineligible for rates separate from non-respondent PRC exporters. Because Hainan, Shaanxi and Xiamen are ineligible for rates separate from non-respondent exporters, we must extend to them the same BIA-based determination of critical circumstances applied to the non-respondent exporters.

For respondents IMI/E, QI/E, and SGW, we determine that critical circumstances do not exist. The shipment data for these respondents, which we have corroborated using U.S. Customs IM–115 entry data, shows that there has been no massive increase in shipments from these respondents in the period following the filing of the petition (*See* Preliminary Affirmative Determination of Critical Circumstances).

Interested Party Comments

Because respondents Hainan, Shaanxi, and Xiamen, are not eligible for calculated separate rates, we have not addressed comments made by these parties regarding calculations for this determination.

Comment 1: Petitoner maintains that the Department cannot assign separate rates to respondents because not all relevant entities in the PRC have participated in the investigation. Petitioner states that: (1) The silicon carbide industry in the PRC is characterized by significant provincial and/or local government ownership; (2) information on the record demonstrates a number of non-responding producers of silicon carbide in each province in which respondents and/or their suppliers are located; (3) respondents and the non-responding producers are owned by the governments of the provinces in which they are located; and (4) respondents have offered no reason why cooperation is not required of the non-responding producers. Petitioner further states that, while PRC law prohibits the central government from controlling prices for silicon carbide, there is no evidence that provincial governments cannot regulate prices between silicon carbide producers and exporters. Petitioner concludes that the respondents are thus ineligible for separate rates.

IMI/E, QI/E, and SGW maintain that petitioner has confused the Department's market-oriented industry (MOI) policy with its separate rates policy. They state that PRC export companies do not need to prove that the product under investigation was produced in a market environment to be eligible for separate dumping margins. These respondents conclude that every PRC exporter and producer of silicon carbide does not need to participate in the case for participating exporters to qualify for separate rates.

DOC Position

We disagree with petitioner. Pursuant to the discussion in the "Separate Rates" section above, we have found that the three responding exporters "owned by all the people" are not controlled by the central, provincial, or municipal governments. (*See* discussion under "Separate Rates" section.) Further, the information on the record relating to provincial and local governments shows that their activities with regard to IMI/E, QI/E, and SGW are limited to such functions as taxation, business licensing, and the collection of export statistics. There is no evidence that these governments (1) can manipulate export prices or (2) interfere with other aspects of conducting business with the United States. Therefore, we determine that IMI/E, QI/E, and SGW are not subject to government control of their silicon carbide exports.

Finally, petitioner's concerns regarding the ability of provincial governments to regulate prices between domestic producers and exporters are not relevant to those respondents' eligibility for separate rates. The Department's separate rates analysis focuses on governmental control over the respondents' export activities, not the regulation of prices charged by the respondents' suppliers.

Comment 2: Petitioner maintains that the respondents in this case do not meet the Department's criteria for separate

rates because they have not demonstrated that they are independent of government ownership or control and, therefore, that the Department must presume central-government control. Petitioner also maintains that evidence on the record demonstrates that the respondents are subject to certain types of control by the central and provincial governments. Further, petitioner states that various provisions of PRC law demonstrate that respondents, whose business licenses state that they are owned by "the whole people," are subject to state control. In conclusion, petitioner states that, based on the record for this investigation, respondents are ineligible for separate rates.

IMI/E, QI/E, and SGW state that the Department should apply the Sparklers criteria and find them eligible for separate dumping margins. These respondents state that they have cooperated completely in this investigation and have provided information indicating a lack of ownership or control by the PRC central government. Moreover, these respondents emphasize that the appropriate test of ownership is control of property rather than simple legal title. IMI/E, QI/E, and SGW state that the record also provides evidence of a *de facto* absence of central control with respect to exporters.

Hainan, Shaanix, and Xiamen state that they are not subject to *de jure* or *de facto* control by the central government. As evidence of *de jure* absence of control, Hainan, Shaanix and Xiamen cite the specific law and regulations provided in the MOFTEC verification report which indicate that: (1) the PRC central government cannot dictate the decision-making of enterprises; (2) enterprises have the right to enjoy the benefits from their business activities; and (3) enterprises are free to select their own management independently from the PRC central government. These respondents also maintain that evidence on the record demonstrates a *de facto* absence of control.

DOC Position: The Department disagrees with petitioner regarding respondents IMI/E, QI/E, and SGW. As discussed at length in the "Separate Rates" section above, IMI/E, QI/E, and SGW are eligible for separate rates.

Respondents Hainan and Shaanxi have failed to establish their eligibility for separate rates because, at verification, these companies failed to produce bank records necessary to prove their retention of proceeds from export sales. Therefore, these respondents did not meet an important criterion for separate rates (*see* "Separate Rates" section above).

Respondent Xiamen has also failed to establish its eligibility for a separate rate. As noted in the "Separate Rates" section above, Xiamen has stated that certain other PRC exporters of silicon carbide (*i.e.*, CAEC and its other affiliates) are related parties within the meaning of section 771(13) of the Act. However, Xiamen has failed to provide information regarding the eligibility for separate rates of CAEC, *et al.* Without such information, the Department cannot consider assigning a separate rate to Xiamen/CAEC. (*See also* the Concurrence Memorandum of April 22, 1994.)

Comment 3: Hainan, Shaanxi, and Xiamen argue that two of the members of the petitioning coalition, Treibacher and Saint-Gobin, should be excluded as interested parties in this investigation because these companies do not sell U.S.-manufactured silicon carbide. These respondents assert that Treibacher and Saint-Gobain sell silicon carbide produced in Canadian furnaces that is merely ground and screened in the United States. Respondents ask the Department to notify the U.S. International Trade Commission (ITC) that these two companies should not be considered as part of the domestic silicon carbide industry because of (1) their insignificant U.S. capital investment regarding silicon carbide, (2) their negligible U.S. employment, and (3) their negligible real value-added to the product in the United States.

Hainan, Shaanxi, and Xiamen assert that, once the Department has excluded Treibacher and Saint-Gobain from participating as interested parties in this proceeding, the Department must scrutinize Exolon-ESK, the sole remaining petitioner with standing as a U.S. producer of silicon carbide. These respondents point out that Exolon was indicted in February 1994 for alleged improper commercial activities. These charges, Hainan, Shaanxi, and Xiamen argue, are "directly relevant to the credibility of the certifications on which the Department based the initiation of this investigation and to the legitimacy of Exolon's request for import relief." These respondents conclude that since (1) the Department must reject Exolon's submissions as an unreliable basis for the initiation of this investigation, and (2) Treibacher and Saint-Gobain are not interested parties and are thus barred from status as petitioners, there are no remaining petitioners with standing to continue this investigation. Therefore, these respondents maintain that the Department should rescind its investigation of silicon carbide from the PRC.

Petitioner argues that based on long-standing practices, the Department analyzes petitioner's standing only in the event of a challenge from other U.S. producers. Petitioner rebuts respondents' argument by maintaining that the indictment of the petitioner is not relevant to this investigation, that Exolon, the indicted party, is innocent of the charges, and that Treibacher and Saint-Gobain are interested parties to this investigation.

DOC Position: We agree, in part, with petitioner. Exolon's indictment is irrelevant to our analysis and its status as a U.S. producer of subject merchandise is unchallenged. Further, the ITC preliminarily determined that Treibacher and Saint-Gobain are engaged in U.S. "production" of subject merchandise and thus qualify as members of the domestic industry (*see Silicon Carbide From the People's Republic of China*, Inv. No. 731–TA–651 (Preliminary) (Pub. 2668, August 1993), at 12–13). We have reviewed the ITC's analysis, which addresses the same arguments raised by respondents in this proceeding, and we concur with the ITC. Therefore, we determine that Treibacher and Saint-Gobain are engaged in "production" of silicon carbide in the United States. Thus, these companies qualify as interested parties to this proceeding. Given these facts, there is no basis for rescinding the initiation of this investigation.

Comment 4: Hainan, Shaanxi, and Xiamen argue that, if the Department decides not to rescind the initiation of this investigation, the Department should consider crude silicon carbide and refined silicon carbide to be separate classes or kinds of merchandise.

Petitioner asserts that these respondents have offered no evidence on the record to support an alternative class or kind analysis.

DOC Position: We agree with petitioner. Hainan, Shaanxi, and Xiamen have provided no substantial analytical or factual basis for their claim that crude silocon carbide and refined silicon carbide should be considered as separate classes or kinds of merchandise.

Comment 5: IMI/E, QI/E, and SGW argue that the Department should continue to use the Pakistani rates for electricity because the Indian rates for industrial use from the petitioner's December 30, 1993, submission were artificially high.

Petitioner asserts that the Department should follow its preference for using surrogate values from one country when

possible. In this case, the Department has surrogate values from India for all factors of production, including electricity. Petitioner further asserts that the Pakistani rate used as the surrogate value for electricity in the preliminary determination was flawed because it did not completely capture electricity costs for industrial users.

DOC Position: We agree with petitioner. In its preliminary determination, the Department relied upon published, publicly-available information (PPI) regarding Pakistani electricity rates for industrial use during the POI. We did so because the PPI available at that time for India either was out of date or was not necessarily specific to industrial use. Since that time, publicly available electricity rates for India have become available and these rates more accurately capture total costs for Indian industrial users.

With regard to the concern raised by IMI/E, QI/E, and SGW regarding artificially high electricity rates in India, the document which these respondents cites as evidence of their contention simply fails to support their position; *viz.*, that document states that "[t]o encourage industrial development, many states also offer low rates to large industries." Therefore, the Department has selected the publicly-available industrial rates for India to value electricity consumption for the calculations for this determination (*see* Calculation Memorandum).

Comment 6: Petitioner states that there is a history of dumping in the United States and Europe of silicon carbide from the PRC. Moreover, petitioner states that the import data show there have been massive imports of silicon carbide from PRC over a relatively short period of time. Since preliminarily estimated dumping margins in this case exceed 25 percent, petitioner maintains that the importers knew or should have known that the product was being sold at less than fair value. Petitioner maintains that the Department should find critical circumstances in this case.

QI/E, IMI/E, and SGW state that since their exports were not massive after the petition was filed, the Department should not find critical circumstances.

Hainan, Shaanxi, and Xiamen state that the EC findings which petitioner cites as evidence of a history of dumping do not, in fact, demonstrate such a history. These respondents maintain that, because the PRC exporters offered the EC "satisfactory undertakings" (*i.e.*, agreed to eliminate injurious dumping), there is no "history of dumping" in the EC.

DOC Position: As described in the "Critical Circumstances" section above, we have analyzed the information on the record regarding critical circumstances and have found that critical circumstances do not exist for the three respondents (IMI/E, QI/E, and SGW) that are eligible for separate rates. For non-respondent exporters during the POI, we have used BIA to determine the existence of critical circumstances. Since Hainan, Shaanxi, and Xiamen are ineligible for rates separate from those non-respondent exporters, we must extend to them the same BIA-based determination of critical circumstances.

Comment 7: Petitioner maintains that the silicon carbide industry is not a market-oriented industry due to: (1) State ownership of some producers; (2) government control of production levels and prices for a significant portion of the industry; and (3) government control of prices and production of significant inputs.

IMI/E, QI/E, and SGW contend that, since prices for energy inputs in the United States are also set by governments, the PRC respondents' market rates submission should not have been rejected on the basis that coal rates are set by the Government of the PRC. IMI/E, QI/E, and SGW further contend that no U.S. industry could ever be considered an MOI under these criteria. The Department's criteria according to IMI/E, QI/E, and SGW, are therefore, inherently unreasonable.

According to Hainan, Shaanxi, and Xiamen, the Department's MOI analysis is inaccurate. They maintain that the Department's MOI test is a charade since, once the Department determines that a country is a non-market economy, it is a foregone conclusion that respondents will be unable to prove that an MOI exists.

DOC Position: We agree with petitioner. And MOI does not exist because coal, a significant material input used to produce silicon carbide, is not purchased at market-determined prices. On November 16, 1993, petitioner submitted for the record of this investigation a World Bank Discussion Paper entitled "The Sectoral Foundations of China's Development." This paper demonstrates that much of the coal supply of the PRC is subject to central regulation of both price and allocation. Coal not subject to central regulation is often subject to regulation by provincial price boards. The PRC's coal market is also distorted by substantial "in plan" production. Given the many distortions of the coal market evident from information on the record, we cannot consider the price of coal in the PRC to be market-determined. (For further discussion, see the preliminary determination in this investigation (58 FR 64549, December 8, 1993).

Comment 8: Petitioner maintains that IMI/E has not demonstrated its independence from other entities listed on its organizational chart or that these other entities did not export silicon carbide to the United States during the POI. Further, petitioner maintains that the Department's failure to find evidence of investments between IMI/E and these other entities does not indicate a lack of business relationships. Petitioner concludes that IMI/E's potential relationship with these other entities renders it ineligible for a separate rate.

IMI/E states that its maintenance of business relationships with other companies should not disqualify it from receiving a separate rate.

DOC Position: The Department disagrees with petitioner. first, at verification the Department examined the completeness of IMI/E's sales reporting. That examination encompassed IMI/E's records and substantial other documentation. There was no indication at verification that any part of IMI/E had failed to report POI sales to the United States.

IMI/E for its part has stated that other entities shown on its organizational chart are "not related to IMI/E". Rather, they contend that those "independent and unrelated organizations appear on IMI/E's organization chart to give the impression that IMI/E is a large company that is prepared to do business with huge customers requiring enormous volumes of products." IMI/E's explanation is consistent with the Department's examinations at verification.

Finally, although petitioner concedes that IMI/E's investment accounts demonstrated no investments between IMI/E and the entities in question, petitioner maintains that IMI/E is ineligible for a separate rate because of potential business relationships with these entities. However, petitioner has not indicated any reasonable basis upon which the Department can determine that such potential relationships offer entities an opportunity to manipulate IMI/E's export pricing.

Comment 9: Petitioner states that SGW is ineligible for a separate rate because other silicon carbide exporters in the same province have failed to respond to the Department's questionnaire. Further, petitioner maintains that information on the record links SGW to other exporters. Petitioner concludes that since exporters of silicon carbide related to SGW are not cooperating in this

investigation, the Department cannot issue a separate rate for SGW.

SGW states that it is unrelated to any other exporters of silicon carbide. In particular, SGW maintains that it demonstrated during verification its independence from its provincial government and, thus, from other exporters in the same province.

DOC Position: We agree with SGW that it has established its eligibility for a separate rate. As noted in our "Separate Rates" section above, our analysis shows that SGW is not subject to central-government control of its silicon carbide exports. Further, other than the now disproven contention of relationships based on the common "provincial ownership" of exporters, the only other basis for petitioner's assertion of a relationship among exporters is the use by SGW of ledger paper bearing the name of another exporter. SGW has satisfactorily explained this situation at verification (*see* Concurrence Memorandum and Verification Report). There is no other indication of a relationship between SGW and other exporters of silicon carbide and, therefore, SGW's eligibility for a separate rate is unaffected.

Comment 10: Petitioner states that the Department was unable to verify the factors of production reported by IMI/E, QI/E, and SGW and, therefore, must base FMV on BIA for the final determination.

IMI/E, QI/E, and SGW request that the Department accept the correct and verified consumption factors and use these inputs in the final determination.

DOC Position: The Department agrees with respondents. While the Department's verification uncovered several inaccuracies in these respondents' reported data, the inaccuracies do not undermine the fundamental soundness of their questionnaire responses because the inaccuracies were not significant and there was no pattern of under-reporting of the factors of production. Given these findings, the Department has used the verified factors of production in its calculations for the final determination.

Comment 11: Petitioner states that, should the Department use the factors of production for IME/E, QI/E, and SGW, it must adjust these factors for findings at verification. Specifically, petitioner maintains that the Department should do the following: (1) For IMI/E, adjust sand consumption and electricity consumption, account for previously unreported input materials, reallocate labor hours, and correct transportation distances for certain raw materials; (2) QI/E, adjust QI/E's rail freight distance from factory to port, coal transportation distance and use BIA for sand transportation distance, electricity consumption, and labor; and (3) for SGW adjust distances for shipping sand and coal, reverse the number of skilled and unskilled workers used in the calculations for the preliminary determination ignore unverified information regarding labor rates, and use BIA for rail freight distance from factory to port as well as SGW's reported truck freight distances.

These respondents assert that the Department should use these respondents' verified factors of production, taking clerical errors at verification into account, where appropriate.

DOC Position: As stated in the Department's position to the previous comment, we have used the verified amounts for each of these respondents' factors of production. Any inaccuracies found at verification do not undermine the fundamental soundness of the respondent's questionnaire responses. The inaccuracies were not significant and there was no pattern of under-reporting of the factors of production. Given these findings, the Department has used the verified factors of production in its calculations for the final determination because the verified factors of production yield the most accurate measure of the respondents' margins of dumping. (For an in-depth discussion of verification findings, *see* our Concurrence Memorandum).

Comment 12: Petitioner states that, should the Department consider a separate rate for IMI/E, the Department should adjust IMI/E's U.S. price to eliminate a claimed bonus payment for product purity in excess of requirements.

IMI/E requests that the Department use its verified sales prices in the final determination.

DOC Position: The Department agrees with respondent. The Department verified the proof of payment for the sales in question. That proof of payment demonstrated that actual final sales price for the reported sales, including bonus payments. We have used the verified final sales prices in the calculations for this determination.

Comment 13: Petitioner states that, should the Department consider a separate rate for QI/E, the Department must adjust QI/E's U.S. price based on documentation reviewed at verification. Specifically, petitioner maintains that the Department must exclude a certain price adjustment because the Department was unable to verify the silicon carbide content of one sale.

DOC Position: We disagree with petitioner. The Department verified the proof of payment for the sale in question. That proof of payment demonstrated the actual final sales price for the reported sale. Since the Department's calculations are based on actual sales prices, proof of the silicon carbide content of the merchandise sold is unnecessary. We have used the verified final sales price in the calculations for this determination.

Comment 14: Petitioner states that the Department discovered at verification that QI/E had failed to report certain U.S. sales. In addition, petitioner maintains that changes in the terms of the sales, which Qinghai claims place the dates of sale after the POI, were immaterial. Petitioner concludes that the sales in question are POI sales, and that QI/E's failure to report those sales requires that the Department base its final determination for QI/E on BIA.

QI/E maintains that the changes in question were material changes in quantity. QI/E states that the date of sale for these sales was after the POI. QI/E concludes that these sales were properly excluded from QI/E's questionnaire responses.

DOC Position: We agree with QI/E. The change in question was a change in the quantity sold under the contract. Petitioner maintains that the implementation of the change through a quantity variation is an "immaterial" change. However, verification exhibits indicate that the customer's intent (and the final result) was a change in the quantity term of the shipment. That change went beyond the allowable quantity variation of the original contract. Thus, the quantity of the contract, a material term, was not established until after the POI. Therefore, the date of sale was after the POI.

Comment 15: Petitioner states that SGW understated its U.S. sales during the POI, and that the Department must use BIA for SGW's unreported sale.

SGW requests that the Department include the verified, but unreported sale, in its final determination because SGW did not benefit from this oversight.

DOC Position: The Department agrees with SGW. The omission in question appeared to be inadvertent and had the effect of raising, rather than lowering, SGW's calculated margin. In addition, we have no reason to believe that this omission is indicative of a larger pattern of inaccurate reporting by SGW. Further, this omission does not approach the magnitude of the omissions, errors, and inadequacies which we discovered during the verifications of Hainan, Shaanxi, and Xiamen, requiring us to use BIA for those respondents. Therefore, we have

used the actual, verified information for SGW's unreported sale in our calculations for this determination because its inclusion yields the most accurate estimate of SGW's margin of dumping. (See also the Concurrence Memorandum.)

Comment 16: IMI/E, QI/E, and SGW state that the Department should not include coal and water in overhead, in order to avoid double-counting these items.

DOC Position: We agree with respondents that we should not double count these costs. Therefore, we have not included water as a separate factor of production because we believe that water costs are captured in the "other manufacturing expenses" category of the Department's surrogate overhead expense (*see* the Calculation Memorandum attached to the Concurrence Memorandum). However, we have continued to account for coal as a separate factor of production because we have excluded "power and fuel" from the surrogate overhead expense.

Continuation of Suspension of Liquidation

In accordance with sections 733(d)(1) and 735(c)(4) (A) and (B) of the Act, we are directing the Customs Service to continue to suspend liquidation of entries of silicon carbide from the PRC from three of the respondents in this investigation—IMI/E, QI/E, and SGW—that are entered, or withdrawn from warehouse, for consumption on or after December 8, 1993, which is the date of publication of the preliminary determination in the **Federal Register**. For imports of silicon carbide from all other exporters from the PRC, we are directing the Customs Service to suspend liquidation on or after September 9 1993, which is 90 days prior to the date of publication of the preliminary determination in the **Federal Register**. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the FMV exceeds the USP as shown below. These suspensions of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter	Weighted-average margin percentage
7th Grinding Wheel Factory Import and Export Corporation	99.52
The Import and Export Trading Corporation of Inner Mongolia Autonomous Region	27.41
The Qinghai Metals and Minerals Import and Export Corporation	7.50
All Others*	406.00

*Including respondents Hainan, Shaanxi, and Xiamen.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. The ITC will now determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is published pursuant to section 735(d) of the Act and 19 CFR 353.20(a)(4).

Dated: April 22, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10455 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–559–806]

Portable Electric Typewriters From Singapore; Termination of Suspended Antidumping Duty Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On July 26, 1993, the Department of Commerce published a notice of the "Suspension of Investigation; Certain Portable Electric Typewriters from Singapore". On February 9, 1994, the Department received from Brother Industries (USA) Inc. ("BIUSA") notice of its intention to withdraw the petition and to request termination of the suspended investigation pursuant to section 734(a) of the Tariff Act of 1930, as amended ("the Act") based upon withdrawal of the petition. BIUSA expressly conditioned the petition withdrawal upon the contemporaneous revocation of the antidumping duty orders on Portable Electric Typewriters from Japan (A–588–087) and Personal Word Processors from Japan (A–588–818). The Department is now terminating this suspended investigation in accordance with these conditions.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Will Sjoberg or Linda Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 1991, the Department of Commerce ("the Department") initiated an antidumping duty investigation under section 732(a) of the Act, to determine whether certain portable electric typewriters ("PETs") from Singapore are being, or are likely to be sold, in the United States at less than fair value within the meaning of section 731 of the Act. (56 FR 22150).

On February 8, 1993, after extensive litigation concerning BIUSA's legal authority to file a petition against imports of PETs from Singapore, the Department issued its preliminary determination that PETs from Singapore were being sold at less than fair value in the United States (58 FR 7534). On July 26, 1993, the Department published a notice of suspension of investigation (58 FR 39786). The basis for the suspension was an agreement by the Singapore producer/exporter, which accounts for substantially all of the known exports of these products from Singapore, to revise its prices so as to eliminate sales of this merchandise to the United States at less than fair value.

As a result of receiving a timely request to continue the investigation, the Department, pursuant to section 734(g) of the Act, issued its affirmative final determination (58 FR 43334, August 16, 1993).

On February 9, 1994, the Department received notice from BIUSA of its intention to withdraw the petition and to request termination of the suspended investigation pursuant to section 734(a) based upon withdrawal of the petition. BIUSA expressly conditioned the petition's withdrawal upon the contemporaneous revocation of the antidumping duty orders on Portable Electric Typewriters from Japan (A–588–087) and Personal Word Processors from Japan (A–588–818).

By letter of April 8, 1994, the Department notified parties to the proceeding of its intent to terminate the suspended investigation pursuant to section 353.17(a)(1) of the Department's regulations. The Department received no comments as a result of this notification. In addition, simultaneously with the publication of this notice, the Department is publishing revocations of the antidumping duty orders on Portable Electric Typewriters from Japan (A–588–087) and Personal Word Processors from Japan (A–588–818).

Scope of Investigation

The merchandise covered by this investigation consists of certain (PETs) from Singapore which are defined as machines that produce letters and characters in sequence directly on a piece of paper or other media from a keyboard input and meeting the following criteria:

(1) Easily portable, with a handle and/or carrying case, or similar mechanism to facilitate its portability;

(2) Electric, regardless of source of power;

(3) Comprised of a single, integrated unit;

(4) Having a keyboard embedded in the chassis or frame of the machine;

(5) Having a built-in printer;

(6) Having a platen to accommodate paper; and

(7) Only accommodating its own dedicated or captive software, if any.

PETs which meet all of the following criteria are excluded from the scope of this investigation: (1) Seven lines or more of display; (2) more than 32K of text memory; (3) the ability to perform "block move;" and (4) a "search and replace" function. A machine having some, but not all, of these four characteristics is included within the scope of the investigation.

The PETs subject to this investigation are currently classifiable under subheadings 8469.21.00 and 8469.10.00 of the Harmonized Tariff Schedule ("HTS"). (Note that personal word processors also are classifiable under subheading 8469.10.00.) Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Termination of Investigation

Based on the information contained in the record, the Department has decided to terminate the antidumping duty investigation of PETs from Singapore. The record contains statements supporting the proposed termination from all known domestic producers, BIUSA and Smith Corona Corporation ("Smith Corona"), supporting the proposed termination.

Under § 353.17(a) of the Department's regulations, the Department may terminate an investigation based on the withdrawal of the petition by the petitioner, after notifying all parties to the proceeding and after consultation with the International Trade Commission ("ITC"). Section 353.17 further provides that the Department may not terminate an investigation unless it concludes that the termination is in the public interest. We have notified all parties to the proceeding and have consulted with the ITC. We conclude that termination of the investigation is in the public interest (See April 20, 1994, memorandum from David P. Mueller to Susan Esserman). Accordingly, we are terminating the suspended antidumping duty investigation of PETs from Singapore.

Notification to Interested Parties

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with § 353.34(d) of the Department's regulations. Failure to comply is a violation of the APO.

This notice is published pursuant to § 734(a)(1) of the Act and § 353.17(a)(2) of the Department's regulations.

Dated: April 22, 1994.

Susan G. Esserman.

Assistant Secretary for Import Administration.

[FR Doc. 94–10453 Filed 4–29–94; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 041294B]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of Applications to Modify Permits (P501 and P420C).

SUMMARY: Notice is hereby given that Raymond J. Tarpley, D.V.M., Ph.D., Department of Veterinary Anatomy, Texas A&M University, College Station, TX 77843, and Michael A. Castellini, Ph.D., have requested a modification to Permits No. 780 and 801, respectively.

ADDRESSES: The modification requests and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

[P501] - Southeast Region, NMFS, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–9141);

[P501 and P420C] - Alaska Region, NMFS, Federal Annex, P.O. Box 21668, Juneau, AK 99802 (907/586–7221).

Written data or views, or requests for a public hearing on this request should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, 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 these particular modification requests would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of these modification requests to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: Dr. Raymond Tarpley's request to modify Permit No. 780, issued on June 26, 1992 (57 FR 29711) is requested under the authority of the Marine Mammal Protection Act (MMPA) 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).

Permit No. 780 authorizes the Permit Holder to, among other things, collect specimen samples from 30 bowhead whales and 40 beluga whales taken during the Alaska Native subsistence harvest and import samples from 10 belugas taken in the Inuit subsistence harvest.

The Permit Holder requests a modification to the take authority to collect an unlimited number of samples: from all bowhead whales authorized by NOAA and the Alaska Eskimo Whaling Commission (AEWC) to be landed each year until 1996; from the authorized number of beluga whales taken each year by Alaska Natives; and import from Canada samples collected from all beluga whales authorized to be taken in the Inuit subsistence harvest.

Dr. Michael Castellini's modification to Permit No. 801 (58 FR 48507) is requested under the authority of the MMPA of 1972, as amended 16 U.S.C. 1361 *et seq.*) and the Regulations

Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Permit No. 801 authorizes the Holder to, among other things, capture, tag, and handle up to 1200 and incidentally harass up to 2100 Weddell seals (*Leptonychotes weddelli*) during research activities.

The Holder requests authority to insert catheters in six (6) pups in order to collect up to 500 ml of blood.

Dated: April 22, 1994

William W. Fox, Jr., Ph.D.,

Director, Office of Protected Resources, National Marine Fisheries Service

[FR Doc. 94-10359 Filed-4-29-94; 8:45a.m.]

BILLING CODE 3510-22-F

[I.D.041894C]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for scientific research permit (P79I).

SUMMARY: Notice is hereby given that the Institute of Marine Science, University of California, Santa Cruz, CA 95064, (Principal Investigators: Michael E. Goebel and Daniel P. Costa, Ph.D.), has applied in due form for a permit to take Northern fur seals (*Callorhinus ursinus*) for purposes of scientific research.

DATES: Written comments must be received on or before June 1, 1994.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (907/586–7221); and

Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90802–4213 (310/980–4016).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, 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 of Scientific Advisors.

SUPPLEMENTARY INFORMATION: 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 Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

The Applicants request authority to take up to 220 Northern fur seals annually for three years. Of these, 60 females and their pups will be captured, tagged, instrumented and released and 100 (50/50) additional pups will be captured, tagged and released.

The overall objective of the proposed study is to examine the costs and benefits of the variable foraging patterns observed in Pribilof populations of Northern fur seals and how they relate to offspring growth and condition.

Dated: April 22, 1994.

William W. Fox, Jr.,

Director, Office of Protected Resources, National Marine Fisheries Service

[FR Doc. 94-10358 Filed 4-29-94; 8:45 am]

BILLING CODE 3510-22-F

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities, military resale commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 31, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 17, 27, 1993, January 14, March 4 and 11, 1994, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (58 FR 65971, 68398, 59 FR 2360, 10378 and 11580) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, military resale commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities, military resale commodities and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities, military resale commodities and services.

3. The action will result in authorizing small entities to furnish the commodities, military resale commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities, military resale commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities, military resale commodities and services are hereby added to the Procurement List:

Commodities

Tool Box, Portable
5140–00–388–3416

Cover, Water Canteen
8465–00–860–0256
(50% of the Government's requirement)

Military Resale Commodities

Broom, Whisk
M.R. 910

Broom, Upright
M.R. 951
M.R. 953

Broom, Fiber
M.R. 952

Broom, Patio
M.R. 954

Brush, Bowl
M.R. 917

Brush, Duster

M.R. 913
Brush, Scrub
M.R. 958
M.R. 932

Services

Food Service Attendant,
Marine Corps Air Station (MCAS),
New River,
Jacksonville, North Carolina
Grounds Maintenance,
U.S. Army Reserve Center,
2000 North New Road,
Waco, Texas
Janitorial/Custodial,
Veterans Outreach Center,
Vista, California
Janitorial/Custodial,
Social Security Administration Building,
525 18th Street,
Rock Island, Illinois
Laundry Service,
Naval Hospital,
Oak Harbor, Washington
Laundry Service,
Naval Air Station,
Whidbey Island,
Oak Harbor, Washington

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E. R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 94–10432 Filed 4–29–94; 8:45 am].

BILLING CODE 6820–33–P.

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List shipping boxes to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 31, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On February 4, 1994, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (59 FR 5396) of proposed additions to the Procurement List.

Comments were received during the development phase of this addition to the Procurement List from one of the current contractors. The contractor claimed that the addition would be devastating as it would remove a sizeable part of its sales and would undermine the company's ability to supply other boxes—for which it is not the current contractor—to the Government. The contractor also indicated, without details, that the Committee's action would "alter the delicate balance" of its sales base.

The percentage of its sales which the contractor claimed it would lose if the boxes were added to the Procurement List does not reach the level which the Committee normally considers severe adverse impact. Also, the percentage of sales the contractor claimed is almost double the percentage of sales the Committee calculated based on the contractor's statement of its total sales and the value of the contractor's current contracts for the boxes as provided by the Government purchasing agency. Consequently, the Committee has concluded that loss of these sales will not constitute a severe adverse impact on the contractor.

The contractor did not provide information to explain its claim that the Committee's action would undermine the company's ability to supply other boxes to the Government and would alter the balance of its sales base. Consequently, the Committee has concluded that these claims represent factors which would not add significantly, if at all, to the impact of the Committee's action on the company.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the boxes, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the boxes listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Box, Shipping
8115–00–117–9524
8115–00–165–6599
8115–00–176–8062
8115–00–176–8064
8115–00–183–9484
8115–00–183–9487
8115–00–183–9488
8115–00–183–9489
8115–00–183–9490
8115–00–183–9491
8115–00–183–9493
8115–00–183–9494
8115–00–183–9496
8115–00–183–9497
8115–00–183–9498
8115–00–183–9499
8115–00–183–9500
8115–00–183–9501
8115–00–183–9503
8115–00–183–9504
8115–00–183–9505
8115–00–190–4863
8115–00–190–4888
8115–00–190–4921
8115–00–190–4936
8115–00–190–4950
8115–00–190–4959
8115–00–190–4968
8115–00–190–5002
8115–00–190–5007
8115–00–200–6954
8115–00–200–6961
8115–00–229–9340
8115–00–255–1346
8115–00–281–3877
8115–00–281–3882
8115–00–281–3886
8115–00–281–3889
8115–00–285–1116
8115–00–292–0724
8115–00–417–9318
8115–00–417–9320
8115–00–417–9378
8115–00–418–4653
8115–00–418–4656
8115–00–418–4660
8115–00–451–7853
8115–00–514–2404
8115–00–526–1617
8115–00–579–9153
8115–00–174–2354
8115–00–183–9481
8115–00–183–9482
8115–00–190–4864
8115–00–190–4865
8115–00–190–5012
8115–00–190–5017
8115–00–190–5053
8115–00–201–1123
8115–00–275–5777
8115–00–417–9236
8115–00–417–9292

8115–00–418–4657
8115–00–428–4183
8115–00–428–4185
8115–00–514–2409
8115–00–190–5011
8115–00–190–5018
8115–00–190–5020
8115–00–418–4654
8115–00–428–4158
8115–00–579–9155
8115–00–579–9156
8115–00–985–7312
8115–00–656–0912
8115–00–190–5015
8115–00–292–0120
8115–00–292–0123
8115–00–428–4145
8115–00–417–9416
8115–00–190–4969

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E. R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 94–10431 Filed 4–29–94; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 31, 1994.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2–3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Container, Wood, Rocket Motor, 8140–01–004–9410, (Requirements for the Naval Air Warfare Center, Lakehurst, NJ).

NPA: Helena Industries, Inc., Helena, Montana.

Services

Grounds Maintenance, Naval Postgraduate School Annex, Monterey, California.

NPA: North Bay Rehabilitation Services, Inc., San Rafael, California.

Janitorial/Custodial, Frank T. Bow Federal Building, 201 Cleveland Avenue, SE., Canton, Ohio.

NPA: Sheltered Workshop Foundation of Stark County, Canton, Ohio.

E. R. Alley, Jr.,
Deputy Executive Director.

[FR Doc. 94–10430 Filed 4–29–94; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List combat caps to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: May 31, 1994.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On July 23, 1993, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (58 FR 39527) of proposed additions to the Procurement List.

Comments were received from one of the two current contractors for the cap. The commenter indicated that the cap constituted a sizeable part of its total sales and that without the opportunity to produce the cap it would have to lay off about half its largely minority female work force. The commenter also indicated that loss of the cap would imperil its shared production arrangement with another company.

In order to avoid the possibility of having a severe adverse impact on this commenter, the Committee has reduced the number of caps being added to the Procurement List from 450,000 annually to 375,000 annually. This reduction should lessen the level of impact on the commenting contractor to a degree that will not constitute severe adverse impact, and should minimize employment losses. Additionally, the Committee believes that these losses are outweighed by the creation of employment for people with severe disabilities, whose unemployment rates are higher that those of other workers.

Comments were also received from two companies which are not current contractors for the cap. Both alleged that addition of the cap to the Procurement List would constitute severe adverse impact on them, particularly in light of the impact of other additions to the Procurement List.

One of these commenters noted that the market for the cap and similar items is shrinking significantly because of declining Government procurement of the items. The other commenter noted that the Government is the only potential market for these items. Consequently, both commenters believe the impact of this addition to the Procurement List on them is increased by these conditions.

As one of the commenters noted, however, the Committee assesses impact on "the current or most recent

contractor." 41 CFR 51–2.4(e). Neither commenter falls within this category. Consequently, the impact which they will experience is merely the loss of subsequent opportunities to bid on contracts for the caps. The Committee does not normally consider this loss to constitute severe adverse impact because the competitive bidding system does not guarantee that anyone will get or keep a contract for a specific item the Government buys. In this case, because the Committee never proposed to add the total Government requirement for the cap to the Procurement List and has substantially reduced the part of the Government requirement to be added from what was proposed, competing contractors will have more of an opportunity to win awards of the part of the Government requirement for the cap not added to the Procurement List than they normally would, as the Committee's usual practice is to add the total Government requirement for a commodity to the Procurement List.

One of the commenters noted that it had previously produced the cap for several years and had become substantially dependent on income from those sales. However, it lost the contract in the last competitive bidding. While it retained the affected employees in hopes of acquiring another contract for the cap, it has no guarantee of doing so and has lost any advantage that an incumbent contractor may enjoy. Accordingly, the eventual termination of the affected employees will be due to these circumstances rather than the Committee's action.

The same commenter also questioned whether it received adequate notice and whether the statements in the notice of proposed rulemaking concerning significant impact on a substantial number of small entities and a lack of regulatory alternatives were correct. The Committee is required by law, 41 U.S.C. 47(a)(2), to add items to the Procurement List in accordance with the rulemaking provisions of 5 U.S.C. 553, which requires notice in the *Federal Register*. The notice contained all the elements required by 5 U.S.C. 553(b). The statements the commenter questioned are also required by law, 5 U.S.C. 605(b). Consequently, the Committee believes that it has acted properly in these matters.

This commenter also questioned whether the Committee had explored the possibility of having its nonprofit agencies produce the caps under a small business set-aside. The legal authority for nonprofit agencies to bid on these set-asides which the commenter noted has expired.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Cap, Combat Camouflage

8415–01–084–1683

8415–01–084–1684

8415–01–084–1685

8415–01–084–1686

8415–01–084–1687

8415–01–084–1688

8415–01–134–3175

8415–01–134–3176

8415–01–134–3177

8415–01–134–3178

8415–01–134–3179

8415–01–134–3180

(375,000 annually)

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 94–10429 Filed 4–29–94; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Environmental Scholarships/ Fellowships and Grants Program

AGENCY: Department of Defense, Office of the Deputy Under Secretary of Defense for Environmental Security (DUSD(ES)).

ACTION: Notice of funding availability for the Department of Defense Environmental Scholarships/ Fellowships, and Grants Program to institutions of higher education heading a consortium.

SUMMARY: The Department of Defense announces the competition for the Defense Environmental Scholarships/ Fellowships and Grants Program, authorized by Section 4451 of The National Defense Authorization Act for Fiscal Year 1993 and section 1333 of The National Defense Authorization Act for Fiscal Year 1994. The program has two purposes: (1) For Section 4451 to provide scholarships and fellowships to enable individuals to qualify for employment in the field of environmental restoration or in other environmental programs in the Department of Defense; and (2) for Section 1333 to provide demonstration grants to assist institutions of higher education in providing expertise, training and education in environmental restoration, hazardous materials and waste management, and other environmental fields applicable to Department of Defense and Department of Energy defense facilities. The program will be executed by an institution of higher education heading a consortium. A consortium must consist of the institution of higher education and *one or more of each* of the following:

1. Appropriate State and local agencies.

2. Private industry councils (as described in Section 102 of the Job Training Partnership Act (29 U.S.C. 1512)).

3. Community-based organizations (as defined in Section 4(5) of such Act (29 U.S.C. 1503 (5)).

4. Businesses.

5. Organized labor.

6. Other appropriate educational institutions.

At least five percent of each award will be available to Historically Black Colleges and Universities/Minority Institutions.

Each award will be composed of two agreements, each with its own budget and funds:

1. An agreement to nominate scholarship and fellowship recipients, forward nominations to the Department of Defense for approval, then provide selectees with education leading to degrees relevant for subsequent DoD employment, subject to the needs of the Department of Defense (Section 4451).

2. An agreement to provide expertise, training, and education in hazardous materials and waste management and other environmental fields applicable to defense manufacturing sites and Department of Defense and Department of Energy defense facilities (Section 1333).

A total of $20.382 million will be available initially for this program to be distributed as follows:

(a) $7 million for Section 4451 purposes, and

(b) An initial $13.382 million for Section 1333 purposes.

The $20.382 million will be divided into sixteen awards of $1,273,875 each, made to applicants from the four Census Regions—four per region—based on a merit selection process.

Each award will provide $437,500 for scholarships/fellowships (Section 4451 purposes) and $836,375 for the demonstration grant (Section 1333 purposes). An award made to a consortium under Section 4451 may be used for a period of from one to five years. Demonstration grant monies awarded under Section 1333 must be expended within one year. Funds for Section 1333 purposes may later be made available for a second and a third year, subject to the approval of the Secretary of Defense and to the availability of appropriations for each year.

The DoD Environmental Security Program

The DoD multi-disciplinary approach to environmental security is embodied in a five-pronged strategy:

Cleanup; Compliance; Conservation; Pollution Prevention; and Technology represented by:

C cubed, P squared, plus T.

The DoD program is creating environmental partnerships, matching environmental and economic opportunities, expediting cleanup at DoD sites, improving compliance with environmental laws and regulations, preventing pollution, and targeting technology to meet environmental needs. To develop and exploit technology and innovative ideas which lead to rapid, economical, safe solutions to environmental problems, the Department of Defense requires education and training programs which will produce qualified individuals in career fields which relate to the five programs of environmental security. These five areas will be given priority in the evaluation of applications and are defined as follows:

Cleanup—Restoring DoD Facilities

The Department of Defense is dealing with a legacy of environmental contamination resulting from decades of military operations. Environmental problems continue to grow as the United States and Russia denuclearize and demilitarize their chemical weapons.

Currently, the Department of Defense is engaged in cleanup at 1,800 military locations in the United States and at 1,700 locations overseas. Ninety-three of the stateside locations are listed on the Environmental Protection Agency's Superfund National Priorities List.

Compliance—Complying With Environmental Laws in Day-to-Day Operations

The Department of Defense, like private industry, is concerned with a myriad of environmental laws and regulations. Common compliance issues include:

- Obtaining thousands of air emission permits and hundreds of permits for water discharges such as sewage, industrial, and water treatment plants;
- Managing 300 to 400 permits to treat, store, or dispose of hazardous waste under the Resource Conservation and Recovery Act (RCRA);
- Managing 30,000 regulated underground fuel storage tanks;
- Preparing spill prevention and response plans at every base; and
- Obtaining storm water permits at every base.

Conservation—Conserving Natural Resources

The Department of Defense consumes approximately two percent of the Nation's total energy supply, uses over 200 billion gallons of fresh water each year, and is the steward for 25 million acres of public lands containing valuable ecosystems, natural, cultural, and historic resources.

The Energy Policy Act of 1992 requires that the Department of Defense identify and implement all energy and water conservation measures that pay back in ten years or less, and establish the goal to reduce consumption by 20 percent by the year 2000. Funding for energy conservation is expected to be over $300 million in fiscal year 1996.

Good stewardship requires that the Department of Defense conserve and protect valuable resources, such as the 300 threatened and endangered species that reside on DoD lands, and the numerous DoD facilities on the National Historic Register.

Pollution Prevention—Preventing Pollution

The newest strategy in environmental protection, pollution prevention, reduces the amount of pollution at the source. The Department of Defense's new pollution prevention goals reflect the Pollution Prevention Act of 1990. The program is build on minimizing pollution and emphasizes reduction, recycling, treatment, and disposal. Pollution prevention will ease skyrocketing disposal costs and reduce dependence on disappearing municipal solid waste landfills.

On August 3, 1993, President Clinton signed Executive Order 12856, "Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements." This executive order was designed to bring federal facilities in line with requirements of the Emergency Planning and Community Right-to-Know Act (EPCRA) by requiring federal authorities to notify local emergency planning committees of all toxic chemicals stored or used at federal facilities. Federal agencies will be required to develop a written strategy to eliminate or minimize acquisition of hazardous or toxic chemicals and to develop a strategy to meet a voluntary goal of 50 percent reduction by December 1999.

The Clean Air Act, Energy Policy Act Executive Order 12579 ("Federal Energ Management"), and Executive Order 12844 ("Federal Use of Alternative Fueled Vehicles") require that DoD facilities use equipment that substantially reduces pollutants at the source.

Technology—Environmental Security Technology Certification Program (ESTCP)

Technology contributes to advancing the objectives of each of the C^3P^2 thrust areas within the Environmental Security Program. The objective of ESTCP is to executive the most promising environmental technology demonstration projects that target the Department of Defense's most urgent environmental needs and have a paycheck in the short term with regard to cost savings and improved efficiencies.

Environmental Concerns

Expansion and further development of the existing core of DoD professionals whose collective disciplines are applicable across the spectrum of issues embraced by the five programs are

crucial to ensure restoration, protection, and conservation of the Nation's natural and cultural resources under the stewardship of the Department of Defense. The Defense Environmental Scholarships/Fellowships and Grants Program will serve the upcoming generation of environmental professionals and the emerging technologies they will apply to solve the challenges facing the environment.

The Department of Defense has numerous environmental program areas, each defined by a major topic of environmental regulation, a particular environment-related task or mission. These include, but are not limited to: environmental restoration, compliance, program planning and management, air pollution abatement, hazardous waste management, spill planning and response, solid waste management/recycling, natural resource management, pollution prevention, asbestos management, radon reduction, environmental analysis and documentation, hazardous materials, underground storage tank management, research and development, technology, historic preservation, archaeological resource protection, noise abatement, water resources, and pesticides and integrated pest management.

Section 4451 mandates that scholarship or fellowship recipients pursue and academic program leading to a degree in "engineering, biology, chemistry, or another qualifying field." Other degree areas related to DoD environmental positions include, but are not limited to:

Chemical Engineering
Civil Engineering
Environmental Program Management
Environmental Technology
Natural Resource Management
Earth Sciences
Environmental Engineering
Environmental Sciences
Geotechnology
Geology
Cultural Resource Management
Hydrology
Oceanography
Industrial Engineering
Mechanical Engineering
Forestry
Toxicology
Entomology

Eligibility

Award applicants mut be institutions of higher education as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)) that have or will create a consortium headed by that institution of higher education. They must develop proposals that address the requirements of both Section 4451 of The National Defense Authorization Act for Fiscal Year 1993 and Section 1333 of The National Defense Authorization Act of Fiscal Year 1994.

At least five percent of each award must be made available to Historically Black Colleges and Universities/Minority Institutions.

Section 4451 requires scholarship/fellowships students nominated for selection to meet the following criteria:

(1) Be accepted for enrollment or currently enrolled as a full-time student at a selected institution of higher education.

(2) Be pursuing a degree in an environmental career field.

(3) Agree to serve as a full-time civilian employee in an environmental position with the Department of Defense upon graduation, if such employment is available and offered. (Period of employment will be 12 months for each school year students are provided a scholarship in an undergraduate program, or 24 months for each school year students are provided a fellowship in a graduate program.)

(4) Be a citizen or national of the United States, or an alien lawfully admitted to the U.S. for permanent residence.

Section 1333 requires that an institution receiving a grant under this section must use the grant to establish a consortium for the purpose of establishing and conducting a program to provide training and education in environmental restoration, hazardous materials and waste management and other environmental fields applicable to Department of Defense and Department of Energy defense facilities to:

(1) Individuals who have been terminated or laid off from employment (or have been notified of impending termination or lay off) as a result of reductions in defense spending, the cancellation, termination, or completion of a defense contract, or a base closure or realignment; or

(2) Individuals who are at least 16 but not yet 25.

Selection Criteria

The intent of this section is to help applicants understand how the selection criteria are applied to training and education proposals during the review process. The review process, to identify the best proposals and to provide the best wide-range support of the program, will compare each application to all others in each region.

Proposals for the Defense Environmental Scholarships/Fellowships and Grants Program will be evaluated and rank-ordered by a peer review panel selected by the National Research Council from among recognized experts in various environment-related fields. Rank-ordered proposals for each region will be presented to the Deputy Under Secretary of Defense for Environmental Security for final selection.

At least five percent of each award will be available to Historically Black Colleges and Universities/Minority Institutions.

The final judgment of an application will be based on an overall assessment of the extent to which the application satisfactorily addresses the following selection criteria:

(1) The proposal is submitted by an institution of higher education. An application will be submitted by an institution of higher education that will agree to form and head a consortium, as mandated by section 1333, that will consist of at least one of each of the following:

(i) Appropriate state and local agencies.

(ii) Private industry councils as described in 29 U.S.C. 1512.

(iii) Community-based organizations as defined in 29 U.S.C. 1503(5).

(iv) Businesses.

(v) Organized labor.

(vi) Other appropriate educational institutions.

(2) The proposal addresses education and training in an area of the Department of Defense's Environmental Security Program. Describe the area addressed and its applicational setting—from installation level to Command Headquarters. The Department of Defense's Environmental Security Program identifies specific areas (i.e., cleanup, compliance, conservation, pollution prevention, and technology), but an applicant may choose to focus and provide specific applications on an environmental subject not specifically mentioned in these areas or to address more than one topic in a single project.

(3) The proposal represents an improvement upon existing practice. Since improvements over existing practice are important, reviewers will appreciate any evidence included to illustrate how this project differs from and improves upon previous efforts.

(4) The proposal achieves a far-reaching impact that will be useful in a variety of ways and in a variety of settings. The Department of Defense seeks to make the most of its limited funds by supporting projects which have broad, multiple application and that can become models for the nation's environment program.

(5) The proposal represents an appropriate response to an

environmental area. Not only should a proposal demonstrate understanding of an environmental area, but strategies should be carefully designed to address those areas and reach specific endpoints.

(6) The applicant is capable of carrying out the proposal as evidenced by, for example:

(i) The applicant's understanding of the environmental area or need. The applicant should demonstrate understanding of the area through analysis of it and through the thoughtfulness and specificity of the proposed response.

(ii) The quality of the proposed design, including objectives, approaches, and planning. The proposal should reflect careful attention to the question of who will do what, when, where, why and how.

(iii) The adequacy of resources including money, personnel, facilities, equipment, and supplies. It should be clear that the applicant has carefully allocated appropriate resources and personnel for the tasks and activities proposed in the proposal. The detailed budget justification attached to the proposal should itemize the support requested from the Department of Defense.

(iv) The qualifications of key personnel who would execute the proposal. The qualifications of key personnel should be briefly outlined and attached to the proposal. Please note that a standard curriculum vitae is usually not appropriate for this purpose. Be sure to indicate in the biographical sketch how each individual's background and experience relate to the specific project described in the proposal.

(v) The applicant's relevant experience. It is helpful for the readers to know what other projects of a similar nature the applicant has conducted. With regard to the specific proposal, it is equally helpful to know what steps have already been initiated.

(vi) The applicant's prior work in the area. It is helpful to know the extent to which the applicant has successfully completed prior work on similar or related projects.

(7) The proposal includes an assurance that demonstration grant funds awarded under Section 1333 will supplement and not supplant non-Federal funds that would otherwise be available for education and training activities funded by the grant.

(8) The proposal demonstrates that an education and training program to be established under Section 1333:

(i) Provides a work-based learning system in environmental restoration. Such a system may include basic educational courses, on-site basic skills training, and mentor assistance to participants and may lead to award of a certificate or degree at the institution of higher education.

(ii) Includes out-reach and recruitment efforts to encourage participation by eligible individuals. To the extent practicable in the selection of young adults, priority must be given to those who have not attended and are otherwise unlikely to attend an institution of higher education or have a total family income that does not exceed the higher of the official poverty line or 70% of the lower living standard income level.

(iii) Utilizes, to the extent practicable, instructors selected from institutions of higher education, appropriate community programs, industry and labor.

(iv) Includes provisions for consultation, to the extent practicable, with appropriate Federal, state, and local agencies carrying out environmental restoration programs. The purpose of such consultation is to ensure the Section 1333 program is fully coordinated with similar government programs.

(9) For Section 4451 requirements the proposal demonstrates ability to recruit students, provide education leading to degrees qualifying students for DoD environmental positions, and manage a scholarship and fellowship program. Applicants must make potential scholarship/fellowship recipients aware that acceptance of financial assistance under this program requires a commitment to employment at any DoD facility or site where an environmental position may be offered.

(10) Scholarship and fellowship nomination preference under Section 4451 is given to current and former members of the US Armed Forces and to individuals who are or have been employed by the Department of Defense, or its contractors and sub-contractors. The Department of Defense will retain final approval authority for all individual scholarship and fellowship awards.

Application Procedures

Applications for participation in the Department of Defense Environmental Scholarships/Fellowships and Grants Program will follow the format prescribed in parts of the U.S. Public Health Service (USPHS) Application Form PHS 398.

Applications must include two implementation plans, one for scholarships/fellowships (Public Law 102–484 Section 4451) and one for demonstration grants (Public Law 103–160 Section 1333), each with its own budget proposal. At least five percent of each award must be made available to Historically Black Colleges and Universities/Minority Institutions.

- Plans for scholarships and fellowships programs (not to exceed five years) meeting Section 4451 requirements will include detailed descriptions of the education program, program facility, scholarship and fellowship candidate populations, methods of recruiting individuals, tuition costs and administration procedures. Stipends for fellowship recipients will not exceed $16,000 per year. Tuition, fees and stipends will not be included in calculations of indirect costs. Scholarship/fellowship plans will not exceed 10 pages.
- Plans for demonstration grants (not to exceed three years) meeting the provisions of Section 1333 will include, in 10 pages or less, a detailed description of the specific aims of the education and training program to be supported, background and significance of the proposed program, and its application to the DoD Environmental Program.

A complete Defense Environmental Scholarships/Fellowships and Grants Program application must be submitted to qualify for consideration. A complete application will consist of three sections:

1. General Information—PHS 398 Form AA (Face Page).
2. Scholarships and Fellowships Section—PHS 398 Forms BB, NN, OO, FF, HH, II, and JJ and Implementation Plan.
3. Environmental Grants Section—PHS 398 Forms BB, DD, EE, FF, HH, II, and JJ and Implementation Plan.

It is essential that applications be complete and accurate at the time of submission. Incomplete applications will not be considered. One copy of an incomplete or incorrect application will be returned by mail.

Additional PHS 398 forms and application instructions are available by writing the Defense Environmental Scholarships/Fellowships and Grants Program, P.O. Box R, Woodbridge, VA 22194 (telephone 703–643–2952; FAX 703–497–2095).

Grant recipients will also be required to comply with provisions of Office of Management and Budget Circulars A–21, "Cost Principles for Educational Institutions," A–110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," and A–133, "Audits of Institutions of Higher

Education and Other Nonprofit Institutions."

Proposal must be submitted in 6 copies (original + 5).

DEADLINE: Deadline for complete proposals to be received at the Defense Environmental Scholarships/ Fellowships and Grants Program, P.O. Box R, Woodbridge, VA 22194, is 4:00 p.m. (EDT), June 21, 1994. Proposals received after that time and date will not be considered.

LATE APPLICATIONS: Applications which do not meet the criteria under "Deadline," above, are considered late applications. Late applications will not be considered.

Mailing Address for Application Package. Department of Defense, Environmental Scholarships/ Fellowships and Grants Program, P.O. Box R, Woodbridge, Virginia 22194.

Shipping (FedEx, UPT, etc.) Address for Application Package. Department of Defense, Environmental Scholarships/ Fellowships and Grants Program, 1635–2 Woodside Drive, Woodbridge, Virginia 22191, Phone: 703–643–2952.

DATES: Application packages and detailed instructions will be available April 30, 1994. Deadline for completed applications to be received by the Department of Defense will be 4:00 p.m. (EDT), June 21, 1994. Grants will be issued by September 30, 1994.

ADDRESSES: For additional information or to receive application packages and detailed instructions, contact Dave Fletcher, Department of Defense Environmental Grants Program, P.O. Box R, Woodbridge, VA 22194, phone 703–643–2952 or FAX 703–497–2905.

Dated: April 26. 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–10419 Filed 4–26–94; 3:00 pm]

BILLING CODE 5000–04–M

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title and Applicable Form: Continued Health Care Benefit Program (CHCBP)—Enrollment Application.

Type of Request: New collection.

Number of Respondents: 100,000.

Responses per Respondent: 1.

Annual Responses: 100,000.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 25,000.

Needs and Uses: The information collected hereby will serve to enroll beneficiaries in the Continued Health Care Benefit Program (CHCBP). It will also be used by a private Third Party Administrator (TPA) firm, providing administrative support services, to determine beneficiary eligibility, other health insurance liability, and amount of premium payment.

Affected Public: Individuals or households.

Frequency: On occasion.

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

OMB Desk Officer: Ms. Shannah Koss.

Written comments and recommendations on the proposed information collection should be sent to Ms. Koss at the Office of Management and Budget, Desk Officer for DoD, room 3001, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: April 25, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–10356 Filed 4–29–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Army Science Board; Closed 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: 17 May 1994.

Time of meeting: 0830–1100 (classified).

Place: McLean, VA.

Agenda: The Threat Team I of the Army Science Board's 1994 Summer Study on "Capabilities Needed to Counter Current and Evolving Threat" will meet to receive an Intelligence Support Status Report. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S. C., specifically subparagraph (1) thereof, and Title 5, U.S. C., Appendix 2, subsection 10(d). The unclassified and classified matters to be discussed are so inextricably intertwined so as to preclude opening all portions of the meeting. 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. 94–10253 Filed 4–29–94; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Statement of Findings for Bridge Restoration and Preservation at Savannah River Site (603–03G)

AGENCY: Department of Energy (DOE).

ACTION: Floodplain statement of findings.

SUMMARY: This is a Statement of Findings prepared pursuant to Executive Order 11988 and title 10, Code of Federal Regulations, part 1022 (10 CFR part 1022), "Compliance with Floodplain/Wetlands Environmental Review Requirements." DOE has determined that activities (as specified in this Notice) associated with the restoration and preservation of Bridge 603–03G will be conducted within floodplains of Upper Three Runs Creek on Road F at the Savannah River Site (SRS). DOE proposes to repair all deteriorated, decayed, or rotten timber piles associated with Bridge 603–03G having a section loss greater than 55 percent and to increase the load capacity to support truck and emergency vehicle traffic. Road F is one of the primary traffic routes to the Z-, F-, S-, and H-Areas of the site and supports 35 percent of the daily automobile traffic at SRS.

DOE prepared a Floodplain/Wetlands Assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. On the basis of this assessment, DOE has determined that there is no practicable alternative to the proposed action and that the proposed action has been designed to avoid or minimize impacts on floodplains/wetlands. The Notice of Floodplain and Wetland Involvement was published in the **Federal Register** (59 FR 47 (March 10, 1994)). No comments were received. The action is categorically excluded under DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021).

