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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.

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

WASHINGTON, DC
(two briefings)

WHEN: May 18 at 9:00 am and 1:30 pm
WHERE: Office of the Federal Register
Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

CHICAGO, IL

WHEN: June 9 at 9:00 am
WHERE: Ralph Metcalfe Federal Building
Conference Room 328
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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers and **Federal Register** finding aids is available on 202–275–1538 or 275–0920.

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Presidential Documents

Title 3—

The President

Memorandum of April 29, 1994

Government-to-Government Relations With Native American Tribal Governments

Memorandum for the Heads of Executive Departments and Agencies

The United States Government has a unique legal relationship with Native American tribal governments as set forth in the Constitution of the United States, treaties, statutes, and court decisions. As executive departments and agencies undertake activities affecting Native American tribal rights or trust resources, such activities should be implemented in a knowledgeable, sensitive manner respectful of tribal sovereignty. Today, as part of an historic meeting, I am outlining principles that executive departments and agencies, including every component bureau and office, are to follow in their interactions with Native American tribal governments. The purpose of these principles is to clarify our responsibility to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. I am strongly committed to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments.

In order to ensure that the rights of sovereign tribal governments are fully respected, executive branch activities shall be guided by the following:

(a) The head of each executive department and agency shall be responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.

(b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") and 12866 ("Regulatory Planning and Review") to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements.

This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, April 29, 1994.

[FR Doc. 94–10877
Filed 5–2–94; 3:49 pm]
Billing code 3110–01–M

Editorial note: For the President's remarks to American Indian and Native Alaska tribal leaders, see the *Weekly Compilation of Presidential Documents* (vol. 30, issue 18)

Presidential Documents

Memorandum of April 29, 1994

Policy Concerning Distribution of Eagle Feathers for Native American Religious Purposes

Memorandum for the Heads of Executive Departments and Agencies

Eagle feathers hold a sacred place in Native American culture and religious practices. Because of the feathers' significance to Native American heritage and consistent with due respect for the government-to-government relationship between the Federal and Native American tribal governments, this Administration has undertaken policy and procedural changes to facilitate the collection and distribution of scarce eagle bodies and parts for this purpose. This memorandum affirms and formalizes executive branch policy to ensure that progress begun on this important matter continues across the executive branch.

Today, as part of an historic meeting with all federally recognized tribal governments, I am directing executive departments and agencies (hereafter collectively "agency" or "agencies") to work cooperatively with tribal governments and to reexamine broadly their practices and procedures to seek opportunities to accommodate Native American religious practices to the fullest extent under the law.

As part of these efforts, agencies shall take steps to improve their collection and transfer of eagle carcasses and eagle body parts ("eagles") for Native American religious purposes. The success of this initiative requires the participation, and is therefore the responsibility, of all Federal land managing agencies, not just those within the Department of the Interior. I therefore direct each agency responsible for managing Federal lands to diligently and expeditiously recover salvageable eagles found on lands under their jurisdiction and ensure that the eagles are promptly shipped to the National Eagle Repository ("Repository"). To assist agencies in this expanded effort, the Secretary of the Interior shall issue guidelines to all relevant agencies for the proper shipment of eagles to the Repository. After receiving these guidelines, agencies shall immediately adopt policies, practices, and procedures necessary in accordance with these guidelines to recover and transfer eagles to the Repository promptly.

I support and encourage the initial steps taken by the Department of the Interior to improve the distribution of eagles for Native American religious purposes. In particular, the Department of the Interior shall continue to adopt policies and procedures and take those actions necessary to:

(a) ensure the priority of distribution of eagles, upon permit application, first for traditional Native American religious purposes, to the extent permitted by law, and then to other uses;

(b) simplify the eagle permit application process quickly and to the greatest extent possible to help achieve the objectives of this memorandum;

(c) minimize the delay and ensure respect and dignity in the process of distributing eagles for Native American religious purposes to the greatest extent possible;

(d) expand efforts to involve Native American tribes, organizations, and individuals in the distribution process, both at the Repository and on tribal lands, consistent with applicable laws;

(e) review means to ensure that adequate refrigerated storage space is available to process the eagles; and

(f) continue efforts to improve the Repository's ability to facilitate the objectives of this memorandum.

The Department of the Interior shall be responsible for coordinating any interagency efforts to address continuing executive branch actions necessary to achieve the objectives of this memorandum.

We must continue to be committed to greater intergovernmental communication and cooperation. In addition to working more closely with tribal governments, we must enlist the assistance of, and cooperate with, State and local governments to achieve the objectives of this memorandum. I therefore request that the Department of the Interior work with State fish and game agencies and other relevant State and local authorities to facilitate the objectives of this memorandum.

With commitment and cooperation by all of the agencies in the executive branch and with tribal governments, I am confident that we will be able to accomplish meaningful progress in the distribution of eagles for Native American religious purposes.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, April 29, 1994.

[FR Doc. 94–10885
Filed 5–2–94; 4:17 pm]
Billing code 3110–01–M

Editorial note: For the President's remarks to American Indian and Native Alaska tribal leaders, see the *Weekly Compilation of Presidential Documents*.

Presidential Documents

Proclamation 6679 of April 30, 1994

Law Day, U.S.A., 1994

By the President of the United States of America

A Proclamation

In 1961, when President John F. Kennedy first proclaimed Law Day, U.S.A., he urged "Americans to rededicate themselves to the ideals of equality and justice under law in their relations with each other and with other nations. . . ."

President Kennedy's challenge is no less urgent today. We live in a time when nations around the globe are struggling to break free from the darkness of oppression into the light of law and justice. To many of the people of these countries, the American rule of law stands as a bright beacon guiding the way to a hopeful future. Law Day, U.S.A., offers every American the opportunity to reflect upon our Nation's proud example of respect for the rights of individuals. More than that, this day demands that we reaffirm our commitment to maintaining a just and civil society in a rapidly changing world.

With the triumph of democratic governments and judiciaries around the world, it seems particularly disturbing that our own legal system is tested daily by the epidemic of crime and violence here at home. In America today, too many children must pass through metal detectors to go to school. Too many are approached by drug dealers in public parks, or worry that they will be victims of drive-by shootings. The primary responsibility of government is to protect the freedom of its citizens and to keep them safe from harm. Our tradition of jurisprudence is the powerful embodiment of this ideal. But it is up to each of us to help ensure that this system remains true to its essential mission—freeing our people from fear while protecting the liberties and rights of all.

On this day, I urge every American to support those who fight to promote respect for the law, from police officers, judges, and other members of the legal system to parents, teachers, and clergy. Let us find the strength to insist that law prevails over disorder, equality over discrimination, and justice over crime and prejudice. Let reverence for the laws, in the words of President Abraham Lincoln, "be taught in schools, in seminaries, and in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpit, proclaimed in legislative halls, and enforced in the courts of justice. . . ."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, in accordance with Public Law 87–20 of April 7, 1961, do hereby proclaim May 1, 1994, as "Law Day, U.S.A." I request the people of the United States to observe this day with such ceremonies and observances as will suitably signal our heritage of freedom, our rights under law, and our abiding commitment to assist others in vindicating their rights. I urge members of the legal profession, civic associations, and the media, as well as educators, librarians, and public officials, to promote this observance through appropriate programs and activities. I further call upon all public officials to display the flag of the United States on all government buildings on Law Day, U.S.A., as a symbol of our dedication to the rule of government under law.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94–10894
Filed 5–2–94; 4:37 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6680 of April 30, 1994

Loyalty Day, 1994

By the President of the United States of America

A Proclamation

Each year, at the height of spring's renewal, Americans take the time to reaffirm our allegiance to our country and to the ideals upon which it was founded. On this "Loyalty Day," we pledge to defend the blessings of American democracy.

Ours is still a relatively young Nation, but even in our brief history, we have seen many other forms of government come and go. We have witnessed the collapse of dictatorial regimes, while our brand of democracy has continued to evolve and flourish. Rather than establishing government control through the deprivation of basic human rights, our founders realized that individual freedom and the right to self-determination are the most powerful sources of national strength. This philosophy forms the bedrock upon which our Nation is built, and we continue to expand and enforce its wise mandate to this very day.

Generations of Americans have demonstrated their loyalty and devotion to this country, many risking their lives for the sake of defending the common good. To ensure that this loyalty and love of country remain a vibrant part of each new generation, the Congress, by a joint resolution approved July 18, 1958 (72 Stat. 369; 36 U.S.C. 162), has designated May 1 of each year as "Loyalty Day."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 1, 1994, as Loyalty Day. I call upon all Americans to observe this day with appropriate ceremonies and activities, including public recitation of the Pledge of Allegiance to the Flag of the United States. I also call upon government officials to display the flag on all government buildings and grounds on this day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94–10895
Filed 5–2–94; 4:37 pm]
Billing code 3195–01–P

Presidential Documents

Proclamation 6681 of April 30, 1994

Small Business Week, 1994

By the President of the United States of America

A Proclamation

Small businesses create many new jobs in the United States and are an important part of our Nation's international competitiveness. Today, America's 20 million small businesses remain at the heart of our economy. These companies are the engines of growth, and it is in small business that people continue to find opportunity, pride, and dignity.

Indeed, small business is the lifeblood of America's free enterprise system. This is the sector that creates two of every three new jobs in our country, putting the American Dream within reach of hundreds of thousands of men and women who provide the variety and ingenuity that are our greatest natural resources. Small businesses employ more than 57 percent of the private U.S. work force, account for 54 percent of all sales, and generate half of the domestic private sector output.

As we move forward in a spirit of renewal and change, there is one constant that must prevail in the economy of the United States. Small business must continue to provide the solid foundation upon which this Nation builds its economic strength and maintains its character. Government, working hand in hand with entrepreneurs, must recognize these contributions and help small business create jobs and increase incomes.

We must support and honor small business for the contributions this sector makes to the economy. And just as important, we should remember that it is in small business that the United States finds energy, faith, and confidence in our system of democracy and free enterprise. Only by fully developing our technological and human resources can we expect to be leaders in the global marketplace.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of May 1 through May 7, 1994, as the 31st "Small Business Week," and I call on every American to join me in this tribute.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and ninety-four, and of the Independence of the United States of America the two hundred and eighteenth.

William J. Clinton

[FR Doc. 94–10896
Filed 5–2–94; 4:38 pm]
Billing code 3195–01–P

Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1941, 1943, and 1945

RIN 0575–AB30

Final Implementation of Appraisal of Farms and Leasehold Interests

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its farm tract appraisal regulations in order to implement and conform to the provisions of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989. The intended effect of this rule is to meet the provisions of title XI of FIRREA and the Uniform Standards of Professional Appraisal Practice (USPAP) as directed from the Office of Management and Budget (OMB Bulletin A–129).

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Ronald T. Thelen, Senior Loan Officer, Program Development Staff, USDA, FmHA, room 4918–S, South Building, Washington, DC 20250, telephone: (202) 720–0830.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this final 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 final 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 or planned by another agency; (4) would not alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or 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.

Intergovernmental Consultation

For the reasons set forth in the final rule related to Notice, 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program/activity is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Programs Affected

This program/activity affects the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.406—Farm Operating Loans,
10.407—Farm Ownership Loans, and
10.416—Soil and Water Loans.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA 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.

Discussion of Final Rule

On August 25, 1993, FmHA published an interim rule which removed 7 CFR part 1809, subpart A, "Appraisal of Farms and Leasehold Interests," from the **Federal Register**. It also did the following: (1) Revised and renumbered part 1809 to FmHA Instruction 1922, subpart E—"Appraisal of Farms and Leasehold Interests."; (2) Issued revised § 1922.201 "General" (old § 1809.1 "General") and (3) Issued new § 1922.209 "Easements and appraising property subject to easements."

Other §§ 1809.2 through 1809.8 of subpart A were amended to meet USPAP and placed in §§ 1922.202 through 1922.208 of FmHA Instruction 1922–E. Sections 1922.202 through 1922.208 were not published in the **Federal Register** because they involve internal Agency management.