FOR FURTHER INFORMATION CONTACT: Information and maps are available from Stephen R. Wright, Savannah River

NEPA Compliance Officer, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802, Phone Number (803) 725–3957, Fax Number (803) 725–7688.

For further information on general DOE Floodplain/Wetlands Environmental Review Requirements, contact Ms. Carol M. Borgstrom, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, Phone Number (202) 586–4600, or (800) 472–2756.

SUPPLEMENTARY INFORMATION: Bridge 603–03G supports to be repaired are in a floodplain of Upper Three Runs Creek. This floodplain is, at present, and should remain a relatively unimpacted floodplain. Repairs to approximately six deteriorating pile sections will be performed using a pile jacking system constructed of fiberglass, concrete, or steel set in place around the timber piles with reinforcing steel if necessary. Cofferdams (watertight temporary structures for keeping water from an enclosed area) will be required for each pile identified for restoration and may consist of sandbags, precast concrete sections, or steel. In the case of precast concrete or steel, the sections may be driven or jacked into the streambed to a depth below the mudline sufficient to perform the restoration process. The cofferdams will act as a primary barrier for the restoration activity by preventing sediment, grout, concrete, and debris from discharging to the stream. Water infiltrating into the cofferdams will be pumped to a sediment basin tank or approved discharge point. A small amount of sediment can be expected to go into the stream where work is performed close to the adjoining channel. This should have no significant impact on the floodplain. There may be riprap placed on each abutment below the roadway to prevent scouring of the abutment and soil erosion. The lower part of the slopes of these abutments is in the floodplain.

Most of the work will be accomplished from the present roadbed using cranes to repair or replace the bridge supports. Platforms will be lowered from the bridge structure to support equipment and to serve as a work base. These will be removed when the project is completed. There would be no impacts to wetlands or floodplains as a result of this work.

DOE will endeavor to allow 15 days of public review after publication of this Statement of Findings prior to implementing the action.

William L. Barker,

Associate Deputy Assistant Secretary for Facility Transition and Technical Support, Defense Programs.

[FR Doc. 94–10320 Filed 4–29–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Industrial Foam Products, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2) it is making a discretionary financial assistance award based on acceptance of an unsolicited application meeting the criteria of 10 CFR 600.14(e)(1) under Grant Number DE-FG01–94CE15597 to Industrial Foam Products, Inc. The proposed grant will provide funding in the estimated amount of $99,950 by the Department of Energy for the purpose of saving energy through completion of engineering design for a patented invention, "The GibBAR-WALL™ System (GWS)," a method for constructing insulated concrete walls.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason, HR–531.23, 1000 Independence Ave., SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR 600.14(e)(1) that the unsolicited application for financial assistance submitted by Mr. James H. Gibbar, Industrial Foam Products, Inc., is meritorious based on the general evaluation required by 10 CFR 600.14(d) and the proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current or planned solicitation. Mr. James H. Gibbar has received three patents and is currently working on a fourth for wall systems. The proposed project is not eligible for financial assistance under a recent, current or planned solicitation because the funding program, the energy Related Invention Program (ERIP), has been structured since its beginning in 1975 to operate without competitive solicitations because the authorizing legislation directs ERIP to provide support for worthy ideas submitted by the public. The program has never issued and has no plans to issue a competitive solicitation.

The anticipated term of the proposed grant is 18 months from the date of award.

Issued in Washington, DC on April 22, 1994.

Scott Sheffield,

Director Headquarters Operations Division "B", Office of Placement and Administration.

[FR Doc. 94–10321 Filed 4–29–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: University of Arkansas

AGENCY: U.S. Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award under Grant number DE–FG01–94FE63182 to the University of Arkansas. The proposed grant will provide funding in the estimated amount of $1,300,000 by the Department of Energy for the utilization of the University of Arkansas's Modeling Support Center in support of the Department of Energy's Liquified Gaseous Fuels Spill Test Facility Program, using a wind tunnel and mathematical modeling support to design field tests.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: James F. Thompson, HR–531.21, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION: The Department of Energy shall make an award of non-competitive financial assistance in accordance with 10 CFR 600.7(b)(2) to the University of Arkansas. The application submitted by the University of Arkansas is meritorious based on the general evaluation required by 10 CFR 600.7(b)(2)(i)(D), in that the proposed project requires unique equipment, whereas no other sources are known. The Modeling Support Center at the University of Arkansas is the only known facility in possession of the type of wind tunnel necessary for the performance of the work. The program has never issued and has no plans to issue a competitive solicitation. The anticipated term of the proposed grant is 5 months from the effective date of award.

Scott Sheffield,

Director, Headquarters Operations Division B, Office of Placement, and Administration.

[FR Doc. 94–10420 Filed 4–29–94; 8:45 am]

BILLING CODE 6450–01–M

Inertial Confinement Fusion Advisory Committee/Defense Programs; Partially Closed Meeting

Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following meeting:

Name: Inertial Confinement Fusion Advisory Committee/Defense Programs.

Date and Time: Agenda is Subject to Revision

Wednesday, May 18, 1994, 7 p.m.–9 p.m.–Open

Thursday, May 19, 1994, 8:30 a.m.–3:30 p.m.–Closed

Thursday, May 19, 1994, 3:30 p.m.–6:00 p.m.–Open

Friday, May 20, 1994, 7:30 a.m.–2:30 p.m.–Open

Place: University of Rochester, Rochester, NY, Laboratory for Laser Energetics, COI Seminar Room.

Contact: Marshall M. Sluyter, Designated Federal Officer, Office of Research and Inertial Fusion (DP–11), Office of Defense Programs, Washington, DC 20585, Telephone: (301) 903–3345.

Persons wishing to attend the meeting should submit their names to Ms. Jean Steve at the University of Rochester Laboratory for Laser Energetics, (716) 275–5286, on or before May 17, 1994, to obtain visitor passes to the meeting room.

Purpose of the Committee: To provide advice and guidance to the Assistant Secretary for Defense Programs on both technical and management aspects of the Inertial Confinement Fusion program.

Purpose of the Meeting: To assess the technical readiness of the Inertial Confinement Fusion program to receive approval for the New Start of the National Ignition Facility project; to review the University of Rochester's inertial confinement fusion program and identify its significance to the overall Inertial Confinement Fusion program and the National Security Strategic Plan; and to identify and evaluate the relative importance of other inertial confinement fusion program elements to the overall program mission and the National Security Strategic Plan.

Tentative Agenda: Subject to Revision

May 18, 1994

7 p.m. National Ignition Facility Laser Subcommittee Report
8 p.m. Committee Discussion

May 19, 1994

8:30 a.m. Closed Meeting
3:45 p.m. National Cryogenic Target R&D Program
4:15 p.m. Advanced Target Materials for NIF
4:35 p.m. Cryogenic Target Handling for NIF
4:45 p.m. Opportunity for Public Comment
5:15 p.m. Committee Discussion

May 20, 1994

7:30 a.m. University of Rochester Inertial Confinement Fusion Program—Introduction
8 a.m. National Ignition Facility/Omega Upgrade Capsule Physics
8:45 a.m. Introduction to Omega Upgrade
9:15 a.m. Tours of Facility
10 a.m. Experimental Plan and Details
10:50 a.m. Uniformity Theory
11:10 a.m. New Distributed Phase Plate Technology
11:30 a.m. Laboratories' Comments
1:30 p.m. Committee Discussion
2:10 p.m. Summary
2:30 p.m. Adjournment

Open to the Public: On May 18, 1994, from 7 p.m. to 9 p.m., on May 19, 1994, from 3:30 p.m. to 6 p.m., and on May 20, 1994, from 7:30 a.m. until adjournment, the meeting is open to the public. The Chairman of the Committee is empowered to guide the meeting in a manner that will, in the Chairman's judgment, facilitate the orderly conduct of business.

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact the Designated Federal Officer at the address or telephone number shown above. Requests must be received before 3 p.m. (eastern standard time) Friday, May 13, 1994. Reasonable provisions will be made to include the presentation during the public comment period. Oral presenters are asked to provide 25 copies of their statements at the time of their presentations.

Written statements pertaining to agenda items may also be submitted prior to the meeting. Written statements must be received by the Designated Federal Officer at the address shown above before 3 p.m. (eastern standard time) Friday, May 13, 1994, to assure they are considered by the committee during the meeting.

Closed Meeting: Pursuant to section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (title 5, United States Code, App. 2), section 7234(b), title 42, United States Code, and section 552b(c)(1), title 5, United States Code, the portion of the meeting from 8:30 a.m. until 3:30 p.m. on May 19, 1994, will be closed to the public in the interest of national security.

Minutes: Minutes of the open portions of the meeting will be available for public view and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, room 1E–190, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C., 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 26, 1994.

Marcia L. Morris,

Deputy Advisory Committee Management Officer.

[FR Doc. 94–10421 Filed 4–29–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER92–850–005, et al.]

Louis Dreyfus Electric Power, et al.; Electric Rate and Corporate Regulation Filings

April 21, 1994.

Take notice that the following filings have been made with the Commission:

1. Louis Dreyfus Electric Power

[Docket No. ER92–850–005]

Take notice that on April 11, 1994, Louis Dreyfus Electric Power Inc. (Dreyfus) filed certain information as required by the Commission's December 2, 1992, letter order in this proceeding. 61 FERC ¶ 61,303 (1992). Copies of Dreyfus' informational filing are on file with the Commission and are available for public inspection, with the exception of certain data which Dreyfus claims is privileged pursuant to 388.112 of the Commission's regulations.

2. Western Resources, Inc.

[Docket Nos. ER93–523–000 and ER93–533–000]

Take notice that on March 31, 1994, Western Resources, Inc. tendered for filing a letter and its enclosures on its case in chief on test year ending December 31, 1994.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

3. Montana Power Co.

[Docket No. ER94–579–000]

Take notice that on April 15, 1994, Montana Power Company tendered for filing an amendment to its December 29, 1993, filing in the above-referenced docket.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Co.

[Docket No. ER94–941–000]

Take notice that on March 30, 1994, Pacific Gas and Electric Company (PG&E) tendered a revision to its filing in Docket No. ER94–941–000, regarding Agreement No. 93–SAO–0018 (Agreement) among PG&E, the federal Western Area Power Administration (Western) and the U.S. Department of Energy, San Francisco Operations Office (DOE/SF). The revised filing is being made to implement FERC Staff's requested changes to Section 7.5 and Exhibit C of the Agreement, affecting service charges under the Agreement.

Copies of this filing have been served upon Western, DOE/SF, the Northern

California Power Agency and the California Public Utilities Commission.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Baltimore Gas and Electric Co.

[Docket No. ER94–997–000]

Take notice that on April 15, 1994, Baltimore Gas and Electric Company tendered for filing an amendment to its February 28, 1994, filing in the above-referenced docket.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Midwest Power Systems Inc.

[Docket No. ER94–1124–000]

Take notice that on April 1, 1994, Midwest Power Systems Inc. (MPSI) tendered for filing a Firm Transmission Service, Exhibit A with Western Area Power Agency (Western) and Iowa Public Service Company n/k/a MPSI. This Exhibit A allows Western to increase its schedule power over the MPSI system for delivery to the OPPD system in accordance with Section 6 of Contract No. 89–BAO–337, dated January 18, 1989.

MPSI respectfully requests that the change in schedule of firm transmission service be approved effective December 1, 1992. MPSI states that copies of this filing were served on Western, OPPD and the Iowa Utilities Board.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Interstate Power Co.

[Docket No. ER94–1143–000]

Take notice that on April 4, 1994, Interstate Power Company tendered for filing a Notice of Cancellation of its Rate Schedule FERC No. 0116.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. Commonwealth Electric Co.

[Docket No. ER94–1144–000]

Take notice that on April 8, 1994, Commonwealth Electric Company (Commonwealth) tendered for filing, pursuant to Section 35.12 of the Commission's Regulations, System Power Sale agreements governing the sale by Commonwealth of System Power (as defined therein) to Green Mountain Power Corporation (GMP), Fitchburg Gas and Electric Light Company (FG&E), and Montaup Electric Company (Montaup). GMP, FG&E and Montaup are collectively referred to herein as the "Buyers".

By the provisions of this agreement, Commonwealth proposes to sell to the Buyers electric power upon terms and conditions and in amounts mutually acceptable to each respective party.

A copy of this filing has been served upon the Buyers and upon the Massachusetts Department of Public Utilities.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER94–1148–000]

Take notice that on April 11, 1994, Entergy Services, Inc. (Entergy Services) filed a letter notifying the Commission of its resignation and withdrawal from membership in the Interregional Transmission Coordination Forum (ITCF) on April 7, 1994. Entergy Services requests that the Commission make this resignation and withdrawal from membership effective on April 7, 1994. Entergy Services states that it has served a copy of this filing on the Administrator of the ITCF.

Comment date: May 5, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Co.

[Docket No. ER94–1155–000]

Take notice that New England Power Company (NEP), on April 14, 1994, tendered for filing a preliminary agreement and certificate of concurrence with Nantucket Electric Company and seeks an effective date of sixty days from this filing.

Comment date: May 5, 1994, 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, N.E., Washington, D.C. 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. 94–10344 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. EG94–25–000, et al.]

TIFD VIII-B Inc., et al. Electric Rate and Corporate Regulation Filings

April 20, 1994.

Take notice that the following filings have been made with the Commission:

1. TIFD VIII-B Inc.

[Docket No. EG94–25–000]

Take notice that on April 13, 1994, pursuant to § 365.7 of the Commission's regulations, 18 CFR 365.7, TIFD VIII-B Inc. filed notification that it surrenders its status as an exempt wholesale generator under section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended.

2. CMS Generation S.A.

[Docket No. EG94–51–000]

On April 15, 1994, CMS Generation S.A., Av. Roque Saenz Peña 1116, piso 9 (1035), Buenos Aires, Argentina, c/o Los Nihuiles S.A., filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

CMS Generation S.A. is a subsidiary of CMS Enterprises Company, which is a wholly-owned subsidiary of CMS Energy Corporation. Through affiliates, CMS Generation S.A. will participate in a bid to hold and operate three hydroelectric generating facilities with a combined capacity of 265.2 MW on the Atuel River, 350 kilometers south of the City of Mendoza in Argentina.

Comment date: May 9, 1994, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequancy or accuracy of the application. All such motions and comments must be served on the applicant.

3. Consolidated Edison Company

[Docket No. ER93–349–000]

Take notice that on April 14, 1994, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing revised proposed supplements to its Rate Schedules FERC No. 96 and FERC No. 92.

The revised proposed Supplement No. 2 to Supplement No. 6 to Rate

Schedule FERC No. 96 increases the rates and charges for electric delivery service furnished to public customers of the New York Power Authority (NYPA) by $1,952,000 annually based on the 12-month period ending March 31, 1995.

The revised proposed Supplement No. 2 to Supplement No. 5 to Rate Schedule FERC No. 96, applicable to electric delivery service to NYPA's non-public, economic development customers, and the revised proposed Supplement No. 2 to Supplement No. 3 to Rate Schedule FERC No. 92, applicable to electric delivery service to commercial and industrial economic development customers of the County of Westchester Public Service Agency (COWPUSA) and the New York City Public Utility Service (NYCPUS), decrease the rates and charges for the service by $668,000 annually based on the 12-month period ending March 31, 1995.

These supplements would supersede proposed Supplements No. 2 to Supplement No. 5 and Supplement No. 2 to Supplement No. 6 to Rate Schedule FERC No. 96 and proposed Supplement No. 2 to Supplement No. 3 to Rate Schedule FERC No. 92 which Con Edison tendered to the Commission on January 31, 1994. These supplements have never been made effective and should be deemed superseded upon grant of the relief requested in the present filing.

Con Edison seeks permission to make the rate increases to NYPA, COWPUSA and NYCPUS effective as of April 1, 1994.

A copy of this filing has been served on NYPA, COWPUSA, NYCPUS, and the New York Public Service Commission.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

4. Enron Power Marketing, Inc.

[Docket No. ER94–24–003]

Take notice that on March 31, 1994, Enron Power Marketing, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 2, 1994, in accordance with Standard Paragraph E at the end of this notice.

5. Kentucky Power Co.

[Docket No. ER94–61–000]

Take notice that on April 15, 1994, Kentucky Power Company (Kentucky Power) filed, as an amendment to the filing made in this Docket on October 28, 1993, a proposed amendment to proposed tariff MRS–D. The amendment was submitted in compliance with a Staff request for additional information. Kentucky Power requests an effective date of January 1, 1994.

Kentucky Power states that a copy of its filing was served upon the City of Olive Hill, Kentucky and the Kentucky Public Service Commission.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

6. Kentucky Power Co.

[Docket No. ER94–121–000]

Take notice that on April 15, 1994, Kentucky Power Company (Kentucky Power) filed, an amendment to the filing made in this Docket on October 28, 1993, a proposed amendment to proposed tariff MRS-T. The amendment was submitted in compliance with a Staff request for additional information. Kentucky Power requests an effective date of January 1, 1994.

Kentucky Power states that a copy of its filing was served upon the City of Vanceburg, Kentucky and the Kentucky Public Service Commission.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

7. Midwest Power Systems Inc.

[Docket No. ER94–289–000]

Take notice that on April 11, 1994, Midwest Power Systems Inc. (MPSI) tendered for filing Amendment No. 2 to the filing of a Peaking Capacity Sales Agreement (Agreement) dated June 6, 1991, between Corn Belt Power Cooperative (Corn Belt) and Iowa Public Service Company, n/k/a MPSI. This Agreement's principle purpose is to establish terms for MPSI to purchase capacity and energy from Corn Belt from June 1, 1994, through September 30, 2000. Paragraph 12 of the Agreement allows for MPSI to sell capacity and energy to Corn Belt, at Corn Belt's sole option, in the months of October and November of each respective year.

Amendment No. 2 contains additional support data and information.

MPSI requests a waiver of the Commission's regulations so that the Peaking Capacity Sales Agreement be approved effective June 1, 1994.

MPSI states that copies of this filing were served on Corn Belt and the Iowa Utilities Board.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

8. The Montana Power Co.

[Docket No. ER94–579–000]

Take notice that on April 15, 1994, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission a second amendment to its original filing in this Docket.

A copy of the filing was served upon Bonneville Power Administration and Western Area Power Administration.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric

[Docket No. ER94–980–000]

Take notice that on March 21, 1994, Portland General Electric Company tendered for filing a Notice of Withdrawal in the above-referenced docket.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Co.

[Docket No. ER94–989–000]

Take notice that on April 14, 1994, New England Power Company (NEP) tendered for filing an amendment to its filing in the captioned docket. NEP states that this amendment (i) provides reduced cost-of-service numbers applicable to certain of the contracts in the instant filing, and (ii) clarifies certain matters contained in the filing.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

11. Southwestern Electric Power Co.

[Docket No. ER94–1100–000]

Take notice that on March 29, 1994, Southwestern Electric Power Company (SWEPCO) tendered for filing a letter stating the estimated return on common equity used to calculate formula rates for the 1994 contract year to Northeast Texas Electric Cooperative.

12. PacifiCorp

[Docket No. ER94–1134–000]

Take notice that on April 5, 1994, PacifiCorp tendered for filing a Letter Agreement dated February 16, 1994 between PacifiCorp and Idaho Power Company.

The Letter Agreement provides for the installation and cost sharing of a new 230/34.5 Kv transformer at the Jim Bridger Project Substation.

PacifiCorp requests, that a waiver of prior notice be granted and that an effective date of February 16, 1994 be assigned to the Agreement.

Copies of this filing were supplied to Idaho Power Company, the Idaho Public Utilities Commission and the Public Utility Commission of Oregon.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Co.

[Docket No. ER94–1137–000]

Take notice that on April 5, 1994, Arizona Public Service Company (APS) tendered for filing the proposed Capacity Sale Agreement between Citizens Utilities Company (Citizens) and APS.

The agreement proposes that APS will make available to Citizens, when pre-scheduled by Citizens, up to 45 MW of firm power and energy commencing on June 1, 1994 and ending May 31 1996. The rate for sales under the agreement contains a Demand Charge component and an Energy Charge component.

A copy of this filing has been served on Citizens and the Arizona Commission.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power & Light Co.

[Docket No. ER94–1151–000]

Take notice that Florida Power & Light Company (FPL) on April 12, 1994, tendered for filing amendments to five Exhibits A to the Aggregate Billing Partial Requirements Service Agreement Between Florida Power & Light Company and Seminole Electric Cooperative, Inc. FPL requests that they be made effective as of June 13, 1994.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

15. Southwestern Electric Power Co.

[Docket No. ER94–1152–000]

Take notice that on April 13, 1994, Southwestern Electric Power Company (SWEPCO) tendered for filing a letter agreement between SWPECO and Arkansas Electric Cooperative Corporation (AECC) which extends for an additional three years, through June 30, 1996, the rates in effect from July 1, 1990 through June 30, 1993, for SWEPCO transmission service to AECC.

SWEPCO seeks an effective date of July 1, 1993 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing were served on AECC and the Arkansas Public Service Commission. Copies of the filing are also available for inspection at SWEPCO's offices in Shreveport, Louisiana.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

16. Central Maine Power Co.

[Docket No. ER94–1153–000]

Take notice that on April 14, 1994, Central Maine Power Company (CMP), tendered for filing a Transmission Service Agreement between CMP and Maine Public Service Company, Inc., dated as of April 18, 1994 (Agreement), and Addendum to Transmission Service Agreement dated the same date. CMP will provide MPS with non-firm transmission service over the CMP transmission system for the purpose of transmitting Maine Yankee non-firm energy in accordance with the terms of the Agreement and Addendum.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

17. West Texas Utilities Co.

[Docket No. ER94–1154–000]

Take notice that on April 14, 1994, West Texas Utilities Company (WTU) tendered for filing an Off-Peak Rider to Rate Schedule TR–1 and a form of Supplement to Exhibit A for the TR–1 Service Specification Sheet. WTU states that a copy of the filing has been served on each of WTU's TR–1 customers and the Public Utility Commission of Texas.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Co.

[Docket No. ER94–1157–000]

Take notice that New England Power Company (NEP) on April 15, 1994, tendered for filing an Executed Service Agreement and Certificate of Concurrence for the Vermont Public Power Supply Authority customers under NEP's Electric Service Tariff, Original Volume No. 5.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

19. Alabama Power Co.

[Docket No. ER94–1158–000]

Take notice that on April 15, 1994, Alabama Power Company filed a letter agreement dated April 6, 1994, revising the Contract executed by the United States of America, Department of Energy, acting by and through the Southeastern Power Administration and Alabama Power Company. The letter agreement extends the term of the existing Contract for six months to allow the parties to continue negotiations of a new arrangement.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

20. The Washington Water Power Co.

[Docket No. ER94–1159–000]

Take notice that on April 15, 1994, The Washington Water Power Company (WWP), tendered for filing with the Federal Regulatory Commission pursuant to 18 CFR Part 35 an Agreement for Purchase and Sale of Summer Capacity and Energy and the Seasonal Exchange of Capacity and Energy (Agreement) between the Washington Water Power Company and PacifiCorp.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

21. Northeast Utilities Service

[Docket No. ER94–1160–000]

Take notice that on April 15, 1994, Northeast Utilities Service Company (NUSCO) tendered for filing, on behalf of The Connecticut Light and Power Company and Western Massachusetts Electric Company, a Bulk Power Supply Service Agreement (Agreement) to provide requirements service to Town of Madison Department of Electric Works (Madison) and a Service Agreement between NUSCO and the NU System Companies for service under NUSCO's Long-Term Firm Transmission Service No. 1.

NUSCO requests that the rate schedule become effective on September 1, 1994. NUSCO states that copies of the rate schedule have been mailed or delivered to the parties to the Agreement and the affected state utility commissions.

Comment date: May 4, 1994, in accordance with Standard Paragraph E at the end of this notice.

22. LG&E-Westmoreland Southampton

[Docket Nos. QF88–84–005 and EL94–45–000]

On April 15, 1994, LG&E-Westmoreland Southampton (Applicant) tendered for filing the second supplement to its filing in this docket. No determination has been made that the submittal constitutes a complete filing.

The supplement provides further additional information pertaining to the technical data and the operating procedure of the facility.

Comment date: May 11, 1994, in accordance with Standard Paragraph E at the end of this notice.

23. Old Dominion Electric Cooperative

[Docket No. TX94–5–000]

On April 15, 1995, Old Dominion Electric Cooperative, Inc. (Old Dominion) filed with the Federal Energy Regulatory Commission an application requesting that the Commission order Delmarva Power & Light Company to provide transmission services pursuant to Section 211 of the Federal Power Act.

Old Dominion seeks a Commission order directing Delmarva to provide

transmission service for 150 megawatts of power purchased by Old Dominion from Public Service Electric & Gas Company starting on January 1, 1995 and extending at least ten years through December 31, 2004. The service that Old Dominion requests the Commission to order is that of firm, network transmission service, equivalent to the transmission service provided by Delmarva Power & Light Company to its other native load customers. The service so requested would require Delmarva to transmit the power delivered to it by Public Service Gas & Electric Company to Old Dominion without assessing multiple charges for each receipt/billing point combination.

Comment date: May 11, 1994, 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. 94–10345 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2347–001 Wisconsin]

Wisconsin Power & Light Co.; Availability of Draft Environmental Assessment

April 25, 1994.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a subsequent license for the existing Janesville Central Hydroelectric Project, located on the Rock River, in the city of Janesville, in Rock County, Wisconsin, and has prepared a Draft Environmental Assessment (DEA) for the project. In the DEA, the Commission's staff has analyzed the existing and potential future environmental impacts of the project and has concluded that approval of the project, with appropriate environmental protective and enhancement measures, would not constitute a major federal action that would significantly affect quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch, room 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. For further information, contact Michael Strzelecki, Environmental Coordinator, at (202) 219–2827.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10346 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 2496–006, et al.]

Hydroelectric Applications (Eugene Water and Electric Board, et al.); Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. Type of Application: New Major License.

b. Project No.: 2496–006.

c. Date filed: December 26, 1991.

d. Applicant: Eugene Water and Electric Board.

e. Name of Project: Leaburg-Walterville Hydroelectric Project.

f. Location: On the McKenzie River in Lane County, near Eugene, Oregon.

g. Filed Pursuant to: Federal Power Act 16 USC 791(a)–825(r).

h. Applicant Contact: Mr. Randy L. Berggren, General Manager, Eugene Water & Electric Board, 500 East 4th Avenue, P. O. Box 10148, Eugene, Oregon 97440, (503) 484–2411.

i. FERC Contact: Mr. Surender M. Yepuri, P.E. (202) 219–2847.

j. Deadline Date: Sixty days from the issuance date of this notice.

k. Status of Environmental Analysis: This application has been accepted for filing and is ready for environmental analysis at this time—see attached standard paragraph D9.

l. Description of Project: The project as proposed for licensing combines two separately licensed developments into one licensed facility.

(A) Leaburg Development

This development as proposed for licensing consists of: (1) The 22-foot-high, 400-foot-long concrete diversion dam impounding the 68-acre reservoir at elevation 743.5 msl; (2) the fishways; (3) the 15-foot-deep, 5-mile-long canal; (4) the forebay with two 260-foot-long, 12-foot-diameter concrete penstocks; (5) the concrete powerhouse containing two 7.5–MW turbine-generator units; (6) the 1,100 foot-long tailrace; and (7) other appurtenant structures. The average annual generation is 97.3 Gwh.

(B) Walterville Development

This development as proposed for licensing consists of: (1) The 15-foot-deep, 4-mile-long canal; (2) the pumped storage pond; (3) the forebay with a 100-foot-long, 16.5-foot-square concrete penstock; (4) the structural steel powerhouse containing a 8–MW turbine-generator unit; (5) the 2-mile-long tailrace; and (6) other appurtenant structures. The average annual generation is 66.6 Gwh.

The Leaburg-Walterville project also includes the two 14.2-mile-long, 69–Kv transmission lines.

m. This notice also consists of the following standard paragraph: D9.

n. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, N.E., Room 3104, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the applicant's office (see item (h) above).

2a. Type of Application: Transfer of License.

b. Project No.: 9401–028.

c. Date filed: April 4, 1994.

d. Applicant: Halecrest Company and Mt. Hope Waterpower Project L.P.

e. Name of Project: Mount Hope Pumped Storage.

f. Location: On Mount Hope Lake, Morris County, New Jersey.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant contact: Mr. Frank Fisher, Project Manager, Mt. Hope Hydro, Inc., 627 Mt. Hope Road, Wharton, NJ 07885, (201) 361–1072; Amy S. Koch, LeBoeuf, Lamb, Greene & MacRae, 1875 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20009, (202) 986–8031.

i. FERC contact: Etta Foster (202) 219–2679.

j. Comment Date: June 6, 1994.

k. Description of Proposed Action: Halecrest Company seeks Commission approval to transfer its license for the Mt. Hope Pump Storage Project to the Mt. Hope Waterpower Project L.P., in order to obtain outside financing for project construction.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

3a. Type of Application: Surrender of Exemption (5MW or Less).

b. Project No.: 10014–003.

c. Date filed: April 6, 1994.

d. Applicant: Fredrick F. Burnell and William A. Worf.

e. Name of Project: Sharrott Creek Hydroelectric.

f. Location: On Sharrott Creek within the Bitterroot National Forest, Ravalli County, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r)

h. Applicant contact: Fredrick F. Burnell, 641 Timber Trail, Stevensville, MT 59870, (406) 777–3670.

i. FERC contact: Etta Foster, (202) 219–2679.

j. Comment Date: June 3, 1994.

k. Description of Proposed Action: The exemptee is requesting surrender of its exemption because the project is not economically feasible.

l. This notice also consists of the following standard paragraphs: B, C1 and D2.

4a. Type of Application: Minor License.

b. Project No.: 11120–000.

c. Date filed: March 4, 1994.

d. Applicant: Cameron Gas & Electric Company.

e. Name of Project: Middleville Hydroelectric Dam Project.

f. Location: On the Thornapple River, Thornapple Township, Barry County, Michigan.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. Applicant Contact: Jan Marie Evans, Cameron Gas & Electric Company, 4572 Sequoia, Okemos, MI 48864, (517) 351–5400.

i. FERC Contact: Mary C. Golato (202) 219–2804.

j. Comment Date: 60 days from the date of issuance of notice.

k. Description of Project: The proposed project would consist of the following facilities: (1) An existing concrete, gravity dam 12 feet high and 80 feet long; (2) an existing reservoir with a storage capacity of approximately 30 acres and a normal maximum surface elevation of 708.5 feet mean sea level; (3) an existing penstock approximately 25 feet by 25 feet; (4) an existing powerhouse with one generating unit having a capacity of 350 kilowatts; (5) an existing transmission line approximately 100 feet long; and (6) appurtenant facilities. The owner of the dam is Middleville Power Company. The applicant estimates that the average annual generation would be 1,400,000 kilowatthours, and the estimated cost of the project is $88,000.

l. With this notice, we are initiating consultation with the Michigan State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the issuance date of this notice and serve a copy of the request on the applicant.

5a. Type of Application: Minor License.

b. Project No.: 11402–000.

c. Date Filed: April 2, 1993.

d. Applicant: City of Crystal Falls.

e. Name of Project: Crystal Falls.

f. Location: On the Paint River, in the City of Crystal Falls, Iron County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: W.E. Hagglund, 401 Superior Ave., Crystal Falls, MI 49920, (906) 875–3212.

i. FERC Contact: Charles T. Raabe (tag) (202) 218–2811.

j. Deadline Date: See paragraph D10.

k. Status of Environmental Analysis: This application is ready for environmental analysis at this time—see attached paragraph D10.

l. Description of Project: The existing operating project would consist of: (1) A 270-foot-long, 16-foot-high concrete gravity dam having a spillway section topped with four radial steel gates; (2) a reservoir having a surface area of 100 acres and a storage capacity of 590 acre-feet at surface elevation 1333.69 feet NGVD; (3) a 77-foot-long integral powerhouse having three turbine/generator units with a total installed capacity of 1,000-kW; (4) a 75-foot-long, 77-foot-wide tailrace; and (5) appurtenant facilities. The project is owned by the Applicant. Project power would be used by the Applicant within its municipal facilities.

m. This notice also consists of the following standard paragraphs: A4 and D10.

n. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the City of Crystal Falls, 401 Superior Ave., Crystal Falls, Michigan 49920, (906) 875–3212.

o. Scoping Process: In gathering background information for preparation of the environmental document for the issuance of a Federal hydropower license, staff of the Federal Energy Regulatory Commission, is using a scoping process to identify significant environmental issues related to the constructing and operation or the continued operation of hydropower projects. The staff will review all issues deserving of study and also deemphasize insignificant issues, narrowing the scope of the environmental assessment as well. If preliminary analysis indicates that any issues presented in the scoping process would have little potential for causing significant impacts, the issue or issues will be identified and the reason for not providing a more detailed analysis will be given.

p. Request for Scoping Comments: Federal, state, and local resource agencies; licensees, applicants and developers; Indian tribes; other interested groups and individuals, are requested to forward to the Commission, any information that they believe will assist the Commission staff in conducting an accurate and thorough analysis of the site-specific and cumulative environmental effects of the proposed licensing activities of the project(s). Therefore you are requested to provide information related to the following items:

- Information, data, maps or professional opinion that may contribute to defining the geographical and temporal scope of the analysis and identifying significant environmental issues.
- Identification of and information from any other EIS or similar study (previous, on-going, or planned) relevant to the proposed licensing activities in the subject river basin.
- Existing information and any data that would aid in describing the past and present effects of the project(s) and other developmental activities on the physical/chemical, biological, and

socioeconomic environments. For example, fish stocking/management histories in the subject river historic water quality the quality, and wetland habitat loss or proposals to develop land and water resources within the basin.

• Identification of any federal, state or local resource plans and future project proposals that encompass the subject river or basin. For example, proposals to construct or operate water treatment facilities, recreation areas, or implement fishery management programs.

• Documentation that would support a conclusion that a project(s) does not contribute, or does contribute to adverse and beneficial cumulative effects on resources and therefore should be excluded from further study or excluded from further consideration of cumulative impacts within the river basin. Documentation should include, but not be limited to: how the project(s) interact with other projects within the river basin or other developmental activities; results from studies; resource management policies; and, reports from federal, state, and local agencies.

Comments concerning the scope of the environmental document should be filed by the deadline date.

6a. Type of Application: Minor License.

b. Project No.: 11466–000.

c. Date filed: March 29, 1994.

d. Applicant: Mansfield Hydro Corporation.

e. Name of Project: Mansfield Hollow Water Power Project.

f. Location: On the Natchaug River, in the Town of Williamatic, Tolland and Windham Counties, Connecticut.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Richard D. Ely, President, Mansfield Hollow Corporation, P.O. Box 672, Mansfield Center, CT 06250, (203) 487–1395.

i. FERC Contact: Mary C. Golato (202) 219–2804.

j. Comment Date: 60 days from the date of issuance of notice.

k. Description of Project: The proposed project would utilize an existing dam owned by the Department of the Army, Corps of Engineers, and would consist of: (1) A new powerhouse containing four turbine-generator units at a total installed generating capacity of 1.15 megawatts; (2) a proposed 23-kilovolt transmission line; and (3) appurtenant facilities. The applicant estimates that the total average annual generation would be 3,600 megawatthours.

l. With this notice, we are initiating consultation with the Connecticut State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

7a. Type of Application: Amendment of License.

b. Project No.: 3074–005.

c. Date Filed: September 30, 1993.

d. Applicant: City of Spokane, Washington.

e. Name of Project: Upriver Project.

f. Location: On the Spokane River in Spokane County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Irving B. Reed, Manager, Engineering Services, City of Spokane, Washington, Skywalk Level-Municipal Building, Spokane, WA 99201–3334, (509) 456–4370.

i. FERC Contact: Paul Shannon, (202) 219–2866.

j. Comment Date: June 13, 1994.

k. Description of Amendment: The City of Spokane requests authorization to increase the normal water surface elevation of the Upriver Project's upstream reservoir by 1.5 feet, from the present elevation of 1927 feet to 1928.5 feet (City Datum). The city would accomplish this by extending the project's tainter gates by 1.5 feet. The change in reservoir elevation will increase the project's annual generation by 4.23 million kWh. The licensee states that the additional generation is necessary due to increased power consumption for water pumpage and other municipal uses.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

8a. Type of Application: Surrender of License.

b. Project No.: 5906–005.

c. Date Filed: April 1, 1994.

d. Applicant: North Canal Waterworks.

e. Name of Project: North Canal Waterworks.

f. Location: North Canal, downstream of Essex Dam, on the Merrimack River, in Essex County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825 (r).

h. Applicant Contracts: Mr. Melvin G. Lezberg, 6 Broadway, Lawrence, MA 01840, (508) 687–2312.; Stephen E. Champagne, Esquire, Curtis Thaxter Stevens Broder & Micoleau, Box 7320, One Canal Plaza, Portland, ME 04112, (207) 775–2361.

i. FERC Contact: Mr. Mark R. Hooper, (202) 219–2680.

j. Comment Date: June 6, 1994.

k. Description of Project: The licensee states that the project is no longer economically viable to operate.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

9a. Type of Application: Minor License.

b. Project No.: P–11472–000.

c. Date Filed: April 8, 1994.

d. Applicant: Consolidated Hydro Maine, Inc.

e. Name of Project: Burnham Hydro Project.

f. Location: On the Sebasticook River in Somerset and Waldo Counties, near Burnham, Maine.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791 (a)–825(r)

h. Applicant Contact: Mr. Wayne E. Nelson, Consolidated Hydro Maine, Inc., c/o Consolidated Hydro, Inc., RR #2, Box 690H, Industrial Avenue, Sanford, MA 04073, (207) 490–1980.

i. FERC Contact: Ed Lee (202) 219–2809.

j. Comment Date: 60 days from the filing date in paragraph C. (June 7, 1994).

k. Description of Project: The proposed project would consist of: (1) An existing dam and intake structure; (2) an existing 304-acre reservoir; (3) a powerhouse containing four generating units for a total installed capacity of 1,430 Kw; (4) a substation and 34.5–Kv transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 6,650 Mwh for the proposed project.

l. With this notice, we are initiating consultation with the Maine State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later

than 60 days from the filing date and serve a copy of the request on the applicant.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "Comments", "Recommendations for Terms and Conditions", "Protest", or "Motion to Intervene", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's must also be sent to the Applicant's representatives.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 13, 1994 for Project No. 2496–006). All reply comments must be filed with the Commission within 105 days from the date of this notice. (July 26, 1994 for Project No. 2496–006).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "Comments", "Reply Comments", "Recommendations," "Terms and Conditions," or "Prescriptions;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 14, 1994 for Project No. 11402–000). All reply comments must be filed with the Commission within 105 days from the date of this notice. (July 29, 1994 for Project No. 11402–000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "Comments", "Reply Comments", "Recommendations," "Terms and Conditions," or "Prescriptions;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: April 25, 1994, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10347 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–351–000, et al.]

Tennessee Gas Pipeline Co., et al.; Natural Gas Certificate Filings

April 21, 1994.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company; Columbia Gulf Transmission Company

[Docket No. CP94–351–000]

Take notice that on April 13, 1994, Tennessee Gas Pipeline Company (Tennessee), P.O Box 2511, Houston, Texas 77252–2511, and Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001–0683 (jointly referred to as Applicants), filed in Docket No. CP94–351–000 an abbreviated application pursuant to section 7(b) of the Natural Gas Act, as amended, and § 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, for permission and approval to abandon a natural gas transportation service for Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they propose to abandon transportation service for Amoco initiated pursuant to an agreement dated August 3, 1977. Applicants indicate that Tennessee provides its service under its Rate Schedule T–62, and Columbia Gulf provides its service under its Rate Schedule X–49. Applicants further state that the service was authorized in Docket No. CP78–44. It is indicated that the transportation is provided by Applicants from Offshore Louisiana to a point in Vermilion Parish, Louisiana, and/or a point in St. Landry Parish, Louisiana, where Amoco would make the subject volumes available to Florida Gas Transmission Company (FGT). It is also indicated that no facilities are proposed to be abandoned. Applicants state that they and Amoco have agreed to the termination by letters dated May 27, 1993 and July 28, 1993.

Comment date: May 12, 1994, in accordance with Standard Paragraph F at the end of this notice.

2. Equitrans, Inc.

[Docket No. CP94–363–000]

Take notice that on April 18, 1994, Equitrans, Inc. (Equitrans), 3500 Park Lane, Pittsburgh, Pennsylvania 15275, filed in Docket No. CP94–363–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to install one delivery tap under Equitrans' blanket certificate issued in Docket No. CP83–508–000 (and transferred to Equitrans in Docket No. CP86–676–000), 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.

Equitrans proposes to install one delivery tap in the City of Waynesburg, Morgan Township, Pennsylvania to provide gas transportation service to Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable). Equitrans projects the quantity of gas to be delivered through the delivery tap will be approximately 1 Mcf on a peak day. Equitrans will charge Equitable the applicable rate contained in Equitrans' tariff on file with and approved by the Commission.

Comment date: June 6, 1994, in accordance with Standard Paragraph G 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, D.C. 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 a grant of the certificate and/or 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.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10348 Filed 4–29–94; 8:45 am]

BILLING CODE 6767–01–P

[Docket No. EG94–53–000]

Cardinal Power of Canada, L.P.; Application for Determination of Exempt Wholesale Generator Status

April 25, 1994.

On April 21, 1994, Cardinal Power of Canada, L.P. ("Cardinal"), 242 Henry Street, P.O. Box 70, Cardinal, Ontario, Canada KOE–1EO, filed with the Federal Energy Regulatory Commission ("Commission") an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Cardinal is a limited partnership formed under the laws of the State of Delaware and registered to do business in Ontario Canada. Cardinal will own, operate and maintain a 150 MW natural gas-fired cogeneration facility located in Cardinal, Ontario, Canada ("Facility"). Cardinal will be engaged directly and exclusively in the business of owning and operating the Facility and selling electric energy at wholesale. The Facility is expected to begin commercial operation in May, 1994.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed

on or before May 16, 1994, and must be served on the applicant. 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. 94–10349 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–157–000]

Columbia Gas Transmission Corp.; Technical Conference

April 25, 1994.

Pursuant to the Commission's notice, issued on April 18, 1994, a technical conference was scheduled for Wednesday, April 27, 1994. Because the Commission's offices will be closed on that date, the conference has been rescheduled for Thursday, April 28, 1994, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10350 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA93–1–21–003 and TM93–9–21–001]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 25, 1994.

Take notice that on April 20, 1994, Columbia Gas Transmission Corporation (Columbia) tendered a compliance filing in accordance with the Federal Energy Regulatory Commission's order issued on April 6, 1994, in Docket Nos. TA93–1–21–000, TA93–1–21–001 and TM93–9–21–000.

Columbia states that copies of the filing were served upon Columbia's firm customers, interested state commissions, and to each of the parties set forth on the Official Service List in these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before May 2, 1994. 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 proceedings. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10351 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–211–000]

Pacific Gas Transmission Co.; Change in Rates

April 25, 1994.

Take notice that on April 21, 1994, Pacific Gas Transmission Company (PGT) submitted for filing pursuant to section 4 of the Natural Gas Act and § 154.63 of the Commission's Regulations thereunder, certain revised tariff sheets to add language to the Transportation General Terms and Conditions of PGT's FERC Gas Tariff, First Revised Volume No. 1–A to govern the determination of credit-worthiness for firm transportation service for Shippers bidding on a parcel for one year or less of service through PGT's Capacity Release Program contained in Paragraph 28. PGT requests these tariff sheets become effective on May 21, 1994.

PGT states that a copy of this filing has been served on PGT's jurisdictional customers and interested state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10352 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–118–001]

Questar Pipeline Co.; Tariff Filing

April 25, 1994.

Take notice that on April 20, 1994, Questar Pipeline Company (Questar) tendered for filing and acceptance, to be effective as shown, the following tariff sheets:

Original Volume No. 1

Substitute Original Sheet No. 7
Effective Date: September 1, 1993

Original Volume No. 3

Substitute Eleventh Revised Sheet No. 8
Effective Date: September 1, 1993
Substitute Twelfth Revised Sheet No. 8
Effective Date: October 1, 1993
Substitute Thirteenth Revised Sheet No. 8
Effective Date: January 1, 1994

Questar states that this filing is made pursuant to 18 CFR 154.63(a)(1) and in compliance with the Commission's April 13, 1994, letter order in Docket No. RP94–118–000.

Questar states further that it has provided a copy of this filing to the Utah Division of Public Utilities, the Wyoming and Utah Public Service Commissions and each person designated in the official service list compiled by the secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before May 2, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10353 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–210–000]

Questar Pipeline Co.; Tariff Filing

April 25, 1994.

Take notice that on April 21, 1994, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet Nos. 44 through 46, 71 and 75 and Original Sheet No. 46A, to be effective May 21, 1994.

Questar states that this filing implements a new receipt-point group (RPG) concept that Questar believes responds positively to customer requests for increased flexibility when nominating firm capacity at alternate receipt points on Questar's system.

Questar states further that it has provided a copy of this filing to the

Wyoming and Utah Public Service Commissions and all shippers on Questar's system.

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 385.211 and 385.214 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 May 2, 1994. 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. 94–10354 Filed 4–29–94; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following retransfer: RTD/JA(EU)–74, for the transfer of 0.0021 grams of plutonium from Belgium to Japan for use as reference material for determination of plutonium mass by mass spectrometry.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, is has been determined that this subsequent arrangement will not be inimical to the common defense and security.

Issued in Washington, DC on April 25, 1994.

Edward T. Fei,

Acting Director, Office of Nonproliferation Policy, Office of Arms Control and Nonproliferation.

[FR Doc. 94–10319 Filed 4–29–94; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

[Docket No. FE C&E 94–5—Certification Notice—132]

LG&E-Westmoreland Rensselaer; Filing of Coal Capability Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy Department of Energy.

ACTION: Notice of filing

SUMMARY: On April 14, 1994, LG&E-Westmoreland Rensselaer submitted a coal capability self-certification pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Fuels Programs, Fossil Energy, room 3F–056, FE–52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586–9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of April 14, 1994. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owner/operator of a proposed new baseload powerplant has filed a self-certification in acccordance with section 201(d).

Owner: LG&E-Westermoreland Rensselaer.

Operator: LG&E-Westermoreland Rensselaer.

Location: Rensselaer, New York.

Plant Configuration: Topping Cycle Cogeneration.

Capacity: 79 megawatts.

Fuel: Natural gas.

Purchasing Utilities: Niagara Mohawk Power Corporation.

In-Service Date: Middle of 1994.

Issued in Washington, DC, April 21, 1994.

Anthony J. Como

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 94–10322 Filed 4–29–94; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL–4710–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075. Weekly receipt of Environmental Impact Statements Filed April 18, 1994 Through April 22, 1994 Pursuant to 40 CFR 1506.9.

EIS No. 940147, DRAFT EIS, COE, MA, Boston Harbor Navigation Improvements and Berth Dredging Project, Implementation, Reserved Channel, Mystic River and Chelsea Creek, MA, Due: June 13, 1994, Contact: Peter Jackson (617) 647–8861.

EIS No. 940148, FINAL EIS, FHW, NY, I–90/Interchange 8 Connector to Route 4 at Washington Avenue Transportation Improvements, Funding and COE Permits, Town of North Greenbush, Rensselaer County, NY, Due: May 31, 1994, Contact: Harold J. Brown (518) 472–3616.

EIS No. 940149, DRAFT EIS, NPS, AK, Brooks River Area Development, Use and Management Plan, Implementation, Katmai National Park, AK, Due: June 30, 1994, Contact: Bill Pierce (907) 246–3305.

EIS No. 940150, DRAFT EIS, BOP, MN, Waseca Federal Correctional Institution Establishment and Operation, Waseca County, MN, Due: June 13, 1994, Contact: Patricia K. Sledge (202) 514–6470.

EIS No. 940151, DRAFT EIS, BLM, NV, Robinson Mining Project, Construction, Operation and Expansion, Plan of Operation Approval, White Pine, Elko and Eureka Counties, NV, Due: June 17, 1994, Contact: Dan Netcher (702) 289–4865.

EIS No. 940152, DRAFT EIS, BLM, CA, Ore Cruz Operation of the American

Girl Canyon Project, Surface and Underground Mining, Plan of Operations Approval, Imperial County, CA, Due: June 28, 1994, Contact: Thomas Zale (619) 353–1060.

EIS No. 940153, FINAL EIS, SFW, SD, Conata Basin/Badlands Area Black-Footed Ferret Reintroduction, Implementation, Badlands National Park and Buffalo Gap National Grassland, Conata Basin, several counties, SD, Due: May 31, 1994, Contact: Douglas A. Searls (605) 224–8693. The US Department of the Interior's Fish and Wildlife Service and National Park Service and the US Department of Agriculture's Forest Service are Joint Lead Agencies on this Project.

EIS No. 940154, FINAL SUPPLEMENT, AFS, NC, Nantahala and Pisgah National Forests Land and Resource Management Plan, Updated Information, Amendment 5, Implementation, several counties, NC, Due: May 31, 1994, Contact: Randle G. Phillips (704) 257–4860.

EIS No. 940155, FINAL EIS, BOP, OH, Elkton Federal Correction Complex, Construction and Operation, Site Selection, Columbiana, Carroll or Portage County, OH, Due: May 31, 1994, Contact: Patricia Sledge (202) 514–6470.

EIS No. 940156, FINAL EIS, FTA, PA, Phase I Airport Busway/Wabash Hovway Corridor Construction, Downtown Pittsburg to the Borough of Carnegie, Allegheny County, PA, Due: May 31, 1994, Contact: Herman Shipman (215) 656–6900.

EIS No. 940157, DRAFT EIS, USN, CA, Miramar Landfill General Development Plan/Fiesta Island Replacement Project/Northern Sludge Processing Facility/West Miramar Landfill Phase II/ Overburden Disposal, Implementation, Funding, COE Section 404 Permit and NPDES Permit, Naval Air Station Miramar, San Diego County, CA, Due: June 13, 1994, Contact: Roger Hillhouse (619) 537–1102.

EIS No. 940158, DRAFT EIS, USN, FL, Pensacola Naval Air Station Realignment, Relocation of Memphis Naval Air Station, Closure of San Diego Naval Training Center, Implementation, Pensacola Bay, FL, Due: June 13, 1994, Contact: Ronnie Lottimore (803) 743–0888.

Dated: April 26, 1994.

Marshall Cain,

Senior Legal Advisor, Office of Federal Activities.

[FR Doc. 94–10428 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4710–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 11, 1994 Through April 15, 1994 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(C) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the **Federal Register** dated April 08, 1994 (59 FR 16807).

Draft EISs

ERP No. D–AFS–K65159–NV Rating LO1, East Shore Land and Resource Management Plan, Implementation, Lake Tahoe Basin Management Unit (LTBMU), Washoe and Douglas Counties, NV.

Summary: EPA had no objections to the proposed action if the water and air mitigation measures are fully implemented.

ERP No. D–AFS–L65223–ID Rating EC2, Lower Elkhorn Timber Sale, Harvesting Timber and Road Construction, Payette National Forest, New Meadows Ranger District, Idaho County, ID.

Summary: EPA expressed environmental concerns based on the BMPs effectiveness and potential impacts on wetlands and air quality. Additional information was requested to: clarify monitoring commitments, document wetland impacts and discuss impacts to downwind sensitive areas, particularly the Class I Selway-Bitterroot Wilderness Area.

ERP No. D–COE–E36173–FL Rating EC1, Central and Southern Florida (Canal 111 (C–111) Project, for Flood Control and other Purposes, Implementation, South Dade County, FL.

Summary: EPA expressed environmental concerns about the function of the project elements and the number of refinements needed to accomplish the project goals.

ERP No. D–IBR–K39048–AZ Rating EC2, Glen Canyon Dam Operation, Implementation, Colorado River Storage Project, Funding and COE section 10 and 404 Permits, Coconino County, AZ.

Summary: EPA expressed environmental concerns regarding the proposal to raise the dam spillway gates by 4.5 feet. EPA requested additional information in the FEIS, including an evaluation of the flood frequency reduction options, further discussion of the adaptive management program, and beach habitat-building flows.

Final EISs

ERP No. F–AFS–L67031–ID Black Pine Gold Mine Expansion Project, Implementation, Plan of Operation Approval and Right-of-Way Permits, Sawtooth National Forest, Burley Ranger District, Cassia County, ID.

Summary: EPA expressed environmental concerns about the EIS since it did not contain detailed information about a surface water management plan and final design for the leach pads.

ERP No. FS–USA–K10009–TT Kwajalein Atoll Ongoing and Strategic Defense Initiative Activities, Test Range Facility Construction and Support Services, Republic of the Marshall Islands, TT.

Summary: EPA had concerns with the mechanism for adopting standards and the unavailability of standards to accompany the SEIS. Concerns also included the lack of effluent guidelines; the incompletion of studies to back recommendations; and insufficient descriptions of mitigation activities.

Dated: April 26, 1994.

Marshall Cain,

Senior Legal Advisor, Office of Federal Activities.

[FR Doc. 94–10427 Filed 4–29–94; 8:45am]

BILLING CODE: 6560–50–U

[FRL–4879–9]

Underground Injection Control Program, Hazardous Waste Disposal Injection Restrictions; Petition for Exemption–Class I Hazardous Waste Injection; Hoechst Celanese Engineering Resins, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition reissuance.

SUMMARY: Notice is hereby given that reissuance of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Hoechst Celanese Engineering Resins, Inc., for the Class I injection wells located at Bishop, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a

reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Hoechst Celanese Engineering Resins, Inc., of the specific restricted hazardous waste identified in the petition for reissuance, into the Class I hazardous waste injection wells at the Bishop, Texas facility specifically identified in the reissued petition, for as long as the basis for granting an approval of this petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued February 25, 1994. The public comment period ended on April 13, 1994. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of April 22, 1994.

ADDRESSES: Copies of the reissued petition and allpertinent information relating thereto are on file at the following location:

Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Mac Weaver, Chief UIC Programs Section, EPA–Region 6, telephone (214) 655–7160.

Richard D. Smith,

Acting Director, Water Management Division (6W).

[FR Doc. 94–10436 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4879–8]

Underground Injection Control Program, Hazardous Waste Injection Restrictions; Petition for Exemption–Class I Hazardous Waste Injection; ARCO Chemicals

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition reissuance.

SUMMARY: Notice is hereby given that reissuance of an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to ARCO Chemicals, for the Class I injection wells located at Channelview, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by ARCO Chemicals, of the specific restricted hazardous waste identified in the exemption reissuance, into the Class I hazardous waste injection wells at the Channelview, Texas facility specifically identified in the reissued exemption, for as long as the basis for granting an approval of this exemption remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued November 24, 1993. The public comment period ended on January 10, 1994, was reopened January 26, 1994 and closed on March 18, 1994. All comments have been addressed and have been considered in the final decision. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of April 22, 1994.

ADDRESSES: Copies of the reissued petition and allpertinent information relating thereto are on file at the following location:

Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W-SU),1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Mac A. Weaver, P.E., Chief UIC State Programs, EPA–Region 6, telephone (214) 655–7160.

Richard D. Smith,

Acting Director, Water Management Division (6W).

[FR Doc. 94–10437 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–F

[CFR 1–4880–6]

National Advisory Council for Environmental Policy and Technology, Policy Integration Project, Lead Subcommittee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), the U.S. Environmental Protection Agency (EPA) gives notice of the next meeting of the Lead Subcommittee of the Policy Integration Project of the National Advisory Council for Environmental Policy and Technology (NACEPT). During the meeting, to be held on Wednesday May 11, the Lead Subcommittee will discuss final draft working papers and recommendations and review the draft executive summary of the Subcommittee's report to NACEPT.

DATE: The Subcommittee will meet on May 11, 1993. The meeting will start at 9:30 a.m. and end at 5 p.m.

ADDRESS: Lake Huron Room, Environmental Protection Agency Regional Office, 77 West Jackson Boulevard, Chicago, Illinois 60604. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION: Contact Mr. Robert L. Hardaker, Designated Federal Official, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–9741.

Dated: April 27, 1994.

Robert L. Hardaker,

Designated Federal Official Lead Subcommittee.

[FR Doc. 94–10541 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4880–8]

Risk Assessment and Management Commission; Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Risk Assessment and Management Commission, established as a Presidential Advisory Committee under Section 303 of the Clean Air Act Amendments of 1990, will meet on May 16, 1994 in the Board Room of the National Academy of Sciences at 2101 Constitution Avenue NW., Washington, DC. The meeting is open to the public, and will begin at 9 a.m. and end no later than 5:30 p.m. Seating at the meeting will be on a first come basis.

Background

The Risk Assessment and Management Commission was established by Congress to make a full investigation of the policy implications and appropriate uses of risk assessment and risk management in regulatory programs under various Federal laws to prevent cancer and other chronic human health effects which may result from exposure to hazardous substances.

This is the first meeting of the Commission and as such it is expected to focus on a range of organizational and administrative issues including the selection of a Chairperson, staff requirements, physical location of the Commission, budget, procurement and contractual issues. The Commission will also begin an initial discussion of its

mandate and the approach to be taken in conducting its investigations.

Availability of Documents and Information

Single copies of background documents to this meeting are available from Jeannette M. Price, U.S. EPA, M–6101, 401 M St. SW., Washington, DC, 20460 or telephone (202) 260–7403. Documents include the Charter, list of Commission members, and a reprint of section 303 of the CAAA of 1990. For additional information please contact Dr. Carl Mazza, M–6101, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Mary D. Nichols,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 94–10542 Filed 4–29–94; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

FCC Cable Forms; Information Collection Under OMB Review

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document summarizes revisions made to FCC Forms which were developed in order for the Commission and/or local franchising authorities to assess whether rates for regulated basic cable services and/or regulated cable programming services are reasonable. Due to the nature of the comments received to date, the Commission has decided to incorporate immediately suggested changes to certain forms as indicated below. The Commission is requesting that the expiration date of these forms be extended to April 1997. These revised forms are being submitted to OMB for expedited review and approval by May 4, 1994.

EFFECTIVE DATE: April 29, 1994.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beaty at 202–416–0856. For copies of the forms, call 202–416–0919.

SUPPLEMENTARY INFORMATION: This is a synopsis of the revisions made to FCC Forms based on comments received by the Commission. To implement rules adopted in MM Docket No. 92–266, MM Docket No. 92–262 and MM Docket No. 93–215, the Commission developed the following forms, and received initial OMB approval on an emergency basis for 90 days, expiring June 29, 1994, 59 FR 15910, April 5, 1994. On April 21, 1994, the Commission held a Cable Operator's Seminar before and during which comments about these forms were received from parties including CATA, NCTA, SCBA, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C. and Wiley, Rein & Fielding, as well as others. In addition, the Commission's staff has identified certain corrections which would be beneficial to users of the forms. Due to the range of commenting parties, and the nature and substance of the comments received, the Commission has chosen, upon approval from OMB, to immediately implement these changes in an effort to improve upon the current forms.