These changes were implemented upon publication in the **Federal Register** in order to provide immediate guidance to FmHA designated farm real estate appraisers and FmHA contract farm real estate appraisers concerning the use of the uniform standards as set out in Sections I, II and III of USPAP. This action was necessary because most States enacted legislation and implemented FIRREA on January 1, 1993, and required farm real estate appraisers to follow uniform appraisal standards or Sections I, II and III of USPAP. Further delays by FmHA would have had an adverse impact on FmHA borrowers and loan applicants due to delays which may have resulted from the continued use of outdated farm appraisal techniques and methods.

The comment period ended September 24, 1993. No comments were received. Accordingly, no substantive change is made from the interim rule. Minor editorial changes of an administrative nature have been made. Inadvertently, a few FmHA Instructions were overlooked when revising references from FmHA Instruction 422.1 to FmHA Instruction 1922–E.

List of Subjects in 7 CFR Parts 1941, 1943, and 1945

Agriculture, Credit, Crops, Disaster assistance, Livestock, Loan programs—agriculture, Recreation, Real property—appraisals, Rural areas, Water resources, Youth.

Therefore, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PARTS 1941, 1943, 1945—[AMENDED]

1. The authority citations for parts 1941, 1943, 1945 continue to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

CHAPTER XVIII—[AMENDED]

2. 7 CFR Chapter XVIII is amended by revising the reference "FmHA Instruction 422.1" to read "FmHA Instruction 1922–E" in the following places:

a. § 1941.19 (b)(2).
b. § 1943.19 (b)(1).
c. § 1943.69 (b)(1).
d. § 1945.169 (b)(1).

Dated: February 1, 1994.

Bob Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 94–10619 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–07–U

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Regulation J; Docket No. R–0821]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting amendments to subpart A of its Regulation J, governing collection of checks and other items by Federal Reserve Banks. The amendments, in general, conform the warranties and various other provisions of Regulation J to recent amendments to Regulation CC or to the Uniform Commercial Code.

EFFECTIVE DATE: June 6, 1994.

FOR FURTHER INFORMATION CONTACT: Oliver I. Ireland, Associate General Counsel (202/452–3625), or Stephanie Martin, Senior Attorney (202/452–3198), Legal Division; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION: Subpart A of the Board's Regulation J (12 CFR part 210) governs the collection of checks and other items by Federal Reserve Banks. Regulation J sets out the warranties made by institutions that send items for collection through the Federal Reserve System as well as warranties made by Reserve Banks.[1] Regulation J also covers liability for breach of warranty, presentment of and settlement for cash items and returned checks, and other related issues.

In October 1992, the Board published amendments to its Regulation CC (12 CFR part 229) that require paying banks to make same-day settlement for certain checks presented by private-sector banks, effective January 3, 1994 (57 FR 46956, October 14, 1992). As part of these amendments, the Board revised the Regulation CC warranties to require private-sector collecting, returning, and presenting banks to warrant the accuracy of cash letter totals and check encoding. In December 1993, the Board published proposed amendments to Regulation J to clarify that the Reserve Banks and institutions that send items to Reserve Banks also make the Regulation CC warranties, to conform certain Regulation J provisions to the 1990 version of the Uniform Commercial Code (U.C.C.), and to make other minor changes (58 FR 68566, December 28, 1993). The Board received 10 comments on the proposed amendments, which are discussed in the section-by-section analysis below.

The Board has established procedures for assessing the competitive impact of changes that have a substantial effect on payments system participants.[2] Under these procedures, the Board assesses whether the proposed regulatory changes would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences. The Regulation J amendments are largely technical, clarifying, or conform Regulation J to the rules applicable to private-sector banks under Regulation CC and the U.C.C. The Board believes that the amendments would not have a direct and material adverse effect on the ability of others to compete effectively with the Federal Reserve Banks.

Section-by-Section Analysis

Section 210.1

This section sets forth the authority, purpose, and scope of subpart A of Regulation J. At the suggestion of one commenter, the Board is updating the authority citations in this section to conform with the authority citations in the CFR. Specifically, the Board has added a citation to section 11(j) of the Federal Reserve Act, which authorizes the Board to exercise general supervision over the Reserve Banks.

Section 210.2(g)

The Board proposed to amend the definition of "item" in keeping with the definition of "item" in U.C.C. § 4–104(a)(9). Under the amended language, "item" would expressly include promises or orders, such as certain bonds or other investment securities, that are handled through the bank collection system. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.2(p)

The Board proposed to add a definition of "Uniform Commercial Code" that conforms to the definition in Regulation CC (12 CFR 229.2(ii)). The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.3(a)

The Board proposed to amend this section to set forth more accurately the scope of the Federal Reserve Banks' operating circulars, which include provisions for service terms and adjustments. The amendment specifies that the operating circulars may include provisions for adjustments of amounts, waiver of expenses, and payment of interest by as-of adjustment.

One commenter believed that the proposed change, at least as it relates to Reserve Bank adjustment practices, impedes the ability of correspondent banks to compete with the Reserve Banks. This commenter stated that the adjustment accounting practices of its local Reserve Bank require intercept processors and depository institutions to engage in a burdensome reconcilement process. The commenter stated that the Board should not incorporate the operating circulars into Regulation J.

The proposed amendments, however, would not incorporate the operating circulars into Regulation J, but rather would provide greater detail as to the scope of the operating circulars. Issues related to adjustment posting alternatives generally can be settled between the Reserve Bank and the parties involved and would not be affected by the proposed amendment to Regulation J. Thus, the Board has adopted the amendment as proposed.

Section 210.3(f)

The Board proposed to add a new paragraph to § 210.3 to clarify that Regulation J supersedes the U.C.C., other state laws, and Regulation CC to the extent of any inconsistency. This provision parallels § 229.41 of Regulation CC, which provides that Regulation CC supersedes the U.C.C. and other state law to the extent of the inconsistency. The Board received no comments on this section and has adopted the amendment as proposed.

[1] As used in this docket, sender means any institution that sends a check to a Reserve Bank for collection, and bank includes all depository institutions, such as commercial banks, savings institutions, and credit unions.

[2] These procedures are described in the Board's policy statement "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990).

Section 210.5(a)

The Board proposed to amend § 210.5(a) to conform the warranties made by banks that send items to Reserve Banks to the transfer and presentment warranties in U.C.C. 4–207 and 4–208. A sender would warrant that it was (or acted on behalf of a person who was) entitled to enforce the item. The U.C.C. substituted the concept of "person entitled to enforce" for "person with good title" in recognition that the right to enforce an instrument is not limited to holders. In addition, the proposed amendment would require the sender to warrant that the item was not altered, dropping the adverb "materially." The U.C.C. formerly incorporated the concept of a "material" alteration as one that changed the contract of the parties in any respect. The revised U.C.C. refers to such a change simply as an alteration. Finally, the proposed amendment would clarify that the sender also makes the warranties set forth in Regulation CC and that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item.

One commenter was concerned that dropping the word "materially" would mean that repair of MICR encoding on a check that rejects from automated processing would constitute an alteration. Section 3–407 of the U.C.C. defines "alteration" as an unauthorized change that purports to modify the obligation of a party or an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party. The 1990 version of the U.C.C. appears to use the terms "alteration" synonymously with the former term "material alteration" (see Official Comment (1) to U.C.C. 3–407). MICR repair, which is intended to facilitate check collection and not to affect the obligations of the parties to a check, is unlikely to be considered an alteration.

Sections 210.5(d) and 210.12(i)

The Board proposed to add new paragraph (d) to § 210.5 and new paragraph (i) to § 210.12 to give a Reserve Bank a security interest in a sender's or prior collecting or returning bank's assets held by the Reserve Bank. The security interest would attach when a warranty is breached or other obligation is incurred. The proposed provisions were based on similar provisions in subpart B of Regulation J, which gives a Reserve Bank a security interest in the assets of a sender of a payment order to secure overdrafts and other obligations (§ 210.28(b) (3) and (4)).

Two commenters were concerned that the proposal would give Reserve Banks greater rights than private-sector banks to resolve warranty breach issues. One of the commenters stated that the proposal appeared to give Reserve Banks a complete self-remedy for breaches absent a court order or agreement of the parties. The commenter noted that security interests under § 210.28 are designed to secure overdrafts, which are easily determinable, as opposed to warranty breaches, which are often a matter of dispute. The commenter requested that the proposal be clarified to provide that security interests do not attach and a Reserve Bank may not set off or realize upon collateral without a judicial determination or agreement of the parties.

Section 9–501(5) of the U.C.C. provides that when a claim of a secured party is reduced to judgment, the secured party's lien on collateral relates back to the date the security interest was perfected. Accordingly, the Board believes that a Reserve Bank's security interest in the assets of a warranting bank should attach on the date the warranty is breached (generally the date the Reserve Bank handles the check in question) so that the Reserve Bank may take actions to protect its collateral, if necessary, as discussed below.

The Monetary Control Act of 1980 (12 U.S.C. 248a) directed the Board and the Reserve Banks to establish and set prices for services with due consideration to ensuring an adequate level of services nationwide. In keeping with this directive, the Board expects that Reserve Banks will provide check collection services to financially troubled banks that cannot obtain services elsewhere. If a troubled bank fails, the Reserve Bank may be liable on warranty claims that it cannot pass back to the failed bank. Accordingly, the Board believes that it is appropriate to provide some protection to the Reserve Banks from pending insolvencies. Thus, the Board has adopted the proposed security interest provisions, with modifications.

The modifications to §§ 229.5(d) and 229.12(i) clarify when a default occurs. Specifically, a Reserve Bank's rights to take any action under those sections will apply only: (1) If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender or (2) at the time the sender suspends payments and is closed. The Board believes that requiring the Reserve Bank to advise a bank of its concerns about the bank's solvency will prevent the routine use of set-off or other actions on collateral by Reserve Banks. The Board believes that private-sector banks often reserve the right under security agreements to take steps, such as placing a hold on collateral, to protect themselves in cases where the banks consider themselves insecure.

Under the final rule, when a Reserve Bank receives notice of a warranty claim based on alleged forged indorsement or alteration, it would pass the notice back to the bank from which it received the check. The Reserve Bank would not, however, unilaterally pass judgment on such a claim. Rather, the Reserve Banks' uniform operating circulars provide that they will process adjustments for these types of warranty claims only with the agreement of the prior collecting bank. If such agreement is not forthcoming, the Reserve Bank would wait to be sued on the warranty claim and would tender defense of the suit to the prior collecting bank under §§ 210.5 (b) and (c) and 210.12 (e) and (f) of Regulation J. Entries would be made or collateral disposed of only after judgment as provided in those sections. The amendments to §§ 229.5(d) and 229.12(i), however, would not require a sender bank to fail or a Reserve Bank to deem itself insecure before the Reserve Bank could make credit or debit adjustments to reserve or clearing accounts in accordance with adjustment procedures established in Reserve Bank operating circulars.

Section 210.6(b)

The Board proposed to amend § 210.6(b) to conform the Reserve Bank warranties to the transfer and presentment warranties in U.C.C. 4–207 and 4–208. (See discussion of § 210.5(a).) The amendment clarifies that the Reserve Banks make the warranties set out in § 229.34 of Regulation CC. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.6(c)

Section 210.6(c) provides a 2-year statute of limitations for claims against Reserve Banks for lack of good faith or failure to exercise ordinary care under Regulation J. The Board proposed to amend this section to clarify that the Regulation CC limitation period of one year would apply to any claims against a Reserve Bank under Regulation CC, such as breach of a warranty under § 229.34 or lack of good faith or failure to exercise ordinary care under § 229.38. This amendment clarifies that claims against Reserve Banks for Regulation CC violations are subject to the same time

limitations as those against private-sector banks.

The Board received three comments on this section. Two commenters believed that limitation period for breach of Regulation CC warranties should be two years rather than one year. One of these commenters often receives adjustment requests from the IRS one to two years after the fact and does not wish to be precluded from pursuing such adjustments with a Reserve Bank. This commenter suggested that the Regulation CC limitation period be extended to 2 years. Another commenter noted that, if the one year limitation period is adopted, it should run from the date of the last entry for the check in question rather than from the date the check first cleared.

The Board believes that the same limitation period should apply to Reserve Banks and private-sector banks for Regulation CC violations. As Regulation CC provides a one-year statute of limitations, the Board does not believe Regulation J should lengthen this period for Reserve Banks and has adopted the proposed amendment. The one-year period was established in subpart C of Regulation CC to match the one-year limitation period for subpart B (funds availability) violations, which was set by statute. As provided in Regulation CC § 229.38(g), an action must be brought within one year after the date of the occurrence of the violation involved.

Section 210.9(a)(5)

Section 210.9(a)(5) provides that paying banks must settle for checks presented by Reserve Banks by "autocharge" (i.e. a debit to an account at a Reserve Bank), cash, or other means agreed to by the Reserve Bank. The Board proposed to amend this section to clarify that a Reserve Bank may, in its discretion, elect to obtain settlement by autocharging the account of the paying bank for the amount of a cash letter. Virtually all Reserve Bank presentments are settled via autocharge. This amendment would restate the autocharge provisions that currently are set out in the Reserve Banks' uniform cash item operating circular.

The Board also proposed to amend this section to provide that paying banks that receive presentment from Reserve Banks may not set off other claims against the amount of settlement owed to the Reserve Bank. Paying banks may set off against private-sector presenting banks under § 229.34(c)(4) of Regulation CC. The Regulation CC set-off provision was designed to protect paying banks under the same-day settlement rule, which requires paying banks to accept presentment from and settle with all presenting banks, some of which may be in poor financial condition. If a paying bank overpays a cash letter in reliance on a cash letter total or check encoding warranted by the presenting bank, it could face the risk that the presenting bank would be unable to settle for adjustments. Protection against insolvency risk would not be necessary against a Reserve Bank. In addition, as banks generally settle with Reserve Banks via autocharge, set-off against a Reserve Bank would be impractical. Therefore, the Board does not believe this amendment would have a direct and material adverse effect on the ability of private-sector banks to compete effectively with Reserve Banks.

The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(a)

Section 210.12(a) provides that a paying bank that has settled for a check presented by a Reserve Bank may return the check in accordance with Regulation CC, the U.C.C., and the Reserve Bank's operating circular. The Board proposed to amend this section to clarify that the paying bank may also return a check prior to settlement in accordance with § 210.9(a) of Regulation J and the Reserve Bank's operating circular. This amendment would clarify that a paying bank would have the same return rights under Regulation J as under Regulation CC and the U.C.C. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.12(c)

Section 210.12(c) sets out the warranties and agreements made by a bank that sends a returned check to a Reserve Bank. The Board proposed to amend this section to clarify that, in addition to the warranties set forth in § 229.34 of Regulation CC, the sender also makes any applicable warranty under state law. For example, the amendment would clarify that a depositary bank that settled for a returned check could recover the amount paid plus expenses and lost interest from a prior bank that breached a transfer warranty, in accordance with U.C.C. 4–208(d). In addition, similar to the amendments to § 210.5(a), the proposed revisions to this paragraph would clarify that the Regulation J warranties may not be disclaimed and are made regardless of whether the sender's indorsement appears on the item. These amendments restate provisions that are already applicable to private-sector banks under Regulation CC and the U.C.C. The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(d)

The Board proposed to add a new paragraph (d) to § 210.12 to clarify that when a Reserve Bank transfers and receives settlement for a returned check, it makes the warranties set out in § 229.34 of Regulation CC. In addition, the new paragraph would parallel revised § 210.6(b) (governing Reserve Bank warranties for cash items) by providing a limitation of the Reserve Bank's liabilities, other than those allowed for in Regulation J, to the Reserve Bank's own lack of good faith or failure to exercise ordinary care. (The amendments redesignate current §§ 210.12(d) through (g) as §§ 210.12(e) through (h).) The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(e) (Formerly 210.12(d)) and Section 210.5(b)

The U.C.C. (3–119) and Regulation CC (§ 229.34(e)) provide that a bank that receives a tender of defense may in turn tender defense to a prior bank in the collection or return chain. Unless the prior bank comes in and defends, it is bound by the determination of fact common to the current litigation and any subsequent litigation.

Section 210.5(b) of Regulation J provides that, when a Reserve Bank tenders defense to a sender as a result of a tender to it, the Reserve Bank need not be a defendant in the suit in order to recover from the sender any losses that it incurs because of the judgment, so long as the judgment addresses the fact issue of breach of warranty. The Board adopted this provision in 1986 in order to reduce litigation and provide a more efficient way of handling forged indorsement cases (51 FR 21740, June 16, 1986). Due to an oversight, when the Board amended § 210.12 to provide a similar rule for returned checks, the language did not match that of § 210.5(b) and could have been interpreted to apply only when a Reserve Bank is a defendant (53 FR 21983, June 13, 1988). The Board proposed to amend § 210.12(e) to conform it to § 210.5(b). (The amendments redesignate current § 210.12(d) as § 210.12(e) and add a new paragraph (d) as discussed above.) The Board also proposed to correct a typographical error in § 210.5(b). The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.12(h) (Formerly 210.12(g))

This section provides that a depositary bank must settle for returned checks received from a Reserve Bank in the same manner as it settles for cash items presented by the Reserve Bank. The Board proposed to amend this section to clarify that settlement for returned checks also must be made by the same time as settlement for cash items, as provided in § 210.9(a). The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.13(a)

Section 210.13(a) authorizes a Reserve Bank that does not receive payment for an item to charge back the account of the sender, paying bank, or returning bank from which the item was received. The Board proposed to amend this section to clarify that a Reserve Bank also may charge the account of a prior collecting bank through which the item was received. This amendment is consistent with § 229.35(b) of Regulation CC, which allows a bank that handles a check or returned check to recover from any prior indorser in the event that the bank does not receive payment for the check from a subsequent bank in the collection or return chain. In the event of such a recovery by a Reserve Bank, § 229.13(a) provides that no bank or person in the forward collection or return chain would have an interest in any funds in the Reserve Bank's possession of the bank that failed to pay. The amendment would clarify that, when a Reserve Bank charges back an item, this limitation of interest applies only when a bank or person seeks payment of the amount of the item out of funds or property held by the Reserve Bank. The Board received no comments on this section and has adopted the amendment as proposed.

Section 210.13(b)

Section 210.13(b) provides that a Reserve Bank will not debit an institution's reserve account for drafts or other orders on the account after receiving notice that the institution has been closed. The Board proposed to amend this section to clarify that Reserve Banks will not charge an account as authorized by § 210.9(a)(5) after receiving notice the institution is closed. The amendment also would clarify that this section applies only to charges to reserve accounts to settle for items (including returned checks) and does not affect the Reserve Bank's security interest under proposed §§ 210.5(d) and 210.12(i). The Board received no comments on this section and has adopted the amendments as proposed.

Section 210.14

Section 210.14 describes those circumstances under which the time limits for acting on an item may be extended, such as interruption of communication facilities, suspension of payments by a bank, and other emergency conditions. The Board proposed to amend this section to clarify that computer and equipment failure would constitute emergency conditions. This amendment is consistent with the emergency provisions in § 229.38(e) of Regulation CC and U.C.C. 4–109(b). The Board received no comments on this section and has adopted the amendment as proposed.

Final Regulatory Flexibility Analysis

Two of the three requirements of a final regulatory flexibility analysis (5 U.S.C. 604), (1) a succinct statement of the need for and the objectives of the rule and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments, are discussed above. The third requirement of a final regulatory flexibility analysis is a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected. The amendments apply to all depository institutions that receive items from or send items to Federal Reserve Banks, regardless of size. The amendments generally clarify rights and duties of banks and do not impose any substantial economic burden on small entities.

List of Subjects in 12 CFR Part 210

Banks, Banking, Check collection.

For the reasons set out in the preamble, 12 CFR part 210 is amended as follows:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (REGULATION J)

1. The authority citation for part 210 is revised to read as follows:

Authority: 12 U.S.C. 248 (i), (j), and (o), 342, 360, 464, and 4001–4010.

2. The first sentence of § 210.1 is revised to read as follows:

§ 210.1 Authority, purpose, and scope.

The Board of Governors of the Federal Reserve System (Board) has issued this subpart pursuant to the Federal Reserve Act, sections 11 (i) and (j) (12 U.S.C. 248 (i) and (j)), section 13 (12 U.S.C. 342), section 16 (12 U.S.C. 248(o) and 360), and section 19(f) (12 U.S.C. 464); the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*); and other laws.

* * *

3. In § 210.2, paragraph (g) introductory text is revised and a new paragraph (p) is added immediately before the concluding text to read as follows:

§ 210.2 Definitions.

* * * * *

(g) *Item* means an instrument or a promise or order to pay money, whether negotiable or not, that is:

* * * * *

(p) *Uniform Commercial Code* means the Uniform Commercial Code as adopted in a state.

* * * * *

4. In § 210.3, the last sentence of paragraph (a) is revised and a new paragraph (f) is added to read as follows:

§ 210.3 General provisions.

(a) * * * The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, provide different closing times for the receipt of different classes or types of items, set forth terms of services, and establish procedures for adjustments on a Reserve Bank's books, including amounts, waiver of expenses, and payment of interest by as-of adjustment.

* * * * *

(f) *Relation to other law.* The provisions of this subpart supersede any inconsistent provisions of the Uniform Commercial Code, of any other state law, or of part 229 of this title, but only to the extent of the inconsistency.

5. In § 210.5, paragraph (a) introductory text and paragraph (a)(2) are revised, in paragraph (b)(3) the phrase "judgment or decree of the tender of defense" is revised to read "judgment or decree or the tender of defense", and a new paragraph (d) is added to read as follows:

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) *Sender's agreement.* The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the item bears an indorsement of the sender. By

sending an item to a Reserve Bank, the sender:

* * * * *

(2) Warrants to each Reserve Bank handling the item that:

(i) The sender is a person entitled to enforce the item or authorized to obtain payment of the item on behalf of a person entitled to enforce the item; and

(ii) The item has not been altered; but this paragraph (a)(2) does not limit any warranty by a sender or other prior party arising under state law or under subpart C of part 229 of this title; and

* * * * *

(d) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a sender or prior collecting bank under this subpart or subpart C of part 229 of this title, the sender and prior collecting bank, by sending an item directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the sender's or prior collecting bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the sender or prior collecting bank, or if the sender or prior collecting bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

6. In § 210.6, paragraphs (b)(1) and (b)(2) are revised, a new first sentence is added to paragraph (b) concluding text, and a new last sentence is added to paragraph (c) to read as follows:

§ 210.6 Status, warranties, and liability of Reserve Bank.

* * * * *

(b) * * *

(1) That the Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either:

(i) Entitled to enforce the item; or

(ii) Authorized to obtain payment on behalf of a person entitled to enforce the item); and

(2) That the item has not been altered. The Reserve Bank also makes the warranties set forth in § 229.34(c) of this title, subject to the terms of part 229 of this title. * * *

(c) * * * This paragraph does not lengthen the time limit for claims under § 229.38(g) of this title (which include claims for breach of warranty under § 229.34 of this title).

7. In § 210.9, paragraph (a)(5) is revised to read as follows:

§ 210.9 Settlement and payment.

(a) * * *

(5) Settlement with a Reserve Bank under paragraphs (a)(1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books, cash, or other form of settlement to which the Reserve Bank agrees, except that the Reserve Bank may, in its discretion, obtain settlement by charging the paying bank's reserve or clearing account. A paying bank may not set off against the amount of a settlement under this section the amount of a claim with respect to another cash item, cash letter, or other claim under § 229.34(c) of this title or other law.

* * * * *

8. In § 210.12, a new sentence is added after the first sentence of paragraph (a), paragraph (c) introductory text and paragraph (c)(2) are revised, paragraphs (d) through (g) are redesignated as paragraphs (e) through (h), respectively, new paragraphs (d) and (i) are added, and newly-designated paragraph (e) concluding text and newly-designated paragraph (h) are revised to read as follows:

§ 210.12 Return of cash items and handling of returned checks.