1. FCC Form 1200, Setting Maximum Initial Permitted Rates for Regulated Cable Services and Equipment Pursuant to Rules Adopted February 22, 1994 (the "First Time Filers Form"). **Note:** FCC Form 1200 was inadvertently assigned the same OMB Control Number as the FCC Form 393, based on an incorrect assumption that Form 1200 replaces FCC Form 393. FCC Form 393 will continue to be required to be filed by operators to justify pre-May 15, 1994, rates for which there may be refund liability. A correction is being requested, in conjunction with the request for approval of the revised form, which will assign a new OMB Control Number to the Form 1200. FCC Form 393 will retain the OMB Control Number of 3060–0571. In addition to the specific changes listed below, we are editing some of the instructions to clarify them. Changes being made include:

(1) A box is being added for small operators to place an "x" on the paper version of the form, on page 15.

(2) Module B is being modified to permit adjustments for eligible external costs if such costs are not already reflected in rates.

(3) Module C, line C4, instructions, are being changed to read "Enter the monthly average number of customer changes in service tiers charged to subscribers in your fiscal year 1993."

(4) Module E, caption on form, p. 5, and on instructions, is being changed to read "To Be Completed if B19>C10" rather than C9.

(5) Module H, title, is being changed to read "earlier of the date of initial regulation or February 28, 1994" rather than "and."

(6) Module I, line I1—form and instructions are being changed to indicate that gross full reduction rate is line H9, not H8.

OMB Control Number: A new OMB control number has been requested; estimated annual burden: 11,200 responses; 20 hours per response; 224,000 hours total annual burden.

2. FCC Form 1201, Facsimile Request. This form is not being revised and is being submitted to OMB for expedited review and approval to extend the current expiration date.

OMB Control Number: 3060–0597, estimated annual burden: 14,000 responses; 1 hour per response; 14,000 hours total annual burden.

3. FCC Form 1205, Determining Costs of Regulated Cable Equipment and Installation. Edits to instructions are being made to clarify them and to correct grammatical errors. In addition, the gross-up calculation is being revised to ensure that negative values are not inappropriately entered in accounting for interest deductibility and in making adjustments for Non–C corporations when calculating the gross-up rate of return.

OMB Control Number: 3060–0592, estimated annual burden: 16,600 responses; 20 hours per response; 332,000 hours total annual burden.

4. FCC Form 1210, Updating Maximum Permitted Rates for Regulated Services and Equipment. Edits to instructions are being made to clarify them and to correct grammatical errors. The following specific changes are being made to the form:

(1) Instructions, page 2, last bullet, 1st sentence is being changed to read: "If the Commission found your cable programming service rates to be unreasonable less than one year ago and you now wish to increase your rates, you must submit FCC Form 1210 to the Commission for its approval before raising your rates. In addition, if a compliant is pending before the Commission, and you raise your cable programming service rates while a complaint about those rates is pending, you must submit FCC form 1210, for notice purposes only."

(2) module A, line A2 on instructions is being changed to read "enter the full reduction rates from line J6 of your Form 1200" rather than line J7.

(3) Module B is being changed to properly adjust for the 7.5% margin in programming costs and retransmission consent fees. A programming cost adjustment will be added as a one-time-only adjustment in calculating the 7.5% margin on new programming costs. This adjustment is made the first time a Form 1210 is filed. The retransmission consent adjustment will also be made as a one-time-only adjustment in calculating the 7.5% gross-up adjustment. This adjustment is made the first time a Form 1210 is filed after retransmission consent fees are allowed as an external cost (they can be claimed as an external cost after October 6, 1994).

(4) Line E5—where there is no inflation, the filer should enter "1" rather than "0". In addition, the instructions will clarify the calculation for inflation adjustments.

OMB Control Number: 3060–0595, estimated annual burden: 33,600 responses; 10 hours per response; 336,000 hours total annual burden.

5. FCC Form 1215, A La Carte Channel Offerings. Edits to instructions are being made to clarify that Form 1215 is a set of instructions for collective information. There is no "form" for the operator to fill out. The operator should follow the instructions on Form 1215, and provide the requested information on an attached sheet or sheets with each Form 1200 and each Form 1210 which is filed. No other changes are being made.

Control Number: 3060–0593, estimated annual burden: 44,800 responses; 1 hour per response; 44,800 hours total annual burden.

6. FCC Form 1220, Cost of Service Schedule. The following changes are being made upon staff recommendation:

(1) Clarifying language is being added to the instructions for part I (Revenue Requirement Computation), Line 3.h to indicate that if a negative result in the tax gross-up is calculated, the value should be set to zero. The interest expense should not result in a negative tax liability and cause the return on investment to be reduced.

(2) In Worksheet A, the titles for columns (c) and (d) were inadvertently reversed. The title for column (c) should be "Uncategorized Allocations from Higher Organizational Levels (Uncat. Allo.) and the title for column (d) should be "Adjusted Balance" (Adj. Bal.).

OMB Control Number: 3060–0594, estimated annual burden: 2,100 responses; 80 hours per response; 168,000 hours total annual burden.

7. FCC Form 1225, Cost of Service Schedule For Small Systems. This form is not being revised and is being sent to OMB for expedited review and approval to extend the current expiration date.

OMB Control Number; 3060–0596, estimated annual burden: 700 responses; 60 hours per response; 42,000 hours total annual burden.

8. Note: The Commission is seeking expedited review and approval by the Office of Management and Budget of the information collections associated with this notice by May 4, 1994. A copy of this Notice will be available for public inspection and copying at the Office of the Federal Register. Copies of these OMB submissions may be purchased from international Transcription Service, Inc., 2100 M Street, NW, Suite 140, Washington, DC 20037 (202) 857–3800. Comments on these information collections are encouraged and will be accepted until May 4, 1994. Persons wishing to comment on these information collections should contact Timothy Fain, Office of Management and Budget, room 3221 NEOB, Washington, DC 20503 or by calling (202) 395–7231. Printed copies of these forms may be obtained by calling (202) 416–0919, or by writing to Federal Communication Commission, Cable request Form (Specify form number), P.O. Box 18238, Washington, DC 20036. They will also be available in room 207, 2033 M Street NW, Washington, DC.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–10461 Filed 4–29–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1016–DR]

Maryland; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maryland, (FEMA–1016–DR), dated March 16, 1994, and related determinations.

EFFECTIVE DATE: April 20, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3006.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Maryland dated March 16, 1994, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 16, 1994:

Anne Arundel, Frederick and Prince Georges Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–10412 Filed 4–29–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1015–DR]

Pennsylvania; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1015–DR), dated March 10, 1994, and related determinations.

EFFECTIVE DATE: April 20, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania dated March 10, 1994, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 10, 1994:

Beaver, Cambria, Centre, Clinton and Wyoming Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–10413 Filed 4–29–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1022–DR]

Tennessee; Amendment to a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1022–DR), dated April 14, 1994, and related determination.

EFFECTIVE DATE: April 21, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee dated April 14, 1994, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 14, 1994:

Bradley, Hamblin, Jefferson and Monroe Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–10414 Filed 4–29–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1023–DR]

Missouri; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Missouri (FEMA–1023–DR), dated April 21, 1994, and related determinations.

EFFECTIVE DATE: April 21, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 21, 1994, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Missouri, resulting from severe storms, tornadoes, and flooding on April 9, 1994, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Missouri.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Agency under Executive Order 12148, I hereby appoint Warren M. Pugh, Jr., of the Federal Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Missouri to have been affected adversely by this declared major disaster:

Franklin, Jefferson, Lincoln, St. Charles, and St. Louis Counties, and the City of St. Louis for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 94–10415 Filed 4–29–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1024–DR]

Oklahoma; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oklahoma (FEMA–1024–DR), dated April 21, 1994, and related determinations.

DATES: April 21, 1994.

EFFECTIVE DATE: April 21, 1994.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 21, 1994, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Oklahoma, resulting from severe storms and flooding on April 11, 1994, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Oklahoma.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas. Public Assistance may be added at a later date, if warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint R. Dell Greer of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Oklahoma to have been affected adversely by this declared major disaster:

Ottawa County for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James Lee Witt,

Director.

[FR Doc. 94–10416 Filed 4–29–94; 8:45 am]

BILLING CODE 6718–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93554.942]

Availability of FY 1994 Funds and Request for Applications; Emergency Child Abuse and Neglect Prevention Services Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Notice of fiscal year (FY) 1994 financial assistance and request for applications for service demonstration projects under Section 107A of the Child Abuse Prevention and Treatment Act.

SUMMARY: The National Center on Child Abuse and Neglect (NCCAN) in the Administration on Children, Youth and Families announces the availability of funds to conduct service demonstration projects to prevent the abuse or neglect of children whose parents or caretakers are substance abusers by providng family support and preservation services, and for interdisciplinary training programs for professionals who serve that population.

In 1991, 94 projects were funded to provide comprehensive, interdisciplinary, coordinated services, training and public education to address

the needs of these children and their families, under Sec. 107A. [42 U.S.C. 5106a–1] of the Child Abuse Prevention and Treatment Act. Fiscal year 1994 funds are available to further develop program efforts in comprehensive, interdisciplinary, coordinated services and/or training. These projects will serve as pilot service demonstrations for such children and their families, as States develop family preservation and support services under the recently enacted Family Preservation and Support Program. Applications must be developed collaboratively with the state agency responsible for the state planning and implementation of Family Preservation and Support Services (Title IV–B of the Social Security Act, Subpart 2), in order to assure linkages now and in the future to family support and family preservation State planning and service development.

Programs will be funded in two priority areas: 1. Community-based service demonstration projects which provide family preservation and support services to families in which children are at risk of child abuse and neglect due to parental or caretaker substance abuse.

2. State, multi-state or regional interdisciplinary training programs which address the coexisting problems of substance abuse and child abuse and neglect for current practitioners and administrators from disciplines or agencies serving abused and neglected children and their families, or those at risk of abuse and neglect.

DATES: The closing date for submission of applications is July 18, 1994.

ADDRESSES: Applications may be mailed to the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 6th Floor OFM/DDG, Washington, DC, 20447, Attention: Maiso Bryant.

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street SW., Washington DC 20447, Attention: Maiso Bryant.

FOR FURTHER INFORMATION CONTACT: Janice P. Shafer (202) 205–8306.

ELIGIBILITY: Eligible entities that may apply are:

(a) State and local agencies that are responsible for administering child abuse or related intervention services; and

(b) Community and mental health agencies and nonprofit youth-serving organizations with experience in providing child abuse prevention services.

In cases where applications have been reviewed and evaluated and are determined to be qualitatively of equal strength, priority consideration will be given to those entities funded in 1991 under Program Announcement No. 93554.911, published in the **Federal Register**, July 11, 1991, (56 FR 31782), entitled Emergency Child Abuse and Neglect Prevention Services Program: Availability of Funds and Request for Applications; Notice.

SUPPLEMENTARY INFORMATION: This announcement consists of three parts. Part I provides background information on the National Center on Child Abuse and Neglect (NCCAN) and the statutory authority for this program. Part II states the problem and describes the priorities under which NCCAN is soliciting applications for fiscal year (FY) 1994 funding of Emergency Child Abuse Prevention Services projects. Part III provides general information and requirements for preparing and submitting applications along with the criteria for the review and evaluation of applications.

All forms and instructions necessary to submit an application are published as part of this announcement following Part III.

I. Agency and Statutory Background

In 1974, the Child Abuse Prevention and Treatment Act (the Act) established the National Center on Child Abuse and Neglect (NCCAN) in the Department of Health and Human Services (DHHS). NCCAN is located organizationally within the Administration on Children, Youth and Families, Administration for Children and Families.

NCCAN conducts activities designed to assist and enhance national, State and community efforts to prevent, identify and treat child abuse and neglect. These activities include: Conducting research and demonstrations; supporting service improvement projects; gathering, analyzing and disseminating information through a national clearinghouse; providing grants to eligible States for strengthening and improving child protective services programs; and coordinating Federal activities related to child abuse and neglect through an Inter-Agency Task Force on Child Abuse and Neglect composed of Federal agencies.

In 1989, the Act was amended by the addition of Section 107A as part of the Drug-Free Schools and Communities Act amendments (Pub. L. 101–226), 42 U.S.C. 5106a–1. Congress authorized funding for the Emergency Services Program under these amendments, and in FY 1991, ninety-four projects were funded to provide and improve the delivery of services to children who are victims of or at risk of child abuse and whose parents or caretakers are substance abusers. Projects funded under this program were required to be comprehensive, coordinated with other public and/or private community service providers, and multi-disciplinary in nature. They were funded in four priority areas: (1) Development of emergency service delivery models to provide crisis intervention for children and adolescents in substance abusing families who have been reported to protective service agencies; (2) Development of public education and information models to address the issue of substance abuse and its correlation with the maltreatment of children and youth; (3) Improvement of services and removal of barriers to treatment for substance abusing parents, families and adolescents; and (4) Development or expansion of short-term interdisciplinary training models on the inter-relationships of substance abuse and child abuse, for current child protection/child welfare and substance abuse prevention and treatment practitioners. These projects provided a broad range of creative, coordinated services including, but not limited to, respite care, reunification or permanency planning for children removed by protective services, prevention services to children at risk of removal to foster care, home visitation services, parent support groups, activities to strengthen the parent-child relationship, information and referral to related community support services, parenting education, and case management. In many cases, structural and policy changes were made within and among agencies to improve the delivery of services to families. The array of services developed by these programs are consistent with those defined as family support and family preservation services. A list and description of projects funded under the original Emergency Services Program solicitation is available from the Clearinghouse on Child Abuse and Neglect Information ((800) FYI–3366) by requesting the document Emergency Child Abuse and Neglect Prevention Services Program (Revised April 1993).

In FY 1993, ACYF was given the responsibility for implementation of a new child welfare program. A new Subpart 2 was added to title IV–B of the

Social Security Act by the Omnibus Budget Reconciliation Act of 1993 (August 1993). Entitled "Family Preservation and Family Support Services", this initiative provides capped entitlement funding to State child welfare agencies "for the purpose of encouraging and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services." "Family support services" are described as community-based preventive activities designed to alleviate stress and promote parental competencies and behaviors that will increase the ability of families to successfully nurture their children; enable families to use other resources and opportunities available in the community; and create supportive networks to enhance child-rearing abilities of parents and help compensate for the increased social isolation and vulnerability of families. Examples of such services include respite care; early developmental screening of children; mentoring, tutoring, and health education for youth; and a range of center-based and home visiting activities. "Family preservation services" typically are services designed to help families alleviate crises that might lead to out of home placement of children; maintain the safety of children in their own homes; support families preparing to reunify or adopt; and assist families in obtaining services and other supports necessary to address their multiple needs in a culturally sensitive manner. Examples of such activities are intensive pre-placement preventive services to assist biological, foster, adoptive or extended families; respite care for parents and other caregivers (including foster parents); services to improve parenting skills and support child development; follow-up services to support adopting and reunifying families; services for youth and families at risk or in crisis; and intervention and advocacy services for victims of domestic violence. Both family support and family preservation services are further described in the Program Instruction for Implementation of New Legislation: Family Preservation and Support Services, Title IV–B, Subpart 2, (Appendix 1), and Section 431 of the statute.

This new program offers States an extraordinary opportunity to assess and make changes in State and local service delivery in child welfare for the purpose of improving the well-being of vulnerable children and their families, especially those experiencing or at risk of abuse and neglect. States are encouraged to use the family support and family preservation initiative as a catalyst to assess and redesign categorical, fragmented service delivery systems toward establishing a continuum of coordinated and integrated, culturally relevant, family-focused services for children and families. The new program will afford States the opportunity to offer a continuum of services, depending on a family's needs, and also will provide linkages to necessary ancillary services such as transportation, housing, employment, and health. It is strongly expected that States will take advantage of this opportunity to move the child welfare service system toward a more coordinated, flexible structure built on and linked to existing community services and supports. Funds are also available for a small number of Indian Tribes which qualify for funding under this legislation and submit similar plans.

One critical requirement of the legislation is a strategic planning process that includes a wide array of State, local, and community agencies and institutions, parents, consumers, and other interested individuals whose collective work feeds into joint State-Federal planning activities. Ideally, the planning process will offer an opportunity for multiple State, local and community agencies and organizations and Federal agencies, as well as individuals, including parents, to become partners on behalf of children.

Consultation and outreach are recommended to include the active involvement of major actors across the entire spectrum of the service delivery system for children and their families. The purposes of this coordination and consultation include the development of new and more effective service approaches for children and families, the assessment of family and community needs, the identification of service overlaps and gaps, the identification of available resources (expertise, money, facilities, staff) that might help to meet needs, and the simplification of administrative and case management procedures across programs.

ACYF is actively collaborating with other Federal programs both within and outside the Department to obtain current information on new programs and explore ways to consolidate and maximize resources to promote the development of comprehensive, coordinated State child welfare systems. As part of this effort, the FY 1994 Emergency Child Abuse Prevention Services Program is designed to accomplish two goals:

(1) To build upon the knowledge and experience gained from the initial round of funding under the Emergency Services Program, and

(2) To integrate this foundation of knowledge and experience into the broader service delivery effort being undertaken by the States and Tribes as they plan for and implement the new Family Preservation and Family Support Services Program.

Such integration is appropriate for several reasons. When substance abuse exists in a family, it has such a significant effect on all other aspects of family functioning that it must be addressed in the child welfare service plan in order for the plan to succeed. The projects funded initially by the Emergency Services Program were designed with a multi-disciplinary, coordinated, comprehensive focus, using a family centered approach. The clients served by these projects are frequently on caseloads for child welfare and related services, and offer profound challenges to those service systems. These projects have identified and are developing strategies to deal with the policy, practice, and funding barriers to delivering effective services to children and families affected by substance abuse. The service models that have emerged from these projects embrace family support and family preservation principles, and the strategies developed through these models have broader implications for State service efforts.

II. Fiscal Year 1994 Priorities for Emergency Child Abuse Prevention Service Projects

This part describes the two priority areas for funding under the Emergency Child Abuse and Neglect Prevention Services Program. It contains all the information needed in order to successfully apply for funding. Failure to comply with the eligibility criteria and the deadline for submittal of applications will result in an application being screened out and not considered for funding. Experience has shown that an application which is directly responsive to the requirements and evaluation criteria of a specific priority area is likely to score higher than one which is broad and general in concept.

A. Available Funds

Approximately $15,000,000 is available for grants in FY 1994.

B. Administrative Regulations

For State and local governments, including Federally recognized Indian tribes, 45 CFR part 92 and selected parts of 45 CFR part 74 are applicable. For all

other applicants, 45 CFR part 74 is applicable.

C. Statement of Problem

According to the 1992 National Child Abuse and Neglect Data System (NCANDS) report, nearly one million children reported to child protective services systems were substantiated/indicated as abused or neglected in one year. This represents two children every minute nationally. In these troubled families, substance abuse is increasingly recognized as a contributing factor among a complex constellation of family problems.

Recent studies indicate a very strong association between substance abuse and child maltreatment. Richard Famularo, *et al.*, reviewed 190 randomly selected records from the caseload of a large juvenile court, cases in which the State took legal custody of the children following a finding of significant child maltreatment, based on a clear and convincing standard of evidence. Sixty-seven percent of these cases involved parents who would be classified, based on the study definition, as substance abusers. The study revealed specific associations between alcohol and cocaine abuse and physical and sexual maltreatment. In another study (Famularo, Kinsherff, and Fenton, 1992), an association was found between the type of substance abused and the type of child maltreatment. Overall, alcohol abuse was found to be associated with physical abuse and cocaine with sexual abuse. Although the sample size for this study was small and involved only cases in which children had been removed from the home, it suggests the need for service providers to be aware of the type of substances being abused, the effects of those substances, and the importance of developing collaborative efforts to meet varying needs. Flanzer and Sturkie (1987) conducted a study with similar implications. In examining the correlation between alcohol abuse by parents and maltreatment of teenagers, they found alcohol abuse by the fathers to be correlated with physical abuse and neglect of the children. In contrast, alcohol abuse by the mothers was found to be correlated with emotional abuse and neglect. Other studies and surveys throughout the nation have produced similar links between substance abuse and widespread neglect as well as physical and sexual abuse of children. The House Appropriations Committee indicated that it is especially interested in children/youth who are the subjects of serious neglect by crack cocaine-abusing parents and who are not ordinarily the immediate concern of overburdened service agencies. The fact that the legislation recognizes the emergency implications inherent in drug/substance abuse situations provides States the opportunity to improve service programs.

The profound effects of substance abuse on the child welfare system are also documented. Not only are the effects significant, but they have compounded existing systemic problems, such as personnel shortages and limited availability of foster homes, contributing to a child welfare system which has become burdened beyond its capacity. These effects have intensified existing difficulties in the broader community service system, which create barriers to meeting the needs of families effectively. Our increased awareness and knowledge of the serious effects of parental and caretaker substance abuse on children and youth exists in an environment frequently characterized by a lack of appropriate services, service options and isolation of child welfare from other community services.

In 1993, the Child Welfare League of America (CWLA) published the results of a ten state survey of child protection agencies. In over half of these states, more than 50% of the children served were affected by problems associated with substance abuse in the home. Percentages were even higher in voluntary child welfare agencies, probably because of greater efforts to routinely screen for substance abuse problems. Staff within the child welfare system have indicated that problems directly attributable to substance abuse by the adult parent and caretaker population have increased over the last five years.

The public child welfare system frequently fails to identify the problem of substance abuse, let alone incorporate substance abuse treatment into a larger service plan or coordinate ancillary services that might mitigate the effects of parental substance abuse on the children. Only 41.7% of those surveyed by the CWLA reported that they routinely screen for alcohol and other drug problems. There are not enough trained personnel in the child welfare system to deal with the problem, nor are there sufficient resources to address the situation effectively on a local level. Less than half of all full-time direct service practitioners surveyed by CWLA received formal training in substance abuse.

Practitioners in all fields who provide services to abused and neglected children and their families can become isolated from the work of professionals in other disciplines, perpetuating the fragmentation of service delivery. In a 1990 study, Thompson concluded that individual child welfare workers tended to focus interventions on what they know best and ignore broader family considerations. Another example of professional isolation is offered by a 1992 study (Pelham and DeJong) which surveyed directors of graduate medical education programs in Obstetrics/Gynecology and Pediatrics. A key finding was that one-third of the respondents were unaware of their State's child abuse laws with respect to requirements for reporting the effects of prenatal cocaine abuse. Further, of those that indicated awareness of their State's requirements, over 50% had incorrect information about these requirements. These studies support the need for education and training programs for professionals which address the relationship between substance abuse and child maltreatment. They also suggest the need for greater collaboration among service professionals in order to improve services to shared clients.

Problems related to substance abuse both lengthen and complicate the investigative process of child protective services agencies. The CWLA study reported that problems related to substance abuse are increasingly a factor in the initial investigative process, in reports of physical abuse and neglect, in reports of child sexual abuse, in the filing of dependency petitions, and in reports of abandoned infants.

The problems experienced by the child welfare system become powerfully magnified when viewed from the vantage point of the individuals and families the system was designed to serve. For example, younger children are more at risk of death or severe injury from child abuse and neglect, and they, therefore, have more often been the focus of child protective services. Because of this, older children and adolescents often fail to receive services. Left with no protection and few options, many adolescents see running away as their only choice. In a compilation of interviews with 31,000 runaway and homeless youth who received services in youth crisis shelters across the country in 1990, it was learned that alcohol or other substance abuse by parents or caretakers was a precipitating or contributing factor in about 40% of the cases (Annual Report to Congress on the Runaway and Homeless Youth Program, Fiscal Year 1990).

Families facing problems with substance abuse often find it difficult to pursue assistance and treatment before some precipitating crisis causes them to become a statistic of the child welfare system. Many drug and alcohol

treatment programs are designed to address the problems of adult male substance abusers, and lack either the capacity or an appropriate family orientation to serve a population of parents, children, and adolescents. The illegal nature of many substances, causing fear of apprehension by law enforcement agencies, and the potential loss of children and other consequences, frequently prevent affected families from seeking services.

Over the past several years, State and local governments, foundations, national organizations, and non-profit agencies have begun to develop and implement family support and family preservation programs and experiment with changing the way child welfare services are organized and delivered in coordination with other agencies and resources. While many of the efforts underway have begun to address much needed systems change, the special needs of children from substance abusing families require very close attention. Hence there is a need and opportunity to build on existing efforts to serve this population as Family Support and Family Preservation Services are developed.

The implementation of the new Family Preservation and Support Services initiative represents a significant commitment on the part of the Federal Government to a family centered services approach in funding, philosophy, and policy. It is strongly expected to serve as a catalyst for States to create a child welfare system that is more flexible, coordinated, linked with existing community supports and services, and able to serve children and families in a more holistic and effective way. The Emergency Services Program provides the opportunity to collaborate in this effort by reaching out to a population that is critically challenging the child welfare system: unserved children and adolescents who are at risk of or suffering abuse and neglect as a result of living with substance abusing parents or other care providers, and children and families known to the child protective services system. It also offers the opportunity to influence State, Tribal and national policy as strategies and models are developed which effectively meet the complex needs of this population. Therefore, it is a priority of the FY 1994 Emergency Services Program to form partnerships with the agencies implementing Family Preservation and Support Services at the State and local levels.

D. Related Efforts

Because of the necessity to avoid duplicating services and costs, the importance of coordination, and the interest of ACYF in actively collaborating on FY 1994 discretionary grant announcements, all applicants are required to demonstrate their awareness of other related projects at the State and local level by discussing how they will establish joint planning processes and provide direct collaboration for service delivery. The Department is currently sponsoring a large number of research and demonstration projects on the effects of substance abuse on parents and children, and on family centered service models, including family preservation and support programs. The following are examples of such programs:

1. The Public Health Service's Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services (CMHS):

- The CMHS Child and Adolescent Service System Program (CASSP)
- Center for Substance Abuse Prevention (CSAP) Demonstration Grants for High-Risk Populations:
- Model Projects for Pregnant and Postpartum Women and Their Infants
- Demonstration Grants for Youth in High-Risk Environments
- Center for Substance Abuse Treatment (CSAT):
- Residential Treatment Centers for Women with Dependent Children
- Community Partnership Demonstration Grants

2. Other PHS Programs:

- Perinatal prevention of substance abuse through the Maternal and Child Health Block Grants

3. Department of Housing and Urban Development:

- Family Unification Demonstration Program;

4. Departments of Housing and Urban Development, Agriculture, and Health and Human Services:

- Empowerment Zones and Enterprise Communities (Target Cities) Grant Program

5. Administration on Children, Youth and Families (ACYF):

- Family and Youth Services Bureau (FYSB):
- Family Resource Programs
- Drug Abuse Prevention Programs for Runaway and Homeless Youth
- Youth Gang Drug Prevention Programs
- Children's Bureau (CB):
- Respite Care and Crisis Nurseries
- Abandoned Infants
- Head Start Bureau (HS):
- Family Service Centers

Further information on these programs and listings of grants awarded are available from the clearinghouses listed in Appendix 2 of this announcement. This appendix provides information on The Clearinghouse Consortium on Child Abuse and Neglect, which is comprised of seventeen Federal information clearinghouses and resource centers that address child maltreatment issues from differing disciplines and perspectives. The Consortium was established by the U.S. Interagency Task Force on Child Abuse and Neglect to encourage cooperation and information sharing among Consortium members and to support professionals and private citizens seeking information on all aspects of child maltreatment.

E. Priority Areas

1. Community-Based Service Demonstration Projects Which Provide Family Preservation and Support Services to Families in Which Children and Youth Are At Risk of Child Abuse and Neglect Due to Parental or Caretaker Substance Abuse

Purpose: The purpose of this priority area is to provide family preservation and support services to a specific target population: abused or neglected children and youth or those at risk of abuse or neglect due to parental or caretaker substance abuse. Further, these service demonstrations will be developed in collaboration with the State or Tribal agency responsible for the State or Tribal planning and implementation of Family Preservation and Support Services so that they may serve as pilot demonstrations that may be incorporated into the broader service delivery system.

Such service demonstrations should build upon those innovative, comprehensive, interdisciplinary service models developed under the original Emergency Services Program solicitation in 1991. Those programs emphasized two service priorities: Innovative, crisis intervention and treatment services, and coordinated ancillary services. Both of these strategies should be incorporated into the FY 94 applications. The original programs provided or coordinated an array of services targeted to children, youth, and families, which alleviated crisis situations created by parental substance abuse and child abuse, and provided outreach to those at risk. These service programs also sought to improve and expand the delivery of services to prevent maltreatment and diminish the effects of abuse and neglect of children by substance abusing caretakers. Emphasis was placed on outreach and coordination of ancillary service strategies to facilitate the

treatment of substance abusers in households with children and youth. Ancillary services, such as respite care, transportation, child care, parenting education, and job counseling, frequently make the difference in whether or not a substance abusing caregiver is able to take advantage of available treatment.

Emphasis was also placed on meeting the unique needs of adolescents who are frequently not a priority for child protective services. These young people nonetheless suffer the effects of living in an environment with a substance abusing parent or caretaker. They may have experienced violence and disruption themselves or may have had to assume a parental role in the family. A recent report from the National Governors Association entitled Kids and Violence indicates that child abuse and out of home placement are risk factors for violent behavior in children and adolescents, and that comprehensive interventions must begin early.

The programs were designed to provide ongoing neighborhood-based, barrier-free and "user-friendly" services, to support positive family functioning, and recovery from substance abuse when necessary. They were intended to connect families with a supportive service network instead of engaging them in the usual child protective service and court action process.

Since the epidemic of substance abuse in families has presented the child welfare system with extraordinarily intense and complex challenges, it is imperative that planning for this priority area include State, Tribal, and local child welfare and social services agencies who all have a role to play in meeting the multiple needs of children and their families. It is important that entities applying for funds under this announcement realize the importance of coordination with youth service organizations, mental health agencies, family services agencies, public health agencies, public educational institutions, maternal and child health providers, and community-based organizations that serve substance abusing parents (including pregnant and post-partum females and their infants.)

The range of services provided under this priority area should include a continuum of innovative, coordinated, interdisciplinary services which respond to substance abuse-related child abuse and neglect. The scope of services should include prevention, intervention, and treatment, tailored to family needs. The services should promote the development of a comprehensive, coordinated continuum of family support and family preservation services which meet the needs of children whose parents or caretakers are experiencing substance abuse problems. The services may include coordination with the agency providing permanency planning and the provision of ancillary services to enhance permanency planning in cases in which one or more children are already in foster care and other children may be at risk of placement. Emphasis should be placed on building on the strengths of existing systems to deliver an array of services which are more responsive to the needs of the target population. Mechanisms to directly serve the affected child/youth population on an emergency basis must be developed. Applications must emphasize programs that are structured to provide or be linked with other agencies to provide the full range of coordinated, comprehensive, multi-disciplinary services required. Such services might include assessment; direct and ancillary services such as child care, transportation, and respite care; and plans for the provision of effective follow-up services. Applicants must also indicate how they plan to overcome current obstacles such as waiting lists and multiple referrals for services. Children who are identified as in need of emergency services should be able to receive necessary care/treatment immediately. Also see the section of this announcement entitled Agency and Statutory Background for a further description of family support and family preservation services.

Minimum Requirements for Program Design: In order to successfully compete under this priority area, the application should be responsive to the requirements of this part and Section 107A(c) of the Act. (See section III C. 1 of this announcement):

- Provide for coordination with and involvement of the State agency (or Tribal agency) responsible for the State planning and implementation of the Family Preservation and Support Program (Title IV–B of the Social Security Act, Subpart 2) with a description of how this demonstration relates to the planning process and/or the development of a statewide continuum of coordinated services. It is the intent of these demonstrations to pilot innovative service models which will inform State and/or Tribal policy in the provision of services to families in which substance abuse places children at risk. Documentation of this agency's participation must be provided in the form of an interagency agreement or letter of commitment documenting the joint effort to be undertaken, and how the Emergency Services project will be incorporated into the state's broader service delivery strategy. The addresses and telephone numbers of the State contacts for the Family Support and Family Preservation Services Program may be obtained from the Federal Regional Offices listed in Appendix 3.
- Describe the services that are currently available in the community to serve children, adolescents and their substance abusing families; explain how those services are currently coordinated; and demonstrate how the proposed project would augment and enhance current services in creating a continuum of family support and family preservation services and activities. If the application builds on a program currently funded under the Emergency Services program, describe the impact of the current project on the service delivery system and how the proposed project will serve as a catalyst in further improving the child welfare system in its family support and family preservation programs. Projects funded under the FY 1991 announcement should demonstrate how their third party evaluation was used to devise the service delivery model proposed. Overall, the emphasis should be on the comprehensive, coordinated and multi-disciplinary nature of the services to be provided. That is, describe primary services now available, such as intervention, outreach, drug counseling, housing assistance, job counseling, legal assistance, medical care, and follow-up, as well as ancillary services, such as child care and transportation, and how they would be coordinated with other expanded or new services.
- Indicate how client outreach would be provided, the range of prevention, intervention, and treatment that would be available for various situations, and how the particular approach advocated by this proposal is innovative relative to other approaches.
- Provide for an active advisory committee which includes, at a minimum, a child protective services agency, a mental health services agency or an agency with a focus on alcohol and drug treatment, a youth serving agency, a public health services agency, a child advocacy group, public education, and parental or client representation. Documentation of interagency participation must be provided in the form of letters of commitment from represented agencies or constituencies. An existing group may serve as the advisory committee provided that it meets the purpose and requirements for representation.
- Clear statements of the project goals, the anticipated end results, and how outcomes would be measured are

required of all applications. Applicants who are currently conducting service programs under the Emergency Services Program and already collecting this data are required to submit a plan for collecting and analyzing follow-up data on their current participants during the 17 month period. These costs are to be included in the project budget. It is suggested that 10% of the grant award be designated for evaluation and data collection purposes. Any proposal with less than 10% budgeted for evaluation must provide a special justification. Additionally, applicants should assure participation in any national evaluation that ACYF may conduct.

• Provide for an evaluation of the implementation, effectiveness, and impact of the project, or individual service components on the children and families served. Each applicant is required to obtain an independent third party evaluation of the project, and to submit with the application an evaluation plan that clearly addresses the following areas and questions:

1. The project's successes and problems in implementing the service delivery effort.

—Was the service program successfully implemented?
—Was the project, or components of the project, successful in recruiting and maintaining targeted participants?
—What were the problems/obstacles in implementing program services?

This should include a discussion of start-up activities, staff recruitment and qualifications, service design and approach, service implementation, criteria for success and methods to measure each, participant recruitment and characteristics, and feedback sources and revisions. A description of problems encountered and procedures for resolving problems relevant to each aspect of the project effort should be included.

2. The effectiveness of the service effort.

—Did the service program bring about documented changes in the knowledge, attitudes, and/or behavior of the participants with respect to the service objectives?

3. The impact of the service effort.

—Did the service program result in a change in the policies or service delivery systems of the agencies involved?
—Did the service demonstration have an impact on the agency, organization, State, or Tribal planning and/or implementation of family support and family preservation services in the community?
—Did the service demonstration integrate service delivery in the community?

• Document and describe how the project anticipates becoming an ongoing part of the agency, organization, Tribe, or State's program of family support and family preservation following the termination of Federal funding and the steps the applicant would take to accomplish this. Among these steps should be the program's representation and expected impact on the planning process for family support and family preservation services. Describe how this expected impact will promote the development of a continuum of family support and family preservation services which address substance abuse and child abuse and neglect service needs, improve services to children and families, and reduce duplication of effort.

• Provide assurances that at least one key person from the project would attend an annual three day grantees' meeting in Washington, DC.

Project Duration: The length of the project must not exceed 17 months.

Federal Share of Project Costs: The maximum Federal share is $500,000 for a 17 month budget period.

Matching Requirements: The minimum non-Federal matching requirement is 20 percent of the total cost of the project. The total approved cost of the project is the sum of the Federal share and non-Federal share. Therefore, a project requesting $500,000 in Federal funds, must include a match of at least $125,000 for a total project cost of $625,000 per 17 month budget period. This match constitutes 20 percent of the total project cost (Federal + non-Federal share). The non-Federal matching requirement may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions.

Successful applicants who exceed the minimum non-Federal match in their proposed budget will be required to provide the match amount proposed.

Anticipated Number of Projects to be Funded: It is anticipated that 26 projects will be funded.

2. Coordinated Interdisciplinary Training Models on the Coexisting Problems of Substance Abuse and Child Abuse and Their Impacts on and Relationships to Family Support and Family Preservation Efforts

Purpose: The purpose of this priority area is to provide for the development or expansion of interdisciplinary training models specific to the co-existing problems of substance abuse and child abuse and neglect, and to collaborate on the implementation of this training with the State or Tribal child welfare agency which is responsible for Family Preservation and Support Services. The training should target current professionals and practitioners in disciplines serving abused or neglected children. This priority area is intended to build upon the knowledge and experience of those innovative, comprehensive, interdisciplinary training models developed under the 1991 solicitation, by implementing training strategies that are statewide, multi-state, or regional in nature and address the impact and relationship of these problems to family support and family preservation services.

At the time of the FY 91 announcement, it was recognized that when children who have been severely neglected or abused as a result of parental substance abuse come to the attention of child welfare agencies, a number of pivotal decisions must be made. These decisions range from delivery of specific services to out-of-home placement. From the point of the initial report, the process entails assorted disciplines (legal, social, health, mental health) and multiple service providers. Effective communication among them is essential to provide comprehensive care and to avoid fragmented or duplicate services. It was also recognized that because of the urgency of the need for personnel, many child welfare agencies and mental health/substance abuse treatment facilities may hire staff with little or no training specific to either child abuse and neglect and/or the relationship between parental substance abuse and child abuse and neglect. In addition, there is a need for qualified professionals from other fields, such as law and psychology, who serve children and families to become knowledgeable about issues related to substance abuse and child abuse and neglect.

These conditions create two distinct but complementary training needs: (a) Interdisciplinary, specialized training on substance abuse and child abuse available to persons from a variety of fields working with children; and (b) interdisciplinary in-service training which provides specialized, immediately available information to child welfare practitioners, particularly those providing services to children of substance abusers or substance abusing parents who have or who are at risk of abusing their children.

The training programs funded under the 1991 announcement have had a far-reaching effect upon the professionals

they trained. Among the effects emerging is the development of interdisciplinary understanding among professionals who previously did not understand one another's roles or terminology. Other gains were increased knowledge of the recovery process and the specific effects of certain drugs which can affect a family child welfare treatment plan.

Many interdisciplinary training and education models already exist, including the ones utilized by the FY 1991 grantees, that can be adapted to provide the desired information about substance abuse as it relates to child abuse and neglect, and about family support and family preservation service models and concepts. It is suggested that applicants, to the extent possible, incorporate currently available resources to minimize the time and resources expended on curriculum development and to maximize the number of professionals and para-professionals who will benefit from the training effort during the project period. Information regarding existing interdisciplinary training programs can be obtained from the Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, DC 20013, (800) 394–3366; the National Resource Center for Family Support Programs, 200 Michigan Avenue, suite 1520, Chicago, Illinois 60604, (800) 341–9361; and the National Resource Center on Family Based Services, room 112, North Hall, University of Iowa, Iowa City, Iowa 52242, (319) 335–2200.

Existing curricula specific to child abuse and neglect could be adapted to include: (a) Community responses for providing services for substance abusing care providers; (b) community overviews of public health problems as they relate to substance abusing parents, including pregnant women; (c) physiological aspects of substances as they relate to child abuse and neglect; (d) effects of prenatal substance use on newborns; (e) strategies for working with drug exposed and drug affected infants, older children, and adolescents; (f) risk assessment training for identifying and intervening with substance abusing parents and other family members; (g) strategies for working with substance abusing adults/parents; (h) impacts of substance abuse and child abuse on family support and family preservation programs; (i) strategies for addressing substance abuse issues in families and the related supports for children when developing family support and family preservation case plans. Training may be developed by contract, or may be jointly developed by individual agencies.

Minimum Requirements for Program Design: In order to successfully compete under this priority area, the application should be responsive to the requirements of this part and Section 107A(c) of the Act. (See section III C. 1 of this announcement):

- Indicate the type of training that would be targeted by the project (i.e., statewide, multi-state, or regional) and the network through which the training would be offered.
- Identify the lead agency or educational entity and other responsible entities that would be involved in the proposed project. Training development should involve, at a minimum, input from the medical, legal, social work, and mental health disciplines in coordination with local drug and alcohol counseling, youth shelter and public health service providers. If the application builds on a program currently funded under the Emergency Services program, describe how the evaluation of the current project will be utilized to improve training strategies and how the target population will be expanded under the new program. Documentation of interdisciplinary participation must be provided: e.g., copies of existing agreements or letters of commitment indicating the level, duration, and type of participation that would be provided.
- Provide for coordination with and involvement of the State or Tribal agency responsible for the State planning and implementation of Family Preservation and Support Services (Title IV-B of the Social Security Act, Subpart 2) with a description of how this demonstration relates to the planning process and/or the development of a statewide continuum of coordinated services. It is the intent of these demonstrations to pilot innovative training models which will inform State and/or Tribal policy in the training of professionals who provide family preservation and support services to families in which substance abuse places children at risk. Documentation of the State agency's participation must be provided in the form of an interagency agreement or letter of commitment documenting the joint effort to be undertaken.
- Describe how the proposed project would enhance or expand training that is already available for professionals on the problems of substance abuse and child abuse and neglect, and how they interrelate with the provision of comprehensive family preservation and support services. Describe the population to which the training would be directed. Describe the plan for targeting and recruiting training participants. Describe the criteria for selecting the targeted population.
- Describe the type of training that would be provided, type of staff or trainers to be used, the curriculum that would be used, the length of training, and the number of persons expected to benefit from the training during the life of the project. If the proposal builds upon a currently funded Emergency Services project, discuss the impact of the project, how the proposed effort expands upon it, and how it relates to the implementation of family support and family preservation services.
- Clear statements of the project goals, the anticipated end results, and how outcomes would be measured are required of all applications. The costs of this evaluation are to be included in the project budget. It is suggested that 10% of the grant award be designated for evaluation purposes. Additionally, applicants should assure participation in any national evaluation that ACYF may conduct.
- Provide for an evaluation of the implementation, effectiveness, and impact of the project. Each applicant is required to obtain an independent third party evaluation of the project, and to submit with the application, an evaluation plan that clearly addresses the following areas and questions:

1. The project's success in implementing the training effort.

—Was the training successfully implemented?

—Was the project successful in recruiting and maintaining targeted participants?

—What were the obstacles/problems in implementing the training?

This should include a discussion of start-up activities, staff recruitment and qualifications, training design and approach, training implementation, criteria for success and methods to measure each, participant recruitment and characteristics, and feedback sources and revisions. A description of problems encountered and procedures for resolving problems relevant to each aspect of the training effort should be included.

2. The effectiveness of the training effort.

—Did the training effort bring about a change in the knowledge, attitudes, and/or behavior of the participants with respect to the training objectives?

3. The impact of the training effort.

—Did the training result in a change in the on-the-job activities of participants?

—Did the training change the way participants view their agency's role in the community?

• Document and describe how the project would become an ongoing part of the agency, organization, tribe, or State's program of family support and family preservation following the termination of Federal funding and the steps the applicant would take to accomplish this. Among these steps should be the project's representation and expected impact on the planning process for family support and family preservation services.

• Provide assurances that at least one key person from the project would attend an annual three day grantees' meeting in Washington, D.C.

Project Duration: The length of the projects must not exceed 17 months.

Federal Share of Project Costs: The maximum Federal share is $200,000 for a 17 month budget period.

Matching Requirements: None

Anticipated Number of Projects To Be Funded: It is anticipated that 10 projects will be funded.

III. General Information and Requirements for the Application Process and Review

This part contains information and instructions for submitting applications in response to this announcement. Application forms are provided at the end of this section, along with a checklist for assembling the application package.

A. General Information

1. Review Process and Funding Decisions

Applications will be reviewed and scored competitively against the published evaluation criteria (see III D of this section) by experts in the field, generally persons from outside of the Federal government. The results of this review are a primary factor in making funding decisions. The Administration on Children, Youth, and Families (ACYF) reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the applicant. ACYF may also solicit comments from other Federal agencies, Central and Regional Office staff, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by the Commissioner, Administration on Children, Youth and Families in making funding decisions.

2. Required Notification of the State Single Point of Contact

All applications for research or demonstration projects submitted to NCCAN are covered under Executive Order (E.O.) 12372, Intergovernmental Review of Federal Programs, and title 45 Code of Federal Regulations (CFR) part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. Therefore, the applicant should contact his or her State Single Point of Contact (SPOC) directly to determine what materials, if any, the SPOC requires. Contact information for each State's SPOC is found at the end of this Part.

All States and territories, except Alabama, Alaska, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Pennsylvania, Oregon, Virginia, Washington, American Samoa and Palau, have elected to participate in the Executive Order process and have established a State Single Point of Contact (SPOC). Applicants from these 17 jurisdictions need take no action regarding E.O. 12372. Applications for projects to be administered by federally recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

It is imperative that the applicant submit all required materials to the SPOC as soon as possible and indicate the date of this submittal (or the date of contact, if no submittal is required) on the Standard Form (SF) 424, item 16a. Under 45 CFR 100.8(a)(2), SPOCs have 60 days from the grant application deadline to comment on applications for financial assistance under this program. These comments are reviewed as part of the award process. Failure to notify the SPOC can result in a delay in grant award.

The SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule. It is helpful in tracking SPOC comments if the SPOC will clearly indicate the applicant organization as it appears on the application SF 424. When comments are submitted directly to ACF, they should be addressed to the application mailing address located in the front section of this announcement. A list of Single Points of Contact for each State and territory is included in Appendix 5 of this announcement.

3. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to the Office of Management and Budget for review and approval any information collection involving 10 or more respondents.

B. Application Screening Criteria

Applications must meet the following screening requirements or they will not be considered in the current competition; these requirements will be rigorously enforced:

1. Eligible Applicants

(a) Any State or local agencies that are responsible for administering child abuse or related child abuse intervention services; and (b) community and mental health agencies and nonprofit youth-serving organizations with experience in providing child abuse prevention services.

In cases where applications have been reviewed and evaluated and are determined to be qualitatively of equal strength, priority consideration will be given to those entities funded in 1991 under Program Announcement No. 93554.911, published in the **Federal Register** on July 11, 1991, (56 FR 31782), entitled Emergency Child Abuse and Neglect Prevention Services Program: Availability of Funds and Request for Applications; Notice.

Applications may be submitted under more than one priority area; however, a separate application must be submitted for each priority area.

2. Deadline for Submittal of Applications

The closing date for submittal of applications is on July 18, 1994.

(a) *Deadlines.* Applications shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date at the address specified above; or (2) postmarked on or before the deadline date and received by ACF in time to be considered during the competitive review and evaluation process under chapter 1–62 of the Health and Human Services Grants Administration Manual. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private

metered postmarks shall not be acceptable as proof of timely mailing.)

(b) *Late applications.* Applications which do not meet the criteria in the above paragraphs are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

(c) *Extension of deadlines.* The Administration for Children and Families (ACF) may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

C. Application Requirements

1. Responsiveness to Funding Priorities

The application must be responsive to the priority area under which it is being submitted. The applicant must identify the priority area at the top of page one of the SF 424. In order to be considered responsive, the application must address each of the minimum requirements for an application specified in the priority area description and must contain the following information as specified in section 107A of the Child Abuse Prevention and Treatment Act:

(a) an assurance that the applicant operates in a geographic area where child abuse and neglect related to parental substance abuse has placed substantial strains on State and local agencies and has resulted in substantial increases in the need for services and/or training that cannot be met without funds available under this announcement (citing existing sources of data to the extent possible);

(b) identify the responsible agency or agencies that will be involved in the use of funds provided under this announcement;

(c) a description of emergency situations with regard to children of substance abusers who need services of the type described in this announcement;

(d) a plan for improving the delivery of such services to children; and

(e) assurances that such services or training will be provided in a comprehensive, multi-disciplinary and coordinated manner.

2. Application Form

The applicant must reproduce single-sided copies of the SF 424 (revised 1988).

3. Copies Required

Applicants must submit an original and two copies of the complete application prepared in accordance with the instructions provided. A complete application includes: the completed SF 424, a summary description of the proposed project, required certifications/assurances, and the program narrative. The full application package is described in III H below.

4. Signature

The signature of the Certifying Representative must be handwritten (preferably in black ink) and the signer's name and title must be typed in Item 18a on the original SF 424.

5. Length

All narrative sections of the application must meet the format specifications. Although no page limit has been established, applicants should seriously consider the information provided in the introduction to Part II, and provide narratives that are succinct, responsive to the priority area requirements, and are within the general recommended length requirements as specified in the instructions later in this part.

D. Evaluation Criteria

The Program Narrative Statement of the application should correspond to the evaluation criteria. The description of the four criteria below should be used as headings in developing the program narrative.

Applications will be reviewed by a panel of at least three individuals. These reviewers will comment on and score the applications, basing their comments and scoring decisions on the criteria below.

1. Objectives and Need for Assistance (25 Points)

The extent to which the applicant clearly states principal objectives and expected outcomes of the project which reflect an understanding of the priority area issues; and indicates an awareness of related services available in the community and how those services will be used in relation to the proposed project. Describe the specific need for the project in terms of its significance for the incorporation of substance abuse and child abuse and neglect services into the State or Tribal implementation of family preservation and support services. Describe the problem within the context of the services now available and services unavailable in the community. State the services objective of the project and, where applicable, give a precise location of the projects or area(s) to be served by the project. Discuss the state-of-the-art relative to the problem of substance abuse as it relates to child abuse and neglect, and their impact on family support and family preservation services, including a list of any relevant published work by the author(s) of the proposal.

2. Results or Benefits Expected (15 Points)

The extent to which the applicant identifies and describes realistic and measurable service delivery components, results and benefits, consistent with the specific goals and objectives of the proposal; the manner in which actual results and benefits to be derived by the project would be objectively measured and substantiated to determine if objectives are met; and there are clearly stated, and significant anticipated contributions to services and practice in the implementation of Family Support and Family Preservation Services in the community, Tribe, or State.

Describe the population or populations to be targeted and the number of persons in that population expected to benefit. Indicate the reason for targeting that particular population, e.g., previous regional assessments, surveys, or other existing data. Describe the specific benefits to the targeted population. Describe the anticipated impact on the State planning process for Family Support and Family Preservation Services.

3. Approach (40 Points)

The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project and details how the proposed work will be accomplished; presents a clear conceptual understanding of prevention, intervention, and treatment approaches as they relate to the coexisting problems of substance abuse and child abuse and neglect; relates the specific service needs of the target population (children who have been or are at risk of child abuse and neglect due to parental or caretaker substance abuse and their families) to family support and family preservation efforts; cites factors which might accelerate or delay the work and gives acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, use of automated management and information systems, reductions in cost or time, or extraordinary social and community involvements; provides projections of the accomplishments to be achieved; and presents an evaluation plan which clearly addresses the evaluation questions contained in the priority area description, including proposed measures to be used. The application lists the activities to be carried out in

chronological order and shows a reasonable schedule of accomplishments and target dates. It relates each aspect of the workplan to the specific evaluation objectives; i.e., identifies the kind of data to be collected and maintained relevant to goals and objectives to be evaluated; discusses the criteria to be used to evaluate the results and impact of the project, both at the program level and at the individual child and family levels. The application explains the methodology that will be used to determine if the needs that have been identified and discussed are met, and the expected results and benefits are achieved. The application also lists each organization, agency, consultant, or other key individuals or groups with whom work on the project will be coordinated, and describes the nature of the interaction and the benefits expected to be derived from the proposed coordination of programs and activities.

4. Staff Background and Organization's Experience (20 Points)

The extent to which the resumes of the program director and key project staff (including names, addresses, training, background and other qualifying experience) and the organization's experience demonstrate the ability to administer effectively and efficiently a project of this size, complexity and scope and reflect the ability to use and coordinate activities with other agencies for the delivery of comprehensive support services. The extent to which the agency is in the position to inform policy related to the implementation of Family Preservation and Support Services, and the involvement of the agency or agency representatives in the Family Support and Family Preservation planning process. The application describes the relationship between this project and other work planned, anticipated or underway under Federal assistance

Describe the background experience, training and qualifications of the key staff and consultants, including any experiences working on child abuse and neglect, programs or services related to substance abuse, and/or family support and family preservation programs (curriculum vitae or resumes must be included with the application.) Describe the adequacy of available resources and organizational experience related to the tasks of the proposed project. An organizational capability statement must be included with the application. Describe any collaborative efforts with other organizations including the nature of their contribution to the project. Interagency agreements or letters indicating the type, extent and duration of commitment must be included with the application.

Describe the staffing pattern for the proposed project, listing key staff and consultants, their responsibilities in conjunction with this project and the time they will be committing to the project.

Identify the authors of the application, by section, and their role in the proposed project.

E. The Components of the Application

A complete application consists of the following in this order:

1. Application Face Sheet, SF 424, page 1.
2. Budget Non-Construction, SF 424A, Budget Information: Section A (Budget Summary), Section B (Budget Categories), and Section E (Budget Estimates of Federal Funds Needed for Balance of the Project);
3. Budget justification (approximately three pages);
4. Project summary description with listing of key words (approximately 1 page);
5. Program Narrative (approximately 40 double-spaced pages is suggested as a reasonable length), organized with sections addressing the following four areas: (1) Objectives and Need for Assistance; (2) Results or Benefits Expected; (3) Approach; and (4) Staff Background and Experience;
6. Organizational capability statement;
7. Letters of commitment;
8. SF 424B Assurances-Non Construction, Debarment, and Drug Free Workplace; Certification Regarding Lobbying; and
9. Appendices/attachments, may include a bibliography (approximately two pages single-spaced); resumes or curriculum vitae (approximately two pages each); and evaluation instruments/measures.

F. Preparing the Application

1. Availability of Forms

Agencies and organizations interested in applying for grant funds should submit an application(s) on the Standard Form 424 (revised April 1988) which is included in this announcement.

Each application must be executed by an individual authorized to act on behalf of the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applications must be prepared in accordance with the guidance provided in this announcement and the instructions in the attached application package.

2. Application Submission and Notification

Applications may be mailed to theDepartment of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 6th Floor OFM/DDG, Washington, DC 20447, Attention: Maiso Bryant.

Hand delivered applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street SW., Washington DC 20447, Attention: Maiso Bryant.

The program announcement number, 93554.942, must be clearly identified on the application.

Successful applicants will be notified through a Notice of Financial Assistance Awarded. The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the grant, the total project period, the budget period and the amount of the non-Federal matching share. Unsuccessful applicants will be notified by letter.

3. Program Narrative

The Program Narrative is a very important part of the application. It should be clear, concise and specific to the priority area being addressed as described in Part II. The narrative should provide information on how the application meets the evaluation criteria. This narrative should be no less than 6 double-spaced pages and up to approximately 40 double-spaced pages. It should be typed on a single-side of 8½" by 11" plain white paper with 1" margins on both sides. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with "Objectives and Need for Assistance" as page one. Applicants should not submit reproductions of larger size paper reduced to meet the size requirement.

Applicants are required to follow the format described below in preparing their applications, using the four headings for the sections of the narrative. However, the number of specific pages for each section is given as a suggestion only. The specific information to be included under each heading was discussed previously under the "Evaluation Criteria."

The four sections are:

(1) Objectives and Need for Assistance (nine pages double-spaced);

(2) Results or Benefits Expected (three pages double-spaced);

(3) Approach (twenty pages double-spaced);

(4) Staff Background and Experience (eight pages double-spaced).

4. Organizational Capability Statement

Applicants should provide a brief (approximately two pages double-spaced) background description of how the applicant is organized and the types and quantities of services it provides or the research capabilities it possesses. This statement may also include descriptions of current work, descriptions of relevant past experience as well as the competence of the project team and its demonstrated ability to produce a final product that is comprehensive and usable.

5. Assurances and Certifications

Applicants must file a standard form 424B, Assurances-Non-Construction Programs, and Certifications Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must provide certification regarding: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These two certifications are self-explanatory.

Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements and the Debarment and Other Responsibilities certifications.

G. The Application Package

To expedite the processing of applications, each applicant is requested to adhere to the following instructions. Each application package must include:

1. A copy of the Checklist for a Complete Application with all the items checked as being included in the application.

2. An original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with "Objectives and Need for Assistance as page one. To facilitate handling, please do not use covers, binders, tabs or include extraneous materials such as agency promotion brochures, slide, tapes, film clips, minutes of meetings or articles of incorporation.

Do not include a self-addressed, stamped acknowledgment card. All applicants will be automatically notified of the receipt of, and the four digit identification number assigned to, their application. This number and priority area must be referred to in all subsequent communication with ACF concerning the application. After an identification number is assigned and the applicant has been notified of the number, applications are filed numerically by identification number to aid in quick retrieval. It will not be possible for ACF staff to provide a timely response to inquiries about a specific application unless the identification number and the priority area are given. Applicants should be advised that ACF staff cannot release information about the status of any application prior to the time funding decisions are made. Once a decision is reached, the applicant will be notified as soon as possible of the acceptance or rejection of the application.

H. Checklist for a Complete Application

The Checklist below should be typed on 8½" by 11" plain white paper, completed and included in the application package.

Checklist

I have checked my application package to ensure that it includes the following:

_____Checklist for a Complete Application;

_____One original application signed in black ink and dated plus two copies;

_____A complete SPOC certification with the date of SPOC contact entered in item 16 page 1 on the SF 424;

_____Each package contains the application (original and two copies) for one priority area.

The original and both copies of the application include the following:

_____SF 424, page 1, Application Face Sheet;

_____SF 424A;

_____Budget justification;

_____Summary description and key words;

_____Program narrative;

_____Organizational Capability Statement;

_____Interagency agreements; Letters of commitment;

_____Certification Regarding Lobbying;

_____SF 424B Assurances

_____Appendices/attachments.

(Federal Catalog of Domestic Assistance Program Number 93.554 Child Abuse and Neglect Prevention and Treatment).

Dated: April 13, 1994.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184-01-P

APPENDIX 1

PROGRAM INSTRUCTION

Implementation of New Legislation: Family Preservation and Support Services Program

OMB No. 0980-0258

Expires: 4-18-94

ACF	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration on Children, Youth and Families	
	1. Log No. ACYF-PI-94-01	2. Issuance Date: 1-18-94
Administration for Children and Families	3. Originating Office: Children's Bureau	
	4. Key Word: Family Preservation and Support Services	

PROGRAM INSTRUCTION

TO: State Agencies Administering the Title IV-B Child and Family Services Program.