(a) * * * A paying bank that receives a cash item directly or indirectly from a Reserve Bank also may return the item prior to settlement, in accordance with § 210.9(a) and its Reserve Bank's operating circular. * * *

* * * * *

(c) *Paying bank's and returning bank's agreement.* The warranties, authorizations, and agreements made pursuant to this paragraph may not be disclaimed and are made whether or not the returned check bears an indorsement of the paying bank or returning bank. By sending a returned check to a Reserve Bank, the paying bank or returning bank—

* * * * *

(2) Makes the warranties set forth in § 229.34 of this title (but this paragraph does not limit any warranty by a paying or returning bank arising under state law); and

* * * * *

(d) *Warranties by Reserve Bank.* By sending a returned check and receiving settlement or other consideration for it, a Reserve Bank makes the returning bank warranties as set forth in § 229.34 of this title, subject to the terms of part 229 of this title. The Reserve Bank shall not have or assume any other liability to the transferee returning bank, to any subsequent returning bank, to the depository bank, to the owner of the check, or to any other person, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care as provided in subpart C of part 229 of this title.

(e) * * *

The Reserve Bank may, upon the entry of a final judgment or decree, recover from the paying bank or returning bank the amount of attorneys' fees and other expenses of litigation incurred, as well as any amount the Reserve Bank is required to pay because of the judgment or decree or the tender of defense, together with interest thereon.

* * * * *

(h) *Settlement.* A subsequent returning bank or depositary bank shall settle for returned checks in the same manner and by the same time as for cash items presented for payment under this subpart.

(i) *Security interest.* To secure any obligation due or to become due to a Reserve Bank by a paying bank, returning bank, or prior returning bank under this subpart or subpart C of part 229 of this title, the paying bank, returning bank, and prior returning bank, by sending a returned check directly or indirectly to the Reserve Bank, grant to the Reserve Bank a security interest in all of the paying bank's, returning bank's, and prior returning bank's assets in the possession of, or held for the account of, the Reserve Bank. The security interest attaches when a warranty is breached or any other obligation to the Reserve Bank is incurred. If the Reserve Bank, in its sole discretion, deems itself insecure and gives notice thereof to the paying bank, returning bank, or prior returning bank, or if the paying bank, returning bank, or prior returning bank suspends payments or is closed, the Reserve Bank may take any action authorized by law to recover the amount of an obligation, including, but not limited to, the exercise of rights of set off, the realization on any available collateral, and any other rights it may have as a creditor under applicable law.

9. Section 210.13 is revised to read as follows:

§ 210.13 Unpaid items.

(a) *Right of recovery.* If a Reserve Bank does not receive payment in actually and finally collected funds for an item, the Reserve Bank shall recover by

charge-back or otherwise the amount of the item from the sender, prior collecting bank, paying bank, or returning bank from or through which it was received, whether or not the item itself can be sent back. In the event of recovery from such a party, no party, including the owner or holder of the item, shall, for the purpose of obtaining payment of the amount of the item, have any interest in any reserve balance or other funds or property in the Reserve Bank's possession of the bank that failed to make payment in actually and finally collected funds.

(b) *Suspension or closing of bank.* A Reserve Bank shall not pay or act on a draft, authorization to charge (including a charge authorized by § 210.9(a)(5)), or other order on a reserve balance or other funds in its possession for the purpose of settling for items under § 210.9 or § 210.12 after it receives notice of suspension or closing of the bank making the settlement for that bank's own or another's account.

10. Section 210.14 is revised to read as follows:

§ 210.14 Extension of time limits.

If a bank (including a Reserve Bank) or nonbank payor is delayed in acting on an item beyond applicable time limits because of interruption of communication or computer facilities, suspension of payments by a bank or nonbank payor, war, emergency conditions, failure of equipment, or other circumstances beyond its control, its time for acting is extended for the time necessary to complete the action, if it exercises such diligence as the circumstances require.

By order of the Board of Governors of the Federal Reserve System, April 28, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–10645 Filed 5–3–94; 8:45 am]

BILLING CODE 6210–01–P

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12 CFR Parts 225 and 265

[Regulation Y; Docket No. R–0773]

Bank Holding Companies and Change in Bank Control; Rules Regarding Delegation of Authority

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: On August 12, 1992, the Board approved several proposals to change certain procedures for obtaining Board approval of various applications and notices filed under the Federal Reserve Act, the Bank Holding Company Act, the Bank Merger Act, the Change in Bank Control Act and various other statutes. All but one of these changes to the Board's application and notice review procedures were implemented by the Board at that time. Most of these changes involved revising certain internal procedures of the Federal Reserve System (System), to improve the efficiency of processing applications that are reviewed by the Board in conjunction with the Reserve Banks and to reduce the regulatory burden associated with these application and notice procedures. Two of the changes—eliminating the stock redemption notice requirement for "well-capitalized" bank holding companies, and modifying the Board's delegation rules pertaining to competition and market concentration—necessitate amendments to certain provisions of, respectively, the Board's Regulation Y and Rules Regarding Delegation of Authority.

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Terence F. Browne, Senior Attorney (202/452–3707), Legal Division; or Sidney M. Sussan, Assistant Director (202/452–2638), John S. Russell, Manager—Applications Processing (202/452–2466), or Beverly Evans, Supervisory Financial Analyst (202/452–2573), Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

As part of the Board's ongoing efforts to reduce the regulatory burden associated with its application and notice procedures, in 1992 the Board approved a number of steps to reduce the burden associated with these procedures.[1] Although all but one of these streamlining initiatives became effective upon publication in the **Federal Register**,[2] two of the initiatives require that the Board's Regulations be amended to reflect the changes.

Currently, § 225.4(b)(1) of Regulation Y (12 CFR 225.4(b)(1)) requires a bank holding company to give the Board prior notice of certain purchases or redemptions of its equity securities:

(b) *Purchase or redemption by a bank holding company of its own securities*—(1) *Filing notice.* A bank holding company shall give the Board prior notice before purchasing or redeeming its equity securities, if the gross consideration for the purchase or redemption, when aggregated with the net consideration paid by the company for all such purchases or redemptions during the preceding 12 months, is equal to 10 percent or more of the company's consolidated net worth. For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

The Board determined to eliminate this notice requirement for bank holding companies that are and, following the redemption or purchase, would remain "well-capitalized" on a consolidated basis and in generally satisfactory condition. The Board believes that a bank holding company would qualify for this exception to the notice requirement if:

- The total and tier 1 risk-based capital ratios and the leverage capital ratio for the bank holding company, both before and following the redemption, exceed the thresholds established for "well-capitalized" state-member banks under 12 CFR 208.33(b)(1) as if the bank holding company (on a consolidated basis) were deemed to be a state-member bank;
- The bank holding company received a composite "1" or "2" rating at its most recent BOPEC inspection, and
- The bank holding company is not the subject of any unresolved supervisory issues.

The Board also determined to revise its delegation rules pertaining to competition and market concentration. If a party submits an application or

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[1] See 57 FR 39641 (September 1, 1992). These changes included establishing certain procedures to limit extension of the pre-acceptance period for applications; offering prospective applicants the opportunity to submit a pre-filing notice of intent to file an application; eliminating the stock redemption notice requirement for bank holding companies that are and, following the redemption would remain, "well-capitalized" on a consolidated basis and in generally satisfactory condition; expanding the authority of Reserve Banks to process all delegable applications without Board staff review; modifying the Board's delegation rules pertaining to competition and market concentration; reducing redundant post-acceptance processing of Board action cases; increasing the monitoring of cases requiring extended processing; and establishing a general consent procedure under section 24A of the Federal Reserve Act for investments by state member banks in bank premises.

In publishing notice of these changes, the Board also invited comment on any additional measures to eliminate or reduce burden associated with the Board's notice and application procedures. The comments received will be considered by the Board in its ongoing efforts to streamline and reduce the regulatory burden associated with the Board's notice and application procedures.

[2] The Board is currently finalizing a separate regulation implementing a general consent procedure for investments in bank premises pursuant to section 24A of the Federal Reserve Act.

notice to the System pursuant to the Bank Holding Company Act, Change in Bank Control Act, Bank Merger Act, or the Bank Service Corporation Act, the Board's Rules Regarding Delegation of Authority (12 CFR 265.1–265.11), permit the appropriate Reserve Bank to act on such application or notice unless certain circumstances are present. Specifically, § 265.11(c)(11)(v) of the Board's Rules provide that a Reserve Bank is not authorized to approve the following transactions:

(v) With respect to BHC formations, bank acquisitions or mergers, the proposed transaction involves two or more banking organizations:

(A) That upon consummation of the proposal, would control over 30 percent of total deposits in banking offices in the relevant geographic market, or would result in an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) in a highly concentrated market (a market with a post-merger HHI of at least 1800); or

(B) Where divestitures designed to address any substantive anticompetitive effects are not effected on or before consummation of the proposed transaction[.]

The Board determined to revise its Rules Regarding Delegation of Authority to increase the resulting market share criterion that would require Board consideration of a bank merger or acquisition from 30 percent to 35 percent. In particular, the Reserve Banks may now act on applications involving two or more banking organizations that, upon consummation of the proposed transaction, would control 35 percent or less of total deposits in banking offices in the relevant geographic market. This change would also reflect the Board's practice, in computing market share, of weighing deposits of thrifts in the subject market at 50 percent.

As part of this change to the Board's Rules Regarding Delegation of Authority, the Board also determined to eliminate the need for Board approval of applications involving divestitures designed to address anticompetitive effects, which divestitures are not completed on or before consummation of the proposed transaction.[3] As a result, the Federal Reserve Banks may now act on applications involving proposed divestitures to address competitive concerns, provided the divestitures are undertaken in accordance with the Board's position on the timing of divestitures.[4]

[3] See 57 FR 39641 (September 1, 1992).

[4] See *id.*; see also BankAmerica Corporation, 78 Federal Reserve Bulletin 338, 340 n.15 (1992).

Final Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board does not believe that these changes will have a significant adverse economic impact on a substantial number of small entities. The amendments would reduce regulatory burdens imposed by Regulation Y and the Board's Rules Regarding Delegation of Authority and have no particular adverse effect on other entities.

Effective Date

The provisions of the Administrative Procedures Act (APA)(5 U.S.C. 553) relating to notice, public participation, and deferred effective date have not been followed in connection with the adoption of these amendments because the changes to be effected are either procedural in nature and do not constitute a substantive rule subject to the requirements of that section, or grant an exemption and reduce regulatory burden. The APA grants specific exemptions from its requirements relating to notice, public participation and the deferred effective date requirements in these instances (12 U.S.C. 553 (b)(3)(A) and (d)(1)).

Final Paperwork Reduction Act Analysis

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in these changes.

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Holding Companies, Reporting and recordkeeping requirements, Securities.

12 CFR Part 265

Authority delegation (Government agencies), Banks, banking.

For the reasons set forth in the preamble, the Board amends title 12 of the Code of Federal Regulations, parts 225 and 265, as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3907, 3909, 3310, and 3331–3351.

2. Section 225.4 is amended by revising paragraph (b)(1), and adding a new paragraph (b)(6) to read as follows:

§ 225.4 Corporate practices.

* * * * *

(b) * * *—(1) *Filing notice.* Except as provided in paragraph (b)(6) of this section, a bank holding company shall give the Board prior written notice before purchasing or redeeming its equity securities if the gross consideration for the purchase or redemption, when aggregated with the net consideration paid by the company for all such purchases or redemptions during the preceding 12 months, is equal to 10 percent or more of the company's consolidated net worth. For the purposes of this section, "net consideration" is the gross consideration paid by the company for all of its equity securities purchased or redeemed during the period minus the gross consideration received for all of its equity securities sold during the period other than as part of a new issue.

* * * * *

(6) *Exception for well-capitalized bank holding companies.* A bank holding company seeking to redeem or purchase its equity securities is not required to obtain prior Board approval for the redemption or purchase under this section provided:

(i) The total and tier 1 risk-based capital ratios and the leverage capital ratio for the bank holding company, both before and following the redemption, exceed the thresholds established for "well-capitalized" state-member banks under 12 CFR 208.33(b)(1) as if the bank holding company (on a consolidated basis) were deemed to be a state member bank;

(ii) The bank holding company received a composite "1" or "2" rating at its most recent BOPEC inspection; and

(iii) The bank holding company is not the subject of any unresolved supervisory issues.

* * * * *

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

1. The authority citation for part 265 continues to read as follows:

Authority: 12 U.S.C. 248(i) and (k).

2. Section 265.11 is amended by revising paragraph (c)(11)(v) to read as follows:

§ 265.11 Functions delegated to Federal Reserve Banks.