BILLING CODE 4184-01-C

Subject: Implementation of New Legislation: Family Preservation and Support Services, Title IV–B, Subpart 2.

Purpose: The purpose of this Program Instruction is to provide information on the Fiscal Year (FY) 1994 application requirements and guidance for developing the FY 1995 five-year State Plan for Family Preservation and Support Services. A separate Program Instruction will be issued for grants to Indian Tribes.

Legal and Related References: Title IV–B of the Social Security Act, Subpart 2, Family Preservation and Support Services; Omnibus Budget Reconciliation Act of 1993 (P.L. 103–66); 45 CFR Part 92.

Public reporting burden for this collection of information is estimated to average 144 hours per response, including the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Reports Clearance Officer, Administration for Children and families, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447; and to: Office of Management and Budget, Paperwork Reduction Project, OMB control number 0980–0258 (new request), Washington, D.C. 20503.

Overview

This new legislation aims to promote family strength and stability, enhance parental functioning, and protect children through funding a capped entitlement to States to provide family support and family preservation services, which the law defines broadly.

There is widespread consensus in the child and family policy community that these new dollars, although relatively small, can best be used strategically and creatively to stimulate and encourage broader system reform which is already under way in many States and communities.

The FY 1994 appropriation for this program is $60 million. Of this amount, $2 million is reserved for Federal evaluation, research, and training and technical assistance; $600,000 is reserved for grants to Indian Tribes. The balance is available for grants to States to fund planning and services for family support and family preservation.

For FY 1995, the authorization increases to $150 million. Of this amount, $6 million is reserved for Federal evaluation, research, and training and technical assistance; $1.5 million is reserved for grants to Indian Tribes. A new program of grants to State courts will be initiated at a funding level of $5 million. (Information on this program will be forthcoming.) The balance is available for grants to States for services.

Attachment A lists FY 1994 State allotments and *estimated* allotments for FYs 1995–98 based on the statutory formula. Attachment B contains a copy of the statute and an excerpt from the Conference Report regarding the definition of family support services.

This Program Instruction is divided into five parts.

- Part I is an introductory section which contains our vision for this new legislation and background information on family support and family preservation services.
- Part II is a discussion of family support and family preservation services and guiding principles for these services.
- Part III is a discussion of planning activities essential to the development of a five-year State Plan for services beginning in FY 1995, including consultation, coordination, data collection, and joint planning.
- Part IV contains a brief outline of major provisions of the statute and additional fiscal and administrative information.
- Part V contains instructions for preparing the FY 1994 application for planning funds and for services funds.

Submittals

The FY 1994 Application

We encourage States to submit the FY 1994 application to the appropriate Regional Office as soon as possible and no later than June 30, 1994.

The FY 1995 State Plan

We encourage States to submit the five-year FY 1995–99 State Plan as soon as possible after completing the planning process and no later than June 30, 1995.

Part I: Introduction

A. Background

Enactment of a new Subpart 2 to title IV-B of the Social Security Act is the first major change in this title since the amendments made by Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980.

The goals of that legislation were to:

- Prevent the unnecessary separation of children from their families;
- Improve the quality of care and services to children and their families; and
- Ensure permanency for children through reunification with parents, through adoption, or through another permanent living arrangement.

These goals have not been fully realized. A wide variety of reasons have been suggested by researchers and practitioners, including:

- Social, cultural, and economic changes (increases in substance abuse, community violence, poverty, and homelessness, for example), which have affected the number of families coming to the attention of child welfare agencies and the severity of their problems;
- Rising rates of child abuse and neglect reports, particularly for child sexual abuse;
- A child welfare system unable to keep up with these increased demands, given constrained resources, high caseloads, and overburdened workers;
- Services planning that focuses most resources on crisis intervention and too few on prevention;
- Lack of services that fit the real needs of families; and
- The isolation of the child welfare services system from other services needed by vulnerable families, such as housing, employment, and substance abuse services.

In response, Congress has passed, and the President has signed, legislation that will provide States with new Federal dollars for preventive services (family support services) and services to families at risk or in crisis (family preservation services).

In addition to providing funds for expanding services, the new program offers States an extraordinary opportunity to assess and make changes in State and local service delivery in child welfare, broadly defined. The purpose of these changes is to achieve improved well-being for vulnerable children and their families, particularly those experiencing or at risk for abuse and neglect. Because the multiple needs of these vulnerable children and families cannot be addressed adequately through categorical programs and fragmented service delivery systems, we encourage States to use the new program as a catalyst for establishing a continuum of coordinated and integrated, culturally relevant, family-focused services for children and families.

Among the elements that would ideally be part of the continuum, depending on family needs, are family support and family preservation services; child welfare services, including child abuse and neglect

preventive and treatment services and foster care; services to support reunification, adoption, kinship care, independent living, or other permanent living arrangements; and linkages to services that meet other needs, such as housing, employment, and health.

In passing this legislation, Congress recognized that new funding alone would not be sufficient to meet the goals of the legislation and Public Law 96–272. Because new or expanded services are just one element needed to improve the child welfare system, many States and communities may choose to carry out major changes in the ways services are delivered and in the systems that deliver them, in order to ensure that services are part of a comprehensive, coordinated service delivery system that draws heavily on community-based programs in its design and implementation.

Therefore, we expect that a major goal of the planning process will be to examine the changes that are needed in each State to make delivery of services more responsive to the needs of individuals and communities and more sensitive to the context in which they are to be delivered.

It is our strong expectation that States will take advantage of this opportunity to move the child welfare service system in these directions, leading to a more coordinated, flexible system, built on and linked to existing community services and supports, and able to serve children and their families in a more effective way.

B. Development of Family Preservation and Support Services

Family support and family preservation services are not new. They date back to the turn of the century, e.g., Hull House and the settlement house movement. Recently, however, there has been increased interest in such programs.

Over the last several years, State and local governments, foundations, national organizations, and non-profit agencies have begun to develop and implement family support and family preservation programs; push for change in child welfare programs, including reform of State laws and policies to support family-centered practice; and experiment with changing the way child welfare services are organized and delivered, including strengthening linkages with other agencies and resources and moving toward greater community direction and control of services.

A few examples of such efforts include the American Public Welfare Association's policy on Commitment to Change, the decategorization of funding and collaborative planning efforts in a number of States, the Children's Trust Funds and Children's Cabinets, the Pew Foundation's Children's Initiative and support for demonstrations of improved planning and child welfare service delivery from the Edna McConnell Clark Foundation and the Annie E. Casey Foundation. Specific program models include the Homebuilders and the Families First programs, the Healthy Families America initiative, and hundreds of community-based family support programs nationwide including both family resource centers and home-based models, such as Parents as Teachers, and the Home Instruction Program for Preschool Youngsters (HIPPY).

Several Federal programs or initiatives also have focused on prevention, family-centered practice, and a community-based approach. Some examples include the Head Start Bureau's Family Service and Family Support Projects, and Parent and Child Centers; the national Comprehensive Child Development Program demonstration; the National Center on Child Abuse and Neglect's State community-based prevention grants associated with Children's Trust Funds; the Family Support Resource Center and the Family Based Services Resource Center funded by the Children's Bureau; the Family and Youth Services Bureau's Family Resource and Support program; the Public Health Services' (PHS) Healthy Start program; the Office of Community Services' Family Support Centers (homeless families demonstration); the Department of Housing and Urban Development's (HUD) Family Self-Sufficiency demonstration program; and the PHS Child and Adolescent Services System Program (CASSP), a planning model for coordinated mental health services now implemented in all States.

We have compiled in Attachment C reference information on family support and family preservation resources, programs and options; information on collaborative planning and needs assessment; and a summary of two recent Federal programs that States and communities should consider as they develop the family support and family preservation five-year plan: the community empowerment funds under the social services block grant and the HUD Family Unification Program.

As one part of our implementation of this new legislation, we have convened a series of focus groups in both the Central and Regional Offices with family support and family preservation program directors, practitioners, and experts; State, county, and city child welfare administrators; State and local agencies with experience in providing such programs; representatives of Indian Tribes and regional and national Tribal organizations; national advocacy, interest group, and professional organizations; representatives of national organizations representing Governors, State legislators, and counties; and parents, foster parents, and consumers of child welfare services. In addition, we have met with or received written materials and recommendations from a number of other experts and practitioners in the field. The suggestions, guidance, and information we have received through this process have been invaluable to us in the development of this Program Instruction.

Further, in an effort to improve Federal collaboration and coordination, we have met with staff of other Federal programs (both within and outside the Department) to obtain current information on new programs and explore ways to consolidate and maximize resources.

We are actively collaborating on FY 1994 discretionary grant announcements with the Health Resources and Services Administration (HRSA) and the Substance Abuse and Mental Health Administration (SAMHSA) in the Public Health Service. For example, in an effort to strengthen coordination at the State and local level, HRSA's discretionary grant announcement for a new program, "Home Visiting for At-Risk Families," will require that the application must be developed collaboratively by representatives of the State agency administering title IV–B (Child and Family Services) and title V (Maternal and Child Health). Information on the Home Visiting Announcement may be obtained by calling Geraldine J. Norris at 301–443–6600.

Also, in the interest of coordinating service efforts at the State and local level, we have been working with SAMHSA which will be publishing a discretionary grant announcement early in FY 1994. The announcement will be for the development of community-based systems of care for children and adolescents who are experiencing a serious emotional disturbance and their families.

In reviewing applications for these discretionary grants, one of the criteria that the Center for Mental Health Services, SAMHSA, will take into account is the degree to which the applicant has included children's mental health services in its comprehensive planning for

coordinated services under the Family Preservation and Support Services program.

Part II: Family Preservation and Family Support Services and Principles

The literature on professional practice and the discussion at the focus groups reflected general agreement on the goals for family support and family preservation services. These services should be directed towards:

- Enhancing parents' ability to create stable and nurturing home environments that promote healthy child development;
- Assisting children and families to resolve crises, connect with necessary and appropriate services, and remain safely together in their homes; and
- Avoiding unnecessary out-of-home placement of children, and helping children already in out-of-home care to be returned to and be maintained with their families or in another planned, permanent living arrangement.

Family support services are primarily community-based preventive activities designed to alleviate stress and promote parental competencies and behaviors that will increase the ability of families to successfully nurture their children; enable families to use other resources and opportunities available in the community; and create supportive networks to enhance child-rearing abilities of parents and help compensate for the increased social isolation and vulnerability of families.

Examples of community-based services and activities include respite care for parents and other caregivers; early developmental screening of children to assess the needs of these children and assistance in obtaining specific services to meet their needs; mentoring, tutoring, and health education for youth; and a range of center-based activities (informal interactions in drop-in centers, parent support groups) and home visiting activities. (See Section 431 of the statute and the Conference Report language in Attachment B.)

Family preservation services typically are services designed to help families alleviate crises that might lead to out of home placement of children; maintain the safety of children in their own homes; support families preparing to reunify or adopt; and assist families in obtaining services and other supports necessary to address their multiple needs in a culturally sensitive manner. (If a child cannot be protected from harm without placement or the family does not have adequate strengths on which to build, family preservation services are not appropriate).

Examples of family preservation activities and services, include intensive preplacement preventive services; respite care for parents and other caregivers (including foster parents); services to improve parenting skills and support child development; follow-up services to support adopting and reunifying families; services for youth and families at risk or in crisis; and intervention and advocacy services for victims of domestic violence. (Section 431 of the statute.)

Currently, a number of program models, approaches, and levels of family preservation services are in operation. In this Program Instruction the term "family preservation" is used to include all such service options. ACF does not plan to require and does not endorse any specific program model for implementation. However, in joint planning activities with Federal staff, States will have an opportunity to discuss the basis for their selection of program models, the operation of specific service designs and options, and sources for additional information on high quality program approaches and models. Some activities such as respite care, home visiting, and assistance in obtaining services may be considered either a family support or a family preservation service.

Families and Children

The statute clarifies that, in providing services, "families" may include biological, adoptive, foster, and extended families. The term "children" includes youth and adolescents.

Statewideness

We recommend that States consider: (1) targeting services in areas of greatest need; and (2) targeting services to support cross-cutting community-based strategies. Such strategies have the potential to draw on multiple funding streams to bring a critical mass of resources to bear in high-need communities.

There is no requirement that services must be statewide by a specific date, although States are encouraged to move in that direction as they set goals in their State Plans.

Guiding Principles

Both family support and family preservation services are based on a common set of principles or characteristics which help assure their responsiveness and effectiveness for children and their families. Focus group participants frequently pointed out that, while various models of services or programs are available for communities and States to consider, it is an *approach* based on these principles that should provide an organizing framework for State planning.

Among the shared principles most often identified by practitioners are:

- The welfare and safety of children and of all family members must be maintained while strengthening and preserving the family whenever possible. Supporting families is seen as the best way of promoting children's healthy development.
- Services are focused on the family as a whole; family strengths are identified, enhanced, and respected, as opposed to a focus on family deficits or dysfunctions; and service providers work with families as partners in identifying and meeting individual and family needs.
- Services are easily accessible (often delivered in the home or in community-based settings, convenient to parents' schedules), and are delivered in a manner that respects cultural and community differences.
- Services are flexible and responsive to real family needs. Linkage to a wide variety of supports and services outside the child welfare system (e.g., housing, substance abuse treatment, mental health, health, job training, child care) are generally crucial to meeting families' and children's needs.
- Services are community-based and involve community organizations and residents (including parents) in their design and delivery.
- Services are intensive enough to meet family needs and keep children safe. The level of intensity needed to achieve these goals may vary greatly between preventive (family support) and crisis services.

For additional information on service programs and options, see Attachment C.

Part III: Planning Activities

This new legislation provides an unusual opportunity for States to strengthen and refocus their child and family services. The legislation:

- Provides additional and flexible funds for innovative services;
- Directs the focus of these services in new ways; and
- Provides the resources for a planning effort to ensure maximum results.

Because the new focus on family-based services and community linkages requires changes in vision, in philosophy, and in the design and delivery of child welfare services, the planning period is especially critical. By making funds available for planning and by requiring the development of a long-range, five-year plan, the legislation

recognizes this critical first step and offers each State an opportunity to strengthen, reform, and better coordinate and integrate its service delivery system.

We strongly urge States to take advantage of this extraordinary opportunity. To seize that opportunity, we believe that a thoughtful, strategic planning process that includes a wide array of State, local, and community agencies and institutions, parents, consumers, and other interested individuals whose collective work feeds into joint State-Federal planning activities, is necessary.

The five-year State Plan will be the vehicle to articulate a State's vision and strategy for achieving that vision, set goals and measure progress towards those goals, and identify practical next steps toward a more comprehensive and integrated continuum of services that responds to the needs of vulnerable families within the State. To provide the maximum opportunity for States to strategize broadly about the service continuum and family needs, State Plans need to include the major programs serving children and their families, including child welfare services broadly defined, and need to consider family support and family preservation services not as isolated categorical programs but as a part of the overall continuum. Ideally, the planning process will offer an opportunity for multiple State, local and community agencies and organizations (as well as Federal agencies) to become partners on behalf of children.

State planning and service development activities should be characterized by broad consultation and involvement, the identification and gathering of data needed for planning (needs assessment), and joint planning between Federal and State agency staff leading to the development of the State Plan.

A. Consultation and Coordination

We recognize that many States have successful, cross-cutting planning processes underway for child and family services. We believe that these new title IV-B funds can be used to build on and strengthen current planning efforts and act as a catalyst for States at the beginning of this planning process.

In isolation, family support and family preservation services cannot effectively address the needs of children and families. Therefore, consultation and coordination should include the active involvement of major actors across the entire spectrum of the service delivery system for children and their families including:

- State and local public agencies, non-profit private agencies, and community-based organizations with experience in administering programs of services for children and families (including family support and family preservation);
- Representatives of communities, Indian Tribes, and other areas where needs for family support and family preservation are high.
- Parents (especially parents who are participating in or who have participated in family support and/or family preservation programs) and other consumers, foster parents, adoptive parents, and families with a member with a disability.
- Representatives of professional and advocacy organizations (including foundations and national resource centers with the expertise to assist States and communities with regard to family support and family preservation), individual practitioners working with children and families, and the courts; and
- State and local agencies administering Federal and federally assisted programs, such as maternal and child health; the Early and Periodic, Screening, Diagnosis, and Treatment program; mental health; child abuse and neglect (e.g., the NCCAN emergency child-abuse prevention services grants); transitional and independent living; substance abuse; education; developmental disabilities; juvenile justice; early childhood education (child care and Head Start); domestic violence; youth gangs; housing; income security (AFDC, JOBS, Child Support); nutrition (Food Stamps, WIC); the social services and the community services block grant; and the title IV-A Emergency Assistance program.

There are many purposes of outreach and consultation, including the development of new and more effective service approaches for children and families, the assessment of family and community needs, the identification of service overlaps and gaps, the identification of available resources (expertise, money, facilities, staff) that might help to meet needs, and the development of strategies for blended financing, common application forms, or simplified case management procedures across programs. All of these outcomes help to improve service delivery to children and families.

B. Collection of Data

An essential component of the planning process is the collection of information on which to base service decisions and determine future goals. We strongly recommend that States conduct a thorough needs assessment using available data whenever possible.

The needs assessment should identify the existing array of family support, family preservation, and other related services currently being provided; resources and sources of funding; and gaps and deficiencies in services. It should also identify data on which to base target population decisions, e.g., demographic characteristics of children and families from census data; State legislative and city planning data; child abuse and neglect and infant mortality data; data on communities that experience high rates of foster care placements; and data about communities experiencing disproportionately high levels of poverty, homelessness, substance abuse, or teen pregnancy. A State might also project what the future circumstances of families and children in the State would be if nothing were done.

C. Joint Planning

Joint planning is an ongoing process of discussion, consultation, and negotiation which takes place between the State child welfare agency and the Federal Regional Office representative for the purpose of developing a State Plan. It includes Federal technical assistance to the State as well.

Through joint planning, State and Federal staff, with appropriate consultation and participation of other State, local and community-based stakeholders, discuss the key strategic decisions facing the State (as identified from needs assessments, consultation, and data available to the State):

- Priorities for services and for target populations;
- Proposed goals and objectives;
- Unmet needs, services gaps, and overlaps in funding;
- Other funding resources available to provide the services needed;
- The State and local organizations, foundations, and agencies with which the child welfare agency can coordinate;
- Ongoing plans to move toward the State's goals by improving the service delivery system and ensuring a more efficient comprehensive system of care for children and families; and
- Methods for reviewing progress toward those goals.

Finally, joint planning also includes Federal guidance and technical assistance after the State Plan has been developed and approved. This is provided through follow-up review and discussion of progress in accomplishing the goals identified in the plan and updating the plan as appropriate.

Part IV: Statutory and Fiscal Requirements

A. Brief Outline of Major Provisions of the Statute

1. Purpose

Family Preservation and Support Services is a capped entitlement program. Its purpose is to encourage and enable each State "to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services." One hundred percent Federal funding is available in FY 1994 to develop and submit a five-year State Plan for such services in FY 1995. (Section 430) A copy of the statute is found in Attachment B.

2. Five-Year State Plan

In order to receive funds in FY 1995, each State must submit a five-year State Plan for FYs 1995–99. The plan must at minimum:

- Set forth the goals to be accomplished by the end of the fifth year;
- Be updated periodically to set forth the goals to be accomplished by the end of each fifth fiscal year thereafter;
- Describe the methods to be used to measure progress toward the goals; and
- Provide for coordination of services under the plan with other Federal or federally assisted programs serving the same populations.

As part of an ongoing planning process, the State must:

- Annually review progress toward accomplishing the goals;
- Based on the annual review, revise the goals if necessary; and
- At the end of the fifth year, conduct a final review and provide a report to the Secretary and to the public on progress toward accomplishing the goals; and
- Also at the end of the fifth year, amend the plan to set forth the goals for the next five years as developed in consultation with public and non-profit agencies. (Section 432 (a))

3. Joint Planning and Consultation Requirements

The Secretary will approve a plan that meets the requirements only if the plan was developed:

- Jointly by the staff of the Department and the State (Section 432(b)(1)); and
- After consultation by the State agency with appropriate public and non-profit private agencies and community-based organizations with experience in administering programs of services for children and families, including family support and family preservation services. (Section 432(b))

4. Public Information and Reporting Activities

Annually, the State must furnish to the Secretary, and make available to the public, a report which contains a description of:

- The family preservation services and the community-based family support services to be made available under the plan in the upcoming fiscal year;
- The populations each program will serve; and
- The geographic areas in the State where each service will be available.

This first descriptive services report for FY 1995 and FY 1996 is due at the time the State submits its FY 1995 plan, and subsequent reports will be due by June 30 of each succeeding fiscal year for the upcoming fiscal year. (Section 432(a)(5))

As noted above, at the end of each five-year plan period, the State must report to the Secretary and to the public on its progress in meeting its five-year goals and on its goals for the next five-year period.

5. FY 1994 Application and Special Rule Requirements

- The State must submit an application for funds for FY 1994.
- Up to $1 million of a State's allotment may be used for planning purposes to develop and submit the FY 1995–99 plan.
- Funds used for planning purposes in FY 1994 are 100 percent Federal funds, i.e., no State match is required.
- Funds not needed to develop the FY 1995–99 plan may be used to provide family support and family preservation services; funds over $1 million in a State's allotment may only be used for such services.

6. Fiscal and Administrative Requirements

- Funds used to provide services in FY 1994 and subsequent years are federally reimbursed at 75 percent. Federal funding for planning and services will not exceed the amount of the State's allotment.
- States using funds for services in FY 1994 and subsequent years may not use more than 10 percent of total Federal and State service expenditures under this program for administrative costs.
- The ten percent limitation on administrative costs does not apply to funds used for planning purposes in FY 1994.
- States must spend a significant portion of service dollars for family support and for family preservation services, respectively. (Section 432 (a)(4))
- The use of other Federal funds as the State's share of expenditures is prohibited. (Section 434)

7. Other Requirements

The statute requires that the State will:

- Provide for the proper and efficient operation of the State Plan (Section 432(a)(6));
- Assure, and provide fiscal reports to the Secretary to demonstrate compliance with the requirement, that Federal funds under this program will not be used to supplant Federal or non-Federal funds for existing family support and family preservation services and activities (Section 432 (a)(7));
- Furnish other reports as required (Section 432(a)(8));
- Participate in evaluations as required (Section 432(a)(8)); and
- Expend funds by September 30 of the fiscal year following the fiscal year in which the funds were awarded, i.e., the State must liquidate all obligations of FY 1994 funds by September 30, 1995. (Section 434(b)(2))

8. Definitions

Definitions, including definitions of services, are found in Section 431 of the Social Security Act. The Conference Report language provides additional examples of family support services (see Attachment B).

B. Additional Fiscal and Administrative Information

1. Rate of Federal Match

This FFP rate is the same as the rate under Subpart 1 of title IV-B. The State's contribution may be in cash or donated funds.

For example, a State with an allotment of $600,000 must spend at least $800,000 (at least $200,000 of which is non-Federal) in order to receive the full amount of the allotment. If the State spends less than $800,000 (e.g., $700,000), it will receive 75 percent of the amount it spends (e.g., for $700,000 in expenditures, the State will receive $525,000).

2. Submittals

- *The FY 1994 Application.* The application for FY 1994 funds may be submitted as a preprint or in the format of the State's choice. A recommended preprint is found at Attachment D. If a State uses its own format, the application must include all the information specified in the preprint.

We encourage States to submit the FY 1994 application to the appropriate Regional Office as soon as possible after completing the application requirements and no later than June 30, 1994. Grant awards will be made after the application has been approved. (See Attachment F for a list of Regional Offices.)

• *The FY 1995 State Plan.* FY 1995 funds are available only after the State has submitted, and ACF has approved, a five-year State Plan for services that meets all requirements.

ACF is considering consolidating the five-year State Plan for Family Preservation and Support Services with the State's title IV–B (Subpart 1, Child Welfare Services) State Plan, and the title IV–E Independent Living Program plan. Instructions for submittal of this proposed consolidated FY 1995 five-year State Plan will be issued in the future to coincide with regulations ACF expects to propose for family support and family preservation services.

States are encouraged to submit the FY 1995 State Plan as soon as possible after completing the planning process and no later than June 30, 1995. Grant awards will be made after the plan has been approved.

3. Other Information

• FY 1994 funds are available for expenditures from the beginning of the fiscal year, i.e., October 1, 1993.

• There is no reallotment provision in this new legislation.

• The SF–269 report must be submitted annually to the Regional Office.

• Title IV–B, subpart 2, is covered by Executive Order 12372 for the purpose of consolidation and simplification of the State Plan only. Like title IV–B, subpart 1, it is excluded from the intergovernmental review process under the Executive Order.

Part V.—Application Instructions

A. Planning

We expect and encourage States to take full advantage of the opportunity to use the 100 percent FY 1994 Federal funds, up to $1 million, for comprehensive planning and other planning related activities, such as training, technical assistance, assessment, public information and education, and commissioning further analyses. We believe that such planning is critical to the development of a five-year State Plan for services and to the effective establishment of a continuum of services for children and families that includes family support and family preservation services.

To qualify for Federal funding for FY 1994 under title IV–B, Subpart 2, Family Preservation and Support Services, a State must submit an application to the ACF Regional Office. (See optional application preprint at Attachment D.)

All applications must: 1. Provide the name of the State agency that will administer the program. It must be the same agency that administers title IV–B, part 1.

2. Specify the estimated amount of the State's FY 1994 allotment that will be used for planning for family preservation and family support services, including development of a five-year State Plan for services in the context of a comprehensive child welfare services plan.

3. Describe the proposed use of FY 1994 funds for planning activities, including:

• A description of the process the State will follow or the existing State/local planning processes it will use to ensure that parents, consumers, Indian Tribes, representatives of communities, and a variety of State, local, and non-profit agencies, community-based organizations and individuals having experience with services to vulnerable children and families, including family preservation and family support services, will be actively involved in the planning process;

• A description of how the State will coordinate the provision of services with representatives of other Federal and federally assisted programs to develop a more comprehensive and integrated service delivery system;

• A list of planned contacts and a description of the outreach activities, such as hearings or focus group meetings, that the State will use to ensure that interested parties in the State have an opportunity for active involvement in this planning process; and

• A description of how the State will inform all appropriate parties about this new legislation and the planning, consultation, and coordination provisions.

4. Describe how the State will assess State and local needs (or describe a recently conducted prior planning process which assessed community needs and meets the requirements of this paragraph). The proposed approach to needs assessment should contain enough local detail to support State targeting decisions and include specific data collection strategies on service populations, service needs, available programs, and available resources. Examples of information that may be useful are local area data (including census tract data) on the number and types of child abuse and neglect reports and foster care placements, and data by community on child and family poverty, homelessness, substance abuse, teen pregnancy. (See Attachment C for reference materials on needs assessments.)

5. Describe how the State will collect information on the nature and scope of existing public and privately funded family preservation and family support programs in the State.

Information about these programs should be used to make informed decisions on investing or expanding existing services or moving in new directions.

6. Describe other activities the State will carry out to develop the five-year State Plan and implement service system reform, including activities such as:

• Training and technical assistance; and

• The approach the State will take to assess the implementation and effectiveness of the family support and family preservation services within the State and their effect on the broader child welfare and family services system.

7. Supply State FY 1992 summary fiscal data, as shown on the attached application preprint, on federally- or State-funded family support and family preservation programs to enable monitoring of the prohibition against supplantation of funds for these programs.

8. Provide the following general assurances:

• The State will perform administrative procedures determined necessary by the Secretary of HHS, for the proper and efficient operation of the State's program.

• The State will not use Federal funds provided to the State under this program to supplant Federal or non-Federal funds, including those provided to community-based programs, for existing family preservation or family support services. The State will furnish requested reports to the Secretary of HHS, that demonstrate the State's compliance with the prohibition against supplantation.

• The State will furnish reports requested by the Secretary of HHS, including the SF–269.

• The State will participate in any national or local (including local third party) evaluations of the program that may be required by the Secretary of HHS. (A State may be asked to provide information about the number of children served by the new program, State goals on foster care caseloads, and on reports of child abuse and neglect.)

• The State will not expend (obligate and liquidate) any amount paid under this program for any fiscal year after the end of the immediately succeeding fiscal year.

9. Certify that the State will meet the following certifications contained in the application preprint by signing the first and submitting the two remaining certifications. (The signature of the authorized State official on the application constitutes compliance with the drug-free workplace and the debarment certifications.)

• Anti-Lobbying and Disclosure Form;

• Drug-Free Workplace Requirements; and

• Debarment Certification.

10. Provide the name, signature and title of the State agency official certifying compliance with all assurances and certifications associated with the receipt of funds for family preservation and family support services. Also, provide the name, title and telephone number of a State contact person responsible for the planning effort.

B. Services

A State may apply to use FY 1994 funds for services in the following circumstances:

a. Any funds over $1 million used by the State must be used for services.

b. If, after reviewing the FY 1994 application requirements for planning and the preliminary issues for possible regulatory action for the FY 1995 State Plan (see Attachment E), the State believes it can demonstrate that it has met or is in the process of meeting most of these requirements and will have funds from its allotment not needed for planning or developing the FY 1995 State Plan, it may apply to use these funds for services.

Before authorizing the expenditure of FY 1994 funds for services, we will want to be satisfied, for example, that the State expects to meet the requirements for consultation with community-based organizations, parents, and others in its design and funding of family support programs; that it has completed or expects to complete a needs assessment and obtain both State and local data necessary for services planning and/or expansion; and that it has coordinated with other State agencies and Federal and federally assisted programs in order to develop collaborative arrangements to improve service delivery to vulnerable families. The State also must be able to show how the family preservation and support services to be provided in FY 1994 are related to the State's current title IV–B Services Plan.

We urge States to consult with Regional Office staff as they prepare their FY 1994 application for planning/services. Regional Office staff will clarify requirements, review materials submitted as part of the application, and provide further guidance.

In order to receive funding for services in FY 1994, a State's application must include the following information:

1. Specify the estimated amount of the State's allotment that will be used for services, and the amount the State will contribute (at least 25 percent of the total, i.e., 33 percent of the Federal contribution). Include total estimates of the amounts to be used for training, technical assistance, and administrative costs.

2. Include the findings of a needs assessment or prior planning processes that led to the decision to spend FY 1994 funds for services and to the selection of the type of services, the populations to be served, and the geographic areas for each type of service. Include a description of the needs assessment/planning process and a list of the organizations and individuals that participated.

3. Describe how representatives from Indian Tribes, cities and communities, groups identified as having expertise in the field of family preservation and family support, parents, consumers, and others participated in the development of the application for FY 1994 services funds.

4. Identify the State's goals for services to vulnerable children and families in FY 1994 and indicate how the funds obtained under this program will assist in meeting these goals. Specifically, describe how these funds will be used to develop or expand family support and family preservation services and strengthen service delivery in the existing child welfare system.

Describe how these funds will link to other services (such as social, educational, juvenile justice, substance abuse, and health and mental health services) to improve the likelihood that children and families will receive care appropriate to meet their multiple needs.

5. Describe separately the family support services and the family preservation services that will be provided using FY 1994 funds. Include a description of the populations to which each type of service will be directed and the geographic areas where each type of service will be provided.

Describe the nature and scope of existing public and privately funded family preservation and family support services in the State.

6. Indicate the specific percentage of FY 1994 funds that the State will expend for community-based family support and for family preservation services, respectively, and the rationale for that choice. Include an explanation of how this distribution was reached and why it meets the requirement that a "significant portion" of the service funds must be spent for each service. Examples of important considerations might include the nature of the planning efforts that led to the decision, the level of existing State effort in each area, and the resulting need for new or expanded services. While there is no minimum percentage that defines significant, States should be aware that the rationale will need to be especially strong if the request for either allocation is below 25 percent.

7. Estimate the amount of family support funds which the State will provide to community-based organizations and how organizations will be selected to receive these funds.

8. Specify the following information:

• Describe the types of activities that will be claimed as administrative costs. These typically are the overhead costs associated with personnel, such as State agency rent, utilities, supplies, and so on.

• Describe the types of training and technical assistance activities that will be carried out. (Costs directly associated with the provision of services are not considered administrative costs, e.g., training for individuals to administer or deliver family support or family preservation services.)

9. Provide the following assurances:

• The State will not spend more than ten percent of family support and family preservation service funds on administrative costs.

• The State will spend a significant portion of funds for family preservation and for family support services, respectively.

• The State will not use Federal funds to meet the State's share of costs of services not covered by the amount received under this law.

Note: The State will meet the general assurances in the law (see p. 23) by submitting the signed planning section of this application.

10. Provide the name, signature and title of the State agency official certifying compliance with all assurances and certifications associated with the receipt of funds for family preservation and family support. Also, provide the name, title and telephone number of a State contact person for

family support and family preservation services.

Inquiries to: ACF Regional Administrators—Olivia A. Golden, Commissioner, Administration on Children, Youth and Families.

For the purpose of this Federal Register Announcement, only the body of the Program Instruction has been included as the most pertinent information for prospective applicants. Attachments A through F have not been included because they repeat information, or have been determined to be less relevant to this announcement.

However, the Program Instruction, complete with all attachments may be obtained from the Clearinghouse on Child Abuse and Neglect Information, (800) 394–3366 or (703) 385–7565.

Appendix 2—Clearinghouses and Resource Centers

Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, DC 20013, (703) 385–7565, (800) FYI–3366, (703) 385–3206 FAX

National Adoption Information Clearinghouse (NAIC), 11426 Rockville Pike, Suite 410, Rockville, MD 20852–3007, (301) 231–6512, (301) 984–8527 FAX

Center for Substance Abuse Prevention (CSAP), National Clearinghouse for Alcohol and Drug Information (NACADI), P.O. Box 2345, Rockville, MD 20847–2345, (800) 729–6686, (301) 468–2600, (301) 468–6433 FAX, (301) 230–2687 TDD

National Information Clearinghouse (NIC) for Infants with Disabilities and Life-Threatening Conditions, Center for Developmental Disabilities/USC, Benson Building, 1st Floor, Columbia, SC 29208, (800) 922–9234 ext. 201, (800) 922–1107 (in SC), (803) 777–4435, (803) 777–6058 FAX

Juvenile Justice Clearinghouse, Box 6000, Rockville, MD 20850, (800) 638–8736, (310) 251–5212 FAX

National Center for Education in Maternal and Child Health (NCEMCH), 2000 15th Street, North, Suite 701, Arlington, VA 22201–2617, (703) 524–7802, (703) 524–9335 FAX

National Center for Missing and Exploited Children (NCMEC), 2101 Wilson Boulevard, Suite 550, Arlington, VA 22201–3052, (703) 235–3900, (800) 843–5678 Hotline, (800) 826–7653 TDD Hotline, (703) 235–4067 FAX

Center for Substance Abuse Prevention, National Resource Center for the Prevention of Perinatal Abuse of Alcohol and Other Drugs, 9300 Lee Highway, Fairfax, VA 22031, (703) 218–5600, (800) 354–8824, (703) 218–5701 FAX

National Clearinghouse on Runaway and Homeless Youth (NCRHY), P.O. Box 13505, Silver Spring, MD 20911–3505, (301) 608–8098, (301) 587–4352 FAX

National Victims Resource Center (NVRC), P.O. Box 6000, Rockville, MD 20850–6000, (800) 627–6872, (301) 251–5121

Work and Family Clearinghouse, Women's Bureau, U.S. Department of Labor, 200 Constitution Avenue, Washington, DC 20201–0002, (800) 827–5335, (202) 523–4486, (202) 523–1529

Appendix 3—Administration for Children and Families—Regional Offices

Program Managers, Child Care, Child Welfare and Developmental Disabilities, OFSS

Region I

Tina Janey-Burrell, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, JFK Federal Building, Room 600, 6th Floor (Temp), Boston, MA 02203, Phone: 617–565–3296, Fax: 617–565–2493

Region II

Salvatore Milano, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, Federal Building, Room 4048, 26 Federal Plaza, New York, NY 10278, Phone: 212–264–2975, Fax: 212–264–4881

Region III

Richard Gilbert, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, 3535 Market Street, Room 5450, Philadelphia, PA 19101, Phone: 215–596–0293, Fax: 215–596–5028

Region IV

William Behm, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, 101 Marietta Tower, Suite 821, Atlanta, GA 30323, Phone: 404–331–2398, Fax: 404–331–1776

Region V

Kathleen Penak, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, 105 West Adams Street, 20th Floor, Chicago, IL 60603, Phone: 312–353–6503, Fax: 312–353–2204

Region VI

Manuel Soto, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, 1200 Main Tower Building, Suite 1700, Dallas, TX 75202, Phone: 214–767–6596, Fax: 214–767–3743

Region VII

Robert Reed, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, 601 E. 12th Street, Room 384, Kansas City, MO 64106, Phone: 816–426–5211, Fax: 816–426–2888

Region VIII

Charles Graham, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, Federal Office Building, 1961 Stout Street, Room 1185, Denver, CO 80294–3538, Phone: 303–844–4890, Fax: 303–844–3642

Region IX

John McGee, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, 50 United Nations Plaza, Room 450, San Francisco, CA 94102, Phone: 415–556–6153, Fax: 415–556–3046

Region X

Richard McConnell, Program Manager, OFSS/OSP, Administration for Children and Families, Department of Health and Human Services, Blanchard Plaza, 2201 Sixth Avenue, Room 610–M/S RX–70, Seattle, WA 98121, Phone: 206–615–2558 ext. 3102, Fax: 206–615–2575

BILLING CODE 4184–01–P

APPENDIX 4

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (*specify*):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184-01-C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by the Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-Explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contract on matter related to this application.

6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service

7. Enter the appropriate letter in the space provided.

8. Checks appropriate box and enter appropriate letter(s) in the space(s) provided:

—"New" means a new assistance award.

—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.

—"Revision" means any change in the Federal Government's financial obligation of contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append and explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. list the applicant's Congressional District and any district(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contract the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

BUDGET INFORMATION — Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4 88)
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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A.—Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5

Show the totals for all columns used.

Section B.—Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i

Show the totals of Lines 6a to 6h in each column.

Line 6j

Show the amount of indirect cost.

Line 6k

Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in Column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Instructions for the SF–424A *(continued)*

Line 7

Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C.—Non-Federal-Resources

Line 8–11

Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12

Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5. Column (f), Section A.

Section D.—Forecasted Cash Needs

Line 13

Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14

Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15

Enter the totals of amounts on Lines 13 and 14.

Section E.—Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19

Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20

Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F.—Other Budget Information

Line 21

Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22

Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23

Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the

awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

(a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin;

(b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps;

(d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse;

(f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing,

(i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and

(j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. § § 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation or residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official:

Applicant Organization:

Title:

Date Submitted:

Appendix 5—Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, ATTN: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866–2156

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, D.C. 20005, Telephone (202) 727–6551

Florida

Flordia State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Pleae direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025.

New Mexico

Geroge Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

South Dakota

Ms. Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point or Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750.

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or,

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street Address, City, County, State, ZIP Code): _

Check __ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Appendix 7—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the

prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction. " provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding, Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions" without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Appendix 8—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–lLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the require statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by O·
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:

Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ **Date:** _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

[FR Doc. 94–9930 Filed 4–29–94; 8:45 am]
BILLING CODE 4184–01–C

Availability of Financial Assistance for Projects Funded Under the Adoption, Opportunities Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Announcement of the Availability of Financial Assistance and Request for Applications to Carry Out Demonstration Projects Funded Under the Adoption Opportunities Branch in the Children's Bureau, Administration on Children, Youth and Families.

SUMMARY: The Children's Bureau of the Administration on Children, Youth and Families announces the availability of fiscal year 1994 funds for grants to public or private nonprofit child welfare and adoption agencies, organizations and adoptive parent groups to assist in supporting programs directed to: (A) Increasing the placements in adoptive families of minority children who are in foster care and have the goal of adoption, with a special emphasis on the recruitment of minority families; (B) providing post-legal adoption services for families who have adopted special needs children; and, (C) increasing the rate of placement of children in foster care who are legally free for adoption.

Funding for these grants is authorized under Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95–266, as amended).

This announcement contains all necessary application materials.

DATES: The deadline for submission of applications is July 1, 1994.

ADDRESSES: Applications may be mailed to the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 6th Floor East, OFM/DDG, Washington, DC 20447.

Hand delivered applications are accepted during normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street SW., Washington, DC 20447.

FOR FURTHER INFORMATION CONTACT: ACYF Operations Program, Telephone: 1 (800) 351–2293.

SUPPLEMENTARY INFORMATION: The Administration on Children, Youth and Families (ACYF) administers national programs for children and youth, works with States and local communities to develop services which support and strengthen family life, seeks out joint ventures with the private sector to enhance the lives of children and their families, and provides information and other assistance to parents.

The concerns of ACYF extend to all children from birth through adolescence, with particular emphasis on children who have special needs. Many of the programs administered by the agency focus on children from low-income families; children and youth in need of foster care, adoption or other child welfare services; preschool children, including children with disabilities; abused and neglected children; runaway and homeless youth; and children from Native American families.

The priority areas identified in this announcement are derived from legislative mandates as well as Departmental goals and initiatives. The priorities reflect the state of current knowledge as well as emerging issues which come to ACYF's attention by several means including consultation with advocates, policymakers, and practitioners in the field.

The priorities seek to focus attention on and to encourage demonstration efforts to obtain new knowledge and improvements in service delivery for the solution of particular problems and to promote the dissemination and utilization of the knowledge and model practices developed under these priorities.

This program announcement consists of three parts. Part I provides information on the goals of the Children's Bureau (CB), the ACYF office which is requesting applications, and the statutory authorities for awarding grants.

Part II describes the review process and the programmatic priorities under which applications are being solicited.

Part III provides information and instructions for the development and submission of applications.

Part I—Introduction

A. Goals of the Children's Bureau

Within ACYF, Children's Bureau's Division of Child Welfare plans, manages, coordinates and supports child welfare services programs. It administers the Foster Care and Adoption Assistance Program, the Child Welfare Services Program, the Child Welfare Research, Demonstration and Training Program, the Adoption Opportunities Program, the Temporary Child Care and Crisis Nurseries Program, Independent Living Program and the Abandoned Infants Assistance Program.

The Bureau's programs are designed to promote the welfare of all children, including disabled, homeless, dependent or neglected children and their families. The programs aid in preventing and remedying the neglect, abuse and exploitation of children and the unnecessary separation of children from families.

B. The Statutory Authority Covering this Announcement

The Adoption Opportunities Program provides financial support for demonstration projects to: Improve adoption practices; eliminate barriers to adoption; and find permanent homes for children, particularly children with special needs. Authorization: Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, Title II, Section 203, as amended, Public Law 95–266; Public Law 98–457, the Child Abuse Prevention, Adoption and Family Services Act of 1988, as amended, Title II, Section 201, Public Law 100–294; Public Law 102–295; 42 U.S.C. 5111 *et seq.*

Part II—Review Process and Priority Areas

A. Eligible Applicants

Each priority area description contains information about the types of agencies and organizations which are eligible to apply under that priority area. Because eligibility varies depending on statutory provisions, it is critical that the "Eligible Applicants" section of each priority area be reviewed carefully.

Before review, each application will be screened for applicant organization eligibility as specified under the selected priority area. Applications from ineligible organizations will not be considered or reviewed in the competition, and the applicant will be so informed.

Only agencies and organizations, not individuals, are eligible to apply under this Announcement. All applications developed jointly by more than one agency or organization, must identify only one lead organization and official applicant. Participating agencies and organizations can be included as co-participants, subgrantees or subcontractors. For-profit organizations are eligible to participate as subgrantees or subcontractors with eligible non-profit organizations under all priority areas.

Any non-profit agency which has not previously received Federal support must submit proof of non-profit status

either by making reference to its listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or by submitting a copy of its letter from the IRS under IRS Code Section 501(c)(3). The ACYF cannot fund a non-profit applicant without acceptable proof of its non-profit status.

B. Review Process and Funding Decisions

Timely applications postmarked by the deadline date which are from eligible applicants will be reviewed and scored competitively. Experts in the field, generally persons outside the Federal government, will use the appropriate evaluation criteria listed later in this section to review and score the applications. The results of this review are a primary factor in making funding decisions.

The ACYF reserves the option of discussing applications with, or referring them to, other Federal or non-Federal funding sources when this is in the best interest of the Federal government or the applicants. ACYF may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ACYF in making funding decisions.

In making decisions on awards, ACYF may give preference to applications which focus on or feature: minority populations; a substantially innovative strategy with the potential to improve theory or practice in the field of human services; a model practice or set of procedures that holds the potential for replication by organizations that administer or deliver human services; substantial involvement of volunteers; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit for low Federal investment; a programmatic focus on those most in need; and/or substantial involvement in the proposed project by national or community foundations.

To the greatest extent possible, efforts will be made to ensure that funding decisions reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ACYF may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

A panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. To facilitate this review, applicants should ensure that they address each minimum requirement in the priority area description under the appropriate section of the Program Narrative Statement.

The reviewers will determine the strengths and weaknesses of each proposal using the evaluation criteria listed below, provide comments and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight.

All applications will be evaluated against the following criteria.

A. Objective and Need for Assistance (20 points). The extent to which the application pinpoints any relevant physical, economic, social, financial, institutional or other problems requiring a solution; demonstrates the need for the assistance; states the principal and subordinate objectives of the project; provides supporting documentation or other testimonies from concerned interests other than the applicant; and includes and/or footnotes relevant data based on the results of planning studies. The application must identify the precise location of the project and area to be served by the proposed project. Maps and other graphic aids may be attached.

B. Approach (35 points). The extent to which the application outlines a sound and workable plan of action pertaining to the scope of the project, and details how the proposed work will be accomplished; cites factors which might accelerate or decelerate the work, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements; and provides for projections of the accomplishments to be achieved. It lists the activities to be carried out in chronological order, showing a reasonable schedule of accomplishments and target dates.

The extent to which, when appropriate, the application identifies the kinds of data to be collected and maintained, and discusses the criteria to be used to evaluate the results and successes of the project. The extent to which the application describes the evaluation methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. The application also lists each organization, agency, consultant, or other key individuals or groups who will work on the project, along with a description of the activities and nature of their effort or contribution.

C. Results or Benefits Expected (20 points). The extent to which the application identifies the results and benefits to be derived, the extent to which they are consistent with the objectives of the proposal, and the extent to which the application indicates the anticipated contributions to policy, practice, theory and/or research. The extent to which the proposed project costs are reasonable in view of the expected results.

D. Staff Background and Organization's Experience (25 points). The application identifies the background of the project director/principal investigator and key project staff (including name, address, training, educational background and other qualifying experience) and the experience of the organization to demonstrate the applicant's ability to effectively and efficiently administer the project. The application describes the relationship between the proposed project and other work planned, anticipated or underway by the applicant with Federal assistance.

E. Structure of Priority Area Descriptions. Each priority area description is composed of the following sections:

Eligible Applicants: This section specifies the type of organization eligible to apply under the particular priority area. Specific restrictions are also noted, where applicable.

Purpose: This section presents the basic focus and/or broad goal(s) of the priority area.

Background Information: This section briefly discusses the legislative background as well as the current state-of-the-art and/or current state-of-practice that supports the need for the particular priority area activity. Relevant information on projects previously funded by ACYF and/or others, and State models are noted, where applicable.

Minimum Requirements for Project Design: This section presents the basic set of issues that must be addressed in the application. Typically, they relate to project design, evaluation, and community involvement. This section also asks for specific information on the proposed project. Inclusion and discussion of these items is important since they will be used by the reviewers in evaluating the applications against the evaluation criteria. Project products, continuation of the project effort after

the Federal support ceases, and dissemination/utilization activities, if appropriate, are also addressed.

Project Duration: This section specifies the maximum allowable length of time for the project period; it refers to the amount of time for which Federal funding is available.

Federal Share of Project Cost: This section specifies the maximum amount of Federal support for the project.

Matching Requirement: This section specifies the minimum non-Federal contribution, either through cash or in-kind match, required in relation to the maximum Federal funds requested for the project.

Anticipated Number of Projects To Be Funded: This section specifies the number of projects that ACYF anticipates it will fund under the priority area.

CFDA: This section identifies the Catalog of Federal Domestic Assistance (CFDA) number and title of the program under which applications in this priority area will be funded. This information is needed to complete item 10 on the (SF 424) grant application form.

Please note that applications that do not comply with the specific priority area requirements in the section on Eligible Applicants will not be reviewed. Applicants should also note that non-responsiveness to the section Minimum Requirements for Project Design will result in a low evaluation score by the reviewers. Applicants must clearly identify the specific priority area under which they wish to have their applications considered, and tailor their applications accordingly. Previous experience has shown that an application which is broader and more general in concept than outlined in the priority area description scores lower than one more clearly focused on, and directly responsive to, that specific priority area.

E. Available Funds

The ACYF intends to award new grants resulting from this announcement during the fourth quarter of fiscal year 1994, subject to the availability of funds. The size of the actual awards will vary.

Each priority area description includes information on the maximum Federal share of the project costs and the anticipated number of projects to be funded.

The term budget period refers to the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. The term project period refers to the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the maximums specified in the various priority areas. Non-Federal share contributions may exceed the minimums specified in the various priority areas when the applicant is able to do so. However, applicants should propose only that non-Federal share they can realistically provide since any unmatched Federal funds will be disallowed by ACF.

For multi-year projects, continued Federal funding beyond the first budget period is dependent upon satisfactory performance by the grantee, availability of funds from future appropriations and a determination that continued funding is in the best interest of the Government.

F. Grantee Share of Project Costs

Grantees must provide at least 25 percent of the total cost of the project. The total approved cost of the project is the sum of the ACYF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $200,000 in Federal funds (based on an award of $100,000 per budget period), must include a match of at least $33,333 (25% total project cost).

G. Index of Priority Areas

To assist potential applicants in using this announcement, a priority area index in numerical order, is presented below.

1.01 Adoptive Parent Groups as Partners in the Adoption of Children with Special Needs

1.02 Increase Adoptive Placements of Minority Children

1.03 Adoptive Placement of Foster Care Children

1.04 Post-Legal Adoption Services

1.05 Respite Care as a Service for Families who Adopt Children with Special Needs

1.06 Synthesis of Results of Post-Legal Adoption Projects

1.07 Regional Conferences on the Adoption of Minority Children

1.08 Developing Collaborative Efforts between Foster Care and Adoption Staff to Improve Child Welfare Services From Intake to Permanency

1.09 Field Initiated Projects

H. Priority Areas

1.01 Adoptive Parent Groups as Partners in the Adoption of Special Needs Children

Eligible Applicants: Voluntary or public social service agencies, adoption exchanges or other national, regional or statewide adoption-related organizations.

Purpose: To develop new adoptive parent groups or expand or strengthen existing adoptive parent groups to assist and support families adopting children, especially minority parent groups.

Background: Through the years adoptive parents have aggressively promoted the adoption of children with special needs. As consumers of adoption services, these parents bring to the adoption field a special perspective both on the children to be served and the agencies that serve them. They have advocated effectively for children and challenged the term "unadoptable" by demonstrating that children with special needs can be placed with families of their own. Often the members of parent groups have come together out of a common need to help each other to more effectively access the child welfare system for the purpose of adoption. Having experienced common problems, the members of parent groups may share information and insights and provide empathy and support for one another through regularly scheduled social and educational activities.

In past years, parent groups have used Federal funds to: Establish warm-lines as resources for adoptive parents; sponsor adoption fairs with the participation and cooperation of adoption agencies and other groups involved in adoption; establish resource libraries; form new support groups; conduct support group conferences; publish and distribute newsletters; and provide adoptive parents stipends to attend conferences.

Currently, there are more than 452,000 children in foster care in the United States and the numbers are growing. Fifty thousand of these children have special needs and are waiting to be adopted. Over half of these waiting children are of minority heritage. Strong parent groups can play an important role in promoting the adoption of these children by sponsoring such activities as information and referral services; recruitment and orientation for prospective adoptive parents; and respite care and work with social service agencies to support families following placement and legalization. The ACYF recognizes the need to support the development of strong,

effective parent groups working in partnership with child welfare/adoption agencies to advocate for needed services and support; to promote the adoption of children with special needs; and to support the establishment of new adoptive parent groups and strengthen existing groups.

Minimum Requirements: In order to compete successfully under this priority area, the applicant should:

- Document its capability to assist local or State adoptive parent groups to work with child welfare agencies.
- Describe the process to be used in developing new adoptive parent groups, especially minority groups, and specify the number of new groups to be developed.
- Describe a plan for awarding sub-grants, not to exceed $5,000, to incorporated non-profit local or State adoptive parent groups to work with child welfare agencies and adoptive families, including pre- and post-adoption services.
- Describe the methods to be used to request proposals from parent groups which focus on special needs adoption problems or issues.
- Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, D.C. (The Conference provides the opportunity for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.)
- Provide assurances that the project will be fully staffed and implemented within 90 days of the notification of the grant award.

Project Duration: The length of the project must not exceed 17 months.

Federal Share of Project Costs: The maximum Federal share of the project is not to exceed $85,000 for the 17-month project period.

Matching Requirements: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be Funded: It is anticipated that a minimum of three projects will be funded.

1.02 Increase Adoptive Placements of Minority Children

Eligible Applicants: States, local government entities, public or private non-profit licensed child welfare or adoption agencies, and adoption exchanges and community-based organizations with experience in working with minority populations. Given limited funds, and in order to generate and financially support the widest possible variety of issues and approaches, priority will be given to applicants which have not been funded under this priority area in previous fiscal years. However, previously funded applicants under this priority area will not be precluded from receiving grants.

Purpose: To implement programs designed to increase the adoptive placement of minority children who are in foster care and have the goal of adoption, with a special emphasis on the recruitment, retention and utilization of minority families; adoptive placements for minority children over the age of ten; and adoptive placement of sibling groups.

Background Information: The Adoption Opportunities legislation, emphasizes the recruitment of minority families and authorizes funds for demonstration projects for the recruitment of families to adopt waiting minority children. It is estimated that approximately half of the 50,000 children currently free for adoption and awaiting placement are minority children. Many of them are older, some are in siblings groups, some have disabilities and they may wait long periods of time before they are placed with adoptive families.

The Packard Foundation reports that the current situation for children of color is alarming. The proportion of these children in foster care is three times greater than their proportion in the population of the United States. The ACYF is aware that there must be a continuous focus on the adoption of minority children and has funded a number of programs designed specifically to recruit minority families and to place minority children.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the applicant should:

- Identify and describe existing barriers to minority adoption in the locale where the project would be implemented; the number of families that would be recruited; and the number of children that would be placed.
- Describe the innovative methods that would be employed to recruit and prepare minority families (including single applicants) in a timely manner in order to retain recruited families.
- Provide assurances that the program would not require payment of fees by adoptive families.
- Describe how training in cultural competence would be provided to all relevant staff to increase their effectiveness in serving minority children and families.
- Provide for an assessment of the project's effectiveness in achieving the desired objectives and its ability to provide services to prospective adoptive families through the completion of the adoption.
- Document how the program would be continued beyond Federal funding as part of the agency's ongoing program and describe the specific steps which would be taken to accomplish this.
- Private adoption agencies must provide evidence of licensure (a copy of the license must be included with the application).
- Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, DC (The Conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.)
- Provide assurances and document that the project would be staffed and implemented within 90 days of the notification of the grant award.

Project Duration: The length of the project must not exceed 24 months.

Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 per 12-month budget period.

Matching or Cost Sharing Requirement: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be Funded: It is anticipated that 15 projects will be funded.

1.03 Adoptive Placement of Foster Care Children

Eligible Applicants: Eligibility is limited to State social service agencies. Given limited funds, and in order to generate and financially support the widest possible variety of issues and approaches, priority will be given to applicants which have not been funded under this priority area in previous fiscal years. However, previously funded applicants under this priority area will not be precluded from the receiving grants.

Purpose: To develop programs which will assist States in their efforts to increase the placement of foster care children legally free for adoption according to a pre-established plan and goals for improvement.

Background Information: The Adoption Opportunities legislation, as amended by Public Law 100–294, authorizes the funding of grants to States to improve adoption services for the placement of special needs children who are legally free for adoption. Children in foster care who are free for adoption, particularly children with special needs, do not always move

smoothly through the child welfare system into placement with a permanent family. States have received Federal grants to make systemic changes in their adoption programs; to provide computer hardware, software and fees for membership in the National Adoption Exchange's Network; and to develop a consortium of nine States with large numbers of children in care in order to share knowledge to improve and enhance their special needs adoption programs; and to form a national post-legal adoption consortium of seven States to focus on models of post legal adoption services. More than half of the States have received grants to improve adoption services.

Increasingly, children entering foster care have more complex problems which require more intensive services. Permanent families must be continuously recruited and prepared to parent the growing population of children who cannot return to their birth families. Supportive services must be added or improved so that the children in foster care who are legally free for adoption can move into adoptive placements in a timely manner. This will require collaborative efforts with the court system to terminate parental rights. Further, agencies must commit resources for the ongoing support of adoptive families not only at placement, but also after legalization of the adoption. Past projects have demonstrated that greater improvements in placing these children are achieved when permanent plans are made and carried out very early in the placement; when there are sufficient numbers of trained and experienced staff; and when there are available resources and administrative commitments to adoption and to coordinated community-based efforts.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the applicant should:

- Identify and verify the number of foster care children in the area to be served who are legally free and waiting for adoptive placements.
- Provide and verify the rate of placement of foster care children placed in adoption in the year preceding the application. (The rate of placement is the number of children placed divided by the number of children waiting for adoption.)
- Describe the methods to be employed to increase the rate of placement of foster care children into adoption and the goals for improvement to be achieved during the period of the grant.
- Propose and describe an evaluation component which would focus on the innovations used to improve the placement of children who are legally free for adoption and which would address the successes and failures of the initiative.

The evaluation should include the collection and analysis of data to determine placement rates and the types of clients served (e.g., waiting children, prospective adoptive families). Data should be collected to determine the availability of adoptive families during the program period. The evaluation should also include descriptive information on the processes and procedures used in implementing the project. This information should be used to assess placement rates and the success or failure of the innovative program methodologies used.

- Document how the program would be continued beyond Federal funding or part of the agency's ongoing program, if successful, and describe the specific steps which would be taken to accomplish this.
- Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, DC (The Conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.).
- Describe the report and/or other products that would be developed under the project, including the types of information that would be presented, and the steps that would be undertaken to disseminate and promote the utilization of project products and findings.

Project Duration: The length of the project must not exceed 12 months.

Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000.

Matching or Cost Sharing Requirement: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be Funded: It is anticipated that two projects will be funded.

1.04 Post-Legal Adoption Services

Eligible Applicants: States, local government entities, and public or private nonprofit licensed child welfare or adoption agencies. Given limited funds, and in order to generate and financially support the widest possible variety of issues and approaches, priority will be given to applicants which have not been funded under this priority area in previous fiscal years. However, applicants previously funded under this priority area will not be precluded from receiving grants.

Purpose: To develop or replicate post-legal adoption projects which will provide services to strengthen and preserve families who have adopted children with special needs. The services provided shall supplement, not supplant, services supported by any other funds available to the applicant for the same general services.

Background Information: The Adoption Opportunities legislation authorizes funds for increased post-legal adoption services. Recognition of special issues in adoption in the past decade has led adoption professionals to reconsider the concept that agency services to adoptive families end with the legal consummation of the adoption. Historically, once the adoption was legally consummated, the newly-formed family was to be considered the same as any other family. However, adoption is a life-long process, and service providers need to understand the unique interpersonal dynamics of adoption in order to provide effective post-legal adoption services (those provided after the legalization of the adoption) to families who seek assistance.

Over the years, ACYF has funded more than 70 programs across the country to provide post-legal adoption services for families who have adopted children with special needs. Information on these projects can be obtained from the National Adoption Information Clearinghouse, 11426 Rockville Pike, suite 410, Rockville, Maryland 20852; telephone: (301) 231–6512.

Funds awarded under this priority area in FY 1994 will support both the institutionalization of post-legal adoption services in communities where such services already exist and the development of such services in communities where they do not yet exist. Support will also be provided for the development of additional models of service delivery. Services funded under this priority area shall be provided to families who have adopted children with special needs.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the applicant should:

- Propose to provide services such as individual, group and/or family counseling; case management; training of mental health professionals and staff of public agencies and of private, nonprofit child welfare and adoption agencies licensed by the State to provide

adoption services; and provide assistance to adoptive parents, adopted children and siblings of adopted children.

• Describe the models that would be developed or replicated and the services that would be provided.

• Describe the existing post-legal adoption services, if any; the need for new services; and plans for the development, implementation, and institutionalization of such services.

• Describe how the proposed project would build upon the existing literature and knowledge base related to post-legal adoption services.

• Provide specific written commitments from collaborating or cooperating agencies, if any.

• Document how the program would be continued beyond Federal funding as part of the agency's ongoing program and describe the specific steps which would be taken to accomplish this.

• Provide assurances that the project would be staffed and implemented within 90 days of the notification of the grant award.

• Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, DC. (The Conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.)

Project Duration: The length of the project must not exceed 24 months.

Federal Share of Project Costs: The maximum Federal share is not to exceed $100,000 per 12-month budget period.

Matching or Cost Sharing Requirements: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects To Be Funded: It is anticipated that 15 projects will be funded.

1.05 Respite Care as a Service for Families Who Adopt Children With Special Needs

Eligible Applicants: States, local government entities, public or private nonprofit licensed child welfare or adoption agencies, University Affiliated Programs, licensed child care or respite care providers, and incorporated adoptive parent groups with experience in working with adoptive populations.

Purpose: To develop or replicate a variety of affordable respite care models for the adoptive parents of children with special needs, especially for the adoptive parents of medically fragile or severely physically or emotionally handicapped children.

Background Information: The ACYF recognizes the need for respite services for adoptive families in order to maintain and support the family unit. Respite may be needed early in the adoptive placement or later in the child's development. Research indicates that the majority of care is requested to relieve the primary caregiver for vacations, emergencies or planned circumstances.

There are few specialized respite care programs for adoptive families that provide temporary relief or rest from parental responsibilities, despite the increasing availability of post-legal adoption services. Such programs can be especially helpful to families who adopt children with special needs by providing support during emergencies or respite from the daily demands of a special needs child. Generally, such respite care is provided by skilled caregivers or companions; however, with proper preparation, it can also be provided by friends and relatives.

In some respite care programs, training and reimbursement are offered to whomever the family designates as provider, a mutually satisfying arrangement that allows the family to control the quality of care. Also, this approach may offer families living in rural areas the flexibility of locating their own providers since distance frequently limits respite resources.

Since 1990, ACYF has awarded grants to expand and develop respite care services for adoptive parents of children with special needs. These projects have developed services such as: payment to families to obtain their own respite services to be provided in their own homes for short periods of time and on weekends; recruitment and training of individuals to provide short breaks for adoptive parents as well as supportive services to parents such as tutorial and recreational activities outside the home; sponsorship of camp programs and other specialized events for the children and their families. Programs funded in 1990 which will end in 1994 include the University of Kansas, Bureau of Child Research; La Hacienda Foster Care, Tucson, Arizona; the University of Alabama at Birmingham; the Mercy Respite Care Corporation, Grand Rapids, Michigan; and the Northwest Adoption Exchange, Seattle, Washington. Information about these programs can be secured from the National Adoption Information Clearinghouse, 11426 Rockville Pike, suite 410, Rockville, Maryland 20852; telephone: (301) 231–6512.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the applicant should:

• Describe plans to develop or replicate respite care models for the adoptive parents of special needs children that include, but are not limited to:

—Facility-based models such as those located in churches, day care centers, community-based group homes, rehabilitation centers, as well as mother's day out programs, weekend respite, evening respite, and overnight respite programs;

—In-home respite care services offered in the family's home and,

—Respite-host family services offered in the provider's home.

• Describe the respite care services that would be provided for the parents of children who are medically fragile or who have severe physical or emotional problems.

• Describe the preparation, referral, follow-up, and counseling services that would be provided to respite service users.

• Describe the collaboration that would be established with groups such as community recreational services, churches, day care centers, group homes, residential treatment centers, adoptive parent groups, and University Affiliated Programs in providing respite services.

• Describe the training that would be provided to service providers.

• Estimate the number of special needs children and families that would be served and document that a sufficient volume of special needs adoptive families exists to support a program of the size proposed.

• Provide for an evaluation of the project and include a discussion of the proposed evaluation design.

• Provide assurances that the project would be staffed and implemented within 90 days of the notification of the grant award.

• Document how the program would be continued beyond Federal funding as part of the agency's ongoing program and describe the specific steps which would be taken to accomplish this.

• Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, DC. (The Conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.)

Federal Share of Project Cost: The maximum Federal share will not exceed $150,000 per 12-month budget period.

Project Duration: The length of the project must not exceed 36 months.

Matching or Cost Sharing Requirement: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects: It is anticipated that a minimum of five projects will be funded.

1.06 Synthesis of Results of Post Legal-Adoption Projects

Eligible Applicants: State or local, public or nonprofit agencies, organizations, or universities.

Purpose: To collect, analyze, and synthesize current knowledge and results of projects funded by the Adoption Opportunities Program focused on post-legal adoption services since 1989.

Background Information: In 1989, the Adoption Opportunities statute authorized funds for increased post-legal adoption services for families who adopted special needs children. Approximately 70 grants have been awarded to public and private agencies and adoptive parent groups to provide post-legal adoption services. These efforts resulted in some exemplary products that should be replicated. These include the provision of post-legal adoption services, respite care, and the training of mental health professionals; individual group and/or family counseling; curriculum for adoptive families; resource guides and directories; parent surveys of post-legal adoption services; adoption and the sexually abused child; practice manuals for workers and therapists; handbooks on the adoption of HIV positive children; and diagnostic and evaluation services for adopted children. In addition, a post-legal adoption consortium consisting of seven States funded initially in 1991 is addressing post-legal adoption practices and laws and is reviewing successful models in an effort to include post-legal services in the category of services to be provided by child welfare/adoption agencies. The consortium final report will be available in late 1994.

The ACYF is interested in supporting efforts to review the body of work in the field of post-legal adoption services; determining the number of projects which have continued beyond Federal funding and which are now an ongoing part of the agencies' programs; and determine the impact of these programs on preserving and maintaining the adoptive family unit.

Information on funded projects can be obtained from the National Adoption Information Clearinghouse, 11426 Rockville Pike, suite 410, Rockville, Maryland 20852; telephone (301) 231–6512.

Minimum Requirements for Project Design. In order to successfully compete under this priority area, the applicant should:

- Demonstrate an understanding of the literature and of the issues in post-legal adoption services.
- Describe how the findings from these projects would be analyzed and synthesized into reports which would be useful to the field.
- Describe how this report would be developed and would be useful to practitioners, policy makers and other related disciplines.
- Provide a plan for disseminating the report nationally.
- Provide assurances that the project would be staffed and implemented within 90 days of the notification of the grant award.
- Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, DC. (The Conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.)

Project Duration: The length of the project must not exceed 17 months.

Federal Share of Project Costs: The maximum Federal share of the project is $85,000.

Matching or Cost Sharing Requirement: Grantee must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be Funded: It is anticipated that one project will be funded.

1.07 Regional Conference on the Adoption of Minority Children

Eligible Applicants: State or local, public or nonprofit agencies, or organizations with experience in organizing a coordinated effort for sponsoring and conducting a Conference on the Adoption of Minority Children in one of the HHS Regions.

Purpose: To support the planning for, and conduct of, a Regional Conference on the Adoption of Minority Children.

Background Information: For the past two years, the ACYF has provided funds to its Regional Offices to conduct conferences in each Region which address issues in the adoption of minority children. Approximately 3,000 persons participated in the 2-day conferences. Because of the benefits and effectiveness of these conferences, participants requested that this effort be continued to build on established linkages and address issues across the regions. Successful applicants will work with the Regional Office to jointly plan the conference, arrange travel for participants and select a site. These conferences provide opportunities for agency directors, social workers, adoptive parents, volunteers and a broad range of other professionals to interact with adoption experts. Past conferences consisted of plenary and workshop sessions. These sessions focused on a variety of issues in agency practice and policies which create barriers to the adoption of minority children.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the applicant should:

- Describe organization and management plans for planning the conference. Identify agencies, individuals, and organizations that would sponsor the conference and participate in its planning and implementation. Identify contributions expected from organizations in regard to personnel time and other costs.
- Discuss plans for identifying the conference site, including the availability of hotels, and conference space.
- Describe plans for developing the conference theme, proposed agenda topics and the forums to address critical issues in the field.
- Discuss the materials that would be included in a program packet/kit for the conference.
- Describe the steps to be taken to involve participants from various disciplines in the conference and the efforts that would be made to address racial, ethnic and cultural diversity.
- Describe plans for exhibits, resource tables, films and video tape forums.
- Propose a plan for evaluating the conference and describe how it would be conducted.

Project Duration: The length of the project must not exceed 17 months.

Federal Share of Project Costs: The maximum Federal share is not to exceed $40,000.

Matching or Cost Sharing Requirement: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be Funded: It is anticipated that ten projects will be funded, one in each HHS region. (These grants will be managed by the appropriate Regional Offices.)

1.08 Developing Collaborative Efforts between Foster Care and Adoption Staff to Improve Child Welfare Services From Intake to Permanency

Eligible Applicants: Public State Child Welfare agencies in the Department of Health and Human Services Regions II (NY, PR, NJ, VI), III (DE, MD, VA, WV, PA, DC), IV (AL, FL, GA, KY, MS, NC, SC, TN), VII (MO, IA, NE, KS) and IX (HI, CA, NV and AZ) (Agencies in regions I, V, VI, VIII, and X were funded in FY 1993.) Only one agency per Federal Region will be awarded a grant.

Purpose: To establish and improve collaboration and develop linkages between public child welfare agency foster care and adoption staff in order to improve practices related to one or more of the issues addressed in the Background section. The State that receives funding within its Region will be designated as the lead State. That State will assume responsibility for bringing together foster care and adoption staff in participating States within its Region to address effective intervention approaches to deal with placement issues.

Background: It is the policy of all States to encourage adoption opportunities for children with special needs who lack permanent families and who could benefit from adoption. In most agencies, children enter the child welfare system through protective services units which determine whether the child is dependent, neglected or abandoned. Generally, children are placed temporarily in substitute care pending an assessment of the child's needs and the family's situation. When children are in substitute care, agencies must develop a case plan for each child and conduct periodic case reviews and dispositional hearings to monitor progress under the plan and to evaluate its appropriateness for attaining a permanent home.

One of the three major issues to be addressed by projects funded under this priority area is the problem of many initially-temporary foster care and/or adoptive placements which ultimately become permanent. Over 60 percent of adopted special needs children have been adopted by their foster parents. Therefore, workers must consider this when selecting initial foster care placements. Consideration must be given to whether the best interests of the child would be served if the temporary placement becomes a permanent home. Attention must be given particularly to matters of race, ethnicity and culture. This is especially true for special needs children who may be older and aware of their cultural or ethnic histories, their siblings and their extended families.

Recently, foster parents have resorted to the courts when children are removed from foster homes to be placed in adoptive homes that are determined by the social services agency to be more in the child's best interest. These cases generate a great deal of publicity and are very damaging to the children, who may be moved to yet another temporary placement until the court determines where the child is to permanently reside. The child welfare system must take responsibility for all placement decisions; therefore, better planning must be conducted to ensure that both the initial and the permanent placements for these children are timely and appropriate.

A second issue to be addressed involves adopted children who require residential placements. These should be considered as interim placements in the hopes that the child will eventually return to the adoptive family. However, staff in residential facilities do not have access to training on adoption issues related to the child and the adoptive family. Consequently, staff may fail to work with families toward the reunification of the child with the family. Coordination needs to be effected among child welfare agencies and residential facilities to achieve comprehensive services for these children.

A third issue which must be addressed is the organizational separation of foster care and adoption staff. This practice hinders communication, case planning and case management for children who move from foster care status to adoption status. Thus, barriers to permanency planning are created. The ACYF seeks proposals from States for projects which address the separation of foster care and adoption services within State agencies. States in each Federal Region will work together on issues and strategies to improve coordination of services to help resolve these issues through meetings, and the exchange of information and materials. The meetings should include appropriate agency staff who can plan and implement the necessary changes. The State agency in each Region which is awarded a grant will assume the leadership role of locating meeting sites, convening meetings, developing agendas and reporting on grant requirements. These three-year grants will result in the development of a model of coordinated services designed and tested in each Region.

Minimum Requirements for Project Design: In order to successfully compete under this priority area, the applicant should:

- Focus on addressing one or more of the issues addressed in the background section.
- Provide letters of support for the project from a minimum of three States in the Region (which includes the State submitting the application) that would participate in the project.
- Describe the existing organization of foster care/adoption services in States within the Region and the need to develop and implement a new approach for these two functions to work together more effectively.
- Identify and describe existing barriers to coordination in practice and policy in the States that would participate in the project.
- Describe how the agencies would incorporate the results of the project into their ongoing programs and how these efforts would be continued beyond the period of Federal support.
- Provide assurances that at least one key person from the project would attend the annual Child Welfare Conference in Washington, DC. (The Conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and address current child welfare trends and issues.)
- Provide assurance that the project would be staffed and implemented within 90 days of the notification of the grant award.
- Provide for an evaluation of the project and include a discussion of the proposed evaluation design. The evaluation should focus on child and family outcome measures (e.g., number of families recruited, number of children placed, disruption rates, etc.).

Project Duration: The length of the project must not exceed 36 months.

Federal Share of Project Costs: The maximum Federal share is not to exceed $75,000 per 12-month project period.

Matching or Cost Sharing Requirements: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be funded: It is anticipated that five projects will be funded, one in each Region of the Department of Health and Human Services that did not receive funding in FY 1993.

1.09 Field Initiated Proposals to Improve Adoption Services to Children with Special Needs

Eligible Applicants: State, Regional or local public child welfare or adoption agencies and voluntary child welfare or adoption agencies or organizations.

Purpose: To improve adoption services for children with special needs through activities which are not addressed elsewhere in this announcement. This priority area provides public and voluntary agencies and organizations involved in the adoption process with an opportunity to present innovative ideas for improving child welfare and adoption systems.

Background Information: Public child welfare workers who provide adoption services are overburdened because of the shortage of staff and the increasing child welfare caseload. In many public agencies, adoption staff are expected to provide services not only to children with special needs and their potential adoptive families, but also to families requesting independent, inter-country and other types of adoption. There is also a growing need to provide post-legal adoption services to preserve adoptive families as well as an increasing responsibility for search and reunion services. This places substantial burdens on limited adoption agency resources which are needed to serve the special needs population.

At any given time, approximately 50,000 children are legally free for adoption. Minority children continue to be over-represented among this group. Older children and sibling groups also continue to present unique challenges. Other sub-populations, such as drug-exposed infants and medically-fragile infants, will be or are currently testing the capacity of adoption programs. Innovative efforts, embodying the spirit of public-private partnerships, are needed to provide permanent adoptive homes to all waiting children.

Because there are so many different issues that face the public and voluntary sectors, ACYF is requesting field-initiated proposals that address the most problematic areas in serving children with special needs for whom adoption is the plan. These proposals must be innovative; they cannot be a replication of a previous project or be responsive to other priority areas identified in this announcement.

Minimum Requirements for Project Design: In order to compete successfully under this priority area, the applicant should:

- Describe the agency's current adoption program and the specific problem(s) that would be addressed.
- Describe the approach that would be used to alleviate the problem(s).
- Document that this is a new approach that has not been used before, based on a review of the literature and any other relevant sources.
- Provide specific written commitments from cooperating or collaborating agencies, if appropriate.
- Provide for an evaluation of the project and include a discussion of the proposed evaluation design. The evaluation should focus on child and family outcome measures (e.g., number of families recruited, number of children placed, disruption rates, etc.).
- Describe how the agency would incorporate successful results of the project into its ongoing program.
- Provide assurances that at least one key person from the project would attend the Child Welfare Conference in Washington, DC (The conference is held for Adoption Opportunities and other Children's Bureau grantees to exchange information and to address current child welfare trends and issues.).
- Provide assurances that the project would be staffed and implemented within 90 days of the notification of the grant award.
- Describe the reports and/or other products that would be developed under the project, including the types of information that would be presented and the steps that would be undertaken to disseminate and promote the utilization of project products and findings.

Project Duration: The length of the project must not exceed 24 months.

Federal Share of Project Costs: The maximum Federal share of the project is not to exceed $150,000 per 12-month budget period.

Matching or Cost Sharing Requirements: Grantees must provide at least 25 percent of the total cost of the project.

Anticipated Number of Projects to be Funded: It is anticipated that seven projects will be funded.

Part III—Instructions for the Development and Submission of Applications

This Part contains information and instructions for submitting applications in response to this announcement. Application forms are provided along with a checklist for assembling an application package. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information contained within the specific priority area under which the application is to be submitted. The priority area descriptions are in Part II.

A. Required Notification of the State Single Point of Contact

The Adoption Opportunities Program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR part 100, Intergovernmental Review of Department of Health and Human Services Program and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and territories, except Alabama, Alaska, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Pennsylvania, Virginia, Washington, American Samoa and Palau, have elected to participate in the Executive Order process and have established State Single Point of Contact (SPOCs). Applicants from these seventeen (17) jurisdictions need take no action regarding E. O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the accommodate or explain rule.

When comments are submitted directly to ACF, they should be addressed to:

ADDRESSES: Applications may be mailed to the Department of Health and Human Services Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 6th Floor East, OFM/DDG, Washington, DC 20447.

Hand delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of

Discretionary Grants, 6th Floor OFM/DDG, 901 D Street, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Appendix B of this announcement.

B. Deadline for Submission of Applications

Deadline: Applications shall be considered as meeting the announced deadline if they are either:

1. Received on or before the deadline date at:

ADDRESSES: Applications may be mailed to the Department of Health and Human Services Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., 6th Floor East, OFM/DDG, Washington, DC 20447.

Hand delivered applications are accepted during normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor OFM/DDG, 901 D Street, SW., Washington, DC 20447.

2. Sent on or before the deadline date and received by the granting agency in time for the independent review under DHHS GAM Chapter 1–62. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria stated above are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: The granting agency may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc, or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

C. Instructions for Preparing the Application and Completing Application Forms

The SF 424, 424A, 424B, and certifications have been reprinted for your convenience in preparing the application. See Appendix A. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted. An application should be submitted under only one priority area.

Item 1. Type of Submission—Preprinted on the form.

Item 2. Date Submitted and Applicant Identifier—Date application is submitted to ACYF and applicant's own internal control number, if applicable.

Item 3. Date Received By State—State use only (if applicable).

Item 4. Date Received by Federal Agency—Leave blank.

Item 5. Applicant Information

Legal Name—Enter the legal name of the applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

Organizational Unit—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

Address—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. Box number unless both must be used in mailing.

Name and telephone number of the person to be contacted on matters involving this application (give area code)—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. Employer Identification Number (EIN)—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. Type of Applicant—Self-explanatory.

Item 8. Type of Application—Preprinted on the form.

Item 9. Name of Federal Agency—Preprinted on the form.

Item 10. Catalog of Federal Domestic Assistance Number and Title—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title, as indicated in the relevant priority area description.

Item 11. Descriptive Title of Applicant's Project—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. Areas Affected by Project—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than subunits.

Item 13. Proposed Project—Enter the desired start date for the project and projected completion date.

Item 14. Congressional District of Applicant/Project—Enter the number of the Congressional district where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If statewide, a multi-State effort, or nationwide, enter 00.

Items 15. Estimated Funding Levels

In completing 15a through 15f, the dollar amounts entered should reflect, for a 17 month or less project period, the total amount requested. If the proposed project period exceeds 17 months, enter only those dollar amounts needed for the first 12 months of the proposed project.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b-e are considered cost-sharing or matching funds. The value of third party in-kind contributions should be included on appropriate lines as applicable. For more information regarding funding as well as exceptions to these rules, see Part II, Sections E and F, and the specific priority area description.

Item 15f. Enter the estimated amount of income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and

anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a-15e.

Item 16a. Is Application Subject to Review By State Executive Order 12372 Process? Yes.—Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part III. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application. If there is a discrepancy in dates, the SPOC may request that the Federal agency delay any proposed funding until September 1993.

Item 16b. Is Application Subject to Review By State Executive Order 12372 Process? No.—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. Is the Applicant Delinquent on any Federal Debt?—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. Typed Name of Authorized Representative, Title, Telephone Number—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. Signature of Authorized Representative—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. Date Signed—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering (1) the total project period of 17 months or less or (2) the first year budget period, if the proposed project period exceeds 17 months.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers (1) the total project period if the proposed project period is 17 months or less or (2) the first year budget period if the proposed project period exceeds 17 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

A separate itemized budget justification for each line item is required. The types of information to be included in the justification are indicated under each category. For multiple year projects, it is desirable to provide this information for each year of the project. The budget justification should immediately follow the second page of the SF 424A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, Other.

Justification: Identify the principal investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total cost of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, Other.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. Equipment is defined as non-expendable tangible personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. For all other applicants, the threshold for equipment is $500 or more per unit. The higher threshold for State and local governments became effective October 1, 1988, through the implementation of 45 CFR Part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its subgrantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including: (1) Procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, Other.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide backup documentation identifying the name of contractor, purpose of contract, and

major cost elements. Applicants who anticipate procurements that will exceed $5,000 (non-governmental entities) or $25,000 (governmental entities) and are requesting an award without competition should include a sole source justification in the proposal which at a minimum should include the basis for contractor's selection, justification for lack of competition when competitive bids or offers are not obtained and basis for award cost or price.

Note: Previous or past experience with a contractor is not sufficient justification for sole source.)

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance; medical and dental costs; noncontractual fees and travel paid directly to individual consultants; local transportation (all travel which does not require per diem is considered local travel); space and equipment rentals; printing and publication; computer use; training costs, including tuition and stipends; training service costs, including wage payments to individuals and supportive service payments; and staff development costs. Note that costs identified as miscellaneous and honoraria are not allowable.

Justification: Specify the costs included.

Total Direct Charges—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter none. Generally, this line should be used when the applicant (except local governments) has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with HHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant. In the case of training grants to other than State or local governments (as defined in title 45, Code of Federal Regulations, part 74), the Federal reimbursement of indirect costs will be limited to the lesser of the negotiated (or actual) indirect cost rate or 8 percent of the amount allowed for direct costs, exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

For training grant applications, the entry under line 6j should be the total indirect costs being charged to the project. The Federal share of indirect costs is calculated as shown above. The applicant's share is calculated as follows:

(a) Calculate total project indirect costs (a) by applying the applicant's approved indirect cost rate to the total project (Federal and non-Federal) direct costs.

(b) Calculate the Federal share of indirect costs (b) at 8 percent of the amount allowed for total project (Federal and non-Federal) direct costs exclusive of any equipment charges, rental of space, tuition and fees, post-doctoral training allowances, contractual items, and alterations and renovations.

(c) Subtract (b) from (a). The remainder is what the applicant can claim as part of its matching cost contribution.

Justification: Enclose a copy of the indirect cost rate agreement. Applicants subject to the limitation on the Federal reimbursement of indirect costs for training grants should specify this.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled Totals. In-kind contributions are defined in 45 CFR part 74, as property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the subgrantee, or a cost-type contractor under the grant or subgrant.

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs. Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 17 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column (b) First. If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under (c) Second. Columns (d) and (e) are not applicable in most instances, since ACF funding is almost always limited to a three-year maximum project period. Columns (d) and (e) would be used in the case of a 60 month project.

Section F—Other Budget Information.

Direct Charges—Line 21. Not applicable.

Indirect Charges—Line 22. Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 17 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the proposal. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos (please note that audiovisuals should be closed captioned). The project summary description, together with the information on the SF 424, will constitute the project abstract. It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

At the bottom of the page, following the summary description, type up to 10 key words which best describe the proposed project, the service(s) involved and the target population(s) to be covered. These key words will be used for computerized information retrieval for specific types of funded projects.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II.

The narrative should provide information concerning how the application meets the evaluation criteria (see Section C, Part II), using the following headings:

(a) *Objectives and Need for Assistance;*

(b) *Approach;* and

(c) *Results and Benefits Expected;*

(d) *Staff Background and Organization's Experience.*

The specific information to be included under each of these headings is described in Section C of Part II, Evaluation Criteria.

The narrative should be typed double-spaced on a single-side of an 8½" x 11" plain white paper, with 1" margins on all sides. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with Objectives and Need for Assistance as page number one. Applicants should not submit reproductions of larger size paper, reduced to meet the size requirement.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. A page is a single side of an 8½" x 11" sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the 60-page limit. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two to three pages) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

6. Part IV—Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug Free Workplace Requirements, and Debarment and Other Responsibilities certifications.

For research projects in which human subjects may be at risk, a Protection of Human Subjects Assurance may be required. If there is a question regarding the applicability of this assurance, contact the Office for Research Risks of the National Institutes of Health at (301) 496–7041.

D. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

—Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

—Application length does not exceed 60 pages, unless otherwise specified in the priority area description.

A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424, REV 4–88);

—Budget Information—Non-Construction Programs (SF 424A, Rev 4–88);

—Budget justification for Section B—Budget Categories;

—Table of Contents;

—Letter from the Internal Revenue Service to prove non-profit status, if necessary;

—Copy of the applicant's approved indirect cost rate agreement, if appropriate;

—Project summary description and listing of key words;

—Program Narrative Statement (See Part II, Section C);

—Organizational capability statement, including an organization chart;

—Any appendices/attachments;

—Assurances—Non-Construction Programs (Standard Form 424B, REV 4–88);

—Certification Regarding Lobbying; and

—Certification of Protection of Human Subjects, if necessary.

E. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Do not include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application. If acknowledgment of receipt of your application is not received within eight weeks after the deadline date, please notify ACYF by telephone at (202) 690–8243 or 690–6297.

Dated: April 18, 1994.

Olivia A. Golden,

Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184–04–P

APPENDIX A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (*give city, county, state, and zip code*):	Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (*specify*): _____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

BILLING CODE 4184–01–C

Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
—"New" means a new assistance award.
—"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
—"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for your to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

Standard Form 424A (4-88)

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form doe not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Columb (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and inkind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Line 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project conspiracy with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Appendix B

Executive Order 12372—State Single Points of Contact

Arizona

Mrs. Janice Dunn, ATTN: Arizona State Clearinghouse, 3800 N. Central Avenue, 14th Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315

Arkansas

Tracie L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 682–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Room 520, Denver, Colorado 80203, Telephone (303) 866–2156

Delaware

Ms. Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 736–3326

District of Columbia

Rodney T. Hallman, State Single Point of Contact, Office of Grants Management and Development, 717 14th Street, N.W., Suite 500, Washington, D.C. 20005, Telephone (202) 727–6551

Florida

Florida State Clearinghouse, Intergovernmental Affairs Policy Unit, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399–0001, Telephone (904) 488–8441

Georgia

Mr. Charles H. Badger, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W., Atlanta, Georgia 30334, Telephone (404) 656–3855

Illinois

Steve Klokkenga, State Single Point of Contact, Office of the Governor, 107 Stratton Building, Springfield, Illinois 62706, Telephone (217) 782–1671

Indiana

Jean S. Blackwell, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204; Telephone (317) 232–5610

Iowa

Mr. Steven R. McCann, Division of Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281–3725

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601, Telephone (502) 564–2382

Maine

Ms. Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289–3261

Maryland

Ms. Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Telephone (301) 225–4490

Massachusetts

Karen Arone, State Clearinghouse, Executive Office of Communities and Development, 100 Cambridge Street, Room 1803, Boston, Massachusetts 02202, Telephone (617) 727–7001

Michigan

Richard S. Pastula, Director, Michigan Department of Commerce, Lansing, Michigan 48909, Telephone (517) 373–7356

Mississippi

Ms. Cathy Mallette, Clearinghouse Officer, Office of Federal Grant Management and Reporting, 301 West Pearl Street, Jackson, Mississippi 39203, Telephone (601) 960–2174

Missouri

Ms. Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 430, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751–4834

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 687–4065, Attention: Ron Sparks, Clearinghouse Coordinator

New Hampshire

Mr. Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review, Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271–2155

New Jersey

Gregory W. Adkins, Acting Director, Division of Community Resources, N.J. Department of Community Affairs, Trenton, New Jersey 08625–0803, Telephone (609) 292–6613

Please direct correspondence and questions to: Andrew J. Jaskolka, State Review Process, Division of Community Resources, CN 814, Room 609, Trenton, New Jersey 08625–0803, Telephone (609) 292–9025.

New Mexico

George Elliott, Deputy Director, State Budget Division, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827–3640, FAX (505) 827–3006

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Office of the Secretary of Admin., N.C. State Clearinghouse, 116 W. Jones Street, Raleigh, North Carolina 27603–8003, Telephone (919) 733–7232

North Dakota

N.D. Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411, Telephone (614) 466–0698

Rhode Island

Mr. Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Telephone (401) 277–2656

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Room 477, Columbia, South Carolina 29201, Telephone (803) 734–0494

South Dakota

Ms. Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773–3212

Tennessee

Mr. Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741–1676

Texas

Mr. Thomas Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463–1778

Utah

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone (801) 538–1535

Vermont

Mr. Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Telephone (802) 828–3326

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 348–4010

Wisconsin

Mr. William C. Carey, Federal/State Relations, Wisconsin Department of Administration, 101 South Webster Street, P.O. Box 7864, Madison, Wisconsin 53707, Telephone (608) 266–0267

Wyoming

Sheryl Jeffries, State Single Point of Contact, Herschler Building, 4th Floor, East Wing, Cheyenne, Wyoming 82002, Telephone (307) 777–7574

Guam

Mr. Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950

Puerto Rico

Norma Burgos/Jose H. Caro, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Telephone (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, #41 Norregade Emanicipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct correspondence to: Linda Clarke, Telephone (809) 774–0750

BILLING CODE 4184–01–P

APPENDIX C

U.S. Department of Health and Human Services

Certification Regarding Drug-Free Workplace Requirements

Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may taken action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code)_____

_____

Check ___ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

BILLING CODE 4184-01-C

Appendix D

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tire Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions. "Without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Appendix E—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change
For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known*:
Congressional District, *if known*:

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, *if known*:

6. Federal Department/Agency:

7. Federal Program Name/Description:
CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known*:

9. Award Amount, *if known*:
$

10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI)*:

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI)*:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment *(check all that apply)*:
$ _____ ☐ actual ☐ planned

12. Form of Payment *(check all that apply)*:
☐ a. cash
☐ b. in-kind; specify: nature _____
value _____

13. Type of Payment *(check all that apply)*:
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e. deferred
☐ f. other; specify: _____

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Print Name: _____
Title: _____
Telephone No.: _____ Date: _____

Federal Use Only:

Authorized for Local Reproduction
Standard Form - LLL

[FR Doc. 94–10209 Filed 4–29–94; 8:45 am]

BILLING CODE 4184–01–C

Food and Drug Administration

[Docket No. 83C–0408]

Indian Earth Cosmetics; Withdrawal of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a color additive petition (CAP 2C0157) proposing that the color additive regulations be amended to provide for the safe use of hematite as a color additive in cosmetics generally, including those for use in the area of the eye.

FOR FURTHER INFORMATION CONTACT: Aydin Örstan, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9515.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 26, 1984 (49 FR 3272), FDA announced that a color additive petition (CAP 2C0157) had been filed by R.F.A. Corp., c/o 1120 G St. NW., Washington, DC 20005. The petition proposed that part 73 *Listing of Color Additives Exempt From Certification* (21 CFR part 73) be amended to provide for the safe use of hematite as a color additive in cosmetics generally, including those for use in the area of the eye. FDA has been notified that R.F.A. Corp. has gone out of business and that Indian Earth Cosmetics, 2967 Randolph Ave., Costa Mesa, CA 92626, owns the petition. Indian Earth Cosmetics has now withdrawn the petition without prejudice to a future filing (21 CFR 71.6).

Dated: April 19, 1994.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–10325 Filed 4–29–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94N–0151]

Drug Export; Antibody to Hepatitis B Surface Antigen HBsAg EIA-2.0 and HBsAg Confirmatory Assay-2.0

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Genetic Systems Corp., a Subsidiary of Sanofi Diagnostics Pasteur, Inc., has filed an application requesting approval for the export of the human biological product Antibody to Hepatitis B Surface Antigen HBsAg EIA-2.0 and HBsAg Confirmatory Assay-2.0 to Australia.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Frederick W. Blumenschein, Center for Biologics Evaluation and Research (HFM–660), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–594–1070.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of human biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Genetic Systems Corp., a Subsidiary of Sanofi Diagnostics Pasteur, Inc., 6565 185th Ave. NE., Redmond, WA 98052–5039, has filed an application requesting approval for the export of the human biological product Antibody to Hepatitis B Surface Antigen HBsAg EIA-2.0 and HBsAg Confirmatory Assay-2.0 to Australia. The Genetic Systems Corp.'s Enzyme Immunoassay for the detection of Hepatitis B Surface Antigen (HBsAg) in human serum and plasma. The Genetic Systems HBsAg Confirmatory Assay-2.0 is Genetic Systems Corp.'s assay for the confirmation of HBsAg reactive specimens detected in the Genetic Systems HBsAg EIA-2.0. The application was received and filed in the Center for Biologics Evaluation and Research on February 23, 1994, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by May 12, 1994, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: April 3, 1994.

P. Michael Dubinsky,

Acting Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 94–10459 Filed 4–29–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 94F–0125]

Foodco Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Foodco Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of high intensity pulsed light to control microorganisms on the surface of food.

DATES: Written comments on the petitioner's environmental assessment by June 1, 1994.

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

FOR FURTHER INFORMATION CONTACT: Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9523.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act

(sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 4M4417) has been filed by Foodco Corp., 8888 Balboa Ave., San Diego, CA 92123. The petition proposes that the food additive regulations in part 179 *Irradiation in the Production, Processing and Handling of Food* (21 CFR part 179) be amended to provide for the safe use of a source of high intensity pulsed light to control microorganisms on the surface of food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before June 1, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: April 19, 1994.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–10326 Filed 4–29–94; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[MB–088–N]

RIN: 0938–AG

Medicaid Program; Limitations on Aggregate Payments to Disproportionate Share Hospitals: Federal Fiscal Year 1994

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the final Federal fiscal year (FFY) 1994 national target and individual State allotments for Medicaid payment adjustments made to hospitals that serve a disproportionate number of Medicaid recipients and low-income patients with special needs. We are publishing this notice in accordance with the provisions of section 1923(f)(1)(C) of the Social Security Act (the Act) and implementing regulations at 42 CFR 447.297 through 447.299.

EFFECTIVE DATE: The final DSH payment adjustment expenditure limits included in this notice apply to Medicaid DSH payment adjustments that are applicable to FFY 1994.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 966–2019

SUPPLEMENTARY INFORMATION:

I. Background

Section 1923(f) of the Social Security Act and implementing Medicaid regulations at 42 CFR 447.297 through 447.299 require us to estimate and publish in the **Federal Register** the national target and each State's allotment for disproportionate hospital share (DSH) payments for each Federal fiscal year (FFY). DSH payments are payment adjustments made to Medicaid-participating hospitals that serve a large number of Medicaid recipients and other low-income individuals with special needs. Our regulations provide for publication of preliminary amounts by October 1 of each FFY and final amounts by April 1 of each FFY.

The implementing regulations provide that the national aggregate DSH limit for a FFY specified in the Act is a target rather than an absolute cap when determining the amount that can be allocated for DSH payments. The national DSH target is 12 percent of the total amount of medical assistance expenditures (excluding total administrative costs) that are projected to be made under approved Medicaid State plans during the FFY.

(**Note:** Whenever the phrases "total medical assistance expenditures" or "total administrative costs" are used in this notice, they mean both the State and Federal share of expenditures or costs.)

In addition to the national DSH target, there is a specific State DSH limit for each State for each FFY. The State DSH limit is a specified amount of DSH payment adjustments applicable to a FFY above which Federal financial participation will not be available. This is called the "State DSH allotment".

Each State's DSH allotment for FFY 1994 is calculated by first determining whether the State is a "high-DSH State," or a "low-DSH State." This is determined by using the State's "base allotment." A State's base allotment is the greater of: (1) the total amount of the State's actual and projected DSH payment adjustments made under the State's approved State plan applicable to FFY 1992, as adjusted by HCFA; or (2) $1,000,000.

A State whose base allotment exceeds 12 percent of the State's total medical assistance expenditures (excluding administrative costs) projected to be made in FFY 1994 is referred to as a "high-DSH State." The FFY 1994 State DSH allotment for a high-DSH State is limited to the State's base allotment.

A State whose base allotment is equal to or less than 12 percent of the State's total medical assistance expenditures (excluding administrative costs) projected to be made in FFY 1994 is referred to as a "low-DSH State." The FFY 1994 State DSH allotment for a low-DSH State is equal to the State's DSH allotment for FFY 1993 increased by growth amounts and supplemental amounts, if any. However, the FFY 1994 DSH allotment for a low-DSH State cannot exceed 12 percent of the State's total medical assistance expenditures for FFY 1994 (excluding administrative costs).

The growth amount for FFY 1994 is equal to the projected percentage increase (the growth factor) in a low-DSH State's total Medicaid program expenditures between FFY 1993 and FFY 1994 multiplied by the State's final DSH allotment for 1993. Because the national DSH limit is considered a target, low-DSH States whose programs grow from one year to the next can receive growth that would not be permitted if the national limit was viewed as an absolute cap.

There is no growth factor and no growth amount for any low-DSH State whose Medicaid program does not grow (that is, stayed the same or declined) between fiscal years FFY 1993 and FFY 1994. This is the case for Oklahoma, Rhode Island, and West Virginia. Furthermore, because a low-DSH State's FFY 1994 DSH allotment cannot exceed

12 percent of the State's total medical assistance expenditures, it is possible for its FFY 1994 DSH allotment to be lower than its FFY 1993 DSH allotment. This situation occurs when the State experiences a decrease in its program expenditures between years and its prior FFY DSH allotment is greater than 12 percent of the total projected medical assistance expenditures for the current FFY. This is the case for Rhode Island. The DSH allotments for Oklahoma and West Virginia remained unchanged from FFY 1993 since each State's prior year DSH allotment is less than 12 percent of its projected FFY 1994 medical assistance expenditures.

There is no supplemental amount available for redistribution for FFY 1994. The supplemental amount, if any, is equal to a low-DSH State's proportional share of a pool of funds (the redistribution pool). The redistribution pool is equal to the national 12-percent DSH target reduced by the total of the base allotments for high-DSH States, the total of the State DSH allotments for the previous FFY for low-DSH States, and the total of the low-DSH State growth amounts. Since the sum of these amounts is above the projected FFY 1994 national 12 percent DSH target, there is no redistribution pool and, therefore, no supplemental amounts for FFY 1994.

As prescribed in the law and regulations, no State's DSH allotment will be below a minimum of $1 million. As an exception to the above requirements, section 1923(f)(1)(A)(i)(II) of the Act and regulations at 42 CFR 447.296(b)(5), allow a State to increase its aggregate DSH payments for a FFY to meet the minimum payment adjustments required by Medicare methodology described in section 1923(c)(1) of the Act. Nebraska meets this exception criteria. We are, therefore, revising Nebraska's final FFY 1993 and 1994 State DSH allotments.

We are publishing in this notice the final FFY 1994 national DSH target and State DSH allotments based on the best available data we have received, as of March 18, 1994, from the States as adjusted by HCFA. These data are taken from each State's actual Medicaid expenditures reported on the quarterly Form HCFA–64 submissions for FFY 1993 and the projected Medicaid expenditures reported on the February 1994 Form HCFA–37 for FFY 1994 and are adjusted as necessary. The final FFY 1994 State DSH allotments published in this notice supersede the preliminary FFY 1994 DSH allotments that were published in the **Federal Register** on February 1, 1994 (59 FR 4717).

II. Calculations of the Final FFY 1994 DSH Limits

The total of the final State DSH allotments for FFY 1994 is equal to the sum of the base allotments for all high-DSH States, the FFY 1993 State DSH allotments for all low-DSH States, and the growth amounts for all low-DSH States. A State-by-State breakdown is presented in section III of this notice.

There are 34 low-DSH States and 16 high-DSH States for FFY 1994. This change from the preliminary notice which listed 35 low-DSH States and 15 high-DSH States for FFY 1994 is due to the reclassification of Tennessee as a high-DSH State.

Using the most recent data from the February 1994 budget projections (Form HCFA–37), we estimate the FFY 1994 national total medical assistance expenditures for the States to be $144,326,703,000. Thus, the overall final national FFY 1994 DSH expenditure target is approximately $17.3 billion (12 percent of $144.3 billion). This is a decrease of approximately $0.2 billion from the $17.5 billion preliminary target (12 percent of $145.8 billion) in the preliminary notice.

The high-DSH States' base allotments and the final low-DSH States' DSH allotments for 1993 total approximately $18.0 billion. This amount, which does not include growth or any State supplemental amounts for FFY 1994, is approximately $0.7 billion over the final FFY 1994 national DSH target amount.

In addition, in the final FFY 1994 State DSH allotments we provide a total of $511,372,000 ($287,455,000 Federal share) in growth amounts for the 34 low-DSH States. To compute the growth factor percentage, we first ascertained each low-DSH State's total FFY 1993 medical assistance and administrative expenditures as reported on the State's quarterly expenditure reports (Form HCFA–64) for FFY 1993. Next, we compared the FFY 1993 reported expenditures to each low-DSH State's total estimated unadjusted FFY 1994 medical assistance and administrative expenditures as reported to HCFA on the State's February 1994 Form HCFA–37 submission.

The growth factor percentage was multiplied by the low-DSH State's final FFY 1993 DSH allotment amount to establish the State's final growth amount for FFY 1994.

Since the sum of the total of the base allotments for high-DSH States and the total of the State DSH allotments for FFY 1993 for low-DSH States ($17,981,455,000) is greater than the final FFY 1994 national target ($17,319,204,000), there is no final FFY 1994 redistribution pool.

The low-DSH State's growth amount was then added to the low-DSH State's final FFY 1993 DSH allotment amount to establish the final total low-DSH State DSH allotment for FFY 1994. Six States received partial growth amounts because each State's growth amount, when added to its final FFY 1993 DSH allotment amount, exceeded 12 percent of its FFY 1994 estimated medical assistance expenditures.

As explained above, Rhode Island's final 1994 DSH allotment is lower than its final FFY 1993 DSH allotment.

As explained above, we revised Nebraska's final FFY 1993 State DSH allotment to $8,000,000 and its final FFY 1994 State DSH allotment to $11,000,000.

In summary, the total of all final State DSH allotments for FFY 1994 is $18,490,099,000 ($10,614,651,000 Federal share). This total is composed of the prior FFY's DSH allotments ($17,981,455,000) plus the growth amounts for all low-DSH States ($511,372,000) minus the reduction in Rhode Island's FFY 1993 DSH allotment ($2,728,000 decrease). The total of all final FFY 1994 State DSH allotments is 12.81 percent of the total medical assistance expenditures (excluding administrative costs) projected to be made by these States in FFY 1994. The $18,490,099,000 total of all final DSH allotments for FFY 1994 is $1,170,895,000 over the FFY 1994 final national target amount of $17,319,204,000.

Each State should monitor and make any necessary adjustments to its DSH spending during FFY 1994 to ensure that its actual FFY 1994 DSH payment adjustment expenditures do not exceed its final State DSH allotment for FFY 1994 published in this notice. As the ongoing reconciliation between actual FFY 1994 DSH payment adjustment expenditures and the final FFY 1994 DSH allotments takes place, each State should amend its plans as may be necessary to make any adjustments to its FFY 1994 DSH payment adjustment expenditure patterns so that the State will not exceed its final FFY 1994 DSH allotment.

The FFY 1994 reconciliation of DSH allotments to actual expenditures will take place on an ongoing basis as States file expenditure reports with HCFA for DSH payment adjustment expenditures applicable to FFY 1994. Additional DSH payment adjustment expenditures made in succeeding FFYs that are applicable to FFY 1994 will continue to be reconciled back to each State's final FFY 1994 DSH allotment as additional

expenditure reports are submitted to ensure that the final FFY 1994 DSH allotment is not exceeded. Any DSH payment adjustment expenditures in excess of the final DSH allotment will be disallowed.

Any DSH expenditures that are disallowed will be subject to the normal Medicaid disallowance procedures.

III. Final FFY 1994 DSH Allotments Under Public Law 102–234

Key to Chart:

Column		Description
Column A	=	Name of State.
Column B	=	Final FFY 1993 DSH Allotments For All States. For a high-DSH State, this is the State's base allotment which is the greater of the State's FFY 1992 allowable DSH payment adjustment expenditures applicable to FFY 1992, or $1,000,000. For a low-DSH State, this is equal to the final DSH allotment for FFY 1993 which was published in the **Federal Register** on August 13, 1993.
Column C	=	Growth Amounts For Low-DSH States. This is an increase in a low-DSH State's final FFY 1993 DSH allotment to the extent that the State's Medicaid program grew between FFY 1993 and FFY 1994.
Column D	=	Final FFY 1994 State DSH Allotments. For high DSH States this is equal to the base allotment from column B. For low-DSH States, this is equal to the final State DSH allotments for FFY 1993 from column B plus the growth amounts from column C and the supplemental amounts, if any.
Column E	=	High or Low DSH State Designation. "High" indicates the State is a high-DSH State and a "Low" indicates the State is a low-DSH State.

FINAL FEDERAL FISCAL YEAR 1994 DISPROPORTIONATE SHARE HOSPITAL ALLOTMENTS UNDER PUBLIC LAW 102–234

[Amounts Are State and Federal Shares—Dollars Are in Thousands (000)]

State	Final FFY 93 DSH allotments for all states	Growth amounts for low DSH states [1]	Final FFY 94 state DSH allotments	High or low DSH state designation
A	B	C	D	E
AL	$417,458	Not applicable	$417,458	High
AK	17,830	$1,759	19,589	Low
AR	2,806	232	3,039	Low
CA	2,191,451	Not applicable	2,191,451	High
CO	302,014	Not applicable	302,014	High
CT	408,933	Not applicable	408,933	High
DE	5,194	730	5,924	Low
DC	38,000	3,039	41,039	Low
FL	239,693	46,785	286,478	Low
GA	343,078	39,266	382,344	Low
HI	45,844	18,233	64,078	Low
ID	1,659	327	1,985	Low
IL	381,534	13,459	394,993	Low
IN	320,475	16,324	336,799	Low
IA	5,027	470	5,497	Low
KS	188,935	Not applicable	188,935	High
KY	264,289	Not applicable	264,289	High
LA	1,217,636	Not applicable	1,217,636	High
ME	165,317	Not applicable	165,317	High
MD	119,381	10,162	129,543	Low
MA	489,547	77,580	567,128	Low
MI	559,732	57,968	817,700	Low
MN	48,579	6,815	55,394	Low
MS	152,342	6,122	158,464	Low
MO	731,894	Not applicable	731,894	High
MT	1,154	145	1,300	Low
NE [2]	8,000	3,000	11,000	Low
NV	73,560	Not applicable	73,560	High
NH	392,006	Not applicable	392,006	High
NJ	1,094,113	Not applicable	1,094,113	High
NM	13,512	2,245	15,757	Low
NY	2,784,477	47,387	2,831,864	Low
NC	345,545	43,721	389,266	Low
ND	1,086	69	1,155	Low
OH	509,924	57,001	566,925	Low
OK	23,568	Not applicable	23,568	Low
OR	20,279	4,778	25,058	Low

FINAL FEDERAL FISCAL YEAR 1994 DISPROPORTIONATE SHARE HOSPITAL ALLOTMENTS UNDER PUBLIC LAW 102–234—Continued

[Amounts Are State and Federal Shares—Dollars Are in Thousands (000)]

State	Final FFY 93 DSH allotments for all states	Growth amounts for low DSH states [1]	Final FFY 94 state DSH allotments	High or low DSH state designation
A	B	C	D	E
PA	967,407	Not applicable	967,407	High
RI [3]	97,160	Not applicable	94,432	Low
SC	439,759	Not applicable	439,759	High
SD	1,163	140	1,302	Low
TN	430,611	Not applicable	430,611	High
TX	1,513,029	Not applicable	1,513,029	High
UT	5,003	511	5,514	Low
VT	24,403	2,259	26,662	Low
VA	174,251	11,496	185,746	Low
WA	270,374	37,618	307,993	Low
WV	121,883	Not applicable	121,883	Low
WI	9,325	1,556	10,881	Low
WY	1,216	173	1,389	Low
Total	17,981,455	511,372	18,490,099	

Notes:
[1] There were 3 low DSH states which had negative growth and 6 low DSH states which got partial growth up to 12% of FFY 94 map.
[2] Allotment based upon minimum payment adjustment amount.
[3] Prior year's allotment exceeded 12 percent of FFY 94 map so allotment was reduced to 12 percent of FFY 94 map.

IV. Impact Statement

We generally prepare a flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Administrator certifies that a notice would not have a significant economic impact on a substantial number of small entities. For purposes of a RFA, States and individuals are not considered small entities. However, providers are considered small entities. Additionally, section 1102(b) of the Act requires the Secretary to prepare an impact analysis if a notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice does not contain rules; rather, it reflects the DSH allotments for each State as determined in accordance with §§ 447.297 through 447.299.

We have discussed the method of calculating the final FFY 1994 national aggregate DSH target and the final FFY 1994 individual State DSH allotments in the previous sections of this preamble. These calculations should have a positive impact on payments to DSHs. Allotments will not be reduced for high-DSH States since we are now interpreting the 12-percent limit as a target. Low-DSH States will get their base allotments plus their growth amounts.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Catalog of Federal Assistance Program No. 93.778, Medical Assistance Program)

Dated: March 30, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: April 12, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–10417 Filed 4–26–94; 1:21 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–015–94–4210–04; G4–152]

Emergency Closure of Public Lands; Oregon

AGENCY: Bureau of Land Management, Interior, Lakeview District.

ACTION: Notice is hereby given that effective immediately all public lands as legally described below are closed to all vehicle access and travel.

In Lake County, Oregon

T. 40 S., R. 18 E., W.M., Oregon
Section 24: W½SW¼.

The purpose of this closure is to protect the area's cultural resource values. The only exception would be for special authorized administrative use and emergency needs. The authority for this closure is 43 CFR 8341.2.

This closure will remain in effect until an ORV designation plan is completed for this area.

Scott R. Florence,

Manager, Lakeview Resource Area.

[FR Doc. 94–10401 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–33–M

[MT–930–4320–01]

Notice of Availability of Environmental Assessment, Decision Record, and Finding of No Significant Impact for Predator Management in the Butte District; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An Environmental Assessment (EA), Decision Record (DR), and Finding of No Significant Impact (FONSI) have been reissued for predator management in the Butte District. The analysis and decisions were vacated from IBLA for further clarification and revision. An EA, DR, and FONSI have been reissued (April 1994).

FOR FURTHER INFORMATION CONTACT: Sandy Brooks, Project Lead, Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2929.

SUPPLEMENTARY INFORMATION: The EA for Predator Management in Montana addresses four alternatives which affect predator management to varying degrees:

Alternative I—Integrated Pest Management (APHIS–ADC, DOL, and BLM Proposed Action): This alternative emphasizes an Integrated Pest Management (IPM) approach to reduce animal damage. The IPM approach incorporates a variety of practical, lethal, and nonlethal methods for prevention and control to minimize animal damage to livestock or human health. The use of M–44s would be permitted after authorization is obtained for specific areas. Preventive control would be allowed in areas where historical livestock losses have been documented.

Alternative II—No M–44s: This alternative would be similar to Alternative I, except the use of M–44s would not be authorized. All other approved methods for control would be permitted. Preventive control would be allowed in areas where historical livestock losses have been documented.

Alternative III—No Action (Emergency Control Only): Preventive control measures would not be authorized, and corrective control would be applied only where APHIS–ADC have confirmed recent loss of livestock to predation. Emergency predator management would be requested by a producer when losses are occurring. The BLM would review and approve or disapprove these requests on a case-by-case basis. The requests would be handled using the emergency control procedures.

Alternative IV—No APHIS–ADC or DOL Predator Management on BLM Lands: Under this alternative, APHIS–ADC or DOL predator management activities would not be authorized on BLM land in Montana. However, private landowners could continue to conduct predator management on BLM lands and could continue to enter into agreements with APHIS–ADC to carry out predator management on private, state, and other non-BLM lands.

The Predator Management EA for Montana was available for public review from September 15 to October 15, 1993. An EA, DR, and FONSI were issued in November 1993. Since that time, the BLM decided to vacate the EA and decisions from IBLA to clarify and revise the analysis. The revised EA, DR, and FONSI (April 1994) have been reissued and are available upon request.

Based upon careful consideration of the analysis of alternatives within the Predator Management EA, including consideration of applicable laws, regulations, public and agency comments, I have decided to implement Alternative I—Integrated Pest Management (APHIS–ADC, DOL, and BLM Proposed Action). Management actions will be directed towards localized populations and/or individual offending predators. Requests for control will come directly to APHIS–ADC from permittees. In response to public concern regarding the use of lethal methods, the following mitigating measure has been adopted as part of my decision: Livestock producers will be provided information on nonlethal methods. When services are requested by permittees, APHIS–ADC will provide a factsheet to the livestock producer on nonlethal methods. In addition, information on nonlethal methods will also be mailed out in the annual grazing applications by BLM. This will ensure that permittees who request control are aware of the variety of nonlethal methods available to them; such as livestock producer practices, guard dogs, scare devices, etc.

Implementation of Alternative I will require strict adherence to the reasonable and prudent measures provided by the U.S. Fish and Wildlife Service (USFWS) and the mitigation and stipulations provided in the EA for the protection of threatened and endangered and candidate species. The USFWS has concurred with the BLM finding that the proposed predator management strategy is not likely to adversely affect threatened and endangered species. Predator management will be prohibited in the Bear Trap Wilderness Area to reduce conflicts with recreation. Selective aerial predator control will be the only means that predatory animals, other than wolves, be removed from the BLM land between the town of Lima and Bloody Dick Creek due to possible wolf sightings in that area. The National Guard Training Area, located west of Townsend, will also be closed to predator management activities. However, APHIS–ADC will be allowed to conduct predator management after permission is granted from the National Guard and the BLM is notified when control work will be conducted. All areas where human health or safety are a particular concern, as identified on Map No. 1 in the EA, will be closed to predator management. These areas also include appropriate buffer zones. Designated bird-hunting areas will have timing restrictions placed on predator management activities.

It is my conclusion that the proposed action will not result in significant environmental impacts, and that no species will be substantially or permanently reduced in numbers as a result of my decision. In addition, the predator population is not substantially impacted. Statewide, 7,847 coyotes were taken by APHIS–ADC and DOL on lands of all ownership, or 1.5 to 13.7 percent of the population statewide (based on the scientific model) or 2.6 percent (based on the coyote density indices sampling). In the Butte District, approximately 31 coyotes were taken on BLM lands, and no red fox were taken on BLM lands in the district by APHIS–ADC. Based on the analysis in the EA, implementation of Alternative I will result in the smallest amount of livestock loss and provides for the most flexibility in correcting or preventing damage based on the circumstances and surrounding environment. This decision ensures that predator management will be carried out in a systematic manner which responds to resource protection, human health, and livestock protection needs while protecting public safety, domestic animals, and nontarget wildlife. This decision is compatible with resource objectives identified in the land use plans for the Butte District. The Secretary of Interior will put the decision in full force and effect for the 30-day appeal period. To appeal this decision, please follow the appeal procedures. To obtain a copy of the appeal procedures, contact Sandy Brooks, Project Lead, Montana State Office, 406–255–2929.

Dated: April 25, 1994.

Wayne Zinne,

Acting State Director.

[FR Doc. 94–10362 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–DN–P

[MT–930–4320–01]

Notice of Availability of Environmental Assessment, Decision Record, and Finding of No Significant Impact for Predator Management in the Lewistown District Office; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An Environmental Assessment (EA), Decision Record (DR), and Finding of No Significant Impact (FONSI) have been reissued for predator management in the Lewistown District. The EA, DR, and FONSIs were vacated from IBLA. The analysis was clarified and revised, and the analysis and decision have been reissued (April 1994).

FOR FURTHER INFORMATION CONTACT: Sandy Brooks, Project Lead, Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2929.

SUPPLEMENTARY INFORMATION: The EA for Predator Management in Montana addresses four alternatives which affect predator management to varying degrees:

Alternative I—Integrated Pest Management (APHIS–ADC, DOL, and BLM Proposed Action): This alternative emphasizes an Integrated Pest Management (IPM) approach to reduce animal damage. The IPM approach incorporates a variety of practical, lethal, and nonlethal methods for prevention and control to minimize animal damage to livestock or human health. The use of M–44s would be permitted after authorization is obtained for specific areas. Preventive control would be allowed in areas where historical livestock losses have been documented.

Alternative II—No M–44s: This alternative would be similar to Alternative I, except the use of M–44s would not be authorized. All other approved methods for control would be permitted. Preventive control would be allowed in areas where historical livestock losses had been documented.

Alternative III—No Action (Emergency Control Only): Preventive control measures would not be authorized, and corrective control would be applied only where APHIS–ADC have confirmed recent loss of livestock to predation. Emergency predator management would be requested by a livestock producer when losses are occurring. The BLM would review and approve or disapprove these requests on a case-by-case basis. The requests would be handled using the emergency control procedures.