* * * * *

(c) * * *

(11) * * *

(v) With respect to bank holding company formations, bank acquisitions or mergers, the proposed transaction involves two or more banking organizations that, upon consummation of the proposal, would control over 35 percent of total deposits (including 50 percent of thrift deposits) in banking offices in the relevant geographic market, or would result in an increase of at least 200 points in the Herfindahl-Hirschman Index (HHI) in a highly concentrated market (a market with a post-merger HHI of at least 1800); or

* * * * *

By order of the Board of Governors of the Federal Reserve System, April 28, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–10689 Filed 5–3–94; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 94–AWP–1]

Establishment of Class D Airspace; El Toro, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at El Toro, CA, designated as an extension to a Class C surface area. The floor was inadvertently lowered from a base of 2,500 feet mean sea level (MSL) down to the surface. This modification raises the floor between the 10 and 15 mile radius of the Class D airspace from the surface to 2,500 feet MSL. The area will be depicted on aeronautical charts to provide a reference for pilots operating in the area.

EFFECTIVE DATE: June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Scott Speer, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 297–0697.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace at El Toro, CA (59 FR 8565). The Class D airspace was inadvertenly changed during Airspace Reclassification. This change restricted aircraft transiting along the shoreline. This action will raise the floor of a portion of the Class D airspace from the surface to 2,500 feet MSL to allow aircraft to transit along the shoreline.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA and there were no objections to the proposal.

Class D airspace designations for airspace designated as extensions to class C airspace are published in Paragraph 5000b 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 D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulation modifies Class D airspace at El Toro, CA, to establish Class D airspace from 2,500 fee MSL to 4,400 feet MSL for aircraft transiting between the 10 and 15 mile radius of MCAS El Toro, CA. The FAA has determined that this regulation only involves an established body by 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 Regularly 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 part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 general.

* * * * *

AWP CA D EL Toro MCAS, CA [Removed]

* * * * *

Paragraph 5000b Class D Airspace areas designated as an extension to a Class C surface area.

* * * * *

AWP CA D2 EL Toro MCAS, CA [New]

EL Toro MCAS, CA

(lat. 33°40'34" N., long. 119°43'52" W.)

That airspace extending upward from the surface to but not including 2,500 feet MSL from the 5-mile radius of EL Toro MCAS to a 10-mile radius of the EL Toro MCAS between the 164 °(T) and the 189 °(T) bearings of the El Toro MCAS and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL from the 10-mile radius to 15-mile radius of the airport between the 164 °(T) and the 189 °(T) bearings of the El Toro MCAS. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on April 15, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–10704 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ANM–47]

Amendment to Class D Airspace; Moses Lake, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class D airspace at the Grant County Airport, Moses Lake, WA, by excluding the airspace overlying the Moses Lake Municipal Airport, WA. It will permit air traffic operations to and from Moses Lake Municipal Airport without the requirement for radio communications with the Grant County Airport Traffic Control Tower.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

FOR FURTHER INFORMATION CONTACT:

Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 93–ANM–47, 1601 Lind Avenue, SW., Renton, Washington 98055–4056, Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On February 23, 1994, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class D airspace for the Grant County Airport, Moses Lake, Washington (59 FR 8567). Interested parties were invited to participate in the rulemaking process by submitting such written data, views, or arguments as they desired. No comments were received.

Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the term "control zone," and airspace extending upward from the surface with an operating airport traffic control tower is now designated Class D airspace. Class D airspace designations for airspace extending upward from the surface with an operating airport traffic control tower are published in Paragraph 5000 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 D airspace designation listed in this document will be published subsequently in the Order. The coordinates in this final rule are in North America Datum 83.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends Class D airspace at Moses Lake, Washington. It will permit air traffic operations at the Moses Lake Municipal Airport without the requirement for direct radio communications with the airport traffic control tower at the Grant County Airport by excluding the Moses Lake Municipal Airport from the Grant County Airport Class D airspace. It improves the efficiency at Moses Lake Municipal Airport without significantly impacting on the operation at the Grant County Airport operation, and simplifies air traffic control activities within the Class D 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 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 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 5000 General

* * * * *

ANM WA D Moses Lake, WA [Revised]
Moses Lake, Grant County Airport, WA
(lat. 47°12′28″ N, long. 119°19′13″ W)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 5.7-mile radius of the Grant County Airport, excluding that airspace within an area bounded by a line beginning at lat. 47°11′31″ N, long. 119°10′59″ W., to lat. 47°09′59″ N., long. 119°14′55″ W., to lat. 47°07′34″ N., long. 119°14′55″ W., thence counterclockwise via a 5.7 mile radius of the Grant County Airport to the point of beginning. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on April 18, 1994.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division.

[FR Doc. 94–10705 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 93–ANM–25]

Amendment to Class E Airspace; Rifle, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Rifle, CO. Establishment of a new instrument approach procedure requires additional controlled airspace for the procedure. Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the term "transition area," replacing it with the designation "Class E airspace" The Class E airspace will be depicted on aeronautical charts for pilot reference when the new approach procedures become effective.

EFFECTIVE DATE: 0901 UTC, June 23, 1994.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM–536, Federal Aviation Administration, Docket No. 93–ANM–25, 1601 Lind Avenue SW., Renton, Washington 98055–4056; Telephone: (206) 227–2536.

SUPPLEMENTARY INFORMATION:

History

On February 18, 1994, the FAA proposed to amended part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace for the Rifle Garfield County Airport, Rifle, CO (59 FR 8147). Interested parties were invited to participate in the rulemaking process by submitting such written data, views, or arguments as they desired. No comments were received.

Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the term "transition area," and airspace extending upward from 700 feet above ground level is now designated as Class E airspace. Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth 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 designations listed in this document will be published subsequently in the Order. The coordinates in this final rule are in North American Datum 83.

The Rule

This amendment of part 71 of the Federal Aviation Regulations amends

Class E airspace to Rifle, Colorado. It will provide controlled airspace for a new instrument approach procedure at the airport. Amendment of the Class E airspace will result in greater safety and efficiency at, and in the vicinity of, the airport. 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 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 extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Rifle, CO [Revised]
Rifle Garfield County Airport, CO
(lat. 39°31'35" N, long. 107°43'37" W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Garfield County Airport, and within 4.3 miles each side of the 090° bearing from the Garfield County Airport, extending from the 7-mile radius to 18.3 miles east of the airport, and within 4.5 miles each side of the 321° bearing from the Garfield County Airport, extending from the 7-mile radius to 14.5 miles northwest of the airport.

* * * * *

Issued in Seattle, Washington, on April 18, 1994.

Temple H. Johnson,

Manager, Air Traffic Division.

[FR Doc. 94–10706 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 30

Foreign Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (Commission) is issuing this Order pursuant to which option contracts on a spot foreign exchange operation between the United States Dollar and the Deutsche Mark (USD/DM) and United States Dollar and the French Franc (USD/FRF) traded on the Marche a Terme International de France (MATIF) may be offered or sold to persons located in the United States. This Order is issued pursuant to: (1) Commission rule 30.3(a), 17 CFR 30.3(a), which makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold in the United States; and (2) the procedures established in the Commission's Order (Mutual Recognition Memorandum of Understanding (MRMOU) with the French Commission des Operations de Bourse).

EFFECTIVE DATE: June 3, 1994.

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

SUPPLEMENTARY INFORMATION: The Commission has issued the following Order:

Order Pursuant to the Mutual Recognition Memorandum of Understanding With the French Commission des Operations de Bourse and Rule 30.3(a) Permitting Option Contracts on the USD/DM and USD/FRF Traded on the Marche a Terme International de France To Be Offered or Sold in the United States Thirty Days After Publication of This Notice in the **Federal Register**

By Order issued on December 17, 1991 (Initial Order),[1] the Commission authorized, pursuant to the Mutual Recognition Memorandum of Understanding (MRMOU)[2] and Commission rule 30.3(a),[3] certain option products traded on the MATIF to be offered or sold in the United States.

By letter dated April 8, 1994, MATIF notified the Commission that on May 20, 1994 it would be introducing option contracts based on the USD/DM and USD/FRF. By letter dated April 19, 1994, the Commission des Operations de Bourse requested that the Commission supplement its Initial Order and subsequent Order[4] authorizing Options on the Notional Bond, the 3-month PIBOR, the 3-month EURODEM and the Long-Term ECU Bond Futures Contracts by also authorizing the MATIF's Option Contracts on the USD/DM and USD/FRF to be offered or sold in the United States. Based upon the foregoing, and pursuant to the terms of the MRMOU, the Commission hereby publishes this Order in the **Federal Register** pursuant to which the particular option contract specified herein may be offered or sold thirty days after the publication of this Order.

Accordingly, pursuant to Commission rule 30.3(a), 17 CFR 30.3(a), and Article II, paragraph 6(b) and Article V, paragraph 6 of the MRMOU signed by the Commission on June 6, 1990 (55 FR 23902 (June 13, 1990)), and subject to the terms and conditions specified in the MRMOU, the Commission hereby issues this Order pursuant to which option contracts based on the USD/DM and USD/FRF traded on the MATIF may be offered or sold to persons located in the United States thirty days after publication of this Order in the **Federal Register**.

USD/DM Option Specifications

Exercise Style—European option
Underlying Inst—USD/DM spot transaction
Contract Size—USD 100 000
Strike Prices—In DM, with two decimals.
Exercise price intervals: 2 pfennigs. (1.60—1.62 . . .) At least eleven closest-to-the-money (5 on each side).
Premium Quotation—Premium in % of the USD nominal, with two decimals (Ex:

[1] See 56 FR 66345 (December 23, 1991).

[2] See 55 FR 23902 (June 13, 1990). Among other things, this arrangement provides a mechanism pursuant to which certain option products traded on the Marche a Terme International de France (MATIF) may be offered or sold to customers resident in the United States thirty days after publication in the **Federal Register** of a notice specifying the particular option contracts to be offered or sold.

[3] Commission rule 30.3(a), 17 CFR 30.3(a), makes it unlawful for any person to engage in the offer or sale of a foreign option product until the Commission, by order, authorizes such foreign option to be offered or sold.

[4] See 57 FR 10987 (April 1, 1992).

2.61% stands for 100 000×2.61/100=USD 2 610). In specific cases, premium with 3 decimals
Tick Size—0.01% i.e. USD 10
Expiration Months—Three monthly + three quarterly maturities from March, June, September, December
Expiration Date—Thursday following third Wednesday of expiration month at 9:00 am New York time.
First Trading Day—First business day following an expiration date
Exercise—After settlement of a spot-fixing on the expiration date, automatic exercise of in-the-money options. Exercise: exchange of underlying currencies.
Trading Hours—Open outcry: 9:15 am—5 pm Paris time. THS (after hours trading): 5 pm—9:15 am

USD/FRF Options Specifications

Exercise Style—European option
Underlying Inst—USD/FRF spot transaction
Contract Size—USD 100 000
Strike Prices—In FRF, with two decimals. Exercise price intervals: 5 centimes. (5.60—5.65 . . .) At least eleven closest-to-the-money (5 on each side)
Premium Quotation—Premium % of the USD nominal, with two decimals. (Ex: 0.45% stands for 100 000×0.45/100=USD 450) In specific cases, premium with 3 decimals
Tick Size—0.01% i.e. USD 10
Expiration Months—Three monthly + three quarterly maturities from March, June, September, December
Expiration Date—Thursday following third Wednesday of expiration month at 9 am New York time.
First Trading Day—First business day following an expiration date
Exercise—After settlement of a spot-fixing on the expiration date, automatic exercise of in-the-money options. Exercise: exchange of underlying currencies
Trading Hours—Open outcry: 9:15 am—5 pm Paris time. THS (after hours trading): 5 pm—9:15 am

Lists 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 OPTIONS 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 B to part 30 is amended by adding the following entry after the existing entries for "Marche a Terme International de France" to read as follows:

APPENDIX B TO PART 30.—OPTION CONTRACTS PERMITTED TO BE OFFERED OR SOLD IN THE U.S. PURSUANT TO § 30.3(a)

Exchange	Type of contract	FR date and citation
• • •	• • •	•
Marche a Terme International de France.	Option Contracts on United States Dollar/Deutsche Mark and United States Dollar/French Franc.	May 5, 1994; _____FR_____.
• • •	• • •	•

Issued in Washington, DC on April 26, 1994.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 94–10612 Filed 5–3–94; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

31 CFR Part 601

[T.D. BEP–2]

Distinctive Paper for United States Currency and Other Securities

AGENCY: Bureau of Engraving and Printing (BEP), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: The Bureau of Engraving and Printing is amending the provisions of Distinctive Paper for United States Currency and Other Securities regulations, to reflect the adoption of a new distinctive paper adopted for use by the Secretary of the Treasury to deter counterfeiting.