Alternative IV—No APHIS–ADC or DOL Predator Management on BLM Lands: Under this alternative, APHIS–ADC predator management activities would not be authorized on BLM land in Montana. However, private landowners could continue to conduct predator management on BLM lands and could continue to enter into agreements with APHIS–ADC to carry out predator management on private, state, and other non-BLM lands.

The Predator Management EA for Montana was available for public review from September 15 to October 15, 1993. An EA, DR, and FONSI were issued in November 1993. Since that time, the BLM decided to vacate the EA and decisions from IBLA to clarify and revise the analysis. The revised EA, DR, and FONSI have been reissued (April 1994) and are available upon request.

Based upon careful consideration of the analysis of alternatives within the Predator Management EA, including consideration of applicable laws, regulations, public and agency comments, I have decided to implement Alternative I—Integrated Pest Management (APHIS–ADC, DOL, and BLM Proposed Action). Management actions will be directed towards localized populations and/or individual offending predators. Requests for control will come directly from the permittees to APHIS–ADC. In response to public concern regarding the use of lethal methods, the following mitigating measure has been adopted as part of my decision: Livestock producers will be provided information on nonlethal methods. When services are requested by permittees, APHIS–ADC will provide a factsheet to the producer on nonlethal methods. In addition, information on nonlethal methods will also be mailed out in the annual grazing applications by BLM. This will ensure that permittees are aware of the variety of nonlethal methods available to them; such as animal husbandry practices, guard dogs, scare devices, etc.

Implementation of Alternative I will require strict adherence to reasonable and prudent measures, provided by the U.S. Fish and Wildlife Service (USFWS), and the mitigation and stipulations incorporated in the EA, and my decision for the protection of threatened and endangered species. The USFWS has concurred with the BLM finding that the proposed predator management strategy is not likely to adversely affect threatened and endangered species. Restrictions will be placed on predator management activities within four outstanding natural areas located west of Choteau because of the presence of threatened and endangered species. The other special areas in the Lewistown District closed to predator management are Azure Cave and Square Butte Outstanding Natural Area. These areas are closed to predator management because of the high recreational values. The human safety zones identified on Map No. 1 in the EA will be closed to predator management. These areas also include appropriate buffer zones. Bird-hunting areas, as identified on Map No. 2 in the EA, will have timing restrictions placed on some predator management activities.

It is my conclusion that the proposed action will not result in significant environmental impacts, and that no species will be substantially or permanently reduced in numbers as a result of my decision. In addition, the predator population is not substantially impacted. Statewide, 7,847 coyotes were taken by APHIS–ADC and DOL on lands of all ownership, or 1.5 to 13.7 percent of the population statewide (based on the scientific model) or 2.6 percent of the population statewide (based on the coyote density indices sampling). In the Lewistown District, approximately 171 coyotes and 10 red foxes were taken on BLM lands by APHIS–ADC. Based on the analysis in the EA, the implementation of Alternative I will result in the smallest amount of livestock lost, and provides the most flexibility in correcting or preventing damaged based on the circumstances and the surrounding environment. My decision ensures that predator management will be carried out in a systematic manner which responds to resource protection, human health, and livestock protection needs while protecting public safety, domestic animals, and nontarget wildlife. This decision is compatible with resource objectives identified in the Lewistown District land use plans. The Secretary of Interior will put the decision in full force and effect for the 30-day appeal period. To appeal this decision, please follow the appeal procedures. To obtain a copy of the appeal procedures, contact Sandy Brooks, Project Lead, Montana State Office, 406–255–2929.

Dated: April 25, 1994.

Wayne Zinne,

Acting State Director.

[FR Doc. 94–10361 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–DN–P

[MT–930–4320–01]

Notice of Availability of Environmental Assessment, Decision Record, and Finding of No Significant Impact for Predator Management in the Miles City District Office; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: An Environmental Assessment (EA), Decision Record (DR), and Finding of No Significant Impact (FONSI) have been reissued for predator management in the Miles City District. The EA and DRs were vacated from IBLA. The analysis was revised and clarified and reissued (April 1994).

FOR FURTHER INFORMATION CONTACT: Sandy Brooks, Project Lead, Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2929.

SUPPLEMENTARY INFORMATION: The EA for Predator Management in Montana addresses four alternatives which affect predator management to varying degrees:

Alternative I—Integrated Pest Management (APHIS–ADC, DOL, and BLM Proposed Action): This alternative

emphasizes an Integrated Pest Management (IPM) approach to reduce animal damage. The IPM approach incorporates a variety of practical, lethal, and nonlethal methods for prevention and control to minimize animal damage to livestock or human health. The use of M–44s would be permitted after authorization is obtained for specific areas. Preventive control would be allowed in areas where historical livestock losses have been documented.

Alternative II—No M–44s: This alternative would be similar to Alternative I, except the use of M–44s would not be authorized. All other approved methods for control would be permitted. Preventive control would be allowed in areas where historical livestock losses have been documented.

Alternative III—No Action (Emergency Control Only): Preventive control measures would not be authorized, and corrective control would be applied only where APHIS–ADC or DOL have confirmed recent loss of livestock to predation. Emergency predator management would be requested by a livestock producer when losses are occurring. The BLM would review and approve or disapprove these requests on a case-by-case basis. The requests would be handled using the emergency control procedures.

Alternative IV—No APHIS–ADC or DOL Predator Management on BLM Lands: Under this alternative, APHIS–ADC or DOL predator management activities would not be authorized on BLM land in Montana. However, private landowners could continue to conduct predator management on BLM lands and could continue to enter into agreements with APHIS–ADC and DOL to carry out predator management on private, state, and other non-BLM lands.

The Predator Management EA for Montana was available for public comment from September 15 to October 15, 1993. An EA, DR, and FONSI were issued in November 1993. Since that time, the BLM decided to vacate the EA and decisions to clarify and revise the analysis. The revised EA, DR, and FONSI (April 1994) have been reissued and are available upon request.

Based upon careful consideration of the analysis of alternatives within the Predator Management EA, including consideration of applicable laws, regulations, public and agency comments, I have decided to implement Alternative I—Integrated Pest Management (APHIS–ADC, DOL, and BLM Proposed Action). Management actions will be directed towards localized populations and/or individual offending predators. Requests for control will come directly to APHIS–ADC from permittees or to the DOL in those counties with a DOL-approved Memorandum of Understanding (MOU). Those counties with an approved MOU with the DOL are: Carter, Powder River, McCone, Dawson, and Richland Counties. In response to public concern regarding the use of lethal methods, the following mitigating measure has been adopted as part of my decision: Livestock producers will be provided information on nonlethal methods. When services are requested by permittees, either APHIS–ADC or DOL will provide a factsheet to the livestock producer on nonlethal methods. In addition, information on nonlethal methods will also be mailed out in the annual grazing applications by BLM. This will ensure that permittees who request control are aware of the variety of nonlethal methods available to them; such as animal husbandry practices, guard dogs, scare devices, etc.

Implementation of Alternative I will require strict adherence to reasonable and prudent measures provided by the U.S. Fish and Wildlife Service (USFWS), mitigation and stipulations incorporated in the EA, and my decision for the protection of threatened and endangered and candidate species. The USFWS has concurred with the BLM finding that the proposed predator management strategy is not likely to adversely affect threatened and endangered species. Predator management will be prohibited in the Powder River Special Recreation Management Area (SRMA), located within the Powder River Depot, because of the high recreational values in the area. All areas, as identified on the maps provided in the EA, where human health or safety are a particular concern will be closed to predator management. These areas also have appropriate buffer zones. Designated bird-hunting areas will have timing restrictions placed on some predator management activities.

It is my conclusion that the proposed action will not result in significant environmental impacts, and that no species will be substantially or permanently reduced in numbers as a result of my decision. The predator population will not be substantially impacted. Statewide, 7,847 coyotes were taken by APHIS–ADC and DOL on lands of all ownership, or 1.5 to 13.7 percent of the population statewide (based on the scientific model) or 2.6 percent of the population (based on the coyote density indices sampling). In the Miles City District, approximately 405 coyotes and 247 red foxes were taken on BLM lands by APHIS–ADC and DOL. Based on the analysis, implementation of Alternative I will result in the least amount of livestock loss and provides the most flexibility in correcting or preventing damage based on the circumstances and the surrounding environment. This decision ensures that predator management will be carried out in a systematic manner which responds to resource protection, human health, and livestock protection needs while protecting public safety, domestic animals, and nontarget wildlife. This decision is compatible with resource objectives identified in the land use plans for the district. The Secretary of Interior will put the decision in full force and effect for the 30-day appeal period. To appeal this decision, the appeal procedures need to be followed. To obtain a copy of the appeal procedures, contact Sandy Brooks, Project Lead, Montana State Office, 406–255–2929.

Dated: April 25, 1994.

Wayne Zinne,

Acting State Director.

[FR Doc. 94–10363 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–DN–P

[NM–070–04–4333–02]

Closure of Lands to Discharge of Firearms

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of use restrictions.

SUMMARY: In order to decrease conflict between recreationists and better provide for the safety of the public, use restrictions are announced by the Farmington District.

Effective immediately, the discharge of any type of firearm for any purpose is prohibited in the Dunes Vehicle Recreation Area and Head Canyon ORV Competition Area.

SUPPLEMENTARY INFORMATION: Since the discharge of firearms presents both a safety hazard to and recreational conflict with other users of these Special Management Areas, the following areas are hereby closed to the discharge of firearms any time for any purpose:

Dunes Vehicle Recreation Area

T. 29 N., R. 13 W., NMPM,
Sec. 19, Lots 19–23;
Sec. 20, SW¼ west of New Mexico State Highway 371;
Sec. 29, All below elevation of 5800';
Sec. 30, All;
Sec. 31, All below elevation of 5800'.

Head Canyon ORV Competition Area

T. 29 N., R. 13 W., NMPM,
Sec. 33, NW¼NW¼, S½NW¼, SW1

Total area affected by these closures is approximately 1,150 acres. Authority for these closures is found in 43 CFR Part 8364. Any person who fails to comply with a closure issued under 43 CFR Part 8364 may be subject to the penalties provided in 43 CFR 8360.0–7: violations are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Christopher Barns, BLM, Farmington District Office, 1235 La Plata Highway, Farmington, NM 87401; 505–599–6300.

Dated: April 19, 1994.

[FR Doc. 94–10341 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–FB–M

[OR–943–4210–06; GP4–041; OR–48432 (WASH)]

Proposed Withdrawal and Public Meeting; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 9,730.82 acres of public lands in aid of legislation for the Department of the Army, Corps of Engineers to expand the Yakima Firing Center. This notice closes the lands for up to two years from surface entry and mining. The lands have been and remain open to mineral leasing.

DATE: Comments must be received by August 1, 1994.

ADDRESS: Comments should be sent to the Oregon/Washington State Director, BLM, P.O. Box 2965, Portland, Oregon 97208–2965.

FOR FURTHER INFORMATION CONTACT: Donna Kauffman, BLM Oregon/Washington State Office, 503–280–7162.

SUPPLEMENTARY INFORMATION: On February 28, 1994, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from settlement, sale, location, or entry under the public land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not the mineral leasing laws, subject to valid existing rights:

Willamette Meridian

Surface and Mineral Estates

T. 17 N., R. 20 E.,
Sec. 22, S¼;
Sec. 24, S½SW¼ and that portion of the E½ lying south of the Interstate Highway 90 right-of-way;
Sec. 26.
T. 16 N., R. 21 E.,
Sec. 4, SW¼SW¼;
Sec. 12, SE¼;
Sec. 18, lots 1, 2, 3, and 4, E½, and E½W½.
T. 17 N., R. 21 E.,
Sec. 30, lots 3 and 4;
Sec. 32, NE¼SE¼.
T. 16 N., R. 22 E.,
Sec. 2, lots 1, 2, 3, and 4, S½N½, and S½;
Sec. 4, lots 1, 2, 3, and 4, S½N½, and S½;
Secs. 10 and 14;
Sec. 20, SE¼SW¼;
Sec. 22;
Sec. 26, N½;
Sec. 28, N½.
T. 16 N., R. 23 E.,
Sec. 18, lots 3 and 4, E½SW¼, W½SE¼, and that portion of the E½SE¼ lying westerly of the westerly right-of-way line of Huntzinger Road;
Sec. 20, that portion of the SW¼ lying westerly of the easterly right-of-way line of the railroad;
Sec. 30, lots 1 and 2, NE¼, and E½NW¼.

Mineral Estate

T. 16 N., R. 20 E.,
Sec. 12;
Sec. 18, lot 4 and SE¼;
Sec. 20, S½.
T. 16 N., R. 21 E.,
Sec. 4, lots 1, 2, 3, and 4, and S½NE¼;
Sec. 8.
T. 17 N., R. 21 E.,
Sec. 32, S½SE¼;
Sec. 34, W½.
T. 16 N., R. 22 E.,
Sec. 12.
The areas described aggregate 9,730.82 acres in Kittitas County.

The purpose of the proposed withdrawal is to protect the expansion of the Yakima Firing Center pending Congressional action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Subject to concurrence by the Department of the Army, Corps of Engineers, the temporary uses which may be permitted during this segregative period are leases, licenses, permits, rights-of-way, and disposal of mineral or vegetative resources other than under the mining laws.

Dated: April 13, 1994.

Robert D. DeViney, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 94–10402 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–33–P

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's Information Collection Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Information Collection Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018–0022), Washington, DC 20503, telephone 202–395–7340.

Title: Amendment to the Federal Fish and Wildlife License/Permit Application, Eagle Permits for Religious Purposes.

OMB Approval Number: 1018–0022.

Abstract: The Service has completed a review of the eagle permit process, and has concluded that the length and complexity of the Service standard wildlife permit application form could discourage Native Americans from applying for eagles and their parts for religious purposes. The new permit application form consists of one page of instruction, a half page application form with a "feather guide" which identifies eagle parts and a "certification of enrollment" and "certification of participation" stating that the applicant has a religious need for the material. The information will be used to determine if the applicant meets the eligibility requirements, and to ship the requested material upon approval of the application. In addition, a new re-order form has been created which can be sent directly to the National Eagle Repository eliminating the need for additional paperwork because the initial application and certifications will be on file.

Frequency: On occasion.

Description of Respondents: Individuals or households.

Estimated Completion Time: 1.5 hours average.

Annual Responses: +365.

Annual Burden Hours: +730.

Service Clearance Officer: Phyllis H. Cook, 703–358–1943, Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: April 22, 1994.

David L. Olsen,

Assistant Director—Refuges and Wildlife.

[FR Doc. 94–10448 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–55–M

Notice of Intent To Prepare an Environmental Impact Statement To Allow Incidental Take of the Threatened Northern Spotted Owl (Strix occidentalis caurina) and the Threatened Marbled Murrelet (Brachyramphus marmoratus marmoratus) on Lands Administered by the Washington State Department of Natural Resources

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) and Washington State Department of Natural Resources (WDNR) intend to gather information necessary for the preparation of an Environmental Impact Statement (EIS). The EIS will consider a permit application by the WDNR to take federally listed species, under the provisions of section 10(a)(1)(B) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (Act). This notice is being furnished pursuant to the Council on Environmental Quality Regulations for Implementing The Procedural Provisions of the National Environmental Policy Act (NEPA) Regulations (40 CFR 1508.22).

To satisfy both Federal and State Environmental Policy Act requirements, the Service and WDNR are conducting a joint scoping process for the preparation of an EIS. Interested agencies, organizations, and individuals are encouraged to provide written comments on the issues which should be addressed in the EIS to the Service or WDNR.

DATES: Written comments regarding the scope of the EIS should be received on or before May 31, 1994.

ADDRESSES: Comments regarding the scope of the EIS should be addressed to Mr. Curt Smitch, U.S. Fish and Wildlife Service, 3773 Martin Way East, Building C, suite 101, Olympia, WA 98501.

FOR FURTHER INFORMATION CONTACT: Comments received will be available for public inspection by appointment during normal business hours (8 a.m. to 5 p.m., Monday through Friday) at the Washington Department of Natural Resources, 1111 Washington St. SE., Olympia, WA; for appointment call Nonie Hall at (206) 902–1405.

As a further opportunity for interested persons to comment on this scope of the EIS, scoping workshops are scheduled as follows:

- May 5, 1994. Thurston County Courthouse, Bldg. 1, Room 152, Olympia, WA.
- May 10, 1994. Skagit Valley College, Ford Hall, Room F–101, Mt. Vernon, WA.
- May 11, 1994. Port Townsend High School, 1500 Van Ness Street, Port Townsend, WA.
- May 17, 1994. Ellensberg High School, Ellensberg, VA.
- May 18, 1994. City Library, 621 K Street, Hoquiam, WA.
- May 19, 1994. Sunrise Elementary School, Enumclaw, WA.

May 24, 1994. Vancouver Public Utility District, Meeting Room, 8600 NE 117th Ave., Vancouver, WA.

All scoping workshops will be held from 5:30 p.m. to 8:30 p.m. Interested persons may contact John Engbring at (206) 53–9330 or Nonie Hall at (206) 902–1405 to receive additional information, including maps for the workshop locations.

SUPPLEMENTARY INFORMATION: WDNR manages approximately 2.1 million acres of state forest land, 2 million acres of aquatic land (primarily tidelands and bedlands), and 1 million acres of range, agricultural and urban land.

WDNR has launched an effort to address species conservation and ecosystem health issues on the lands it manages statewide. The effort will include the development of a habitat conservation plan, as allowed under section 10 of the Act, for forested lands to preserve and protect wildlife and fish while continuing commodity production.

WDNR's goal is to develop a comprehensive species conservation and habitat management plan for forested state trust lands. It is WDNR's intent for the plan to achieve the following objectives.

1. Meet the legal requirements for section 10 incidental take permits for selected threatened or endangered species;

2. Obtain agreements for selected species that are candidates for listing;

3. Make an appropriate contribution to the conservation of other forest associated species (with the intent of reducing the likelihood of future listings);

4. Develop conservation strategies for salmon habitat;

5. Integrate long-term forest health strategies with conservation strategies for northern spotted owl on WDNR managed forests in Eastern Washington; and

6. Meet all the common law duties of a trustee.

The proposed plan will consider the specific needs of those species for which an incidental take permit will be requested (the northern spotted owl and the marbled murrelet). In addition, the needs of native salmon and other forest associated species that may be listed within ten years will be addressed. Once completed, WDNR will submit the plan as part of the permit application process required under the provisions of section 10(a)(2)(A) of the Act. The Service will evaluate the incidental take permit application and plan in accordance with section 10(a)(2)(B) of the Act, and its implementing regulations.

The environmental review of this project will be conducted in accordance with the requirements of NEPA and its implementing regulations.

Dated: April 25, 1994.

Don Weathers,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 94–10360 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Mississippi River Corridor Study Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: June 14, 1994; 8 a.m. until 5 p.m. June 15, 1994; 8 a.m. until noon.

Address: Blackhawk Hotel, 200 East Third Street, Davenport, Iowa 52801.

The business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first served basis. The Chairman will permit attendees to address the Commission,

but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Region, 1 week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: David N. Given, Associate Regional Director, Planning and Resource Preservation, National Park Service, Midwest Region, 1709 Jackson Street, Omaha, Nebraska 68102, (402) 221–3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by Public Law 101–398, September 28, 1990.

Dated: April 22, 1994.

David N. Given,

Acting Regional Director, Midwest Region.

[FR Doc. 94–10440 Filed 4–29–94; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Sec. 5a Application No. 34 (Amendment No. 8)]

Middlewest Motor Freight Bureau, Inc.—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of opportunity to comment.

SUMMARY: Middlewest Motor Freight Bureau, Inc. (MWB) has filed an application for approval of Amendment No. 8 to its ratemaking agreement, under which MWB's ratemaking territory would be expanded to include all points in the United States. The Commission invites public comment on the application.

DATES: Comments from interested persons must be filed at the Commission and served on MWB's representative by June 2, 1994. MWB's replies are due by June 17, 1994.

ADDRESSES: An original and 15 copies of comments should be sent to: Section 5a Application No. 34 (Amendment No. 8), Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927–5660. TDD for the hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: MWB operates under a rate bureau agreement last amended to facilitate MWB's merger with Central States Motor Freight Bureau, Inc., which the Commission approved under 49 U.S.C. 10706(b)(2) in *Middlewest Motor Freight Bureau, Inc. and Central States Motor Freight Bureau, Inc.—Merger Agreement*, Section 5a Application No. 34 (ICC served July 9, 1993). Proposed Amendment No. 8 would permit MWB's General Ratemaking Committee to engage in ratemaking in interstate and foreign commerce from, to, and between all points in the United States. No changes are contemplated in the ratemaking procedures of the agreement approved by the Commission. MWB states that many of its member carriers have nationwide authority from the Commission and operate throughout the United States. Copies of the application and the amendment are available for inspection and copying at the Office of the Secretary, Interstate Commerce Commission, 12th St. and Constitution Ave., NW, Washington, DC, and from MWB's representative Bryce Rea, Jr., Rea, Cross & Auchincloss, 1920 N Street, NW, suite 420, Washington, DC 20036.

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: April 22, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10404 Filed 4–29–94; 8:45 am]

BILLING CODE 7035–01–P

Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: April 26, 1994.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. The rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP–102, with the Commission within 30 days of its annual meeting each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Harvest States Cooperatives.

(2) P.O. Box 64594, St. Paul, MN 55164.

(3) 1667 N. Snelling Ave., St. Paul, MN 55108.

(4) Allen J. Anderson, Senior Vice-president, Administration and Public Affairs, P.O. Box 64594, St. Paul, MN 55164.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10405 Filed 4–29–94; 8:45 am]

BILLING CODE 7035–01–M

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: American Tranding and Production Corporation, P.O. Box 238, The Blaustein Building, Baltimore, MD 21203, A Maryland corporation.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation: Northern Computers, Inc., a Wisconsin corporation.

B. 1. Parent corporation and address of principal office: Scrivner, Inc., an Oklahoma Corporation, Corporate Office, 5701 North Shartel, Oklahoma City, Oklahoma 73118.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

Scrivner of Alabama, Inc., Incorporated in Alabama
Scrivner of Kansas, Inc., Incorporated in Kansas
Scrivner, Columbus Division, Incorporated in New York
Scrivner of Illinois, Inc., Incorporated in Illinois
Scirvner, Buffalo Division, Incorporated in New York
Scrivner of Iowa, Inc., Incorporated in Iowa
Scrivner of North Carolina, Inc., Incorporated in North Carolina
Scrivner, Oklahoma Division, Incorporated in Delaware
Scrivner, Syracuse Division, Incorporated in New York
Scrivner of Tennessee, Inc., Incorporated in Tennessee
Scrivner of Texas, Inc., Incorporated in Texas

Gateway Foods Distributors, Inc., Incorporated in Minnesota
Gateway Foods of Pennsylvania, Inc., Incorporated in Wisconsin
Gateway Foods Service Corp., Incorporated in Wisconsin
Scrivner of Pennsylvania, Inc., Incorporated in Pennsylvania
Scrivner Transportation, Inc., Incorporated in Oklahoma
Gateway Foods, Inc., Incorporated in Wisconsin
Gateway Foods of Altoona, Inc.,Incorporated in Pennsylvania
Gateway Foods of Twin Ports, Inc., Incorporated in Wisconsin

C. 1. Parent corporation and address of the principal office: Southline Metal Products Company, 3777 West 12th, P.O. Box 19526, Houston, Texas 77224.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporation: Southline Transportation Company, Inc., a Texas corporation, 3777 West 12th, P.O. Box 19526, Houston, Texas 77224.

Sidney L. Strickland, Jr.,
Secretary.

[FR Doc. 94–10406 Filed 4–29–94; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 85–94]

Privacy Act of 1974; New System of Records

Pursuant to the Privacy Act, 5 U.S.C. 552a, the Department of Justice, United States Marshals Service, proposes to establish a new system of records entitled "Employee Assistance Program (EAP) Records, JUSTICE/USM–015."

Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on any new routine uses of a system of records; the Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to review the new system.

Therefore, please submit any comments by June 1, 1994. The public, OMB, and the Congress are invited to submit written comments to Patricia E. Neely, Staff Assistant, Systems Policy Staff, Justice Management Division, Department of Justice, Washington, DC 20530, (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report on this system of records to OMB and the Congress.

The system description is printed below.

Dated: April 13, 1994.

Stephen R. Colgate,
Assistant Attorney General for Administration.

JUSTICE/USM–015

SYSTEM NAME:

U.S. Marshals Service (USMS) Employee Assistance Program (EAP) Records.

SYSTEM LOCATION:

Records of the Employee Assistance Office, Employee Relations Division, USMS, are located at 600 Army Navy Drive, Arlington, Virginia 22202–4210. Records of independent health service organizations (IHSOs) with whom the USMS has contracted for health services, are located at the respective offices of these services providers.[1] Addresses of these service providers may be obtained by contacting the USMS Employee Assistance Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the USMS (and, in limited cases, immediate family members) who have sought counseling or have been referred for counseling or treatment through the USMS EAP.

CATEGORIES OF RECORDS COVERED IN THE SYSTEM:

Records of the USMS Employee Assistance Office and the IHSOs include written consent forms used to manage referrals and the exchange or flow of personal information, and account information such as billings and payments. (Where relevant, necessary, and proper certain records may be duplicated in these offices.) Other records generally maintained by the USMS Employee Assistance Office and the IHSOs are described as follows:

A. Records located in the USMS Employee Assistance Office include only records which may assist in managing and monitoring employee referrals and participation in the EAP Program. Examples of such records are: The name, location and telephone number(s) of the employee, family member or supervisor or manager who makes the initial contact with EAP personnel; the date and manner of initial contact, i.e., by telephone or in person; notes of problem(s) presented upon initial contact with EAP personnel; documents received from supervisors or personnel on work place problems or performance; insurance data; name and address of treatment facilities; number of sessions attended by the participating employee or family member; leave records; written consent forms and abeyance/back-to-work agreements (made to mitigate adverse action based upon treatment); information on confirmed, unjustified positive drug tests provided by the Drug Free Workplace Program and the Medical Review Officer under E.O. 12564; and "sanitized" audit records of the EAP/IHSO Program.

B. Records of the IHSOs may include any records which may assist in (1) assessing and counseling the individual on a short-term basis, and (2) identifying those individuals who may need long-term professional counseling, treatment and/or rehabilitation services (beyond those provided for by the USMS contract with the IHSOs). Records of the local IHSO may also include any records which may assist in monitoring and evaluating the performance of the various IHSOs outside the Washington, DC metropolitan area. Examples of IHSO records are: Personal identifying data on the employee and/or family member such as name, social security number, gender; home address and telephone number(s); notes and documentation of problem(s) presented upon initial contact with the IHSO; date of intake at the IHSOs; pertinent psychological, medical, employment and/or financial histories; address(es) of IHSOs providing short-term services; clinical notes and documentation on short-term counseling; attendance at short-term counseling sessions; prognosis information; information on problem resolution through short-term counseling, if applicable; date closed at the IHSO; information on confirmed, unjustified positive drug tests; and client employee/family member evaluations of services provided by the IHSOs. Records may also include recommendations and referrals to community resources for long-term counseling, treatment and/or rehabilitation programs beyond the services provided by the USMS EAP/IHSOs, including referrals for other assistance not related to financial concerns, or psychological or medical health.

C. Other records included in the system (and which may be duplicated in the USMS EAP and IHSO offices, where relevant, necessary, and proper) are those obtained from specialized service providers (SSPs) with the written

[1] On behalf of the USMS, the local IHSO subcontracts with similar throughout independent health service organizations in areas outside of the Washington, DC metropolitan area to provide similar services to USMS employees located in those areas.

consent of the subject individual.[2] Generally, such records are limited to those which relate to attendance at sessions, prognosis for recovery, motivation, and progress toward recovery. However, where the record subject deems it necessary or desirable to furnish additional records, such records could include: Medical tests and screenings; treatment and rehabilitation plans as well as behavioral improvement plans; notes and documentation on counseling; and relevant information pertaining to assistance provided on matters other than financial concerns, or psychological or medical health.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 290dd, et seq. and 290ee, et seq.; 42 CFR 2.1, et seq.; Executive Order 12564, 5 U.S.C. 3301 and 7901; 44 U.S.C. 3101 and Pub. L. No. 100–71, Sec. 503 (July 11, 1987).

PURPOSE:

The EAP is a voluntary program designed to assist the employee in obtaining necessary help in handling personal problem(s) affecting job performance, and to provide emotional support and assistance during periods of crises, including those arising from traumatic work-related incidents. Records are maintained to document participation in the EAP program, the nature and effects of the employee's personal problem(s); and efforts to counsel the employee. Records may be used also to monitor compliance with abeyance and back-to-work agreements made to mitigate adverse actions based upon treatment.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures permitted by the Privacy Act itself, 5 U.S.C. 552a(b),[3] permissive disclosures, without individual consent, are as follows:

1. To the extent that it is appropriate, relevant, and necessary to enable the IHSOs to perform counseling, referral and program performance evaluation responsibilities, the USMS will provide those records—identified in paragraph A. of the "Category of Records in the System" (which are primarily administrative in nature) to the IHSOs who, on behalf of the USMS, maintain and operate a portion of this system of records—identified in paragraph B. of the same caption.

2. On behalf of the USMS, the IHSOs may disclose as follows: (a) To the appropriate State or local agency or authority to the extent necessary to comply with laws governing reporting incidents of suspected child abuse or neglect, and (b) to Federal, State and/or local authorities or to any other entity or person to the extent necessary to prevent an imminent and potential crime which directly threatens loss of life or serious bodily injury.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored in locked metal safes.

RETRIEVABILITY:

Records are retrieved by name of employee and, in limited cases, immediate family members.

SAFEGUARDS:

In accordance with the requirements of 42 CFR 2.16, USMS EAP and IHSO records are stored in a secure enivronment. Access to USMS EAP records is restricted to designated USMS EAP personnel, except as otherwise permitted by law or with the written consent of the individual. Vouchers prepared to effect payment for services rendered by the IHSOs in performance of the contract do not contain individual identifiers. Invoices prepared by IHSOs located outside the Washington, DC metropolitan area are sent by first-class mail to the designated member(s) of the local IHSO contracted by the USMS. In turn, invoices or other records prepared in support of payment vouchers which contain individual identifiers are hand-carried by the local IHSO to the EAP Administrator who retains the supporting documentation. Records are maintained in locked metal safes. Entry to headquarters is restricted by 24-hour guard service to employees with official and electronic identification.

Access to IHSO records is restricted to a designated member(s) of the IHSO, except as otherwise provided by law or with the written consent of the individual. IHSO records are stored in locked files also.

RETENTION AND DISPOSAL:

Records are retained for three years after the individual ceases contact with the USMS EAP and/or the IHSO unless a longer retention period is necessary because of pending administrative or judicial proceedings. In such cases, the records are retained for six months after the case is closed. At that time the records are destroyed by shredding (General Records Schedules 26 and 36).

SYSTEM MANAGER AND ADDRESS:

Employee Assistance Program Administrator, Employee Assistance Office, Employee Relations Division, United States Marshals Service, 600 Army Navy Drive, Arlington, Virginia, 22202–4210.

NOTIFICATION PROCEDURES:

Same as "Record Access Procedures."

RECORD ACCESS PROCEDURES:

Address all requests for access to USMS EAP records (identified in paragraphs A. and C. of the "Category of Records in the System,") in writing to the system manager identified above. Address all requests for records maintained by the IHSOs (identified in paragraph B. of the same caption) to these service providers. Addresses of these service providers may be obtained by contacting the USMS Employee Assistance Office. Clearly mark the envelope and letter "Privacy Act Request." Clearly indicate the name of the requester, nature of the record sought, and approximate date of the record. In addition, provide the required verification of identity (28 CFR 16.41(d)) and a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information in accordance with the procedures outlined under "Record Access Procedures." State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Privacy Act Amendment Request."

RECORD SOURCE CATEGORIES:

Records are generated by the employee who is the subject of the record; USMS EAP personnel; the IHSO and SSP; the USMS personnel office; and the employee's supervisor. In the case of a confirmed, unjustified positive drug test, records may also be generated by the staff of the Drug-free Workplace Program and the Medical Review Officer.

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[2] SSPs are health service, community-based organizations, which offer long-term treatment and rehabilitation services. The USMS EAP and/or the IHSOs may recommend that the individual seek professional assistance beyond that provided by the USMS EAP program contracted out with the IHSOs. Where the individual chooses to pursue further treatment, he may elect to provide the USMS EAP and/or the IHSOs with such information as may be relevant to the back-to-work agreement.

[3] To the extent that release of alcohol and drug abuse records is more restricted than other records subject to the Privacy Act, the USMS will follow such restrictions. See 42 U.S.C. 290dd and 290ee (and implementing regulations at 42 CFR part 2), and Public Law 100–71, section 503.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 94–10403 Filed 4–29–94; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Numbers D–9395, D–9396]

Amendment to Prohibited Transaction Exemption 93–33 (PTE 93–33) for the Receipt of Certain Services by Individuals for Whose Benefit Individual Retirement Accounts or Retirement Plans for Self-Employed Individuals Have Been Established or Maintained

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Adoption of Amendment to PTE 93–33.

SUMMARY: This document amends PTE 93–33, a class exemption that permits the receipt of services at reduced or no cost by an individual for whose benefit an individual retirement account (IRA) or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a bank, provided the conditions of the exemption are met. The amendment affects individuals with a beneficial interest in the IRAs and Keogh Plans who receive such services as well as the banks that provide such services.

EFFECTIVE DATE: The amendment is effective May 11, 1993.

FOR FURTHER INFORMATION CONTACT: Allison K. Padams, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor (202) 219–8971. (This is not a toll-free number); or Susan E. Rees, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor (202) 219–9141. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On November 19, 1993, notice was published in the **Federal Register** (58 FR 61103) of the pendency before the Department of a proposed amendment to PTE 93–33 (58 FR 31053, May 28, 1993). PTE 93–33 provides an exemption from the restrictions of sections 406(a)(1)(D) and 406(b) of the Employee Retirement Income Security Act of 1974 (ERISA) and from the sanctions resulting from the application of sections 4975 (a) and (b), 4975(c)(3) and 408(e)(2) of the Internal Revenue Code of 1986 (the Code) by reason of section 4975(c)(1) (D), (E) and (F) of the Code.[1]

The amendment to PTE 93–33 adopted by this notice was requested in an exemption application filed on behalf of Citibank, N.A. and the Chase Manhattan Bank, N.A. (the Applicants). The exemption application was submitted pursuant to section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).

The notice of pendency gave interested persons an opportunity to comment or to request a hearing on the proposed amendment. Public comments were received pursuant to the provisions of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B.

For the sake of convenience, the entire text of PTE 93–33, as amended, has been reprinted with this notice.

1. Description of the Exemption

PTE 93–33 permits the receipt of services at reduced or no cost by an individual for whose benefit an IRA or Keogh Plan is established or maintained or by members of his or her family, from a bank pursuant to an arrangement in which the deposit balance in the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided the conditions of the exemptions are met. The term deposit balance was defined in section III(d) of PTE 93–33 to mean deposits as that term is defined under 29 CFR 2550.408(b)–4(c)(3).[2] The amendment granted by the notice modifies section III(d) of PTE 93–33 to include IRA and Keogh Plan investments in securities for which market quotations are readily available.[3] However, the amendment specifically excludes investments in securities offered by the bank exclusively to IRAs and Keogh Plans.

The Department notes that all the conditions contained in PTE 93–33 still must be met under the amended class exemption. These conditions include a requirement that for purposes of determining eligibility to receive services at reduced or no cost, the account balance required by the bank for the IRA or Keogh Plan is equal to the lowest balance required for any other type of account which the bank includes to determine eligibility to receive reduced or no cost services. Additionally, the rate of return on the IRA or Keogh Plan is no less favorable than the rate of return on an identical investment that could have been made at the same time at the same branch of the bank by a customer of the bank who is not eligible for (or who does not receive) reduced or not cost services. Moreover, the services must be of the type that the bank itself could offer consistent with applicable federal and state banking law.

2. Discussion of the Comments Received

The Department received three letters commenting on the proposed amendment, including one from the Applicants. Two commenters support the proposed amendment. The Applicants requested that we note the following: (1) The notice of proposed amendment incorrectly referred to one of the Applicants, Chase Manhattan Bank, N.A., as Chase National Bank, N.A.; and (2) the Applicants, as of January 1993, served as trustees for 650,000 IRAs and Keogh Plans having approximately $6.5 billion in assets, not $65 billion as previously noted.

The third commenter requested that the Department either expand PTE 93–33 to provide relief for the receipt of services by individuals for whose benefit an IRA or Keogh Plan is established or maintained from a broker-dealer (or other non-bank custodian), or delay the effective date of the amendment until parallel relief has been provided for non-bank custodians. The Department notes that the proposed amendment is limited to the modification of the term deposit balance (which has been redesignated as "account balance" under the amendment) to permit IRA and Keogh Plan investments in securities for which market quotations are readily available to be taken into account in determining eligibility to receive reduced or no cost services. Accordingly, the Department believes that consideration of the issues involved in amending PTE 93–33 to include broker-dealers is beyond the scope of these proceedings. In addition, the Department does not believe that a sufficient showing has been made that the relief and conditions currently contained in PTE 93–33 are relevant in

[1] Section 102 of Reorganization Plan No. 4 of 1978 (42 FR 47712, October 17, 1978) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975(c)(2) of the Code to the Secretary of Labor.

[2] 29 CFR 2550.408b–4(c)(3) provides that deposits are any account upon which a reasonable rate of interest is paid, including a certificate of deposit issued by a bank or similar financial institution.

[3] For purposes of this exemption, the term "securities for which market quotations are readily available" is derived from Federal securities law, in particular, the Investment Company Act of 1940 and regulations issued thereunder. See, *e.g.*, 17 CFR §§ 270.2a–4, 270.17a–7 (1992).

the context of broker-dealer programs for the provision of services at reduced or no cost to IRA and Keogh Plan accounts. Consequently, the final amendment has not been so revised. Furthermore, in the absence of detailed information regarding the operation of such broker-dealer programs, the Department has determined not to delay the effective date of the amendment.

Finally, the Department wishes to take the opportunity to state that the commenter may wish to consider filing an exemption application for comparable relief under section 408(a) of ERISA.

General Information

The attention of interested persons is directed to the following:

(1) In accordance with section 408(a) of ERISA and section 4975(c)(2) of the Code and based upon the entire record, the Department finds that the amendment is administratively feasible, in the interests of the IRAs and Keogh Plans, their participants and beneficiaries and protective of the rights of participants and beneficiaries of such plans.

(2) The amendment is supplemental to, and not in derogation of, any other provisions of ERISA and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The amendment is applicable to a transaction only if the conditions specified in the class exemption are met.

Exemption

Accordingly, PTE 93–33 is amended under the authority of section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, subpart B.

Section I: Covered Transaction

Effective May 11, 1993, the restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of section 4975 of the Code, including the loss of exemption of an individual retirement account (IRA) pursuant to section 408(e)(2)(A) of the Code, by reason of section 4975(c)(1) (D), (E) and (F) of the Code, shall not apply to the receipt of services at reduced or no cost by an individual for whose benefit an IRA or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from a bank pursuant to an arrangement in which the account balance in the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided that each condition of Section II of this exemption is satisfied.

Section II: Conditions

(a) The IRA or Keogh Plan, the account balance of which is taken into account for purposes of determining eligibility to receive services at reduced or no cost, is established and maintained for the exclusive benefit of the participant covered under the IRA or Keogh Plan, his or her spouse or their beneficiaries.

(b) The services must be of the type that the bank itself could offer consistent with applicable federal and state banking law.

(c) The services are provided by the bank (or an affiliate of the bank) in the ordinary course of the bank's business to customers who qualify for reduced or no cost banking services but do not maintain IRAs or Keogh Plans with the bank.

(d) For the purpose of determining eligibility to receive services at reduced or no cost, the account balance required by the bank for the IRA or Keogh Plan is equal to the lowest balance required for any other type of account which the bank includes to determine eligibility to receive reduced or no cost services.

(e) The rate of return on the IRA or Keogh Plan investment is no less favorable than the rate of return on an identical investment that could have been made at the same time at the same branch of the bank by a customer of the bank who is not eligible for (or who does not receive) reduced or no cost services.

Section III: Definitions

The following definitions apply to this exemption:

(a) The term bank means a bank described in section 408(n) of the Code.

(b) The term IRA means an individual retirement account described in Code section 408(a). For purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code which provides participates with the unrestricted authority to transfer their SEP balances to IRAs sponsored by different financial institutions.

(c) The term Keogh Plan means a pension, profit sharing, or stock bonus plan qualified under Code section 401(a) and exempt from taxation under Code section 501(a) under which some or all of the participants are employees described in section 401(c) of the Code. For purposes of this exemption, the term Keogh Plan shall not include a Keogh Plan which is an employee benefit plan covered by title I of ERISA.

(d) The term account balance means deposits as that term is defined under 29 CFR 2550.408b–4(c)(3), or investments in securities for which market quotations are readily available. For purposes of this exemption, the term account balance shall not include investments in securities offered by the bank (or its affiliate) exclusively to IRAs and Keogh Plans.

(e) An affiliate of a bank includes any person directly or indirectly controlling, controlled by, or under common control with the bank. The term control means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term members of his or her family refers to beneficiaries of the individual for whose benefit the IRA or Keogh Plan is established or maintained, who would be members of the family as that term is defined in Code section 4975(e)(6), or a brother, a sister, or spouse of a brother or a sister.

(g) The term service includes incidental products of a *de minimis* value provided by third persons, pursuant to an arrangement with the bank, which are directly related to the provision of banking services covered by the exemption.

Signed at Washington, DC, this 21st day of April 1994.

Alan D. Lebowitz,

Deputy Assistant Secretary of Program Operations, Pension and Welfare Benefits Administration; U.S. Department of Labor.

[FR Doc. 94–10426 Filed 4–29–94; 8:45 am]

BILLING CODE 4510–29–M

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities Under OMB Review

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The U.S. Merit Systems Protection Board (MSPB) is requesting a one-year extension of approval of its appeal form, Optional Form 282 (Rev. 12–89) from the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980, and soliciting comments on the public reporting burden. The reporting

burden for the collection of information on this form is estimated to vary from 20 minutes to one hour per response, with an average of 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DATES: Comments must be received on or before June 1, 1994.

ADDRESSES: Copies of the appeal form may be obtained from Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, DC 20419. Comments concerning the paperwork burden should be addressed to Paul D. Mahoney, Director, Office of Management Analysis, Merit Systems Protection Board, 1120 Vermont Ave., NW., Washington, DC 20419; and the Office of Management and Budget, Paperwork Reduction Project (Optional Form 283), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: C.P. Kramarsky, Office of Management Analysis; (202) 653–8892.

Dated: April 22, 1994.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 94–10324 Filed 4–29–94; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biological Sciences; Notice Of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences.

Date and time: May 17 & 18, 1994.

Place: National Science Foundation, 4201 Wilson Boulevard, room 330, Arlington, VA 22230.

Type of meeting: Closed.

Contact person: Dr. James T. Callahan, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1483.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Long Term Ecological Research (renewal) proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10329 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Computer and Information Science and Engineering; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Computer and Information Science and Engineering

Date and time: May 19, 1994; 8:30 a.m. to 5 p.m. May 20, 1994; 8:30 a.m. to 2:30 p.m.

Place: 4201 Wilson Blvd., Arlington, VA 22230, Room 375.

Type of meeting: Open.

Contact person: Odessa Dyson, Administrative Officer, Office of the Assistant Director, Directorate for Computer and Information Science and Engineering, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1900.

Minutes: May be obtained from the contact person listed above.

Purpose of meeting: To advise NSF on the impact of its policies, programs and activities on the CISE community; to provide advice to the Assistant Director/CISE on issues related to long range planning, and to form ad hoc subcommittees to carry out needed studies and tasks.

Agenda:

(1) Strategic Planning.

(2) CISE High Performance Computing and Communications Planning.

(3) Networking Issues.

(4) Advisory Committee Activities.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10330 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross Disciplinary Activities.

Date and time: May 17, 1994; 8:30 a.m. to 5 p.m.

Place: Room 1105.17 and 1150.

Type of meeting: Closed.

Contact persons(s): Forbes Lewis, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Telephone: (703) 306–1980.

Purpose of meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Academic Research Infrastructure proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10331 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463), as amended), the National Science Foundation announces the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: May 14, 1994 from 12 noon to 7 p.m.

Place: Westin Hotel—O'Hare, Suite 1225, 6100 River Road, Rosemont, IL 60018.

Type of Meeting: Open.

Contact Person: John W. Lightbody, Program Director for Nuclear Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1890.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda: Presentation of NSAC Subcommittee Report on Assessment and Planning for the DOE Nuclear Physics Program (W. Henning) (*) Discussion and recommendations regarding the Charge to NSAC (*) Public Comments (*) Persons wishing to speak should make arrangements through the Contact Person identified above.

Dated: April 26, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10456 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science

Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communication Systems.

Dates & time: May 18, 1994 8:30 am–5 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 326, Arlington, Virginia 22230.

Contact person: Dr. Linton G. Salmon, Program Director, Solid State and Microstructures (MEMS), Division of Electrical and Communications Systems, Room 675, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Telephone: 703/306–1339.

Type of meeting: Closed.

Purpose of: To review proposals submitted to the NSF in response to the

Meeting: Solid State and Microstructures Program (MEMS).

Agenda: To review and evaluate proposals submitted under a IITA–94 National Challenge Group for financial support.

Reason for closing: The proposals being reviewed include information of a proprietary confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10333 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems (#1196).

Date & Time: May 18, 1994, 8 am–5 pm.

Place: NSF, 4201 Wilson Boulevard, room 320, Arlington, Virginia.

Contact Person: Dr. Linton G. Salmon, Program Director, ECS, room 675, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 TELEPHONE: 703/306–1340.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10332 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date & Time: May 24, 1994—8:30 am–5 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, room 530, Arlington, Virginia 22230.

Contact Person: Dr. Linton G. Salmon, Program Director, Solid State and Microstructures (MEMS), Division of Electrical and Communications Systems, Room 675, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Telephone: 703/306–1339.

Type of Meeting: Closed.

Purpose of Meeting: To review proposals submitted to the NSF in response to the Solid State and Microstructures Program (MEMS).

Agenda: To review and evaluate proposals submitted under a IITA–94 National Challenge Group for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10334 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geosciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Geosciences #1756.

Date: May 19 & 20, 1994.

Time: 8 a.m. to 6 p.m. each day.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. James H. Whitcomb, Program Director, Geophysics Program, Division of Earth Sciences, room 785, National Science Foundation, Arlington, VA 22230, (703) 306–1556; or Dr. William A. Anderson, Program Director, Earthquake Hazard Mitigation Program, room 545, National Science Foundation, Arlington, VA 22230, (703) 306–1362.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate earth sciences and engineering proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10336 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Materials Research; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meetings:

Name: Special Emphasis Panel in Materials Research (DMR).

Dates, and Times: May 15, 1994, 7 pm–9 pm; May 16 and 17, 1994, 8 am–8 pm; May 18, 1994, 8 am–1 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230; Rooms 330 (May 15 only), 310, and 365.

Type of Meetings: Closed.

Contact Person: Dr. W. Lance Haworth, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, room 1065, National Science Foundation, 4201 Wilson Blvd, Arlington, VA 22230. Telephone (703) 306–1815.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support by the Materials Research Science and Engineering Centers Program.

Agenda: Review and evaluate proposals as part of the selection process for subsequent awards. Includes presentation by, and discussion with, key participants in proposals previously selected as finalists.

Reason for Closing: The proposals being reviewed may include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10337 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mechanical & Structural Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Penal in Mechanical & Structural Systems.

Date & Time: May 20, 1994—8:30 a.m.–5:30 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, room 365, Arlington, Virginia 22230.

Contact Person: Dr. John B. Scalzi, Program Director, 703/306–1339.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial research.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10338 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: May 16th–18th, 1994; 9 a.m.–5 p.m.

Place: National Science Foundation, room 380, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Part-Open.

Contact Person: Dr. Laurence Stanford, Program Director, Developmental Neuroscience, Division of Integrative Biology and Neuroscience, suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Closed session May 16 & 18th, 1994; 9 a.m.–5 p.m. and May 17th, 1994 except where noted below. To review and evaluate Developmental Neuroscience proposals as part of the selection process for awards.

Open Session: May 17th, 1994 10 a.m.–12 noon; To discuss goals and assessment procedures.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10339 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

Statement of Organization, Functions, and Delegations of Authority

AGENCY: National Science Foundation.

ACTION: Notice of amendment to the NSF Statement of Organization, Functions, and Delegations of Authority.

SUMMARY: The Directorate for Engineering has been reorganized to better align and integrate the Directorate's programs. This reorganization reflects the:

- Renaming of the Division of Chemical and Thermal Systems as the Division of Chemical and Transport Systems;
- Restructuring and renaming of the Division of Biological and Critical Systems as the Division of Bioengineering and Environmental Systems and the Division of Mechanical and Structural Systems as the Division of Civil and Mechanical Systems; and
- Merging of the Division of Design and Manufacturing Systems and the Division of Industrial Innovation Interface to form the Division of Design, Manufacture and Industrial Innovation.

EFFECTIVE DATE: January 9, 1994.

FOR FURTHER INFORMATION CONTACT: Modestine Rogers, National Science Foundation, Division of Human Resource Management, 4201 Wilson Boulevard, room 315, Arlington, Virginia 22230, telephone 703–306–1181.

SUPPLEMENTARY INFORMATION: The Division of Chemical and Transport Systems (CTS) funds research that strengthens the engineering base for technologies involving chemical, thermal and flow processes. These processes are important in a variety of areas such as microelectronics, specialty chemicals, pharmaceuticals, energy production and transfer, molecular engineering of advanced materials, and chemical processing of hazardous waste.

The Division of Bioengineering and Environmental Systems (BES) is responsible for supporting research that expands the knowledge base of bioengineering; improves our ability to apply engineering methods to correct problems that impair the usefulness of land, air, or water; and explores basic engineering problems in the development, conservation, and use of ocean resources and systems.

The Division of Civil and Mechanical Systems (CMS) is responsible for supporting research that will advance the engineering base necessary for developing new or improved mechanical and civil engineering technologies. In addition, CMS is responsible for supporting research that strengthens the engineering knowledge base of potentially destructive phenomena such as earthquakes, floods, sea level rise, greenhouse effects, expanding and collapsing soils, destructive winds, landslides, tsunamis, and storm surges.

The Division of Design, Manufacture and Industrial Innovation (DMII) is responsible for supporting research that seeks to serve a broad spectrum of American industry through developing and expanding the scientific and engineering foundations of design, manufacturing, production, and integration engineering. It focuses on the relationships between industrial development, technological innovation, and scientific research. Additionally, DMII concentrates on long-term efforts needed to deepen our understanding of the processes, operations, and systems which comprise modern manufacturing, and to make our manufacturing base more competitive by increasing its innovation and responsiveness to changing needs. The Division also provides a focus for the small business activities of NSF and administers the Small Business Innovation Research program through its Office of Industrial Innovation and Partnerships. [58 FR 7587–7595, February 8, 1993]

Dated: April 25, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–10340 Filed 4–29–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Nominations of New Members of the Advisory Committee on the Medical Uses of Isotopes

AGENCY: Nuclear Regulatory Commission.

ACTION: Call for nominations.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is inviting nominations of individuals for its Advisory Committee on the Medical Uses of Isotopes (ACMUI) who are qualified in radiation therapy technology and/or medical dosimetry.

DATES: Nominations are due July 1, 1994.

ADDRESSES: Submit nominations to: Secretary of the Commission, ATTN: Advisory Committee Management Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Larry W. Camper, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–504–3417.

SUPPLEMENTARY INFORMATION: The ACMUI advises NRC on policy and technical issues that arise in regulating the medical use of byproduct material for diagnosis and therapy. Responsibilities include providing guidance and comments on changes in NRC rules, regulations, and guides concerning medical use; evaluating certain non-routine uses of byproduct material for medical use; and providing technical assistance in licensing, inspection, and enforcement cases.

Committee members posses the medical and technical skills needed to address evolving issues. The ACUMI currently consists of three physician specialists in therapeutic radiology, with experience in teletherapy and brachytherapy; three physician specialists in nuclear medicine, with backgrounds in radiology, internal medicine, and cardiology; a nuclear medicine technologists; a radiopharmacist; a specialist in medical physics; a patient's rights and care advocate; an individual with experience in State regulation of radioisotopes; and a representative from the Food and Drug Administration.

NRC is soliciting nominations of persons who are qualified in radiation therapy technology and/or medical dosimetry. Persons having the aforementioned qualifications are encouraged to apply.

Nominees must include resumes describing their educational and professional qualifications, and provide their current addresses and telephone numbers.

All new committee members will serve a 2 year term, with possible reappointment to two additional 2—year terms.

Nominees must be United States citizens and be able to devote approximately 80 hours per year to committee business. Members will be compensated and reimbursed for travel (including per diem in lieu of subsistence), secretarial, and correspondence expenses. Nominees will undergo a security background check and will be required to complete financial disclosure statements in order to avoid conflict of interest issues.

Dated at Washington, DC, this 25th day of April, 1994.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Advisory Committee Management Officer, Office of the Secretary of the Commission.

[FR Doc. 94–10370 Filed 4–29–94; 8:45 am]

BILLING CODE 7590–01–M

[IA 94–008]

Sean G. Miller, Coal City, IL; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Sean G. Miller was formerly employed by the Commonwealth Edison Company (CECo) from June 18, 1990, until he resigned his employment on December 2, 1992. He most recently held the position of Qualified Nuclear Engineer (QNE) with responsibilities involving compliance with NRC requirements for the operation of a nuclear power plant. CECo holds Facility Licenses DPR–19 and DPR–25 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50. The licenses authorize CECo to operate the Dresden Nuclear Station Units 2 and 3 located near Morris, Illinois. The licenses were issued by the NRC on December 22, 1969, and March 2, 1971, respectively.

II

On November 24, 1992, CECo notified the NRC that CECo senior managers had just become aware of an incident that had occurred on September 18, 1992, when Unit 2 was operating at 75% power. A Nuclear Station Operator (NSO), a licensed reactor operator, had incorrectly moved control rod H–1 while repositioning control rods to change localized power levels within the reactor core, and the event was concealed from CECo management. Both CECo and NRC initiated an investigation of the incident.

On September 18, 1992, the NSO, a licensed operator, erroneously moved control rod H–1 from Position 48 (fully withdrawn) to Position 36. The NSO and two individuals in training to become nuclear engineers were in the control room when Mr. Miller, the QNE on duty and an unlicensed individual, recognized the NSO's error. Mr. Miller informed the NSO of the error, the NSO continued to move control rods at Mr. Miller's direction, without the knowledge or approval of the Station Control Room Engineer (SCRE), and then Mr. Miller informed the SCRE of the event. Later the SCRE spoke with Mr. Miller, the NSO and the two nuclear engineers in training and they all agreed that they would not discussed the incident with anyone else. As a result, neither the mispositioned rod nor the subsequent deviation from the planned control rod pattern were documented in the control room log, Mr. Miller falsified a Form 14–14C plant record, and CECO management was not informed of the incident.

Dresden Technical Specification 6.2.A.1 stated that applicable procedures recommended in Appendix A of Regulatory Guide 1.33, Revision 2 dated February 1978, shall be established, implemented, and maintained. Regulatory Guide 1.33, Appendix A.1.c, included administrative procedures general plant operating procedures, and procedures for startup, operation, and shutdown of safety related systems.

Dresden Operating Abnormal Procedure (DOA) 300–12, "Mispositioned Control Rod", Revision 2, November 1991, Section C.2, required, in part, that if a control rod is moved more than one even notch from its in-sequence position, then all control rod movement must be discontinued. Section D.2.a.(1) required, in part, that if a single control rod is inserted more than one even notch from its in-sequence position and reactor power is greater than 20%, and if the mispositioning occurred within the last 10 minutes, then the mispositioned control rod must be continuously inserted to Position 00. Section D.6 required that an upper management representative will conduct an evaluation into the cause of the mispositioning and implement immediate corrective actions prior to the resumption of routine control rod movements.

These procedures were not followed. Specifically, the NSO failed to insert the mispositioned control rod to Position

00, and continued to move control rods solely at the direction of Mr. Miller and without the performance of an evaluation and corrective actions by an upper management representative.

Dresdent Administrative Procedure (DAP) 14–14, "Control Rod Sequences," Revision 0, dated November 1991, section F.1.e, required that Form 14–14C, "Special Instructions", must provide instructions which should be clearly stated and strictly adhered to and required that the instructions be approved by the ONE (in this case, Mr. Miller) and an operations shift supervisor. Hoover, on September 18, 1992, following the mispositioning of control rod H–1, control rod arrays 8D2 and 5 were moved at Mr. Miller's direction and without the completion of a Special Instruction Form 14–14C clearly stating the sequence, and without prior approval of Mr. Miller's instructions by an operations shift supervisor. By directing the continued movement of control rods without the approval of a licensed operator, Mr. Miller, who is not a licensed operator, violated 10 CAR 55.3. Furthermore, after these rods had been moved, Mr. Miller knowingly completed a Form 14–14C to indicate a different sequence of control rod movements than that which actually occurred. The effect of this inaccurate Form 14–14C was to conceal the mispositioning of control rod H–1 and the subsequent movement of control rods in violation of plant procedures.

Based on the NRC Office of Investigations (OI) investigation of this matter (OI Report No. 3–92–055R), I conclude that Mr. Miller, along with certain other CECo employees, deliberately attempted to conceal with the mispositioned control rod event by failing to document the incident as required by plant procedures. By falsifying the Form 14–14C, Mr. Miller deliberately put CEOo in violation of Dresden Technical Specification 6.2.A.1, DAP 14–14, Section F.1.e., and 10 CFR 50.9, "Completeness and Accuracy of Information".

III

Based on the above, Mr. Miller, an employee of CECo at the time of the event, engaged in deliberate misconduct which caused CECo to be in violation of its license conditions and 10 CFR 50.9 and which constitutes a violation of 10 CFR 50.5 and 10 CFR 55.3.