EFFECTIVE DATE: June 3, 1994.

FOR FURTHER INFORMATION CONTACT: Rodolfo Roberts, Office of Management Services, Bureau of Engraving and Printing, room 321–9A, 14th and C Streets, SW., Washington, DC 20228, (202) 874–3551.

SUPPLEMENTARY INFORMATION: 80 Stat. 379, 39 Stat. 277, as amended; and 5 U.S.C. 301, U.S.C. 5114 give the Secretary of the Treasury the authority of law to adopt a new distinctive paper for use in printing United States currency and other interest-bearing securities of the United States.

The changes:

(1) Amend section 601.1 to reflect the existence of two kinds (threaded and non-threaded) of distinctive papers for printing United States currency and the use of the non-threaded one for printing interest-bearing securities of the United States.

(2) Amend section 601.2 to reflect a description of the new threaded distinctive paper.

(3) Amend section 601.3 to indicate that the distinctive paper currently in use will continue to be used.

(4) Amend section 601.4 to provide that the existing distinctive paper will continue to be used for printing interest-bearing securities of the United States.

(5) Section 601.5 remains the same.

(6) Delete section 601.6 in its entirety.

Notice of Proposed Rulemaking

On November 12, 1993, BEP published Notice No. 1 (58 FR 59973), proposing to amend the provisions of Distinctive Paper for United States Currency and Other Securities regulations to reflect the adoption of a new distinctive paper adopted for use by the Secretary of the Treasury to deter counterfeiting. No comments were received on or before the closing date of December 13, 1993. Therefore, BEP is adopting the language in the proposed rule, with no modification.

Regulatory Flexibility Act

It is hereby certified that this document will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the final rule is not expected:

(1) To have secondary, or incidental effects on a substantial number of small entities; or

(2) To impose, or otherwise cause a significant increase in the reporting, recordkeeping or other compliance burdens of a substantial number of small entities.

Executive Order 12866

It has been determined that this document is not a major regulation as defined in Executive Order 12866 and a regulatory impact analysis is not required because it will not have any annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographical regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this rule because no requirement to collect information is contemplated.

Drafting Information

The principal author of this document is Rodolfo Roberts, Office of Management Services, Bureau of Engraving and Printing.

List of Subjects in 31 CFR Part 601

Currency, Securities, Printing.

Authority and Issuance

31 CFR part 601 is revised to read as follows:

PART 601—DISTINCTIVE PAPER FOR UNITED STATES CURRENCY AND OTHER SECURITIES

Sec.

Authority: 5 U.S.C. 301; 18 U.S.C. 474; 31 U.S.C. 321.

§ 601.1 Notice to the public.

The Secretary of the Treasury, by authority of law, has adopted a new distinctive paper for use in printing United States currency in addition to the existing distinctive paper for use in printing United States currency and other securities.

§ 601.2 Description of paper.

The paper utilized in the printing of United States currency and public debt issues is cream-white bank note paper which must contain security features prescribed by the Secretary of the Treasury. All currency paper shall contain distinctive fibers, colored red and blue, incorporated in the body of the paper while in the process of manufacture and evenly distributed throughout. In addition to distinctive red and blue fibers, currency paper shall contain, for denominations prescribed by the Secretary of the Treasury, security threads embedded beneath the surface of the paper during the manufacturing process. Security threads shall contain graphics consisting of the designation "USA" and the denomination of the currency, expressed in alphabetic or numeric characters.

§ 601.3 Use of paper.

The new distinctive paper shall be used for printing Federal Reserve Notes of the denominations prescribed by the Secretary of the Treasury. The use of the existing distinctive paper, the distinctive feature of which consists of distinctive fibers, colored red and blue, incorporated in the body of the paper while in the process of manufacture and evenly distributed throughout, will be continued for printing of any currency denomination prescribed by the Secretary of the Treasury.

§ 601.4 Use of paper; interest-bearing securities of the United States.

The existing distinctive paper shall be used for the printing of interest-bearing securities of the United States, and for any other printing where the use of distinctive paper is indicated.

§ 601.5 Penalty for unauthorized control or possession.

The Secretary of the Treasury hereby gives notice that the new distinctive paper, together with any other distinctive paper heretofore adopted for the printing of paper currency or other obligations or securities of the United States, is and will be subject to the provisions of 18 U.S.C. 474 which provides, in part, that it is against the law to possess any paper, or facsimile thereof, designated by the Secretary of the Treasury for the printing of U.S. currency or any other security of the United States, except with the permission of the Secretary or other authorized official. This crime is punishable by a fine not to exceed five thousand dollars or imprisonment for not more than fifteen years, or both.

Peter H. Daly,
Director.
George Muñoz,
Assistance Secretary Management.
Lawrence F. Zenker,
Certifying Officer, Bureau of Engraving and Printing.

[FR Doc. 94–10711 Filed 5–3–94; 8:45 am]
BILLING CODE 4840–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH–10–1–5677; FRL–48764]

Approval and Promulgation of Air Quality Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).
ACTION: Final rule.

SUMMARY: USEPA is approving and disapproving specific portions of a revision to the Ohio State Implementation Plan (SIP) for ozone.

On April 9, 1986, the State of Ohio Environmental Protection Agency (OEPA), submitted amendments to the Ohio Administrative Code (OAC) Chapter 3745–21 to USEPA as proposed revisions to the SIP for Ozone. OAC Chapter 3745–21 consists of emission limitations and control requirements for sources of volatile organic compounds (VOC). The amendments to OAC Chapter 3745–21 involve certain compliance deadlines and source specific exemptions from otherwise applicable emission limitations.

EFFECTIVE DATE: This final rule becomes effective on June 3, 1994.

ADDRESSES: Copies of the documents relevant to this action are available for inspection at (It is recommended that you telephone Maggie Greene, at (312) 886–6088, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air Enforcement Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of this revision to the Ohio SIP is available for inspection at: U.S. Environmental Protection Agency, Air Docket, 6102, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 353–3849.

SUPPLEMENTARY INFORMATION: On April 9, 1986, the OEPA submitted

amendments to OAC Chapter 3745–21 and supporting data to USEPA as a proposed revision to the ozone portion of its SIP. OEPA adopted these rules in final form on March 21, 1986. OAC Chapter 3745–21, entitled, "Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards," includes Ohio's VOC Reasonably Available Control Technology (RACT I and II) regulations.

Ohio's submittal included new VOC regulations for additional source categories not specifically covered by Ohio's existing rules and a site-specific revision for the Huffy Corporation. These other elements of the April 9, 1986, submittal are not covered in this document. Today's **Federal Register** document also does not address those amendments to the ozone SIP that were previously submitted on March 28, 1983, to USEPA, and were addressed in a March 6, 1985 **Federal Register** notice of proposed rulemaking (50 FR 9052) and in a January 18, 1989, **Federal Register** final rulemaking (54 FR 1934).

The regulations subject to this rulemaking are embodied in OAC Chapter 3745–21–01, Definitions; OAC Chapter 3745–21–04, Attainment dates and compliance time schedules; OAC Chapter 3745–21–09, Control of emissions of volatile organic compounds from stationary sources; and OAC Chapter 3745–21–10, Compliance test methods and procedures.

USEPA is taking final action to approve these revisions, with the following exceptions:

1. USEPA is disapproving the proposed relaxation for food can end sealing compounds in 3745–21–09 (D)(1)(e) and (D)(2)(e) from 3.7 to 4.4 lbs VOC/gal.

2. USEPA is disapproving the proposed revision to the exemption, as well as the entire exemption in 3745–21–09(N)(3)(e) for the application by hand of any cutback asphalt or emulsified asphalt for patching or crack sealing.

Ohio's high ratio of emulsified to cutback asphalt used in 1987 is not a valid basis for exempting the hand application of cutback asphalt. This exemption is inconsistent with USEPA guidance, and Ohio has provided no data on the amount of additional cutback asphalt that would be used in the ozone season as a result of the exemption.

In addition, USEPA is disapproving the recordkeeping requirements in 3745–21–09 (N)(4) because they are inadequate with respect to the time period during which records are required because paragraph 3745–21–09 (N)(4) only deals with recordkeeping requirements and not when cutback asphalt is allowed to be used. Ohio's SIP does not allow cutback asphalt to be used from April 15 through October 15. Unless and until the exemption period is changed (in 3745–21–09 (N)(3)), the recordkeeping requirements must reflect the SIP requirements.

3. USEPA is disapproving the relaxation from 3.5 to 6.2 lbs. VOC/gal for high performance architectural aluminum coatings in 3745–21–09 (U)(1)(a)(viii) because Ohio did not document the infeasibility of add-on controls and powder coatings in support of its proposed relaxation. USEPA will evaluate the merits of a compliance date extension if submitted and supported by OEPA.

In addition, USEPA will repropose rulemaking on the relaxation for miscellaneous metal parts, in 3745–21–09 (U)(1)(vii), and USEPA will propose rulemaking on the exemption for new sources, in 3745–21–09 (U)(2)(f), in separate **Federal Register** documents.

Comments on the proposed SIP revisions contained in the May 30, 1989, rulemaking notice (54 FR 22915) are discussed below:

1. Can Regulations-Rules 3745–21–09(D)(1)(e) and (D)(2)(e)

A. Proposed Action

OEPA proposed a relaxation from 3.7 pounds of VOC per gallon of coating (lbs VOC/gallon of coating, excluding water) to 4.4 lbs/gal for food can end sealing compounds. OEPA's basis includes a September 13, 1985, letter and testimony to OEPA from Heekin Can; an April 13, 1984, submittal from the Can Manufacturers Institute (CMI) to USEPA; and testimony presented by Campbell Soup Company before the OEPA on September 12, 1985. The basis of the can industry's requests for a relaxation is the purported unavailability of complying end sealing compounds for food can ends, as well as the infeasibility of add-on control.

USEPA proposed disapproval of this relaxation because data from a San Diego source (Van Camp) indicates the possible feasibility of both add-on control equipment and low solvent coatings, and Ohio had not considered this information.

B. Comments on Proposed Disapproval

Heekin Can, Campbell Soup, Central States Company, OEPA, and the Can Manufacturers Institute commented on the proposed disapproval. Their comments, and USEPA's response to these comments are enumerated below.

1. Campbell Soup Company Submitted the Following Comments on July 27, 1989

Comment 1: The Amendment should now be approved by USEPA in total: The data cited by USEPA in the notice of proposed rulemaking is, on its face, not an appropriate basis for rejection.

USEPA Response: The data cited by USEPA in its notice of proposed rulemaking (NPR) provided a strong indication that use of add-on control equipment may be feasible for controlling end seal compound VOC emissions. However, after reviewing the comments, USEPA agrees that use of add-on control equipment doesn't appear feasible. In addition, Van Camp has switched over to a solventless, waterborne end sealing compound for its pet food cans. However, USEPA has considered other relevant information, as discussed in this notice, including comments received, in conjunction with the data cited in the NPR, in its final evaluation of the proposed relaxation. Therefore, any shortcomings, or limitations, in the data cited in the NPR, have been taken into consideration.

Comment 2: If the Amendment cannot now be approved in total, it should at least be approved in part, by allowing relaxation of VOC standards for the period when compliance would otherwise have been technically and commercially impracticable, i.e., at least until May 1989.

"Only with Campbell's May 1989 conversion to a compliant end-sealing compound, following extensive research and development efforts funded by Campbell to develop and apply such a compound, is there evidence that a 3.7 pound standard became technically and commercially feasible for Campbell's Ohio facility."

USEPA Response: USEPA can only act on a proposed revision that has been submitted to it. Therefore, USEPA's only option is to approve or disapprove a permanent relaxation of the food can end sealing compound limit. It should be emphasized that as of May 1989 Campbell came into compliance with the 3.7 pounds VOC per gallon food can end seal compound limit. Therefore, USEPA does not believe approval of the permanent relaxation is appropriate.

Comment 3: If relaxation of the VOC standard to 4.4 pounds for the period ending May 1989, cannot now be approved for the entire food can end sealing compound category, it should at least be allowed for such period for the human food can end sealing compound category.

USEPA Response: As stated in the response to comment 2, USEPA can

only act on a proposed revision that has been submitted to it. The submitted rule provides for a relaxation for the entire category and cannot be approved.

Comment 4: In any case, if the Amendment cannot now be approved in whole or in part, it should not now be rejected with prejudice. Rather, OEPA should be given a chance to modify or supplement the Amendment.

"USEPA's proposed rulemaking notes that OEPA did not consider certain Van Camp data, i.e., the Lake paper which, in fact, was only publicly presented after the date the Amendment was submitted to USEPA. Accordingly, if the Amendment cannot now be approved in whole or part, and if such data is still deemed relevant by USEPA, these proceedings should be remanded without prejudice to OEPA so that the data can be considered, findings made, and, if deemed appropriate by OEPA, the Amendment resubmitted to USEPA in the same or modified form after the new data has been fully considered."

USEPA Response: USEPA has an obligation to act on any pending SIP revision request and does not have the authority to "remand" such a submittal to the State. However, the State has the ability to withdraw or amend a pending SIP revision request at any time prior to final USEPA action. After USEPA takes final action on a SIP submittal, the State still may submit revisions to the existing SIP. USEPA will act on any proposed SIP revision submitted by Ohio in the future including additional relaxation requests for end sealing compounds. Any relaxation would need to be consistent with section 193 of the amended CAA. Moreover, it should be noted that USEPA has considered comments from OEPA on the Van Camp data in its final evaluation.

2. Heekin Can Submitted Comments on July 27, 1989

These comments include background information, comments on the infeasibility of add-on controls, and comments on the unavailability of low solvent compounds.

Comment 1: Before reviewing the infeasibility and unavailability issues it should be recognized that the level of VOCs that was emitted at the Heekin facility in 1987 as a result of following the food can end seal regulation (4.4 pounds of VOC per gallon) instead of the general VOC content end seal limitation (3.7 pounds of VOC per gallon) amounted to only 27.89 tons of VOC. Total VOC emissions from the entire end seal operation at the facility were 219.27 tons for 1987, while plant-wide emissions (base coaters, litho presses, side seam strippers, and end seal liner machines) were 652 tons per year after controls. Thus, the level of emissions sought to be restricted by disapproving the food can end seal VOC limit is only 4.2 percent of the emissions from the facility.

USEPA Response: The level of control technology that constitutes RACT is a function of technical and economical feasibility, and not emission impacts. Furthermore, excess emissions of 27.89 tons of VOC per year is not a negligible quantity.

Comment 2—Infeasibility of Add-on Controls: As a result of USEPA's reliance on the Lake article and the Van Camp study, Heekin commissioned a RACT study by Camp, Dresser, and McKee (CDM). CDM focused on collecting VOCs from the application, conveying, and bagging stages of the end seal lining process. Warehousing areas were disregarded by Lake and CDM as being infeasible to control.

CDM performed a complete RACT analysis tailored specifically for Heekin's Hamilton County, Ohio can manufacturing facility. A total of five end seal lining processes (10 applicators) were considered for control. Before discussing the results of CDM's RACT study, it should be noted that CDM disregarded the carbon adsorption control option because of the difficulties encountered with regeneration. Steam regeneration of spent carbon creates a hazardous waste requiring costly disposal. Hot air regeneration requires an incinerator which duplicates the incinerator control technology option. Also, it is believed that hexane, the major solvent in the end seal lining compounds, has a poor adsorption efficiency. Thus, Lake's reporting of a cost effectiveness figure for a carbon adsorption collection system is not supported by CDM.

CDM focused on thermal and catalytic incineration as preferable control options and determined that the capital cost for a catalytic incinerator system was $1,854,600, approximately $320,000 higher than the capital cost of a thermal incineration system. The annual operating expense for the catalytic incineration system was estimated to be $1,608,719 per year, $2,008,719 per year for thermal incineration.

Dividing the annual cost to operate the control system by the quantity of VOC reduced yields the "cost effectiveness" of the control system. CDM's analysis utilized three figures for the quantity of VOC removed per year: (1) The quantity of VOC removed to reach equivalence with the general end seal compound limit of 3.7 pounds of VOC per gallon (i.e., 27.89 tons per year); (2) the quantity of VOC removed assuming a 40 percent capture efficiency (i.e., 87.70 tons per year); and (3) the quantity of VOC removed assuming that Perlis' 80 percent capture efficiency is correct (i.e., 175.4 tons per year). Heekin does not believe that an 80 percent collection efficiency on the system is possible but has calculated the "cost effectiveness" for comparison purposes.

CDM determined the following "cost effectiveness" figures. For scenario one, removal of sufficient VOCs to reach equivalence with the 3.7 pounds per gallon emission rate limitation, the "cost effectiveness" is $71,597 per ton of VOC removed for thermal incineration and $57,681 per ton of VOC removed for catalytic incineration. For scenario two, removal of VOCs with a 40 percent capture efficiency, the "cost effectiveness" is $23,235 per ton of VOC removed for thermal incineration and $19,310 per ton of VOC removed for catalytic incineration. For scenario three, removal of VOCs with an 80 percent capture efficiency, the "cost effectiveness" is $10,853 per ton of VOC removed for thermal incineration and $9,020 per ton of VOC removed for catalytic incineration.

It should be noted that the above detailed "cost effectiveness" figures were calculated based on can end residence times through the collection system reported by Lake. However, Heekin's actual residence times are much shorter. Lake reported a total residence time for Van Camp of 1.5 minutes. During the Perlis test, a residence time of 3.0 minutes was contrived to gain an 87 percent capture efficiency. Heekin's process lines have a total residence time from lining to stacking/bagging of only 20 to 65 seconds. The discrepancy between Heekin's residence time and the Van Camp/Perlis residence times means that the collection efficiencies for the capture system if it were to be installed at Heekin would be much lower than the collection efficiencies reported by Lake. Thus, the cost effectiveness figures estimated by CDM are on the low side compared to what Heekin could actually attain because the amount of VOCs removed would be much lower.

USEPA Response: Add-on control is not used on any end seal compound coating lines. USEPA agrees that add-on control is not feasible for this application.

Comment 3—Unavailability of Low Solvent Compounds: USEPA stated in its proposed disapproval of Ohio's Food Can End Regulation that the Lake article and the Van Camp data indicated "possible feasibility" of low solvent

coatings. According to the article, Van Camp was successful at replacing "9101" compound with a water-based end sealing compound, "480T". The replacement compound was used by Van Camp to manufacture ends to be used for pet food cans. Van Camp continued to use the "9101" compound for its human consumption product line, tuna fish cans. Thus, Van Camp came into compliance with the 3.7 pounds of VOC per gallon limitation by averaging noncompliant VOC emissions from "9101" usage with water-based emissions from "480T" usage. The Van Camp facility continues to operate in this fashion.

Before addressing the viability of the low solvent coating option, one must understand the distinction between a "captive" and a "merchant" can manufacturer. A "captive" can manufacturer supplies cans only for one customer, itself. Conversely, a "merchant" can manufacturer supplies cans for several customers according to the customer's varied requirements and individualized specifications. Thus, a "merchant" manufacturer has little control over the coatings it must use to fabricate the cans.

Heekin is a "merchant" manufacturer. Van Camp was a "captive" manufacturer at the time of the Lake article. Thus, the feasibility of a lower solvent coating for Heekin is complicated by additional determining factors that Van Camp does not have (i.e., Heekin must satisfy the customer's manufacturing requirements and Heekin has no leverage or internal pressure by which to force a customer to make a change).

Since the first promulgation of the RACT regulations, Heekin has made a concerted effort at advising and steering its customers to specifying coatings and compounds with low solvent formulations. With regard to end seal liner compounds, however, Heekin is serving several customers that have refused to accept a low solvent formulation as a replacement to the end seal liner compound with VOC contents exceeding 3.7 pounds per gallon. The major customer in this category is Ross Laboratories in Columbus, Ohio. Ross Laboratories is the nation's largest producer of milk and soy protein infant formulas. They also manufacture medical nutritional products for hospital and home use. Ross has made the determination that "1105" compound is the only suitable compound for fabricating cans for these highly sensitive products. Other national food processing customers specifying "1105" and "9101" end seal compounds include: Quaker Oats Company, American Home Foods, and Beatrice/Hunt-Wesson.

Disallowing the food can end seal regulation will put Heekin at a disadvantage in the "merchant" can manufacturer's market. When approached by Heekin representatives regarding the possibility that Heekin may no longer be able to use "1105", the manager of the purchasing department stated that an option for Ross Laboratories, if the regulation is disapproved and Heekin no longer can supply "1105" ends, is to move its business to another "merchant" can manufacturer that is not restricted by the end seal liner RACT regulation. Thus, since low solvent end seal compounds are not an option for Heekin's customers, Heekin must have the ability to continue to use the "9101" and "1105" compounds for food can ends.

USEPA Response: Heekin has not adequately demonstrated that 4.4 lbs VOC per gallon is RACT for food can end sealing compounds for the following reasons.

1. Other State regulations have a 3.7 lbs/gallon limit for end sealing compounds.

2. The South Coast Air Quality Management District (SCAQMD) amended its can coating rules (in early 1990). These regulations specify 3.7 lbs/gallon for end sealing compounds for food cans.

3. Campbell Soup stated, in its comments, that in May 1989, Campbell converted to a compliant end sealing compound, following extensive research and development efforts funded by Campbell to develop and apply such a compound. This is "evidence that a 3.7 pound standard became technically and commercially feasible for Campbell's Ohio facility."

4. There is no indication that 3.7 lbs/gallon end sealing compounds are unavailable for certain type food cans, e.g., pet food cans and fruit and vegetable cans.

5. Heekin has not demonstrated that it made a substantial effort to develop and/or locate complying end seal compounds.

6. In its June 27, 1989, letter, Ross Laboratories states that there are no qualified replacements, to Dewey and Almy's "1105" end seal compound, available. The letter falls short of saying that they would refuse to use any other suitable product, if it exists.

7. The fact that Heekin is a "merchant" manufacturer is not a sufficient reason for it to have a less stringent limit. Job shops are common in the coating industry and have not in the past been given special consideration because they have to deal with a number of customers. The feasibility of compliant end seal compounds for Heekin's customers' cans is more relevant than its status as a "merchant" manufacturer.

However, USEPA does agree that 3.7 lbs/gallon end seal compounds for certain applications may not be available. A July 12, 1989, letter from Neil Moyer, (then) Director of Rule Development for the SCAQMD, states that compliant end seal compounds are a problem for cans used for tuna and other oily products.

Heekin may, in fact, have a problem with end seal compounds for certain products. However, USEPA does not have the ability to create exemptions for Heekin. The State has not submitted such a rule. The State submitted relaxation (to 4.4 lbs/gallon) for all end seal compounds is overly broad and cannot be approved. Furthermore, Heekin has not adequately demonstrated the lowest VOC content feasible for its end seal compounds for specified applications.

3. Central States Can Company Submitted Comments on July 26, 1989

Comment 1: We would be interested to know if there are any end lines running with off-line controls that can maintain a reduction efficiency of 76 percent (80% capture, 95% control) over a long period of time. The type of control systems that could be used on end lining systems would require a residence time of several hours and seem to be totally impractical considering the size required and the operational cost.

USEPA Response: USEPA is not aware of add-on control being used on any end seal compound coating lines. USEPA agrees that add-on control is not feasible for this application.

Comment 2: We note that the "480T" compound has been used on pet food. OEPA (presumably commenter means USEPA) seems to be proposing its use on all foods on the basis of tests with pet food. It should be pointed out that many other products besides pet food (including infant formula) are packed and should be considered before such a change is made. The USEPA cannot ignore food safety in its proposed action.