The NRC must be able to rely on its licensees and their employees to comply with NRC requirements, including the requirement to maintain records that are complete and accurate in all material respects. Mr. Miller's action in causing CECo to violate its license conditions and 10 CFR 50.9 have raised serious doubt as to whether he can be relied upon to comply with NRC requirements, including the requirements to maintain complete and accurate records. Mr. Miller's deliberate misconduct that caused CECo to violate Commission requirements cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected, if Mr. Miller were permitted at this time to be engaged in the performance of NRC-licensed and regulated activities. Therefore, the public health, safety and interest require that Mr. Miller be prohibited from being involved in any NRC-licensed activities for three years from the date of this Order. In addition, for the same period, Mr. Miller is required to give notice of this Order to any prospective employer engaged in NRC-licensed activities as described in Section IV, Paragraph B, below, from whom he seeks employment in non-licensed activities to ensure that such employer is aware of Mr. Miller's previous history. For five years from the date of this Order, Mr. Miller is also required to notify the NRC of his employment by any person engaged in NRC-licensed activities, as described in Section IV, Paragraph B, below, so that appropriate inspections can be performed. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 50.5, it is hereby ordered, effective immediately, that:

A. Mr. Miller is prohibited for three years from the date of this Order from engaging in activities licensed by the NRC.

B. Should Mr. Miller seek employment in non-licensed activities with any persons engaged in NRC-licensed activities for three years from the date of this Order, Mr. Miller shall provide a copy of this Order to such person at the time Mr. Miller is soliciting or negotiating employment so that the person is aware of the Order prior to making an employment decision. For the purposes of this Order, licensed activities include the activities of: (1) An NRC licensee; (2) an Agreement State licensee conducting NRC-licensed activities pursuant to 10 CFR 150.20; and (3) an Agreement State licensee involved in the distribution of products that are subject to NRC jurisdiction.

C. For three years from the date of this Order, Mr. Miller shall provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer, within 72 hours of his acceptance of an employment offer involving non-licensed activities for an employer engaged in NRC-licensed activities described in Paragraph IV.B, above.

D. After the three year prohibition has expired as described in Paragraphs IV.A and B above, Mr. Miller shall provide notice to the Director, Office of Enforcement, for acceptance of any employment in NRC-licensed activity for an additional two year period.

The Director, Office of Enforcement may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Miller of good cause.

V

In accordance with 10 CFR 2.202, Mr. Miller must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing within 30 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Miller or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Hearings and Enforcement at the same address; to the Regional Administrator, Region III, U. S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532–4351; and to Mr. Miller, if the answer or hearing request is by a person other than Mr. Miller. If a person other than Mr. Miller requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this

Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Miller or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Miller, or any person adversely affected by this Order, may in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate affectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for a hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 21 day of April 1994.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

[FR Doc. 94–10371 Filed 4–29–94; 8:45 am]

BILLING CODE 759–01–M

[Docket No. 50–388]

Pennsylvania Power and Light Company; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Pennsylvania Power and Light Company (the licensee) to withdraw its September 14, 1993, application for proposed amendment to Facility Operating License No. NPF–22 for the Susquehanna Steam Electric Station, Unit 2, located in Luzerne County, Pennsylvania.

The proposed amendment would have revised the requirements in sections 3.6.1.8 and 4.6.1.8 of the Technical Specifications to allow continued operation with an inoperable suppression chamber purge valve.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 10, 1993 (58 FR 59754). However, by letter dated December 22, 1993, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated September 14, 1993, and the licensee's letter dated December 22, 1993, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Osterhout Free Library, Reference Department, 71 Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Rockville, Maryland this 20th day of April 1994.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Acting Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–10372 Filed 4–29–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 55–30662; License No. OP–30277–02; IA 94–007]

Kenneth G. Pierce, Shorewood, IL; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Kenneth G. Pierce (Licensee) held Reactor Operator's License No. OP–30277–02 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) on July 25, 1984. Mr. Pierce was employed by the Commonwealth Edison Company (CECo) from April 30, 1979 until CECo terminated his employment on December 2, 1992, which terminated his license. He most recently held the position of Nuclear Station Operator (NSO) with responsibilities involving compliance with NRC requirements for the operation of a nuclear power plant. CECo holds Facility Licenses DPR–19 and DPR–25 issued by the NRC pursuant to 10 CFR part 50. The licenses authorize CECo to operate the Dresden Nuclear Station Units 2 and 3 located near Morris, Illinois. The licenses were issued by the NRC on December 22, 1969, and March 2, 1971, respectively.

II

On November 24, 1992, CECo notified the NRC that CECo senior managers had just become aware of an incident that had occurred on September 18, 1992, when Unit 2 was operating at 75% power. Mr. Pierce, who was the NSO on duty, incorrectly positioned control rod H–1 while repositioning control rods to change localized power levels within the reactor core, and the event was concealed from CECo management. Both CECo and NRC initiated an investigation of the incident.

On September 18, 1992, Mr. Pierce erroneously moved the rod H–1 from Position 48 (the fully withdrawn position) to Position 36. A Qualified Nuclear Engineer (QNE) and two individuals in training to become "qualified" nuclear engineers were in the control room when the QNE recognized the NSO's error. Mr. Pierce failed to insert the mispositioned rod to Position 00 and continued to move other control rods at the direction of the QNE. The QNE then informed the Station Control Room Engineer (SCRE) of the mispositioned rod. Later the SCRE spoke with Mr. Pierce and the three nuclear engineers and they all agreed that they would not discuss the incident with anyone else. As a result, neither the mispositioned rod nor the subsequent deviations from the planned control rod pattern were documented in the control room log, a Form 14–14C plant record was falsified, and CECo management was not informed of the incident.

The NRC licenses individuals pursuant to 10 CFR part 55, "Operators' Licenses," to manipulate the controls of a utilization facility. The operator license requires the individual to observe all applicable rules, regulations and orders of the Commission, including the operating procedures and other conditions specified in the facility license.

Dresden Technical Specification 6.2.A.1. stated that applicable procedures recommended in appendix A of Regulatory Guide 1.33, Revision 2 dated February 1978, shall be established, implemented, and maintained. Regulatory Guide 1.33 Appendix A.1.C. included administrative procedures, general plant operating procedures, and procedures for startup, operation, and shutdown of safety related systems.

Dresden Operating Abnormal Procedure (DOA) 300–12, "Mispositioned Control Rod," Revision 2, dated November 1991, section C, "Immediate Operator Actions," step 2, required, in part, that if a control rod is found or moved more than one even notch from its in-sequence position, then all control rod movement must be discontinued. Section D, "Subsequent Operator Actions," step 2.a.(1), required in part that if a single control rod is inserted more than one even notch from its in-sequence position and reactor power was greater than 20%, and if the mispositioning was within the last 10 minutes, then the mispositioned control

rod must be continuously inserted to Position 00. Step 5 required the NSO to compare the current off gas radiation level to the off gas radiation level prior to the suspected time of the mispositioning, and to record data in the Unit log book including the location of the mispositioned rod(s), time of discovery of the mispositioning, actions taken, and any other observation determined to be relevant. Step 6 required that an upper management representative will conduct an evaluation into the cause of the mispositioning and implement immediate corrective actions prior to the resumption of routine control rod movements.

These procedures were not followed. Specifically, Mr. Pierce failed to insert the mispositioned control rod H–1 to Position 00, failed to compare the off gas radiation level at the time of the event to the level prior to the time of the mispositioning, and continued to move control rods without the performance of an evaluation and corrective actions by an upper management representative. Mr. Pierce's failure to record any information concerning the rod mispositioning event in the Unit log book put CECo in violation of its procedures and 10 CFR 50.9(a).

Based on the NRC Office of Investigations (OI) investigation of this matter (OI Report No. 3–92–055R), I conclude that Mr. Pierce, along with certain other CECo employees, attempted to conceal the mispositioned control rod event by deliberately failing to document the event in the Unit log book as required by plant procedures.

Further, in a transcribed sworn statement on December 30, 1992, Mr. Pierce stated that he did not remember the SCRE making a statement to the effect that information about the mispositioned control rod should not leave the control room. Based on the transcribed testimony of three individuals who were present during the incident that the SCRE had made a statement to them to the effect that information about the mispositioned control rod should not leave the control room, that Mr. Pierce was present when the SCRE made that statement, and that all five individuals had agreed not to discuss the event with anyone else, I conclude that Mr. Pierce's testimony to the contrary constituted the deliberate provision of inaccurate information which he knew to be material to the NRC, in violation of 10 CFR 55.9, "Completeness and Accuracy of Information."

III

Based on the above, Mr. Pierce, an employee of CECo at the time of the event, engaged in deliberate misconduct which caused CECo to be in violation of its license conditions and 10 CFR 50.9(a), and which constitutes a violation of 10 CFR 50.5. Further, Mr. Pierce, a licensed reactor operator at the time of the event, provided to NRC investigators information which he knew to be inaccurate in some respect material to the NRC, in violation of 10 CFR 55.9.

The NRC must be able to rely on its licensees and their employees, especially NRC-licensed operators, to comply with NRC requirements, including the requirement to maintain records and provide information to the NRC that is complete and accurate in all material respects. Mr. Pierce's action in causing CECo to violate its license conditions and 10 CFR 50.9, and his misrepresentations to the NRC have raised serious doubt as to whether he can be relied upon to comply with NRC requirements applicable to licensed facilities and licensed individuals and to provide complete and accurate information to the NRC. Mr. Pierce's deliberate misconduct that caused CECo to violate Commission requirements, and his false statements to Commission officials, cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected, if Mr. Pierce were permitted at this time to be engaged in the performance of NRC-licensed and regulated activities. Therefore, the public health, safety and interest require that Mr. Pierce be prohibited from being involved in any NRC-licensed activities for three years from the date of this Order. In addition, for the same period, Mr. Pierce is required to give notice of this Order to any prospective employer engaged in NRC-licensed activities, as described in Section IV, Paragraph C, below, from whom he seeks employment in non-licensed activities to ensure that such employer is aware of Mr. Pierce's previous history. For five years from the date of Order, Mr. Pierce is also required to notify the NRC of his employment by any person engaged in NRC-licensed activities, as described in Section IV, Paragraph B, below, so that appropriate inspections can be performed. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 107, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5 and 10 CFR 55.61, *it is hereby ordered, effective immediately, that:*

A. Mr. Pierce is prohibited for three years from the date of this Order from engaging in activities licensed by the NRC.

B. Should Mr. Pierce seek employment in non-licensed activities with any person engaged in NRC-licensed activities for three years from the date of this Order, Mr. Pierce shall provide a copy of this Order to such person at the time Mr. Pierce is soliciting or negotiating employment so that the person is aware of the Order prior to making an employment decision. For the purposes of this Order, NRC-licensed activities include the activities of: (1) An NRC licensee; (2) an Agreement State licensee conducting licensed activities in NRC jurisdiction pursuant to 10 CFR 150.20; and (3) an Agreement State licensee involved in the distribution of products that are subject to NRC jurisdiction.

C. For three years from the date of this Order, Mr. Pierce shall provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer, within 72 hours of his acceptance of an employment offer involving non-licensed activities, for any employer engaged in NRC-licensed activities described in Paragraph IV.B, above.

D. After the three year prohibition has expired as described in Paragraphs IV. A and B, above, Mr. Pierce shall provide notice to the Director, Office of Enforcement, for acceptance of any employment in an NRC-licensed activity for an additional two year period.

The Director, Office of Enforcement may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Pierce of good cause.

V

In accordance with 10 CFR 2.202, Mr. Pierce must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing within 30 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or

affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Pierce or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Hearings and Enforcement at the same address; to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532–4351; and to Mr. Pierce, if the answer or hearing is by a person other than Mr. Pierce. If a person other than Mr. Pierce requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Pierce or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Pierce, or any person adversely affected by this Order, may in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An Answer or a REQUEST for a Hearing Shall Not Stay the Immediate Effectiveness of This Order.

Dated at Rockville, Maryland this 21 day of April 1994.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

[FR Doc. 94–10373 Filed 4–29–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 55–30849; License No. SOP–30516–01; IA 94–006]

David Tang Wee, Tinley Park, IL; Order Prohibiting Involvement in NRC–Licensed Activities (Effective Immediately)

I

Mr. David Tang Wee (Licensee) held Senior Reactor Operator's License No. SOP–30516–01 (License), issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) on August 14, 1985. Mr. Tang Wee was employed by Commonwealth Edison Company (CECo) between June 22, 1981 until his employment was terminated by CECO on December 2, 1992, an action which terminated license SOP–30516–01. The Licensee most recently held the position of Station Control Room Engineer (SCRE) with responsibilities involving compliance with NRC requirements for the operation of a nuclear power plant. CECo holds Facility Licenses DPR–19 and DPR–25 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 50. These licenses authorize CECo to operate the Dresden Nuclear Station Units 2 and 3 located near Morris, Illinois.

II

On November 24, 1992, CECo notified the NRC that CECo senior managers had just become aware of an incident that had occurred on September 18, 1992 when Unit 2 was operating at 75% power. A Nuclear Station Operator (NSO), who was a licensed reactor operator, incorrectly positioned control rod H–1 while repositioning control rods to change localized power levels within the reactor core, and the event was concealed from CECo management. Both CECo and the NRC initiated investigations of the incident.

On September 18, 1992, the NSO erroneously moved control rod H–1 from Position 48 (fully withdrawn) to Position 36. A Qualified Nuclear Engineer (QNE) and two individuals in training to become "qualified" nuclear engineers were in the control room when the QNE recognized the NSO's error. The QNE informed the NSO of the error. The NSO failed to insert the mispositioned rod to Position 00 and continued to move other control rods at the direction of the QNE. The QNE then informed Mr. Tang Wee, the Station Control Room Engineer on duty, of the mispositioned rod. Later, Mr. Tang Wee spoke with the NSO and the three nuclear engineers and they all agreed that they would not discuss the incident with anyone else. As a result, neither the mispositioned rod nor the subsequent deviation from the planned control rod pattern were documented in the control room log, a Dresden Form 14–14C was falsified, and CECo management was not informed of the incident.

The NRC licenses individuals pursuant to 10 CFR Part 55, "Operators' Licenses," to manipulate the controls of an utilization facility. The operator license requires the individual to observe all applicable rules, regulations and orders of the Commission, including the operating procedures and other conditions specified in the facility license.

Dresden Technical Specification 6.2.A.1 stated that applicable procedures recommended in appendix A of Regulatory Guide 1.33, Revision 2 dated February 1978, shall be established, implemented, and maintained. Regulatory Guide 1.33 Appendix A.1.c included administrative procedures, general plant operating procedures, and procedures for startup, operation, and shutdown of safety related systems.

Dresden Operating Abnormal Procedure (DOA) 300–12, "Mispositioned Control Rod," Revision 2, dated November 1991, section D "Subsequent Operator Actions," step 2, required, in part, that if a single control rod was inserted greater than one even notch from its in-sequence position and reactor power was greater than 20%, then the mispositioned rod must be continuously inserted to position 00. Section D.5 required, in part, that the NSO record any mispositioned control rod in the Unit log book.

Dresden Administrative Procedure, (DAP) 07–29, "Reactivity Management Controls," Revision 0, section F.1.g required, in part, that the station control room engineer (SCRE) communicate to the NSO the requirements for procedural adherence.

Dresden Administrative Procedure, (DAP) 07–01, "Operations Department Organization", Section B.5.e., requires in part that the SCRE report any abnormal operating conditions to the Shift Engineer.

These procedures were not followed. Specifically, Mr. Tang Wee did not communicate to the NSO requirements for procedural adherence concerning the NSO's duty to record the mispositioning incident in the unit control room log, and did not report the mispositioning incident to the Shift Engineer. Instead, Mr. Tang Wee agreed with the NSO, the QNE and two nuclear engineers in training that they would not discuss the incident with anyone else.

Based on the NRC Office of Investigations (OI) investigation of this matter (OI Report No. 3–92–055R), I conclude that Mr. Tang Wee, along with the NSO, the QNE and two nuclear engineers in training, deliberately attempted to conceal the mispositioned control rod event by failing to document and report the incident as required by plant procedures. In furtherance of this agreement, Mr. Tang Wee deliberately caused CECo to be in violation of Dresden Technical Specification 6.2.A.1; DAP 07–29, Revision 0, section F.1.g; and DAP 07–01, Section B.5.e, by failing to communicate to the NSO the requirement to record the mispositioned rod event in the control room log and by failing to report the event to the Shift Engineer.

Further, in a transcribed sworn statement on December 1, 1992, Mr. Tang Wee stated that he did not have a reason to make, and did not believe he made, a statement to the effect that information about the mispositioned control rod should not leave the control room. Based on the transcribed testimony of three individuals who were present during the incident that Mr. Tang Wee had made a statement to them to the effect that information about the mispositioned control rod should not leave the control room, and that all five individuals had agreed not to discuss the event with anyone else, I conclude that Mr. Tang Wee's testimony to the contrary constituted the deliberate provision of inaccurate information material to the NRC in violation of 10 CFR 55.9, "Completeness and Accuracy of Information."

III

Based on the above, Mr. Tang Wee, an employee of CECo at the time of the event, engaged in deliberate misconduct which caused CECo to be in violation of its license conditions and which constitutes a violation of 10 CFR 50.5. Further, Mr. Tang Wee, a licensed senior reactor operator at the time of the event, deliberately provided to NRC investigators information which he knew to be inaccurate in some respect material to the NRC, in violation of 10 CFR 55.9.

The NRC must be able to rely on its licensees and their employees, especially NRC-licensed operators, to comply with NRC requirements, including the requirement to provide information and maintain records that are complete and accurate in all material respects. Mr. Tang Wee's action in causing CECo to violate its license conditions and his misrepresentations to the NRC have raised serious doubt as to whether he can be relied upon to comply with NRC requirements applicable to licensed facilities and licensed individuals and to provide complete and accurate information to the NRC. Mr. Tang Wee's deliberate misconduct that caused CECo to violate Commission requirements, and his false statements to Commission officials, cannot and will not be tolerated.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected, if Mr. Tang Wee were permitted at this time to be engaged in the performance of NRC-licensed and regulated activities. Therefore, the public health, safety and interest require that Mr. Tang Wee be prohibited from being involved in any NRC-licensed activities for three years from the date of this Order. In addition, for the same period, Mr. Tang Wee is required to give notice of this Order to any prospective employer engaged in NRC-licensed activities as described in Section IV, Paragraph B, below, from whom he seeks employment in non-licensed activities in order to ensure that such employer is aware of Mr. Tang Wee's previous history. For five years from the date of the Order, Mr. Tang Wee is also required to notify the NRC of his employment by any person engaged in licensed activities, as described in Section IV, Paragraph B, below, so that appropriate inspections can be performed. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of the conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 107, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5, and 10 CFR 55.61, *it is hereby ordered, effective immediately, that:*

A. Mr. Tang Wee is prohibited for three years from the date of this Order from engaging in activities licensed by the NRC.

B. Should Mr. Tang Wee seek employment in non-licensed activities with any person engaged in NRC-licensed activities in the three years from the date of this Order, Mr. Tang Wee shall provide a copy of this Order to such person at the time Mr. Tang Wee is soliciting or negotiating employment so that the person is aware of the Order prior to making an employment decision. For the purposes of this Order, licensed activities include the activities of: (1) An NRC licensee; (2) an Agreement State licensee conducting licensed activities in NRC jurisdiction pursuant to 10 CFR 150.20; and (3) an Agreement State licensee involved in the distribution of products that are subject to NRC jurisdiction.

C. For three years from the date of this Order, Mr. Tang Wee shall provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer, within 72 hours of his acceptance of an employment offer involving non-licensed activities from an employer engaged in NRC-licensed activities, as described in Paragraph IV.B, above.

D.After the three year prohibition has expired as described in Paragraphs IV.A and B, above, Mr. Tang Wee shall provide notice to the Director, Office of Enforcement, of acceptance of any employment in NRC-licensed activity for an additional two year period.

The Director, Office of Enforcement may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Tang Wee of good cause.

V

In accordance with 10 CFR 2.202, Mr. Tang Wee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing within 30 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Tang Wee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission. ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Hearings and Enforcement at the same address; to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532–4351; and to Mr. Tang Wee, if the answer or hearing request is by a person other than Mr. Tang Wee. If a person other than Mr. Tang Wee requests a hearing, that person shall set forth with particularity

the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Tang Wee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Tang Wee, or any person adversely affected by this Order, may in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for a hearing, the provisions specified in section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for a hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 21 day of April 1994.

For the Nuclear Regulatory Commission.

James L. Milhoan,

Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research.

[FR Doc. 94–10374 Filed 4–29–94; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A94–9; Order No. 1011]

Green Mountain, IA 50637 (Tim Odle and Others, Petitioners); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued April 22, 1994.

Docket Number: A94–9.

Name of Affected Post Office: Green Mountain, Iowa 50637.

Name(s) of Petitioner(s): Tim Odle and others.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: April 18, 1994.

Categories of Issues Apparently Raised:

1. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

2. Effect on the community (39 U.S.C. 404(b)(2)(A)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above, or the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by May 3, 1994.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Docket No. A94–9, Green Mountain, Iowa 50637

April 18, 1994 Filing of Appeal letter.

April 22, 1994 Commission Notice and Order of Filing of Appeal.

May 13, 1994 Last day of filing of petitions to intervene (see 39 CFR 3001.111(b)).

May 23, 1994 Petitioners' Participant Statements or Initial Briefs (see 39 CFR 3001.115(a) and (b)).

June 13, 1994 Postal Service's Answering Brief (see 39 CFR 3001.115(c)).

June 28, 1994 Petitioners' Reply Briefs should Petitioners choose to file them (see 39 CFR 3001.115(d)).

July 5, 1994 Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116).

August 16, 1994 Expiration of the Commission's 120-day decision schedule (see 39 U.S.C. 404(b)(5)).

[FR Doc. 94–10343 Filed 4–29–94; 8:45 am]

BILLING CODE 7710–FN–P

PENSION BENEFIT GUARANTY CORPORATION

Request for Approval of a New Collection of Information Under the Paperwork Reduction Act; Survey of Firms With Significant Pension Plan Underfunding

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") has requested that the Office of Management and Budget approve, under the Paperwork Reduction Act, a survey of companies maintaining single-employer pension plans with significant underfunding (in the aggregate) that requests verification (or correction) and supplementation of information otherwise available to the PBGC. The purpose of this voluntary collection of information is to improve the accuracy and completeness of information obtained from other sources and used in various agency efforts (*e.g.*, estimating potential liability for future benefits, selecting plans for monitoring, responding to congressional inquiries, and identifying for the public the companies with the largest levels of pension underfunding). The effect of this notice is to advise the public of the PBGC's request and solicit public comment on this collection of information.

ADDRESSES: All written comments (at least three copies) should be addressed to Office of Management and Budget, Paperwork Reduction Project (1212–0040), Washington, DC 20503. The PBGC's request for approval will be available for inspection at the PBGC's Communications and Public Affairs Department, suite 240, 1200 K Street, NW., Washington, DC 20005–4026, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Judith Neibrief, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024 (202–326–4179 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance programs under Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") (29 U.S.C. 1001 *et seq.*). Since the early 1980's, the PBGC has undertaken a number of steps to address concerns about the potential vulnerability of the single-employer insurance program to

large claims. In particular, the agency has sought to increase the availability and quality of the information on pension plan underfunding that it uses in estimating the potential exposure of the single-employer termination insurance program, developing legislative and other policy initiatives, selecting plans for monitoring and other regulatory purposes, responding to congressional inquiries, and educating the public.

PBGC experience revealed problems with using information otherwise available to the agency unless it is reviewed by the companies responsible for funding single-employer plans. In 1990, when the PBGC decided to publish a Top 50 List of firms with the largest pension underfunding (and, hence, in the aggregate, the largest potential claims against the single-employer plan insurance program), it selected the companies to be listed by adjusting otherwise available data (to make the figures as consistent as possible across plans and reflect Title IV liabilities). After receiving company complaints about inaccuracies, the PBGC adopted their suggestion that, in the future, the PBGC contact companies for needed information.

The primary reason that information available from other sources is not adequate is that assumptions differ across plans and from those of the PBGC and includes insufficient detail to enable the PBGC to make appropriate adjustment (*e.g.*, adjustments to common interest rate and mortality assumptions). In addition, much of the information otherwise available is over one and one-half years old by the time it is required to be reported.

The survey conducted in compiling the Top 50 List has demonstrated the usefulness of this technique in fulfilling various agency responsibilities. The collection of information for which the PBGC now is seeking OMB approval would replace it and solicit essentially the same information.

If approved, this voluntary collection of information will request responses to several items of plan funding information from companies that, based on corporate annual reports, pension plan annual reports (Form 5500 filings), and premium declarations (PBGC Form 1 filings), appear to have significant pension plan underfunding. The PBGC anticipates that its significant pension underfunding criterion of $25 million or more (in the aggregate) will result in a survey population of about 300 to 350 companies. Specifically, the PBGC will send each company a letter informing it of data that the PBGC has on benefits and assets of single-employer plans covered by Title IV of ERISA and asking the company to verify (or correct) these data and to provide information on the interest and mortality assumptions used to value plan benefits. At their option, respondents may choose also to provide information on guaranteed benefits and actions taken to improve pension funding. (In particular, companies will be given the option of providing documentation of pension contributions made by September 15 of each year so that the PBGC may include such contributions in the final value of pension plan assets.) Two simple forms will be included for the company's response.

If approved, the PBGC will use responses to the survey to improve the accuracy and completeness of information obtained from other sources and used in various agency efforts, including estimating the potential exposure of the single-employer termination insurance program, legislative and other policy analyses, selecting plan for monitoring, responding to congressional requests for information on companies whose plans are significantly underfunded, and identifying for the public the companies with the largest levels of underfunding under covered plans (including the amount of underfunding by company).

The PBGC expects to survey 300 to 350 companies, for an average of 325 annually. Assuming that 90% of those surveyed will choose to respond (even though this collection of information is voluntary) and 15% of those surveyed will elect to calculate guaranteed benefits, the PBGC estimates the time needed to respond to the survey at 5 hours for those that locate and assemble existing information (including, at their option, documentation of additional pension contributions or information on other actions to improve future funding) and review the PBGC's adjustments and at 15 hours (*i.e.*, an additional 10 hours) for those that also calculate guaranteed benefits, for an average response time of 6.67 hours per respondent and a total annual burden of 1,950 hours.

Issued in Washington, DC this 25th day of April, 1994.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 94–10411 Filed 4–29–94; 8:45 am]

BILLING CODE 7708–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33959; International Series Release No. 660; File No. SR–Phlx–94–11]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Adoption of a Customized Strike Facility for Foreign Currency Options

April 25, 1994.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 4, 1994, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx.[1] The Commission is publishing this notice to solicit comments on the proposed rule change for interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to Rule 19b–4 of the Act, proposes to adopt new Rule 1069 to provide for the listing and trading of currency options with customized strike prices. Rules 1002 and 1047, which address exercise limits and trading rotations, respectively, are also being amended accordingly. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning

[1] On March 22, 1994, the Exchange filed Amendment No. 1 to the proposed rule change to specify that requests for quotes and responsive quotes for customized strike options will be promptly reported to the Options Price Reporting Authority and disseminated as administrative text messages. See Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Michael Walinskas, Branch Chief, Office of Derivatives and Equity Oversight ("ODEO"), Division of Market Regulation ("Division"), Commission, dated March 22, 1994 ("Amendment No. 1"). On April 9, 1994, the Exchange filed Amendment No. 2 to the proposed rule change to: (1) revise the procedure in proposed Rule 1069(b) for executing a trade using customized strike prices; and (2) provide that the quote spread parameters for customized strike options will be twice those provided in Phlx Rule 1014(c). See Letter from Michele Weisbaum, Associate General Counsel, Phlx, to Michael Walinskas, Branch Chief, ODEO, Division, Commission, dated April 8, 1994 ("Amendment No. 2").

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 Phlx 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 the Statutory Basis for, the Proposed Rule Change

The Phlx states that the purpose of the filing is to adopt a procedure whereby foreign currency option traders and their customers will have the ability, within specified limits, to designate their own option exercise price parameters on a trade. The Exchange now lists specific series of options on foreign currencies that have exercises or strike prices in set intervals at or near the spot price of the underlying currency on which the options are traded. Users of the Phlx foreign currency option market will now have the ability to trade foreign currency options having a chosen exercise price, regardless of whether it is a listed exercise price at the time. These options will be called "customized strike options."

In the over-the-counter market, foreign currency options users currently have the ability to designate the terms of such options with respect to expiration date, exercise style, exercise price, and size. The participants in that customized market are typically institutional investors and banks, investors that often buy and sell options in large size transactions. Users of the Phlx market, because of the selection of expiration dates, strike prices, and exercise styles currently listed on the Exchange, already have a significant ability to dictate the terms of a foreign currency option contract. Once this new rule is adopted, Phlx market participants will also be able to trade foreign currency options with any chosen exercise price, regardless of whether it is not one that has already been listed within the given parameters set by the Phlx.

Customized strike options will be available for all currently listed foreign currency options, including cross-rate options but excluding cash-spot options. The customized strike option contracts may also be either American or European-style and may have any expiration date currently available for non-custom options, including long-term options with terms up to three years out.[2]

By giving these institutional customers and banks the ability to further customize options they wish to trade on an exchange, the Phlx believes they will be able to better manage their risks and hedge their portfolios, while receiving all of the protections and benefits an organized exchange can provide. Also, by having the Options Clearing Corporation ("OCC") as the issuer and guarantor of the customized strike options, the Phlx believes that concerns regarding contra-party creditworthiness and option exercise performance are greatly reduced. Finally, the Phlx believes that the real time dissemination of requests for quotes, responsive quotes, and last sale information through the Options Price Reporting Authority ("OPRA") will help promote and achieve market transparency in these options.

Customized strike options will be subject to all Exchange rules and regulations regarding surveillance and sales practices. Unless specifically exempted, all floor trading procedures will also be adhered to. Examples of different procedures for customized strike options include no continuous quoting, no opening or closing rotations, and restrictions as to exercise.[3] Examples of similar trading practices include position limits and maximum quote spread parameters. Position and exercise limits for customized strike options will be the same as those provided for existing options on the same underlying currency and positions in these options will be aggregated with existing options in calculating position and exercise limits.

The Exchange believes that these options are better suited to large institutional and bank traders rather than individuals and will therefore tailor the product to such traders by requiring a minimum size for any trade that may occur. Quotes may not be requested and trades may not be executed in a series with no open interest for less than 300 contracts. Responsive quotes to series with no open interest must be at least 300 contracts for assigned ROTs and 100 contracts for non-assigned ROTs. Responsive quotes and transactions in currently opened series may be the lesser of 100 contracts or the remaining number of contracts. Current methods of quoting will be used for these options.

A 300 contract trade could have an underlying equivalent value of approximately $12 million, depending on the specified currency. Because of the relatively large size of the potential trades, the Exchange will impose higher net capital requirements for ROTs trading in customized strike options. Assigned ROTs will be subject to a $1 million minimum net liquid assets requirement and all other ROTs will be subject to a $250,000 minimum net liquid assets requirement. In accordance with Exchange Rule 722, these options will be margined the same as regular foreign currency options since the underlying currency and settlements will be identical.

The proposed trade execution procedure is as follows.[4] A participant will come into the trading crowd and request a quote in a customized strike option. The crowd will now have a standard time (as described below) in which to submit responsive quotes. No trade may occur until the expiration of the response period unless at least two assigned ROTs have quoted a market. During the response time, existing time priority and parity rules will apply in order to determine who will participate on the contra-side of the order except that if an assigned ROT has made a market and another participant betters the market, the assigned ROT will have an opportunity to match that better market if he voices that market prior to the execution of the trade.[5]

The Foreign Currency Options Committee ("Committee") has determined that the response period should be a standard predefined interval that may only change at the direction of the Committee and with adequate notice to the membership and the Commission. Acceptable time periods may be within the range of one to ten minutes and will be set by the Committee prior to the start-up of trading in the customized strike options. For example, the Committee may set the time period to two minutes for all trades.

When a request for a quote is voiced in the trading crowd, it and all responsive quotes will be displayed and reported to OPRA and disseminated as an administrative text message over the

[2] The Phlx has received approval to trade long-term foreign currency options with dates up to three years out. See Securities Exchange Act Release No. 30672 (May 6, 1992), 57 FR 20546 (May 13, 1992). However, the Exchange is presently only listing options with expirations as long as two years out and currently expects to only trade customized strike options with expirations up to two years out.

[3] As proposed, the lesser of 100 contracts or the remaining number of contracts may be exercised. See Amendment No. 2, *supra* note 1.

[4] *Id.*

[5] Because, under the proposal, assigned ROTs would be required to maintain higher net capital and make larger markets in unopened series than unassigned ROTs, the Exchange believes that giving the assigned ROTs this benefit will encourage ROTs to register for assignments in the customized strike options and thereby provide liquidity.

OPRA System.[6] Additionally, once a trade is consummated, it will also be reported to OPRA and disseminated as an administrative text message over the OPRA System. The specialist will not be obligated to make continuous markets in customized options where open interest has been created. OCC will clear and settle the options. Because quotes in these options will not be continuously updated or otherwise priced by the Exchange, OCC will generate a theoretical price based on the prices of currently listed series and the closing value of the underlying foreign currency. OCC will use this price to mark the options daily and calculate margin requirements.

Acknowledging the consistent volatility of the foreign currency market, the Phlx believes that customized strike options should bode well for the investors speculating and hedging on the relative performance of the various economies, as reflected by their currencies.

Finally, the quote spread parameters applicable to customized strike options will be double the existing parameters for listed series provided in Rule 1014.[7] The Exchange believes the existing quote spread parameters are too narrow for use with options such as these which have customized features.[8]

The Exchange believes that the foregoing rule change proposal is consistent with Section 6 of the Act, in general, and with Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information, and facilitate transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest by providing foreign currency option market participants with strike prices more closely suited to their trading strategies.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

[6] See Amendment No. 1, *supra* note 1.

[7] See Amendment No. 2, *supra* note 1.

[8] Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and Brad Ritter, Attorney, ODEO, Division, Commission, on April 14, 1994.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are inviting 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 Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–94–11 and should be submitted by May 23, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–10395 Filed 4–29–94; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30(a)(12) (1993).

[Release No. 34–33956; File No. SR–PSE–93–31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Amendments to its Minor Rule Plan

April 22, 1994

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 30, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the PSE.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposal Rule Change

The Exchange is proposing to amend its Minor Rule Plan ("MRP") by adding certain violations to the list of those subject to the expedited disciplinary procedures set forth in PSE Rule 10.13. The Exchange also is proposing to amend its recommended fine schedule for MRP violations. The text of the proposed rule change is available at the Office of the Secretary, the PSE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PSE 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 PSE has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

[1] On March 30, 1994, the Exchange filed Amendment No. 1 to the proposal, which: (1) Eliminated from inclusion in the Exchange's Minor Rule Plan and the Recommended Fine Schedule violations of certain rules which are pending before the Commission and have not yet been approved (See File Nos. SR–PSE–93–10 and SR–PSE–93–26); and (2) deleted a cross-reference to another rule which also is pending before the Commission and has not yet been approved (See File No. SR–PSE–93–19). See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Thomas N. McManus, Esq., Division of Market Regulation, SEC, dated March 28, 1994.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

PSE Rule 10.13(a) provides that the Exchange may impose a fine not to exceed $5,000 on any member, member organization, or person associated with a member or member organization for any violation of an Exchange rule that has been determined to be minor in nature.[2] The purpose of Rule 10.13 is to provide for a response to a rule violation when a meaningful sanction is appropriate but when initiation of a disciplinary proceeding under PSE Rule 10.3 is not suitable because such a proceeding would be more costly and time-consuming than would be warranted given the minor nature of the violation. Rule 10.13 provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified, required procedures. The list of rules that are eligible for Rule 10.13 procedures specifies those rule violations that may be the subject of fines under the rule and also includes a schedule of fines.

The Exchange is proposing to amend its MRP by adding the following violations of Exchange rules and policies to the MRP: (1) Members who act as Floor Brokers and Market Makers trading in excess of 100 contracts per month as a Market Maker without a Primary Appointment (PSE Rule 6.38(c)); (2) Failure to request a market to be removed from the screen when leaving the trading crowd (PSE Rule 6.37, Com. .03; PSE Rule 6.46, Com. .04); (3) Failure to meet 75% Primary Appointment requirement (PSE Rule 6.35, Com. .03); (4) Failure to meet 60% in-person trading requirement (PSE Rule 6.37, Com. .07); (5) Unauthorized use of telephones located in the options trading post areas; (6) Short Sale Rules (PSE Rule 5.18(a)–(f));[3] (7) Inadequate staffing at specialist post (prior to the opening) (PSE Rule 5.28(c)–(d)); (8) Failure to furnish in a timely manner books, records, or other requested information or testimony in connection with an examination of financial responsibility and/or operational conditions (PSE Rule 2.12(c)); and (9) Failure to notify the Exchange of a change of address where notices may be served (PSE Rule 1.13).

The Exchange also is proposing to amend its Recommended Fine Schedule for MRP violations. The proposed amendments include recommended fines for first-, second-, and third-time violations for each of the rule violations proposed to be added to the MRP. The Exchange also is proposing that certain Options and Equity Floor Decorum and Minor Trading Rule Violations[4] be calculated on a running two-year basis, so that a second violation of the same provision within two years will be subject to the next highest fine (*e.g.*, the second violation that occurs within a two-year period will be treated as a second occurrence). However, the Exchange is specifying that violations of certain Equity Floor Decorum and Minor Trading Rules be considered on a running one-year basis consistent with existing provisions to the effect in the Equity Floor Procedure Advices.

The Exchange believes that violations of the rules contained in this proposal are either objective or technical in nature, and easily verifiable, and therefore lend themselves to the use of streamlined disciplinary procedures and the use of a fine schedule. The Exchange further believes that the proposal will enhance the Exchange's enforcement capabilities, will provide effective deterrence, and will allow for just sanctions for minor violations of the specified rules. The Exchange notes that, pursuant to Rule 10.13(f), nothing in the MRP requires the Exchange to impose a fine for a violation of a rule under the MRP, and if the Exchange determines that any violation is not minor in nature, the Exchange at its discretion may proceed under Rule 10.3 rather than under the MRP.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade. The Exchange also believes that the proposed rule change will advance the objectives of section 6(b)(6) of the Act in that it will provide a procedure whereby members can be disciplined appropriately in those instances when a violation is minor in nature, but a sanction more serious than a warning or cautionary letter is appropriate.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–93–31 and should be submitted by May 31, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

[2] The Exchange's MRP initially was approved by the Commission in 1985. See Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853 (November 27, 1985). On June 24, 1993, the Commission approved a number of amendments to the MRP, including the addition of certain rules to the list of MRP violations and revisions to the Exchange's Recommended Fine Schedule. See Securities Exchange Act Release No. 32510 (June 24, 1993), 58 FR 35491 (July 1, 1993).

[3] See, *e.g.*, NYSE Rule 476A (¶ 2476A); Amex Rule 590(g)(1).

[4] PSE Rule 10.13(h) and (i), respectively.

[5] 17 CFR 200.30–3(a)(12) (1993).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 94–10355 Filed 4–29–94; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 35–26034]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 22, 1994.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 16, 1994, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Metropolitan Edison Company (70–8401)

Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Muhlenberg Township, Berks County, Pennsylvania 19640, a public-utility subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45, 50(a)(5) and 54 thereunder.

Met-Ed proposes to organize a special purpose subsidiary ("Med-Ed Capital") as either a limited liability company under the Delaware Limited Liability Company Act ("LLC Act") or a limited partnership under the Pennsylvania or Delaware Revised Uniform Limited Partnership Act. Met-Ed may also organize a second special purpose wholly-owned subsidiary under the Delaware General Corporation Law ("Investment Sub") for the sole purpose of either (i) acquiring and holding a second class of Met-Ed Capital common interests so as to comply with the requirement under the LLC Act that a limited liability company have at least two members or (ii) acting as the general partner of Met-Ed Capital, assuming a limited partnership structure. Met-Ed Capital will then issue and sell from time to time in one or more series through June 30, 1996 up to $125 million aggregate stated value of preferred limited liability company interests or limited partnership interests, in the form of Monthly Income Preferred Stock, $25 per share stated value ("MIPS").

Met-Ed and Investment Sub will acquire all of the common interests or, alternatively, Met-Ed or Investment Sub will acquire all of the general partnership interests, as the case may be, of Met-Ed Capital for up to $35 million ("Equity Contribution"). Met-Ed will enter into a loan agreement with Met-Ed Capital under which Met-Ed Capital will loan to Met-Ed both the Equity Contribution and proceeds from the sale of the MIPS from time to time, and Met-Ed will issue to Met-Ed Capital its unsecured promissory notes ("Notes") or subordinated debentures ("Subordinated Debentures") evidencing such borrowing.

Met-Ed will also unconditionally guarantee ("Guaranty") (i) payment of dividends or distributions on the MIPS, if and to the extent Met-Ed Capital has declared dividends or distributions out of funds legally available therefor, (ii) payments to the MIPS holders of amounts due upon liquidation of Met-Ed Capital or redemption of the MIPS, and (iii) certain additional amounts that may be payable in respect of the MIPS.

Each Note or Subordinated Debenture will have an initial term of up to 30 years, and may be extended by Met-Ed for up to an additional 20 years, and may be extended by Met-Ed for up to an additional 20 years, subject to certain specified conditions. Prior to maturity, Met-Ed will pay only interest on the Notes or Subordinated Debentures at a rate equal to the dividend rate on the related series of MIPS. Such interest payments will constitute Met-Ed Capital's only income and will be used by it to pay monthly dividends or distributions on the MIPS and dividends or distributions on the common interests or the general partnership interests of Met-Ed Capital. The dividend or distribution rates, payment dates, redemption and other similar provisions of each MIPS series will be identical to the interest rates, payment dates, redemption and other similar provisions of the Note or Subordinated Debenture issued by Met-Ed with respect thereto.

Each Note or Subordinated Debenture and related Guaranty will be subordinate to all other existing and future indebtedness for borrowed money of Met-Ed and will have no cross-default provisions with respect to other Met-Ed indebtedness. However, Met-Ed may not declare and pay dividends on its outstanding Cumulative Preferred Stock or Common Stock unless all payments then due (whether or not previously deferred) under the Notes or Subordinated Debentures and the Guaranties have been made.

It is expected that Met-Ed's interest payments on the Notes or Subordinated Debentures will be deductible for income tax purposes and that Met-Ed Capital will be treated as a partnership for federal income tax purposes. Consequently, it is represented that MIPS holders and Met-Ed (and Investment Sub) will be deemed to have received partnership distributions in respect of their dividends or distributions from Met-Ed Capital and will not be entitled to any "dividend received distribution" under the Internal Revenue Code.

The MIPS may be redeemable at the option of Met-Ed Capital (with the consent of Met-Ed) at a price equal to their stated value plus any accrued and unpaid dividends, (i) at any time after five years from their date of issuance, or (ii) in the event that (w) Met-Ed Capital is required by applicable tax laws to withhold or deduct certain amounts in connection with dividends, distributions or other payments, or (x) Met-Ed Capital is subject to federal income tax with respect to interest received on the Notes or Subordinated Debentures or is otherwise not treated as a partnership for federal income tax purposes, or (y) it is determined that the interest payments by Met-Ed on the Notes or Subordinated Debentures are not deductible for federal income tax purposes, or (z) Met-Ed Capital becomes subject to regulation as an "investment company" under the Investment Company Act of 1940. Upon the occurrence of any of the events in clause (ii) above, Met-Ed may also have the right to dissolve Met-Ed Capital and exchange the MIPS for Subordinated Debentures or, if Met-Ed's borrowings are evidenced by Subordinated Debentures, to distribute the Subordinated Debentures to the MIPS holders.

In the event that Met-Ed Capital is required by applicable tax laws to withhold or deduct certain amounts in connection with dividends, distributions or other payments, Met-Ed Capital may also have the obligation, if the MIPS are not redeemed or exchanged, to "gross up" such payments so that the MIPS holders will receive the same payment after such withholding or deduction as they would have received if no such withholding or deduction were required. In such latter event, the Guaranties would also cover any such "gross up" obligations.

Met-Ed represents that it will not use any of the net proceeds of the borrowings to acquire, either directly or indirectly, any interest in any EWG or FUCO.

Finally, Met-Ed seeks an exception from the competitive bidding requirements of rule 50 under subsection (a)(5) thereof in order to begin negotiations with prospective underwriters and/or selling agents with respect to the sale of the MIPS. It may do so.

Pennsylvania Electric Company (70–8403)

Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, a public-utility subsidiary company of General Public Utilities Corporation ("GPU"), a registered holding Company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45, 50(a)(5) and 54 thereunder.

Penelec proposes to organize a special purpose subsidiary ("Penelec Capital") as either a limited liability company under the Delaware Limited Liability Company Act ("LLC Act") or a limited partnership under the Pennsylvania or Delaware Revised Uniform Limited Partnership Act. Penelec may also organize a second special purpose wholly-owned subsidiary under the Delaware General Corporation Law ("Investment Sub") for the sole purpose of either (i) acquiring and holding a second class of Penelec Capital common interests so as to comply with the requirement under the LLC Act that a limited liability company have at least two members or (ii) acting as the general partner of Penelec Capital, assuming a limited partnership structure. Penelec Capital will then issue and sell from time to time in one or more series through June 30, 1996 up to $125 million aggregate stated value of preferred limited liability company interests or limited partnership interests, in the form of Monthly Income Preferred Stock, $25 per share stated value ("MIPS").

Penelec and Investment sub will acquire all of the common interests or, alternatively, Penelec or Investment Sub will acquire all of the general partnership interests, as the case may be, of Penelec Capital for up to $35 million ("Equity Contribution"). Penelec will enter into a loan agreement with Penelec Capital under which Penelec Capital will loan to Penelec both the Equity Contribution and the proceeds from the sale of the MIPS from time to time, and Penelec will issue to Penelec Capital its unsecured promissory notes ("Notes") or subordinated debentures ("Subordinated Debentures") evidencing such borrowings.

Penelec will also unconditionally guarantee ("Guaranty") (i) payment of dividends or distributions on the MIPS, if and to the extent Penelec Capital has declared dividends or distributions out of funds legally available therefor, (ii) payments to the MIPS holders of amounts due upon liquidation of Penelec Capital or redemption of the MIPS, and (iii) certain additional amounts that may be payable in respect of the MIPS.

Each Note or Subordinated Debenture will have an initial term of up to 30 years, and may be extended by Penelec for up to an additional 20 years, subject to certain specified conditions. Prior to maturity, Penelec will pay only interest on the Notes or Subordinated Debentures at a rate equal to the dividend rate on the related series of MIPS. Such interest payments will constitute Penelec Capital's only income and will be used by it to pay monthly dividends or distributions on the MIPS and dividends or distributions on the common interests or the general partnership interests of Penelec Capital. The dividend or distribution rates, payment dates, redemption and other similar provisions of each MIPS series will be identical to the interest rates, payment dates, redemption and other similar provisions of the Note or Subordinated Debenture issued by Penelec with respect thereto.

Each Note or Subordinated Debenture and related Guaranty will be subordinate to all other existing and future indebtedness for borrowed money of Penelec and will have no cross-default provisions with respect to other Penelec indebtedness. However, Penelec may not declare any pay dividends on its outstanding Cumulative Preferred Stock or Common Stock unless all payments then due (whether or not previously deferred) under the Notes or Subordinated Debentures and the Guaranties have been made.

It is expected that Penelec's interest payments on the Notes or Subordinated Debentures will be deductible for income tax purposes and that Penelec Capital will be treated as a partnership for federal income tax purposes. Consequently, it is represented that MIPS holders and Penelec (and Investment Sub) will be deemed to have received partnership distributions in respect of their dividends or distributions from Penelec Capital and will not be entitled to any "dividend received distribution" under the Internal Revenue Code.

The MIPS may be redeemable at the option of Penelec Capital (with the consent of Penelec) at a price equal to their stated value plus any accrued and unpaid dividends, (i) at any time after five years from their date of issuance, or (ii) in the event that (w) Penelec Capital is required by applicable tax laws to withhold or deduct certain amounts in connection with dividends, distributions or other payments, or (x) Penelec Capital is subject to federal income tax with respect to interest received on the Notes or Subordinated Debentures or is otherwise not treated as a partnership for federal income tax purposes, or (y) it is determined that the interest payments by Penelec on the Notes or Subordinated Debentures are not deductible for federal income tax purposes, or (z) Penelec Capital become subject to regulation as an "investment company" under the Investment Company Act of 1940. Upon the occurrence of any of the events in clause (ii) above, Penelec may also have the right to dissolve Penelec Capital and exchange the MIPS for Subordinated Debentures or, if Penelec's borrowings are evidenced by Subordinated Debentures, to distribute the Subordinated Debentures to the MIPS holders.

In the event that Penelec Capital is required by applicable tax laws to withhold or deduct certain amounts in connection with dividends, distributions or other payments, Penelec Capital may also have the obligation, if the MIPS are not redeemed or exchanged, to "gross up" such payments so that the MIPS holders will receive the same payment after such withholding or deduction as they would have received if no such withholding or deduction were required. In such latter event, the Guaranties would also cover any such "gross up" obligations.

Penelec represents that it will not use any of the net proceeds of the borrowings to acquire, either directly or

indirectly, any interest if any EWG or FUCO.

Finally, Penelec seeks an exception from the competitive bidding requirements of rule 50 under subsection (a)(5) thereof in order to begin negotiations with prospective underwriters and/or selling agents with respect to the sale of the MIPS. It may do so.

Arkansas Power & Light Company (70–8405)

Arkansas Power & Light Company ("AP&L"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, an electric utility subsidiary company of Entergy Corporation, a registered holding company, has filed an application-declaration under Sections 6(a), 7, 9(a), 10 and 12(d) of the Act and Rules 44 and 50(a)(5) thereunder.

AP&L proposes to enter into arrangements for the issuance and sale, by one or more governmental authorities (each an "Issuer"), of one or more series of tax-exempt bonds ("Tax-Exempt Bonds") in an aggregate principal amount not to exceed $200 million at one time or from time to time through December 31, 1996.

The AP&L would enter into one or more installment sale agreements or loan agreements and/or one or more supplements or amendments thereto ("Agreement") contemplating the issuance and sale by the Issuer(s) of one or more series of Tax-Exempt Bonds pursuant to one or more trust indentures and/or one or more supplements thereto ("Indenture") between the Issuer and one or more trustees ("Trustee"). The proceeds of the sale of Tax-Exempt Bonds, net of any underwriters' discounts or other expenses payable from proceeds, will be applied to acquire and construct certain pollution control or sewage and solid waste disposal facilities ("Facilities") at the AP&L's generating plants or to refinance outstanding tax-exempt bonds issued for that purpose.

If the Agreement is an installment sale agreement, AP&L would sell Facilities to the Issuer for cash and simultaneously repurchase such Facilities from the Issuer for a purchase price payable on an installment basis over a period of years. If the Agreement is a loan agreement, the Issuer will loan the proceeds of the sale of Tax-Exempt Bonds to AP&L, and AP&L will agree to repay the loan on an installment payment basis over a period of years. Such installment payments or loan repayments will be in amounts sufficient (together with any other moneys held by the Trustee under the Indenture and available for the purpose) to pay the principal or purchase price of, the premium, if any, and the interest on the related series of Tax-Exempt Bonds as the same become due and payable, and will be made directly to the Trustee pursuant to an assignment and pledge thereof by the Issuer to the Trustee as set forth in the Indenture. Under the Agreement, AP&L will also be obligated to pay (i) the fees and charges of the Trustee and any registrar or paying agent under the Indenture and, if any, the remarketing agent ("Remarketing Agent") and the tender agent ("Tender Agent"), (ii) all expenses incurred by the Issuer in connection with its rights and obligations under the Agreement, (iii) all expenses necessarily incurred by the Issuer or the Trustee under the Indenture in connection with the transfer or exchange of Tax-Exempt Bonds, and (iv) all other payments which AP&L agrees to pay under the Agreement.

The Indenture may provide that, upon the occurrence of certain events relating to the operation of the Facilities financed, the Tax-Exempt Bonds will be redeemable by the Issuer, at the direction of AP&L. Any series of Tax-Exempt Bonds may be made subject to a mandatory cash sinking fund under which stated portions of Tax-Exempt Bonds of such series are to be retired at stated times. Tax-Exempt Bonds may be subject to mandatory redemption in certain other cases. The payments by the AP&L under the Agreement in such circumstances shall be sufficient (together with any other moneys held by the Trustee under the Indenture and available therefor) to pay the principal of all Tax-Exempt Bonds to be redeemed or retired, and the premium, if any, thereon together with interest accrued or to accrue to the redemption date of such bonds.

It is proposed that the Tax-Exempt Bonds mature not less than five years from the first day of the month of issuance nor later than 40 years from the date of issuance. Tax-Exempt Bonds will be subject to optional redemption, at the direction of AP&L, in whole or in part at the redemption prices (expressed as percentages of principal amount) plus accrued interest to the redemption date, and at the times, set forth in the Indenture.

The Agreement and the Indenture may provide for a fixed interest rate or for an adjustable interest rate for each series of the Tax-Exempt Bonds as hereinafter described. If the series of Tax-Exempt Bonds has an adjustable interest rate, the interest rate during the first rate period ("Rate Period") would be determined in discussions between AP&L and the purchasers thereof from the Issuer and be based on the current tax-exempt market rate for comparable bonds having a maturity comparable to the length of the initial Rate Period. Thereafter, for each Rate Period, the interest rate on such Tax-Exempt Bonds would be that rate which will be sufficient to remarket such Tax-Exempt Bonds at their principal amount. No series of Tax-Exempt Bonds will be issued at rates in excess of those generally obtained at the time of pricing for sales of substantially similar tax-exempt bonds (having the same maturity, issued for the benefit of companies of comparable credit quality and having similar terms, conditions and features). It is stated that, at April 18, 1994, such rate is estimated to be approximately 7% per annum for tax-exempt bonds having a maturity of 30 years, no optional redemption for the first ten years after initial issuance, and issuance and pledge of collateral first mortgage bonds as security.

Rate Period means a period during which the interest rate on such Tax-Exempt bonds of a particular series bearing an adjustable rate (or method of determination of such interest rate) is fixed. The initial Rate Period would commence on the date as of which interest begins to accrue on such Tax-Exempt Bonds. The length of each Rate Period would be not less than one day nor more than five years.

The Agreement and the Indenture would provide that holders of Tax-Exempt Bonds would have the right to tender or be required to tender their Tax-Exempt Bonds and have them purchased at a price equal to the principal amount thereof, plus any accrued and unpaid interest thereon, on dates specified in, or established in accordance with, the Indenture. A Tender Agent may be appointed to facilitate the tender of any Tax-Exempt Bonds by holders. Any holders of Tax-Exempt Bonds wishing to have such Tax-Exempt Bonds purchased may be required to deliver such Tax-Exempt Bonds during a specified period of time preceding such purchase date to the Tender Agent, if one shall be appointed, or to the Remarketing Agent appointed to offer such tendered Tax-Exempt Bonds for sale.

Under the Agreement AP&L would be obligated to pay amounts equal to the amounts to be paid by the Remarketing Agent or the Tender Agent pursuant to the Indenture for the purchase of Tax-Exempt Bonds so tendered, such amounts to be paid by AP&L on the dates such payments by the Remarketing Agent or the Tender Agent are to be made; provided, however, that the obligation of AP&L to make any

such payment under the Agreement would be reduced by the amount of any other moneys available therefor, including the proceeds of the sale of such tendered Tax-Exempt Bonds by the Remarketing Agent.

Upon the delivery of such Tax-Exempt Bonds by holders to the Remarketing Agent or the Tender Agent for purchase, the Remarketing Agent would use its best efforts to sell such Tax-Exempt Bonds at a price equal to the stated principal amount of such Tax-Exempt Bonds.

In order to obtain a more favorable rating on one or more series of the Tax-Exempt Bonds and, thereby, improve the marketability thereof, AP&L may arrange for one of more irrevocable letter(s) of credit for an aggregate amount up to $226 million from a bank ("Bank") in favor of the Trustee. In such event, payments with respect to principal, premium, if any, interest and purchase obligations in connection with such Tax-Exempt Bonds coming due during the term of such letter of credit would be secured by, and payable from funds drawn under, the letter of credit. In order to induce the Bank to issue such letter of credit, the AP&L would enter into a Letter of Credit and Reimbursement Agreement ("Reimbursement Agreement") with the Bank pursuant to which AP&L would agree to reimburse the Bank for all amounts drawn under such letter of credit within a specified period (not to exceed 84 months) after the date of the draw and with interest thereon at a rate that would not exceed rates generally obtained at the time of entering into the Reimbursement Agreement companies of comparable credit quality on letters of credit having comparable terms, and, in any event, not in excess of the Bank's prime commercial loan rate plus 2%. The terms of the Reimbursement Agreements would correspond to the terms of the letter of credit.

It is anticipated that the Reimbursement Agreement would require the payment by AP&L to the Bank of annual letter of credit fees not to exceed 1.25% of the face amount of the letter of credit per annum and perhaps an up-front fee not to exceed 0.25% of the face amount of the letter of credit. Any such letter of credit may expire or be terminated prior to the maturity date of related Tax-Exempt Bonds and, in connection with such expiration or termination, such Tax-Exempt Bonds may be made subject to mandatory redemption or purchase on or prior to the date of expiration or termination of such letter of credit, possibly subject to the right of owners of Tax-Exempt Bonds not to have their Tax-Exempt Bonds redeemed or purchased. Provision may be made for extension of the term of any such letter of credit for the replacement thereof, upon its expiration or termination, by another letter of credit from the Bank or a different bank.

In addition or as an alternative to the security provided by a letter of credit, in order to obtain a more favorable rating on Tax-Exempt Bonds and consequently improve the marketability thereof, AP&L may (a) determine to provide an insurance policy for the payment of the principle of and/or interest and/or premium on the Tax-Exempt Bonds, and/or (b) provide security for holders of Tax-Exempt Bonds, and/or the Bank equivalent to the security afforded to holders of first mortgage bonds outstanding under AP&L's mortgage by obtaining the authentication of and pledging one or more new series of first mortgage bonds ("Collateral Bonds") under the mortgage as it may be supplemented. Collateral Bonds would be issued on the basis of unfunded net property additions and/or previously-retired first mortgage bonds and delivered to the Trustee under the Indenture and/or the Bank to evidence and secure AP&L's obligation to pay the purchase price of the related Facilities or repay the loan made by the Issuer under the Agreement and AP&L's obligation to reimburse the Bank under the Reimbursement Agreement.

These Collateral Bonds could be issued in several ways. First, if the Tax-Exempt Bonds bear a fixed interest rate, Collateral Bonds could be issued in a principal amount equal to the principal amount of such Tax-Exempt Bonds and bear interest at a rate equal to the rate of interest on such Tax-Exempt Bonds. Secondly, they could be issued in a principal amount equivalent to the principal amount of such Tax-Exempt Bonds plus an amount equal to interest on those bonds for a specified period. In such a case, Collateral Bonds would bear no interest. Thirdly, Collateral Bonds could be issued in a principal amount equivalent to the principal amount of such Tax-Exempt Bonds or in such amount plus an amount equal to interest on those bonds for a specified period, but carry a fixed interest rate that would be lower than the fixed interest rate of the Tax-Exempt Bonds. Fourthly, they could be issued in a principal amount equivalent to the principal amount of Tax-Exempt Bonds at an adjustable rate of interest, varying with such Tax-Exempt Bonds.

No series of Collateral Bonds will be issued at interest rates in excess of those of the related series of Tax-Exempt Bonds (the rate of which is described above). The maximum aggregate principal amount of the Collateral Bonds would be $226 million. The terms of the Collateral Bonds relating to maturity, interest payment dates, if any, redemption provisions and acceleration will correspond to the terms of the related Tax-Exempt Bonds. Upon issuance, the terms of the Collateral Bonds will not vary during the life of such series except for the interest rate in the event the Collateral Bonds bear interest at an adjustable rate.

It is contemplated that the Tax-Exempt Bonds may be sold by the Issuer pursuant to arrangements with an underwriter or a group of underwriters or by private placement in a negotiated sale or sales. The AP&L will not be party to the underwriting or placement arrangements; however, the Agreement will provide that the terms of the Tax-Exempt Bonds, and their sale by the Issuer, shall be satisfactory to AP&L.

The AP&L has been advised that the interest rates on tax-exempt bonds have been and are expected at the time(s) of issuance of Tax-Exempt Bonds to be lower than the interest rates on bonds of similar tenor and maturities and comparable quality, interest on which is fully subject to Federal income tax.

The AP&L shall not use the proceeds from the Agreement to enter into refinancing transactions unless: (1) The estimated present value savings derived from the net difference between interest or dividend payments on a new issue of comparable securities and those securities refunded is, on an after tax basis, greater than the present value of all repurchasing, redemption, tendering an issuing costs, assuming an appropriate discount rate, determined on the basis of the then estimated after-tax cost of capital of Energy Corporation and its subsidiaries, consolidated; or (2) AP&L shall have notified the Commission of the proposed refinancing transaction (including the terms thereof) by post-effective amendment hereto and obtained appropriate supplemental authorization.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary

[FR Doc. 94–10396 Filed 4–29–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License #06/06–0298]

Southern Ventures, Inc.; Notice of License Surrender

Notice is hereby given that Southern Ventures, Inc., ("SVI"), 605 Main Street, Suite 202, Arkadelphia, Arkansas 71923, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). SVI was licensed by the Small Business Administration on November 30, 1988.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on February 28, 1994, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Company)

Dated: April 21, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–10367 Filed 4–29–94; 8:45 am]

BILLING CODE 8025–01–M

[License #02/02–0334]

Venture SBIC, Inc.; Notice of License Surrender

Notice is hereby given that Venture SBIC, Inc., ("Venture"), 249–12 Jericho Turnpike, Floral Park. New York 11001, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended ("the Act"). Venture was licensed by the Small Business Administration on November 23, 1977.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on March 13, 1994, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 21, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–10368 Filed 4–29–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 94–033]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking additional applicants for appointment to membership on the Merchant Marine Personnel Advisory Committee (MERPAC). The Committee is a nineteen member federal advisory committee that advises the Coast Guard on matters related to the training, qualification, licensing, certification and fitness of seamen serving in the U.S. merchant marine.

DATES: Membership applications must be received by July 1, 1994.

ADDRESSES: Persons interested in applying should write to Commandant (G–MVP–3), room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Miller, Assistant to the Executive Director, MERPAC, room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, (202) 267–0224.

SUPPLEMENTARY INFORMATION: On September 21, 1993, the Coast Guard published a notice in the **Federal Register** (58 FR 49080) requesting applications for six openings for the Committee. This notice announces that the number of openings has increased from six to seven. The Coast Guard seeks applications for an additional member in the category of shipping company manager. The Committee consists of 19 members as follows: Ten active U.S. merchant mariners (three deck officers; three engineering officers; two unlicensed seamen; one staff officer; and one pilot); five marine educators (three from maritime academies, two of whom should be associated with State maritime academies; and two from other maritime training institutions); two shipping company managers; and two persons from the general public. Terms are expiring in the following categories: (a) Active Merchant Mariner (two positions—one deck officer and one engineering officer); (b) Certified Staff Officer (one position); (c) Marine Educator (two positions—one Maritime Academy and one Maritime Training); (d) Shipping Company Manager (one position); (e) General Public (one position). The membership term is three years. No member may hold more than two consecutive three-year terms. Those persons that submitted applications in reply to the September 21, 1993 notice, need not reapply.

The Coast Guard received a number of letters expressing concern that the inland, river and near coastal industries are not adequately represented on the committee. In the October notice members of these industries were encouraged to apply. Interested members of these industries are again encouraged to apply.

To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women. The members of the Committee serve without compensation from the Federal Government, although travel reimbursement and per diem may be provided. The Committee normally meets in Washington, DC, with working group meetings for specific problems on an as-required basis.

Dated: April 14, 1994.

J.F. McGowan,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 94–10446 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–14–M

[CGD 94–039]

Chemical Transportation Advisory Committee (CTAC)

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Chemical Transportation Advisory Committee will hold its annual meeting to review and discuss issues relating to the marine transport of hazardous materials in bulk.

DATES: The meeting will be held on Thursday, June 16, 1994, from 9:30 a.m. to 3 p.m. Written material should be submitted no later than June 9, 1994.

ADDRESSES: The meeting will be held in room 2415, U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20953–0001. Written material should be submitted to Commandant (G–MTH–1), U.S. Coast Guard, 2100 2nd Street, SW., Washington, DC 20593–0001, Attn: Commander K.J. Eldridge.

FOR FURTHER INFORMATION CONTACT: Commander K. J. Eldridge or Mr. F. K. Thompson, U.S. Coast Guard Headquarters (G–MTH–1), 2100 2nd street, SW., Washington, DC 20593–0001. Telephone: (202) 267–1217.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App 2 § 1 *et seq.*

The agenda of the Committee meeting will be as follows:

1. Opening remarks—RADM Henn.
2. Chairman's remarks and general interest topics.
3. Introduction and swearing-in of new members.
4. Presentation of awards.
5. Issue briefs:
   - Applicability of OPA–90 to chemical tank ships.
   - Human factors and the Coast Guard.
   - Tankerman regulations.
   - Maritime regulatory reform.
   - Tank Level or Pressure Monitoring Devices.
6. Subcommittee reports:
   - 46 CFR Part 151 revision.
   - Tank filling limits.
   - Benezene and other chemicals.
   - Marine vapor control systems.
7. New tasks and initiatives:
   - Fire fighting capabilities of marine facilities.
   - Chemical compatibility table—industry questionnaire.
8. International activities update.
9. Other business:
   - The Marine Safety Network.
   - Status of the coast Guard's Inert Gas Systems field survey.
   - Overview of the National Oil Pollution Fund Center; liability under OPA.
10. Closing.

Attendance at the above meeting is open to the public. Members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of CTAC no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Dated: April 19, 1994.

A.E. Henn,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 94–10444 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–14–M

[CGD 94–037]

Houston/Galveston Navigation Safety Advisory Committee

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee will meet to provide recommendations and guidance to the Commander, Eighth Coast Guard District, on navigation safety matters affecting the Houston/Galveston area. The meeting is open to the public.

DATES: The meeting will be held on Thursday, May 19, 1994, and will begin at approximately 9 a.m. and end at approximately 1 p.m.

ADDRESSES: The meeting will be held in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: J.P. Novotny, LT, USCG, Recording Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (oan), Room 1211, Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA 70130–3396, telephone number (504) 589–2389.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 § 1 et seq. The agenda for the meeting consists of the following items:

(1) Call to Order.

(2) Presentation of the minutes of the Inshore and Offshore Waterways Subcommittees and discussion of recommendations.

(3) Discussion of previous recommendations made by the Committee.

(4) Presentation of any additional new items for consideration of the Committee.

(5) Adjournment.

Members of the public may present written or oral statements at the meeting.

Dated: April 14, 1994.

J.C. Card,

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

[FR Doc. 94–10445 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–14–M

[CGD 94–036]

Merchant Marine Personnel Advisory Committee; Meetings

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Merchant Marine Personnel Advisory Committee (MERPAC) and working groups will meet to discuss various issues. Agenda items include discussions of physical standards and licensing requirements. All meetings will be open to the public.

DATES: The working groups will meet on June 14, 1994, from 8:30 a.m. to 4 p.m. The full committee will meet on June 15, 1994, from 9 a.m. to p.m. Written material should be submitted not later than June 1, 1994.

ADDRESSES: The meetings will be held in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593. Written material should be submitted to CDE Scott J. Glover, MERPAC Executive Director, Commandant (G–MVP), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Commander Scott J. Glover, Commandant (G–MVP), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, telephone (202) 267–0213.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2 section 1 *et seq.* The agenda will include discussion of the following topics:

(1) Review of the recommendations from the Focus Group report, "Licensing 2000 and Beyond", including discussion on the use of simulator based training and testing, and the Coast Guard examination process.

(2) Review of the recommendations from the Coast Guard report, "Review of Marine Safety Issues Related to Uninspected Towing Vessels."

(3) Physical standards for merchant mariners.

(4) Revision of the MERPAC's charter to allow representation of the river, inland, and near coastal mariners on the committee.

Attendance is open to the public. With advance notice, and the Chairman's discretion, members of the public may make oral presentations during the meeting. Persons wishing to maker oral presentations should notify the Executive Director, listed above under **ADDRESSES**, no later than the day before the meeting. Written material may be submitted at any time for presentation to the Committee. However, to ensure advance distribution to each Committee member, persons submitting written material are asked to provide 20 copies to the Executive Director no later than June 1, 1994.

Dated: April 25, 1994.

J. F. McGowan,

Captain, US Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 94–10447 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Availability of Final Environmental Assessment (Final EA) and Draft Mitigated Finding of No Significant Impact (FONSI)/Record of Decision (ROD); Greater Rockford Airport, Rockford, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of documents and soliciting comments.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of the availability of a Final EA and a Draft of a Mitigated FONSI/ROD. Interested parties are invited to submit comments on the proposed Mitigated FONSI/ROD. Based on the information received, the FAA will make a determination whether to approve the proposed Mitigated FONSI/ROD or prepare an EIS on the proposed development at Greater Rockford Airport, Rockford, Illinois. Major development items, proposed to be completed over the next 5 to 10 years, are depicted on the Airport Layout Plan (ALP). Comments are solicited before the FAA makes its final determination whether to prepare an Environmental Impact Statement (EIS).

FOR FURTHER INFORMATION CONTACT: Melissa Wishy, Community Planner, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois, 60018 (708) 294–7524.

SUPPLEMENTARY INFORMATION: The FAA, in cooperation with the Illinois Department of Transportation, Division of Aeronautics, and the Greater Rockford Airport Authority have agreed to prepare a Final Environmental Assessment (Final EA) for proposed development at Greater Rockford Airport. Below is a listing of major, associated and indirect development projects. This listing includes United Parcel Service's (UPS) recent announcement to initiate a cargo hub facility at the airport.

1. Develop the midfield area for aviation-related industrial users.
2. Expand the existing cargo apron and buildings west of the existing terminal building to accommodate a minimum of 26 cargo aircraft.
3. Extend Runway 7/25 to a length of 10,000 feet by constructing a 3,500-foot southwesterly extension with parallel and connecting taxiways and associated lighting and navigation aids. This would include the installation of a CAT II Instrument Landing System (ILS) for Runway 7.
4. Relocate approximately 12,000 feet of Belt Line Road and 9,300 feet of Kishwaukee Road.
5. Expand the existing terminal building and auto parking lot and upgrade the existing airport entrance roadway.
6. Construct a general aviation apron and T-hangars.
7. Close Runway 13/31.
8. Remove miscellaneous support buildings.
9. Construct a new 4,000-foot general aviation visual approach runway, parallel to and 5,100 feet southeast of existing Runway 7/25, with associated taxiways and instrumentation.
10. Construct and realign various taxiways parallel to Runway 1/19. The majority of the realignment work proposed is adjacent to and west of the approach end of Runway 19.
11. Implement actions recommended in the 1993 Master Drainage/Stormwater Management Plan.
12. Implement actions recommended in the updated Noise Compatibility Plan.
13. Acquire approximately 1,100 acres of land for airfield development. In addition to this acquisition, is the relocation of up to 28 residential dwellings (for noise and floodway mitigation), of which only eleven are considered to be noise impacted and must be acquired and residents relocated prior to the start of any operation resulting from the Proposed Action Alternative. The remaining residential dwellings would be acquired for purposes of airfield development and floodway mitigation. Those dwellings identified as floodway mitigation can be acquired either in fee-simple or through restrictive covenant. (Updated)
14. Compensate for wetland impacts caused by the development of the Proposed Action Alternative through the creation of approximately 25 acres of new wetlands.
15. An additional 1,500 flights annually beyond those originally forecasted but with a greater number of stage three aircraft. This is based on UPS's proposal to initiate an air cargo operation at Greater Rockford Airport.

The FAA issued a **Federal Register** Notice on April 22, 1993 announcing its intent to prepare an Environmental Document (possible Environmental Impact Statement) and to hold a May 26, 1993 scoping meeting. At the scoping meeting no significant impacts were identified. Some concerns were expressed over possible noise, floodplain and wetland impacts. The airport sponsor indicated that any impacts would be mitigated below the level of significance as an integral part of the development.

The FAA issued a subsequent **Federal Register** Notice on February 17, 1994 announcing the availability of the Draft Environmental Document and provided additional opportunity for scoping comments for the refined listing of the major, associated and indirect development projects, incorporating items scoped originally and those newly identified as part of the UPS proposed development. Notice was also given for a March 22, 1994 public hearing with written comments being received until April 6, 1994.

Public involvement and the Final Environmental Assessment indicates that this development would not result in any potentially significant impacts on the human environment and that a Mitigation FONSI/ROD is appropriate. Additionally, this information indicates that an EIS is not warranted based on the findings made under each specific impact category. The Mitigated FONSI/ROD will incorporate specific mitigation measures as an integral part of the project. The purpose of this notice is to provide the public an opportunity to submit information to the FAA prior to its reaching a decision on this matter.

In accordance with 40 CFR 1501.4(e) of the Council on Environmental Quality regulations, there will be a thirty (30) day comment period before the FAA makes its final determination on the Mitigated FONSI. Interested individuals, Government agencies, and private organizations are invited to send comments on the proposed Mitigated FONSI/ROD to the address set forth above. Absent receipt of information showing that an EIS is needed, the FAA anticipates that it will sign the Mitigated FONSI/ROD thirty days after this notice appears in the **Federal Register**. The Final EA and its supporting documentation may be viewed during normal business hours at the following locations:

Airport Manager's Office, Greater Rockford Airport Authority, 3600 Airport Drive, Rockford, Illinois 61125–0063

Rockford City Clerk's Office, Rockford City Hall, 1201 Broadway, Rockford, Illinois

Winnebago County Courthouse, County Clerk's Office, 400 West State, Rockford, Illinois

Rockford Public Library, 215 North Wyman, Rockford, Illinois

Illinois Department of Transportation, Division of Aeronautics, One Langhorne Drive, Capitol Airport, Springfield, Illinois

Federal Aviation Administration, Chicago Airports District Office, 2300

East Devon Avenue, Des Plaines, Illinois 60018.

A copy of the Draft Mitigated FONSI/ROD is available for review at the FAA—Chicago Airports District Office (address identified above).

Issued in Des Plaines, Illinois on April 21, 1994.

Louis H. Yates,

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 94–10386 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

Availability of Solicitation for Center of Excellence (COE) in Airport Pavement Research

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of an open solicitation of aviation research grant proposals to establish an FAA Center of Excellence in Airport Pavement Research. The FAA is responsible for developing standards for airport pavement design, evaluation, and maintenance. Together with the airport operators and industry, the FAA spends nearly $2 billion annually for airport construction and maintenance. Plans for the introduction of new, larger, and heavier aircraft weighing more than a million pounds have necessitated a re-examination of the current pavement design methodologies. The COE for pavement research will assist the FAA to develop advanced design methodologies which are validated through full-scale testing. The FAA grant award will provide long-term funding to establish and operate the COE in support of pavement research.

The grant recipient is required to match FAA funds with non-Federal funding over the term of the grant.

DATES: Solicitation packages may be obtained by contacting the COE Program Manager. The closing date for submitting final proposals is June 8, 1994.

ADDRESSES: Contact Ms. Patricia Watts, The Office of Research and Technology Applications, ACL, Building 270, Atlantic City International Airport, New Jersey, 08405, telephone (609) 485–5043 or (609) 485–5901, Fax number (609) 485–6509 or (609) 485–4020.

SUPPLEMENTARY INFORMATION: The FAA intends to award a grant to establish a Center of Excellence in Airport Pavement Research at a qualified college or university. The Center will conduct basic research in four major areas: modeling of airport pavement structures, constitutive behavior of payment materials, material characterization and new technologies in pavement evaluation.

Eligibility

Colleges and universities are eligible for grants to establish a Center of Excellent in Airport Pavement Research. The FAA is seeking to ensure an equitable geographical distribution of funds and to encourage the inclusion of minority institutions.

Matching Funds Requirement

A Center of Excellence receives funding annually in the form of single or multiple continuing research grants over a three year period. The Federal Government provides 50 percent of the cost to establish and operate a Center of Excellence. The institution must show a continuing source of non-Federal matching funds available for the remaining research and operational expenses at the Center. Once the COE is established, a fiscal year declaring the source and amount of funding and expenditures must be submitted for review every 6 months to The Office of Research and Technology Applications at the FAA Technical Center. A full review and grant close-out takes place at the conclusion of each three-year phase.

The Center of Excellence and the agency shall agree upon the maximum expected costs in each fiscal year. Any cost incurred in excess of the maximum costs agreed upon with the agency shall be the sole obligation of the Center of Excellence.

The Center of Excellence is expected to account for all funds granted and matched, utilized to establish, operate, and conduct the specified research activities of the Center of Excellence.

Maintenance of Effort and Center Operations

A Center of Excellence is required to maintain its aggregate expenditures from all other sources for establishing and operating a Center of Excellence and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding November 5, 1990. The establishment of a Center of Excellence is intended to augment the level of aviation research activities at the institution.

The Center of Excellence must maintain a close working relationship with the corresponding agency research program office. This relationship extends to participation in conferences, meetings, joint research efforts, and submission of significant activity reports to the FAA on a routine basis. The COE prepares quarterly and semi-annual reports, and a fully inclusive annual report on research projects and fiscal expenditures, and hosts an on-site review of all research activities.

The FAA may require the COE to hold an annual joint symposium with the agency on topics relating to the status and results of the designated technology area. Researchers at the COE may serve as consultants by providing technical advice to the sponsoring agency program office. They may also be asked to participate on major planning and investigative committees related to airport pavement technology.

The COE will be selected on the basis of the following criteria:

—The extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

—The demonstrated research and extension resources available to the applicant for carrying out the intent of the legislation.

—The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

—The extent to which the applicant has an established air transportation program.

—The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

—The research projects that the applicant proposes to carry out under the grant.

Research Area

Aircraft technology has made giant strides in the past thirty years by successfully incorporating advances made in a host of other technologies. These advanced technologies include composite materials, high temperature alloys, inertial navigation, fly-by-wire controls, and other areas where the performance and economics could be improved in even the smallest increments.

In comparison, airport pavement technologies have advanced little during this time. Current design methods for asphalt and concrete pavements for airports use unrelated theories that cannot be applied when combinations of these materials are used. This is a commonly encountered problem that can only be resolved by using equivalency factors, which are judgmentally chosen. This approach to

the design of airport pavements must be replaced with a common methodology based on sound theoretical principles and test validated models. We must take advantage of enhanced computational abilities to provide the flexibility of dealing with the various permutations of complex landing gear configurations that must be analyzed with each new proposed aircraft design. The aircraft will have different types of landing gear layouts that are quite different from current ones, with more wheels on each landing gear strut, and the struts closely spaced around the center of the aircraft.

The current FAA pavement design and evaluation methodologies need to be improved for analyzing and airport pavement response and requirements of new aircraft, such as the triple tandem Boeing B–777 and much heavier models reaching 1.3 million pounds. As a result of this new methodology, the FAA will be able to deal more efficiently with aircraft manufactures, the airlines, and airport owners. These key players of the aerospace industry all require an FAA and International Civil Aviation Organization sanctioned procedure for estimating pavement response because it is critical in selling aircraft, in planning new airline route and services, and in protecting the billions of dollars already invested in airport pavements. Delays in resolving these problems will jeopardize the smooth introduction of new large aircraft. Pavement structure is basically a composite system consisting of asphalt, concrete, and soils of various types. This system exhibits viscoelastic, inelastic, brittle, and plastic behavior when subjected to moving wheel loads. Mechanics of pavement failure and methodology to predict pavement life, particularly when the new generations of aircraft are introduced, are not known. Development of new methodology requires fundamental analyses and pavement evaluation.

Who May Apply

1. Colleges and universities may submit proposals for grant awards to establish and operate the COE in Airport Pavement Research.

2. Individuals are not eligible for a DOE designation and do not qualify for grants under this program.

3. Before final proposal submission, the proposal may be discussed with the Center of Excellence Program Manager, Ms. Patricia Watts, in the Office of Research and Technology Applications, ACL–1, at (609) 485–5043/(609) 485–5901 or FAX (609) 485–6509/(609) 485–4020.

Award Date

The final selection of the Center of Excellence in Airport Pavement Research Technology will be announced by the Administrator by September 30.

Issued in Atlantic County, New Jersey on April 15, 1994.

Lonni Czekalski,

Deputy Director, FAA Technical Center.

[FR Doc. 94–10387 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Duluth International Airport, Duluth, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Duluth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 1, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John C. Grinden, Executive Director, Duluth Airport Authority, at the following address: Duluth Airport Authority, Duluth International Airport, Duluth, Minnesota 55811.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Duluth Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Franklin D. Benson, Manager, Minneapolis Airports District Office, 6020 28th Avenue South, room 102, Minneapolis, Minnesota 55450, (612) 725–4221. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Duluth International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 8, 1994 the FAA determined that the application to impose and use the revenue from a PFC submitted by the Duluth Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 19, 1994.

The following is a brief overview of the application:

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1994.

Proposed charge expiration date: March 31, 1996.

Total estimated PFC revenue: $562,248.

Brief description of proposed project(s):

1. PAPI's to Serve Runways 09 & 27
2. Runway 03/21 Distance Remaining Signs
3. Rehabilitation of the Terminal and G.A. Ramps
4. Install Jet Bridge
5. Runway Visibility Zone Grading
6. Design Taxiway "K" (Phase I), Relocate Utility Ducts
7. Installation of Airport Signs and Land Acquisition
8. Conduct FAR Part 150 Noise Compatibility Study
9. Study for a SRE Maintenance and ARFF Facility
10. Prepare and Coordinate PFC Application Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators, including those who filed FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Duluth Airport Authority.

Issued in Des Plaines, Illinois, on April 21, 1994.

Larry H. Ladendorf,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 94–10388 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Quincy Municipal Airport-Baldwin Field, Quincy, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Quincy Municipal Airport-Baldwin Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before June 1, 1994.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon, room 260, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Leon Kowalski, City Engineer, City of Quincy at the following address: City Hall, 507 Vermont Street, Quincy, Illinois 62301.

Air carriers and foreign air carriers may submit copies of written comments previously provided to City of Quincy under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Louis H. Yates, Manager, Chicago Airports District Office, 2300 East Devon, room 258, Des Plaines, Illinois 60018, (708) 294–7335. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites comment on the application to impose and use the revenue from a PFC at Quincy Municipal Airport-Baldwin Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On April 4, 1994, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Quincy was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than July 22, 1994.

The following is a brief overview of the application:

Level of proposed PFC: $3.00.

Proposed charge effective date: September 1, 1994.

Proposed charge expiration date: June 30, 1997.

Total estimated PFC revenue: $122,217.00.

Brief description of proposed projects:

1. Overlay Taxiways and Main Entrance Road
2. Install Perimeter Fencing
3. Acquire SRE
4. Grading and Drainage for East Quadrant
5. Install Taxiway Guidance Signs
6. Replace HIRL's R/W 4/22 and MIRL's R/W 13/31
7. Improvements to Terminal Building to Comply with ADA
8. Replace Taxiway Lights
9. Acquisition of a Hydraulic Lift
10. Construct New Electrical Vault and Upgrade Equipment
11. Update Airport Layout Plan Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Charters

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application at the City Hall in Quincy.

Issued in Des Plaines, Illinois, on April 21, 1994.

Larry H. Ladendorf,

Acting Manager, Airports Division; Great Lakes Region.

[FR Doc. 94–10389 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

Federal Transit Administration

Transfer of Federally Assisted Facility

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to transfer Federally assisted land or facility.

SUMMARY: The Federal Transit Act, as amended (FT Act), permits the Administrator of the Federal Transit Administration (FTA) to authorize a recipient of FTA funds to transfer land or a facility to a public body for any public purpose with no further obligation to the Federal Government if, among other things, no Federal agency is interested in acquiring the asset for Federal use. Accordingly, FTA is issuing this Notice to advise Federal agencies that the Suburban Bus Division of the RTA (PACE) intends to transfer its Wilmette Bus Facility at 711 Laramie Avenue, on the western border of Wilmette, Illinois, west of the Edens Expressway.

EFFECTIVE DATE: Any Federal agency interested in acquiring the land or facility must notify the FTA, Region 5 Office, of its interest, by June 1, 1994.

ADDRESSES: Interested parties should notify the Regional Office by writing to FTA Region 5, 55 East Monroe Street, Room 1415, Chicago, Illinois 60603).

FOR FURTHER INFORMATION CONTACT: Louise Carter, Director of the Office of Program Oversight, (312)353–2883 or Ann Catlin, Office of Grants Management at (202) 366–1647.

SUPPLEMENTARY INFORMATION:

Background

Section 12(k) of the FT Act, as amended, provides guidance on the transfer of capital assets. Specifically, if a recipient of FTA assistance determines that capital assets (including land) acquired, in whole or part, with such assistance are no longer needed for the purposes for which they were acquired, the Administrator may authorize the transfer of such assets to any public body to be used for any public purpose with no further obligation to the Federal Government.

Section 12(k)(2) Determinations

The provision also provides that before the FTA may authorize such a transfer for a non-transit use, the FTA must first determine that:

(A) The asset being transferred will remain in public use for not less than 5 years after the date of the transfer;

(B) There are no purposes eligible for assistance under the FT Act for which the asset should be used;

(C) The overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

(D) In any case in which the asset is a facility or land, there is no interest in acquiring the asset for Federal use.

Federal Interest in Acquiring Land or Facility

This document implements the requirements of section 12(k)(2)(D). Accordingly, FTA hereby provides notice of the availability of the land or facility further described below. Any Federal agency interested in acquiring the affected land or facility should promptly notify the FTA.

If no Federal agency is interested in acquiring the existing land or facility, FTA will make certain that the other

requirements specified in section 12(k)(2) (A) through (C) are met before permitting the asset to be transferred.

Additional Description of Land or Facility

The Wilmette Bus Facility located at 511 Laramie Avenue, on the Western border of the Village of Wilmette, Illinois, a 15,959 square foot, one story on slab, brick and metal panel constructed addition to an existing public works maintenance facility on a six-acre parcel owned by the Village of Wilmette, Illinois. The facility was constructed in 1985 by PACE.

Issued on: April 26, 1994.

Joel P. Ettinger,

Regional Administrator.

[FR Doc. 94–10433 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–57–U

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 22, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New collection
Title: Examination Quality Measurement System (EQMS) Satisfaction Survey
Description: The data collected will be used to get an indication of whether the IRS is providing satisfactory service to its customers the taxpayers. This information will be used by IRS managers to determine if current programs and service are meeting program needs. The need for further evaluation of our service and programs will be indicated by this effort.
Respondents: Individuals or households
Estimated Number of Respondents: 32,000
Estimated Burden Hours Per Respondent: 14 minutes
Frequency of Response: Monthly
Estimated Total Reporting Burden: 7,467 hours
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–10424 Filed 4–29–94; 8:45 am]

BILLING CODE 4830–01–P

Public Information Collection Requirements Submitted to OMB for Review.

April 25, 1994.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0238
Form Number: W–2G
Type of Review: Extension
Title: Certain Gambling Winnings
Description: Internal Revenue Code (IRC) section 6041 requires payers of certain gambling winnings to report them to IRS. If applicable, section 3402(q) and section 3406 require tax withholding on these winnings. We use the information to ensure taxpayer income reporting compliance.
Respondents: State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations
Estimated Number of Respondents: 6,400
Estimated Burden Hours Per Respondent: 19 minutes
Frequency of Response: Annually
Estimated Total Reporting Burden: 564,200 hours
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 94–10425 Filed 4–29–94; 8:45 am]

BILLING CODE 4830–01–P

Internal Revenue Service

Information Reporting Program Advisory Committee; Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting of the Information Reporting Program Advisory Committee

SUMMARY: In 1991 the IRS established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program.

There will be a meeting of IRPAC on Tuesday and Wednesday, May 17 & 18, 1994. The meeting will be held in room 3313 of the Internal Revenue Service Building. The building is located at 1111 Constitution Avenue, NW., Washington, DC. The meeting will begin at 9:30 a.m., on both days, concluding about mid-day on the 20th. Topics to be discussed are listed below in a draft version of the agenda.

Draft Agenda for Meeting on May 17 & 18, 1994

Tuesday, May 17, 1994

9:30—Public Meeting Opens.
11:30—Break for Lunch.
1:00—IRPAC Presentations Continue.
4:30—Adjourn for the Day.

Wednesday, May 18, 1994

9:30—Public Meeting Reconvenes.
12:00—Adjourn.

The topics that will be covered are as follows: Revision of the EIN System, Wage Reporting Simplification Project, W–2 Demonstration Project, Reporting of U.S. Source Income to Foreign Persons, Tax Systems Modernization, Civil Penalty Administration, Electronic Filing of Form W–4, On-line TIN Matching Prototype, Form 1099 Standardization, Internal/External Communication, Form 1099R Revisions, Form 1099 Electronic Filing Results,

Credit Cards and 1099 Filings, Acceleration of W–2 Reporting Due Dates, Third-Party Payer Situations, and Cancellation of Indebtedness Reporting.

Note: Last minute changes to the topics under discussion are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC reports to the Executive Director, Information Reporting Program (IRP), who is the executive responsible for information reporting and is charged with its systemwide planning and improvement. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance and reduction of burden. IRPAC is currently comprised of 18 representatives from various segments of the private sector payer community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two meetings each year.

DATES: The meeting, which will be open to the public, will be in a room that accommodates approximately 50 people, including members of IRPAC and IRS officials. Twenty-five seats will be reserved for the public and press and are available on a first-come, first-served basis. Due to the limited conference space, notification of intent to attend this meeting should be made with John Guthrie no later than May 13, 1994. Mr. Guthrie can be reached at 202–622–3583 (not a toll-free number). Notification of intent to attend should include your name, organization and phone number.

ADDRESSES: If you would like to have IRPAC consider a written statement, please write to Kate LaBuda at IRS, IRP Planning and Management Staff, EX:I:P, room 2011, 1111 Constitution Avenue, NW., Washington, DC, 20224.

FOR FURTHER INFORMATION CONTACT: To give notification of intent to attend this meeting, call John Guthrie at 202–622–3583 (not a toll-free number). For information about IRPAC, in general, or about the agenda for this meeting, call Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: April 21, 1994.

Approved:

Diane Brown,

Acting Staff Chief Planning and Management Staff Information Reporting Program.

[FR Doc. 94–10328 Filed 4–29–94; 8:45 am]

BILLING CODE 4830–01–U

Customs Service

[T.D. 94–43]

Recordation of Trade Name: "PresenTense"

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

ACTION: Notice of recordation.

SUMMARY: On February 03, 1994, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "PresenTense," was published in the **Federal Register** (59 FR 5221). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than April 04, 1994. No responses were received in opposition to the notice. Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "PresenTense," is recorded as the trade name used by MGP Corporation, a corporation organized under the laws of the State of Virginia, located at 21440 Pacific Boulevard, Sterling, Virginia 20167.

The trade name is used in connection with household ceramic articles, including tableware and dinnerware.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Delois P. Cooper, Intellectual Property Rights Branch, 1301 Constitution Avenue NW., (Franklin Court), Washington, DC 20229 (202 482–6960).

Dated: April 22, 1994.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 94–10327 Filed 4–29–94; 8:45 am]

BILLING CODE 4820–02–P

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Region 6 Advisory Board

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Change of meeting date and location.

SUMMARY: This is to announce a change in the date and location for the Region 6 Advisory Board meeting scheduled for April 27 as published in the **Federal Register**, April 13, 1994, page 17635. The meeting is rescheduled for April 29 at the U.S. Grant Hotel, 326 Broadway, San Diego, California. The meeting was changed in acknowledgement of the President's Executive Order for the closing of government agencies in a mark of respect for Richard M. Nixon.

DATE: Friday, April 29, 9 a.m to 12:30 p.m.

ADDRESS: U.S. Grant Hotel, 326 Broadway, San Diego, California.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer Thrift Depositor Protection Oversight Board, 808 17th Street, NW., Washington, DC 20232 202/416–2626.

Dated: April 26, 1994.

Jill Nevius,

Committee Management Officer.

[FR Doc. 94–10364 Filed 4–26–94; 11:14 am]

BILLING CODE 2222–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects in exhibit, "Odilon Redon: Prince of Dreams" (see list) [1] imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition of the objects at The Art Institute of Chicago from on or about June 25, 1994, to on or about September 18, 1994, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: April 26, 1994.

Les Jin,

General Counsel.

[FR Doc. 94–10418 Filed 4–28–94; 8:45 am]

BILLING CODE 5–2–94

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan of the Office of the General Counsel of USIA. The telephone number is 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

UNITED STATES TRADE REPRESENTATIVE

Trade Policy on Tobacco Exports

AGENCY: Office of the U.S. Trade Representative.

ACTION: Notice and request for public comment.

SUMMARY: The Trade Policy Staff Committee (TPSC) gives notice of the Task Force on Tobacco Exports under the TPSC and requests public comment on the development of U.S. health and trade policies related to the export of U.S. tobacco products.

DATES: Comments are due May 27, 1994.

SUBMIT COMMENTS TO: Greg Schneider, Director, Consumer Goods, Office of the U.S. Trade Representative, 600 17th Street, room 422A, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Greg Schneider, Director, Consumer Goods, Office of the U.S. Trade Representative, 600 17th Street, Room 422A, Washington, DC 20506, Telephone 202–395–6160, Facsimile 202–395–3911; and Michael Eriksen, Sc.D., Director, Office of Smoking and Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, Department of Health and Human Services (HHS), Mail Stop K–50, 4770 Buford Highway NE, Atlanta, GA 30341, Telephone 404–488–5701, Facsimile 404–488–5976.

SUPPLEMENTARY INFORMATION:

I. Background

The TPSC established the Task Force on Tobacco Exports in December 1993 to conduct a comprehensive review of the U.S. Government's trade and health policies considerations as they relate to U.S. tobacco product exports. The Task Force is cochaired by Chris Marcich, the Assistant USTR for Environment and Natural Resources, Office of the U.S. Trade Representative and Phil Lee, the Assistant Secretary for Health, Department of Health and Human Services.

The mission of the Task Force is to review U.S. policy with respect to tobacco products in light of trade policy considerations, economic and health concerns, U.S. laws and regulations, and international agreements, and to make appropriate recommendations for consideration by the Administration.

II. Request for Comments:

The Task Force is seeking public comment to assist its mission. The Task Force is interested in reviewing published or unpublished materials on the following subjects and issues, as well as other relevant information and data:

- U.S. trade, health, or product specific laws, regulations, guidelines, and other written policies that may relate to the export of U.S. tobacco products;
- International (bilateral or multilateral) rules, agreements, and understandings that may relate to the export of tobacco products;
- Any relevant information on U.S. Government involvement in marketing, advertising, distribution, and promotion of tobacco products;
- Policies of the World Health Organization, the United Nations Children's Fund, the World Bank, and similar international organizations that may relate to international commerce in tobacco products (including smoking/health policies and lending policies);
- Information on the relationship between market opening or trade liberalization measures and international consumption of tobacco products (as measured by rates of sales, prevalence, or other indices), including the effect of price, income, or demographics data;
- Any information comparing U.S. tobacco products or marketing practices (including advertising, promotion, distribution, and product physical characteristics) with foreign tobacco products and marketing practices;
- Relevant information relating to the impact of tobacco exports on the U.S. labor force, U.S. balance of trade, or similar economic and social national interests.
- The public is invited to provide comments on any of these specific areas or on other aspects of the Task Force's work. Comments must be filed in English and provided in twenty copies to the address specified above. Submissions will be available for 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. Any business confidential information must be clearly marked "Business Confidential" in a contrasting color ink at the top of each page on each of the 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the docket that is open to public inspection.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 94–10423 Filed 4–29–94; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 83
Monday, May 2, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 3, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the Public.

MATTER TO BE CONSIDERED:

1. Pride in Public Service

The Commission will present the Pride in Public Service Award to April's recipient.

2. Mouthwash Containing Ethanol

The Commission will consider a **Federal Register** notice that proposes a child-resistant packaging requirement under the Poison Prevention Packaging Act for mouthwash containing ethanol.

3. Upholstered Furniture Petition FP 93–1

The staff will brief the Commission on options for Commission action on petition FP 93–1 from the National Association of State Fire Marshals requesting development of a flammability standard for upholstered furniture.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: April 26, 1994.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 94–10580 Filed 4–28–94; 3:28 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 5, 1994.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance and litigation matters.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: April 26, 1994.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 94–10581 Filed 4–28–94; 3:28 pm]

BILLING CODE 6355–01–M

U.S. COMMISSION ON CIVIL RIGHTS

DATES AND TIME: Friday, May 6, 1994, 9 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, NW., Room 540, Washington, DC 20425.

STATUS: Open to the Public.

Agenda

I. Approval of Agenda
II. Approval of Minutes of April Meeting
III. Announcements
IV. Executive Session to Discuss Personnel Rules and Practices of the Commission
V. Staff Report
VI. State Advisory Committee Reports
- Hate Crimes in Indiana: A Monitoring of the Level, Victims, Locations, and Motivations
- White Supremacist Activity in Montana
- The Use and Abuse of Police Powers: Law Enforcement Practices and the Minority Community in New Jersey

VII. Rescheduling of New York Hearing and Scheduling of Future Hearings
VIII. Future Agenda Items
1:00 p.m. Briefing on Americans with Disabilities Act

Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division (202) 376–8105 (TDD 202–376–8116) at least five (5) working days before the scheduled date of the hearing.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Dated: April 26, 1994.

Emma Monroig,

Solicitor.

[FR Doc. 94–10514 Filed 4–28–94; 11:04 am]

BILLING CODE 6335–01–M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 25, 1994, 59 FR 19750.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 27, 1994, 10:00 a.m.

CHANGE IN THE MEETING: The date of the Commission meeting originally scheduled for April 27, 1994, has been changed to April 26, 1994, at 2:00 p.m. The change in the date of the meeting is necessary because Federal Government offices will be closed on April 27, which has been declared a national day of mourning for former President Richard M. Nixon.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10520 Filed 4–28–94; 11:04 am]

BILLING CODE 6717–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:11 a.m. on Tuesday, April 26, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) an application for Federal deposit insurance for Leeds Federal Savings Bank, a proposed new federally chartered stock savings bank, to be located at 1101 Maiden Choice Lane, Baltimore, Maryland, and (2) matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Director Johnathan L. Feichter (Acting Director, Office of Thrift Supervision), seconded by Acting Chairman Andrew C. Hove, Jr., concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington DC.

Dated: April 26, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–10513 Filed 4–28–94; 11:04 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m. on Tuesday, May 3, 1994, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note: Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda

Matters relating to the Corporation's corporate, supervisory, and resolution activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Ms. Patti C. Fox, Acting Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 26, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–10481 Filed 4–26–94; 4:50 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, May 3, 1994, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Request for authority to purchase laptop computers.

Discussion Agenda

Memorandum and resolution re: Final amendments to Part 323 of the Corporation's rules and regulations, entitled "Appraisals," which, among other things, increase to $250,000 the threshold at or below which appraisals are not required.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 942–3132 (Voice); (202) 942–3111 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Ms. Patti C. Fox, Acting Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: April 26, 1994.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 94–10480 Filed 4–26–94; 4:50 pm]

BILLING CODE 6714–01–M

federal register

Monday
May 2, 1994

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Allowable Carbon Dioxide Concentration in Transport Category Airplane Cabins; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 27704; Notice No. 94–14]

RIN 2120–AD47

Allowable Carbon Dioxide Concentration in Transport Category Airplane Cabins

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the standards for maximum allowable carbon dioxide (CO_2) concentration by reducing the allowable maximum concentration from 3 percent to 0.5 percent in occupied areas of transport category airplanes. This action is in response to a recommendation from the National Academy of Sciences to review the CO_2 limit in airplane cabins, and would provide a cabin CO_2 concentration equivalent to that recommended for buildings.

DATES: Comments must be received on or before August 30, 1994.

ADDRESSES: Send comments on this notice in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Docket No. 27704, 800 Independence Avenue SW., Washington, DC 20591; or deliver comments in triplicate to: Federal Aviation Administration, room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked Docket No. 27704. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Assistant Chief Counsel (ANM–7), Federal Aviation Administration, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments in the information docket may be examined in the Office of the Assistant Chief Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Bob McCracken, FAA, Flight Test and Systems Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2118.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to any environmental, energy, federalism, or economic impacts that might result from adoption of the proposal contained in this notice are also invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments in triplicate to the Rules Docket address above. All comments received on or before the closing date for comments will be considered by the Administrator before taking action on this proposed rulemaking. The proposal contained in this notice may be changed in light of comments received. All comments received will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 27704." The postcard will be date stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In October 1984, the Department of Transportation was directed by Congress (Pub. L. 98–466) to commission the National Academy of Sciences (NAS) to conduct an independent study on the cabin air quality in transport category airplanes. The NAS formed the Committee on Airliner Cabin Air Quality to study all safety aspects of airliner cabin air quality, and submitted its report, "The Airliner Cabin Environment—Air Quality And Safety," to the FAA on August 12, 1986. The report includes 19 recommendations for legislative, regulatory, and air transport industry changes in relation to airliner cabin air quality. One of the recommendations relates to the allowable carbon dioxide (CO_2) concentration in the airplane cabin. This action is a result of that recommendation. For the purposes of this notice, the term, "cabin" is meant to include the passenger cabin, the flight deck, lower lobe galleys, crew rest areas, and any other occupied areas in a transport category airplane.

Discussion

Carbon dioxide is the product of normal human metabolism, which is the predominant source in aircraft cabins. The CO_2 concentration in the cabin depends on the ventilation rate, the number of people present, and their individual rates of CO_2 production, which varies with activity and (to a smaller degree) with diet and health. The carbon dioxide concentration level is frequently used as an indication of general air quality. At concentrations above a given level, complaints of poor air quality or "stuffiness" begin to appear.

The current maximum CO_2 limit of § 25.831(b)(2) of the Federal Aviation Regulations (FAR) is 3 percent by volume, sea level equivalent. This 3 percent limit was incorporated into § 4b.371 of the Civil Air Regulations (CAR) by Amendment 4b–6 on March 5, 1952. This limit was carried over into 14 CFR part 25 of the FAR when this part was codified in 1965. This high limit was established to allow for increases in the carbon dioxide levels in the crew compartment to ensure that, in aircraft with built-in carbon dioxide fire extinguishing systems, safe carbon dioxide concentrations would not be exceeded in the crew compartment when combating fires in cargo compartments.

The American Conference of Governmental Industrial Hygienists (ACGIH) has adopted a short-term exposure limit (STEL) for CO_2 of 30,000 parts per million (3 percent). The 3 percent limit specified in part 25 may therefore be satisfactory as a short-term limit, but is inappropriate for a steady-state condition. However, the NAS Committee notes in their report that this 3 percent limit is much higher than the limits adopted by the air conditioning industry for buildings and other types of interior environments, and recommends that the limit specified in part 25 be revised to more closely match the currently acceptable limits. The FAA concurs.

In contrast to the 3 percent limit specified in part 25, Standard 62–1989, prepared by the American Society of

Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), recommends a CO_2 limit of 1,000 parts per million (PPM), or 0.1 percent. As CO_2 concentration in the air increases, there is an increase in both the rate and the depth of breathing, reaching twice the normal rate at 3 percent concentration. At 3 percent concentration, there is some discomfort; at higher concentrations, headache, malaise, and fatigue occur, and the air is reported by those affected as being stale. People can function for long periods of time at levels of CO_2 as high as 1 percent (as in nuclear submarines), but it is generally felt by ASHRAE that 0.1 percent is a better limit. This value, however, is based on the dissipation of smoke and odors and not on health considerations. According to the ASHRAE Standard 62–1989, a steady-state CO_2 concentration of 0.1 percent would require a fresh-air ventilation rate of 15 cubic feet per minute (cfm) per person. In the old standard (62–1981), ASHRAE recommended a limit of 0.5 percent for office buildings and other occupied spaces, but suggested that 0.25 percent would provide an additional safety factor.

The Occupational Safety and Health Administration (OSHA), in 29 CFR 1910.1000, sets an interim (transitional) limit for CO_2 at 5,000 ppm or 0.5 percent, with a final rule limit of 10,000 ppm or 1 percent, which becomes effective December 31, 1993. The increase to 1 percent is apparently in deference to operators of commercial bakeries and breweries, both of which generate a significant amount of CO_2 in their processes. The FAA does not believe it is appropriate to base the allowable CO_2 concentration in transport category airplanes on the needs of specific manufacturing processes. Other commercial enterprises have no difficulty in meeting the existing OSHA limit of 0.5 percent.

The American Conference of Governmental Industrial Hygienists, in its "Documentation of the Threshold Limit Values and Biological Exposure Indices—Sixth Edition," also recommends 0.5 percent as the time weighted average limit for repeated daily exposure by workers. The FAA proposes adopting this value as a limit. A concentration limit of 0.5 percent is considered to be appropriate because there are no documented safety or health benefits associated with a lower value. Parties reviewing this document are encouraged to comment on values between 0.1 percent and the existing 3 percent limit, and to provide justification for any recommendations. The FAA may determine, based on the comments, that a limit different from 0.5 percent is appropriate and change the final rule accordingly.

Copies of the pertinent documents from ASHRAE, OSHA, and ACGIH have been placed in the public docket for this proposed rulemaking.

Cabin ventilation provides air for dilution of airborne contaminants, and supplies oxygen for passengers and crew. Oxygen requirements for sedentary adults can be met with a fresh-air ventilation rate of only 0.24 cubic feet per minute (CFM) per person. This low ventilation rate is also sufficient to dissipate the water vapor produced by cabin occupants. Ventilation rates for current transport category airplanes vary from a low of approximately 7 cfm per person (with one or more air conditioning packs turned off for economy), to over 20 cfm per person (which includes up to 50 percent filtered, recirculated air). Thus, even at the lowest ventilation rates available on current aircraft, there is no significant reduction in the percentage of oxygen, or increase in the amount of water vapor in the cabin due to respiration. Ventilation for the control of CO_2 buildup due to respiration is therefore the factor that dictates design parameters for ventilation systems, although many airplane systems are sized much larger than the minimum required for passenger comfort. Contamination of air with CO_2 varies inversely with the ventilation rate, because CO_2 production by sedentary people is nearly constant.

In order to bring the maximum allowable carbon dioxide concentration into concert with accepted modern limits, this NPRM proposes to reduce the maximum allowable carbon dioxide concentration from the current value of 3 percent to 0.5 percent. According to ASHRAE, for sedentary people, this concentration can be maintained by a fresh air flow rate of 2.25 cfm, which is lower than that currently measured in transport category aircraft.

Section 25.831(b)(2) currently states that "Carbon dioxide in excess of three percent * * * is considered hazardous in the case of crewmembers." The health and comfort considerations discussed earlier are equally valid for passengers. Therefore, the FAA proposes to remove the reference to crewmembers. In addition, § 25.831(b)(2) currently contains the following sentence: "Higher concentrations of carbon dioxide may be allowed in crew compartments if appropriate protective breathing equipment is available." This sentence was incorporated when the 3 percent limit was established in CAR 4b.371 in 1952. As noted above, the origins of the 3 percent limit are unclear, but it is likely that the limit was set at this high level to account for the discharge of CO_2 fire extinguishers in the flight deck or cabin. This thesis is supported by the mention of protective breathing in the existing rule. However, most CO_2 extinguishers have been replaced by Halon or other types of fire extinguishers. Further, the rule is not intended to cover the short-duration rise in CO_2 concentration that would accompany discharge of a fire extinguisher. Removal of the sentence from § 25.831(b)(2) is proposed because it is no longer considered necessary or appropriate.

Section 25.831 also specifies a limit for carbon monoxide (CO) concentration of 1 part in 20,000 parts air (0.005 percent). This limit is the same as currently recommended by ASHRAE and the Occupational Safety and Health Administration (OSHA), and therefore this notice does not propose to change this limit.

Regulatory Evaluation

This section summarizes the full regulatory evaluation that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs and anticipated benefits to the private sector, consumers, and Federal, State and local governments.

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule: (1) Would generate benefits that would justify its costs and is not a "significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in Department of Transportation Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; and (4) would not have a negative impact on international trade. These analyses, available in the docket, are summarized below.

Costs

Carbon dioxide (CO_2) is a byproduct of human metabolism and is expelled through respiration. The proposed rule would reduce the maximum allowable CO_2 concentration, as specified in § 25.831(b)(2), from 3 percent to 0.5 percent in occupied areas of transport category airplanes.

In a confined space, the production of CO_2 is a function of the number of people present, their activity levels, and, to a lesser extent, their diet and health. The concentration of CO_2 in an aircraft is controlled by ventilation of the cabin through the introduction of outside air through the aircraft's environmental control system. For a given set of production and ventilation conditions, the resulting CO_2 concentration can be calculated reliably. In addition, engineering analyses have been conducted to determine the fuel that is consumed in providing a unit rate of ventilation.

Taken together, these functional relationships make it possible to calculate the costs necessary to maintain CO_2 concentrations at a given level under established conditions. It is estimated that the current 3 percent CO_2 concentration limit can be maintained at a cost of .3 cents per passenger-hour. The lower proposed 0.5 percent limit would cost approximately 2.1 cents per passenger-hour, and would constitute an increase of 1.8 cents per passenger-hour. It should be noted that these are "zero baseline" estimates, and do not take into account the cost associated with the fresh air already introduced into the airplane for pressurization and other purposes. In actuality, existing and probable new airplanes currently have and will in the future be designed to have fresh air inflow rates that provide air with a CO_2 concentration well below the proposed 0.5 percent. For this reason, there are no actual costs associated with this proposal.

Benefits

CO_2 is naturally present at low concentration (.03 percent) in outdoor air. When CO_2 is inhaled in progressively elevated concentrations, it may act to produce stimulation of the respiratory center, mild narcotic effects, and asphyxiation, depending on the concentration and the duration of exposure. Numerous studies have been conducted to determine the effects of exposure to elevated CO_2 concentrations. At concentrations of 2 to 3 percent, CO_2 produces effects such as headaches, breathing difficulty, and increases in blood pressure and pulse. By comparison, no symptoms are induced at the proposed 0.5 percent level.

Cost-Benefit Comparison

A strict cost-benefit evaluation of the proposed rule change itself, without consideration of the fact that operators currently comply with the proposed standard, concludes that the cost of the increased ventilation necessary to reduce CO_2 concentration from 3 percent to 0.5 percent would be 1.8 cents per passenger-hour. The proposed reduction would prohibit CO_2 concentration levels known to produce effects such as headaches, breathing difficulty, and increases in blood pressure and pulse. While no precise economic value has been assigned to this benefit, the FAA believes that it would be worth more than 1.8 cents per hour per passenger to avoid such ill effects.

The evaluation described above looks solely at the proposed change in the rule. In fact, the minimum ventilation in current transport category aircraft maintains CO_2 concentrations below the proposed 0.5 percent concentration. Accordingly, it is estimated that no direct incremental costs or benefits would result from this proposed rule. The rule would, however, preclude future certificated airplane models from being designed to operate at CO_2 concentrations above the 0.5 percent level. Because this dictates a minimum design requirement for CO_2 concentration in new airplane types, and any airplane must be operated in accordance with its type design, this minimum concentration would be maintained in actual operation unless a system failure occurs. In addition, an intangible benefit would accrue from the fact that the proposal would make the CO_2 concentration limit for aircraft consistent with the standards of other agencies and advisory authorities.

Regulatory Flexibility Determination

The FAA has determined that under the criteria of the Regulatory Flexibility Act (RFA) of 1980, the proposed amendment to part 25 contained in the notice would not have a significant economic effect on a substantial number of small entities. The RFA requires agencies to review rules which may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for determining whether a proposed or existing rule has a significant economic effect on a substantial number of small entities. Since no actual incremental costs are expected to be incurred to comply with the requirements of the proposal, it would not have a significant economic impact.

Trade Impact Statement

Since the certification rules apply to both foreign and domestic manufacturers that sell aircraft in the United States, there would be no competitive advantage to either. Since no actual costs are expected to be imposed by this rule, it would not result in a competitive trade disadvantage for U.S. manufacturers in foreign markets or for foreign manufacturers in the United States.

Federalism Implications

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.

Conclusion

Because the proposed revised standards for maximum allowable carbon dioxide concentration are not expected to result in a substantial economic cost or have a significant adverse effect on competition, the FAA has determined that this proposed regulation is not significant under Executive Order 12866. In addition, the FAA has determined that this action is not significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since no actual incremental costs are expected to be incurred to comply with the requirements of this proposal, the FAA certifies, under the criteria of the Regulatory Flexibility Act, that this proposed regulation, if adopted, will not have a significant economic impact, positive or negative, on a substantial number of small entities. A copy of the initial regulatory evaluation prepared for this proposal may be examined in the public docket or obtained from the person identified under the caption, **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

Accordingly, the Federal Aviation Administration (FAA) proposes to amend 14 CFR part 25 of the Federal Aviation Regulations (FAR) as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

2. Section 25.831(b)(2) is revised to read as follows:

§ 25.831 Ventilation.

* * * * *

(b) * * *

(2) Carbon dioxide in excess of 0.5 percent by volume (sea level equivalent) is considered hazardous.

* * * * *

Issued in Washington, DC, on April 11, 1994.

Thomas E. McSweeny,

Director, Aircraft Certification Service.

[FR Doc. 94–9759 Filed 4–29–94; 8:45 am]

BILLING CODE 4910–13–M

Reader Aids

Federal Register

Vol. 59, No. 83

Monday, May 2, 1994

INFORMATION AND ASSISTANCE

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FEDERAL REGISTER PAGES AND DATES, MAY

22491–22722.....2

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

S. 2004/P.L. 103–235

To extend until July 1, 1998, the exemption from ineligibility based on a high default rate for certain institutions of higher education. (Apr. 28, 1994; 108 Stat. 381; 1 page)

Last List April 20, 1994

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $829.00 domestic, $207.25 additional for foreign mailing.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–022–00001–2)	$5.00	Jan. 1, 1994
3 (1992 Compilation and Parts 100 and 101)	(869–019–00002–0)	17.00	[1] Jan. 1, 1993
4	(869–022–00003–9)	5.50	Jan. 1, 1994
5 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 31, 1993. The CFR volume issued April 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1993. The CFR volume issued July 1, 1991, should be retained.

[7] No amendments to this volume were promulgated during the period January 1, 1993 to December 31, 1993. The CFR volume issued January 1, 1993, should be retained.

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A new table will be published in the first issue of each month.

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May 4	May 19	June 3	June 20	July 5	August 2
May 5	May 20	June 6	June 20	July 5	August 3
May 6	May 23	June 6	June 20	July 5	August 4
May 9	May 24	June 8	June 23	July 8	August 8
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May 17	June 1	June 16	July 1	July 18	August 15
May 18	June 2	June 17	July 5	July 18	August 16
May 19	June 3	June 20	July 5	July 18	August 17
May 20	June 6	June 20	July 5	July 19	August 18
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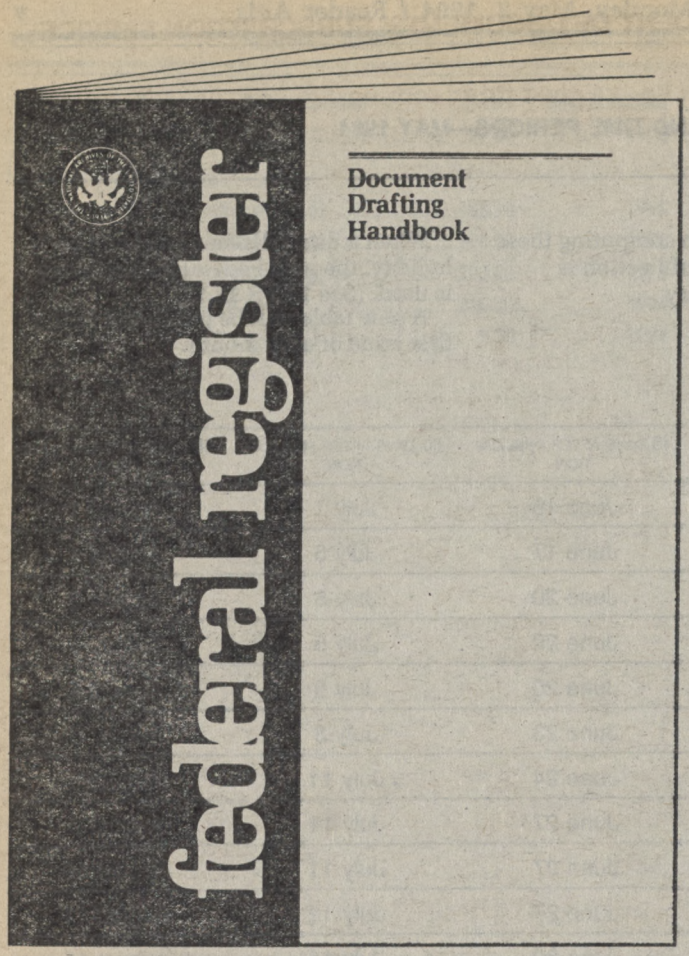
May 25	June 9	June 24	July 11	July 25	August 23
May 26	June 10	June 27	July 11	July 25	August 24
May 27	June 13	June 27	July 11	July 26	August 25
May 31	June 15	June 30	July 15	August 1	August 29



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