USEPA Response: USEPA agrees that there appear to be some products which cannot use 3.7 lbs/gallon end seal compounds. However, there appear to be some food cans (e.g., pet food cans) which can use compliant end seal compounds. It is the State's responsibility to demonstrate that the requirements it submits are RACT. The

burden is on the State to show for which cans another limit (above 3.7) is RACT and what is that appropriate limit. For example, an adequate demonstration has not been made of the lowest VOC content feasible for end seal compounds used for products such as infant formula. Because the State has submitted a general relaxation of the end seal limit and has not demonstrated that the relaxed limit is RACT for all end seal compounds, USEPA cannot approve the relaxation.

Comment 3: While we are confident that other foods can successfully use an alternate compound, it is important that these products be tested prior to making such a change. It is not unreasonable that this testing for all products may require as much as 5 years. It is, therefore, requested that the Ohio proposed relaxation be approved.

USEPA Response: The need for testing does not, in itself, justify a permanent relaxation. Central States Can has provided no specifics about food safety testing, and it is therefore not possible to evaluate the effects it would have. The nature and length of the testing is also not specified. Furthermore, there are no details or support for the Central States comment that "It is not unreasonable that this testing for all products may require as much as 5 years."

4. The Can Manufacturers Institute (CMI) Submitted Comments on July 28, 1989

The CMI supports OEPA's action to raise the VOC end seal compound limits. CMI's specific comments are as follows:

CMI's Position

CMI opposes the basis of USEPA's proposed denial of Ohio's revision of end seal compound VOC limits. We believe USEPA's reliance on the study of Van Camp's efforts in San Diego is misguided.

Additionally, CMI is concerned that the Agency is willing to risk endangering the food supply or forcing Ohio-based can makers to surrender business to obtain minuscule gains in the National Ambient Air Quality Standards (NAAQS).

The Van Camp Study by Michael Lake

In 1986, Michael Lake of the San Diego County Air Pollution Control District, San Diego, California, presented a paper entitled "VOC Emission Control for Can End Sealing Compounds: A Case History." This study outlines the Van Camp Company's experience in testing, qualifying and running water-based end seal compound. It also broached the possibility of using add-on equipment around end seal application operations. USEPA cites Van Camp's narrow experience with add-on control equipment and water-based end seal compound as the rationale for denying Ohio's proposed rules 3745–21–09 (D)(1)(e) and (D)(2)(e).

Add-On Controls

The add-on control equipment referred to in the Lake study was not installed on a permanent basis. The Van Camp plant managers in 1987 told CMI that initial tests of mock-up add-on equipment showed the system was impractical from an engineering and production standpoint. The Lake study cites three very serious concerns of Van Camp concerning add-on control equipment:

1. The prototype VOC containment/capture system had not been tested under rigorous, extended-production conditions;

2. The system might not allow sufficient visual and physical access by line operators; and

3. Carbon adsorption was and still is an unproven technology for control of VOC emissions from can end sealing lines.

CMI asserts that a theoretical system which did not prove practical, safe or efficacious should not be used as a basis for USEPA to deny a reasonable regulatory action by Ohio's environmental authority.

Water-Based End Seal Compound

The use of the Van Camp Study on water-based end seal compound to deny relaxation of the Ohio VOC limits wrongly assumes these test conditions are acceptable to qualify end seal compound for other types of packs and containers. The process required to safely qualify a new end seal compound is linked to different packing and food conditions. As a general rule, more testing is required for materials which are used on a broad basis.

The successful use of a water-based end seal compound by Van Camp, a division of the Ralston Purina Company, is limited to a very specific, narrow category of food products—tuna and pet food. The Ohio can manufacturers who would be subject to this rule produce containers for a wide variety of products, including baby food, soups and vegetables.

For USEPA to assume that uniformity exists between the processes which Van Camp and Ohio can makers use to qualify end seal compounds is to short change the factors which are necessary to ensure food safety and shows a considerable lack of understanding of the delicate nature under which food is processed and packaged. CMI is concerned that USEPA is willing to risk the safety of the American food supply in order to obtain minimal gains toward attainment of the NAAQS in Ohio.

Conclusion

In 1984 and 1985, CMI and its Ohio-based members asked OEPA to relax the VOC end seal limits because they could not use lower solvent end seal compound with the complete certainty that food safety would be assured. If a catastrophic failure were to occur in a single canned product which resulted in the illness or death of a consumer, the integrity of all canned foods would be suspect.

USEPA Response: USEPA's position on these issues has been previously stated in the response to Heekin's and Central States Can's comments. In summary, it is agreed that add-on control has not been demonstrated to be feasible for end seal compound application operations. However, it has not been documented that 4.4 lbs/gallon is the most stringent limit that is feasible for food can end seal compounds in general. Furthermore, the CMI has not documented the effect that food safety concerns have on using 3.7 lbs/gallon end seal compounds. For example, if CMI's position is that 3.7 lbs/gallon end seal compound cannot be used with canned vegetables (for example) due to safety reasons, it has not supported its position.

5. OEPA Submitted Comments on July 31, 1989

Comment: The Michael Lake report (paper) was not provided to OEPA during OEPA's public hearing on the eventual 1986 rulemaking. Therefore, OEPA could not consider such information. Since USEPA has added that report to the docket, USEPA must show that the report, which pertains to a specific plant in a specific food industry, is applicable to all food industries or at least the food industries in Ohio.

If complying end sealing compounds (at the "3.7" level) are or will be available, OEPA asks that USEPA provide some guidance on the proper date for compliance. The original RACT regulations, as envisioned by USEPA, were to require compliance by the end of 1982 with a time extension up through the end of 1985 for some can plants where adequately justified. The Michael Lake paper shows that "it may be feasible and cost effective to control VOC emissions at the line with carbon adsorption or incineration" according to

USEPA. At what level of cost-effectiveness? Does that transfer to plants in Ohio?

USEPA Response: It is OEPA's responsibility to demonstrate that 4.4 lbs/gallon is the most stringent limit that is feasible for food can end seal compounds. OEPA provides no basis for its statement that "U.S. EPA must show that the report, which pertains to a specific plant in a specific food industry, is applicable to all food industries or at least the food industries in Ohio." It would be appropriate for Ohio to provide adequate support for a relaxation that would make its limit the least stringent in the country. Similarly, additional time to achieve compliance with Ohio's end seal limit will only be considered by USEPA if it is proposed and submitted by OEPA. As stated previously, USEPA agrees that add-on control is not feasible for this operation. Therefore, the cost-effectiveness issue is moot.

2. Cutback and Emulsified Asphalt-Rule 3745–21–09(N)(4)

A. Proposed Action

Ohio added paragraph 3745–21–09(N)(4) to establish recordkeeping requirements for those persons using or applying cutback asphalt or emulsified asphalt during the period from May 15 through September 15.

USEPA proposed disapproval because these recordkeeping requirements are inadequate in that they do not apply to the appropriate SIP period of April 15 through October 15. Although in its State regulations, Ohio currently has an exemption period of September 15 through May 15, USEPA disapproved that extended exemption period when it was submitted as a SIP revision. 54 FR 1934. The applicable SIP exemption period is October 15 through April 15.

Under the current USEPA approved regulations, the use or application of cutback asphalt or emulsified asphalt during October 15 through April 15 is exempt from limitations. Thus, the recordkeeping requirements are necessary for the remaining period: April 15 through October 15.

B. Comments

OEPA's July 31, 1989 Comment: The recordkeeping requirements and the September 15 through May 15 exemption period are considered adequate in light of the USEPA Region VI's proposed approval of the Texas regulation which had a September 15 through April 15 exemption period in a much warmer spring-fall period.

USEPA Response: Paragraph 3745–21–09(N)(4) only deals with recordkeeping requirements and not when cutback asphalt is allowed to be used. Ohio's Federally approved SIP does not allow cutback asphalt to be used from April 15 through October 15. Unless and until the exemption period is changed (in 3745–21–09(N)(3)), the recording requirements must reflect the SIP requirements. Therefore, Paragraph 3745–21–09(N)(4) should be finally disapproved.

3. Cutback and Emulsified Asphalt-Rule 3745–21–09(N)(3)(e)

A. Proposed Action

This paragraph states that the control requirements of (N)(1) and (N)(2) shall not apply:

To the use or application by hand of any cutback asphalt or emulsified asphalt for patching or crack sealing, provided the maximum daily usage is less than one thousand gallons *for any work crew.*

USEPA proposed to disapprove this exemption (without the underlined words) on March 6, 1985 (and finally disapproved this exemption on January 18, 1989 (54 FR 1934)), and proposed to disapprove the rule as revised in the May 30, 1989 **Federal Register**. This exemption is supported by a November 3, 1982, letter from the Ohio Department of Transportation which states that "Our attempts at using emulsified asphalt as crack sealers have not generally been satisfactory." The County Engineers Association of Ohio, in a June 22, 1982, letter, requested OEPA to "Permit use of cutback asphalt for patching up to a usage not to exceed 2,000 gallons per day at any time of the year". The County Engineers stated that this requested change "would improve the efficiency and economy of road paving and maintenance work."

The language added to the end of (N)(3)(e) clarifies the exemption. However, this clarifying language could result in substantially increased VOC emissions because it clarifies that the one thousand gallons per day refers to each work crew. Therefore, this clarifying language, and the supporting documentation, does not change USEPA's position on this exemption, for which an adequate basis has not been provided. USEPA informed OEPA of this in its September 17, 1985, comment letter.

B. Comments

OEPA's July 31, 1989 Comment: The hand application exemption for crack sealers and road patching conforms to the best judgement of the engineering staff at the Ohio Department of Transportation and the County Engineers Association of Ohio. Ohio's record in the conversion to acceptable emulsified asphalts is above the median level of the 35 regulated States. This exemption is certainly minor when considering this fact.

USEPA Response: Ohio's ratio of emulsified to cutback asphalt used in 1987 is not a valid basis for exempting the hand application of cutback asphalt. This exemption is inconsistent with USEPA guidance and its previous determination of RACT. Ohio has not adequately demonstrated that this revised language causes this exemption to constitute RACT and it has provided no data on the amount of additional cutback asphalt that is used in the ozone season as a result of the exemption.

4. Miscellaneous Metals-Rule 3745–21–09(U)(1)(a)(vii)

A. Proposed Action

This paragraph establishes a limitation of 4.8 lbs VOC/gallon of coating, excluding water, for a heat resistant, anti-corrosion coating applied to the interior of a motor vehicle directly above the catalytic converter. This revision was proposed for disapproval because it is a relaxation of approved VOC emission limits in Ohio's ozone SIP and Ohio has not made a demonstration that this relaxation will not interfere with attainment and/or maintenance of the ozone NAAQS. Furthermore, the July 29, 1983, memorandum titled "Source Specific SIP Revisions" by Sheldon Meyers, former Director of Air Quality Planning and Standards, addresses the issue of VOC SIP relaxations. This memorandum states that approval of such a relaxation would require a data base and modeling demonstration consistent with that applied in extension areas. The sources subject to this relaxation are located in Lordstown and Dayton, Ohio. There have not been any revised attainment demonstrations, consistent with those done for extension areas, submitted for these areas.

B. Comments

OEPA's July 31, 1989 Comment: The required demonstration will be made as part of the upcoming post-1987 ozone SIP submissions. USEPA is asked to accept such commitment on the part of OEPA. Region VI has accepted such commitment for a future SIP impact assessment at 54 FR 23672 on June 2, 1989 (regarding Vulcan Materials Company, Geismar Chemicals Plant).

USEPA Response: This requested rule relaxation is being reproposed in a separate **Federal Register** notice which deals with corrections to Ohio's VOC

rules (as required by the Clean Air Act, as amended in 1990). The reason for this reproposal is that the revelant policy has changed with the Amended Act.

5. Architectural Aluminum Coating-Rule 3745–21–09 (U)(1)(a)(viii)

A. Proposed Action

The VOC requirement in this paragraph establishes a limitation of 6.2 lbs VOC/gallon of coating excluding water for high performance architectural aluminum coatings. OEPA considers this limitation to constitute RACT. This relaxation is supported by a September 6, 1985, letter from Reynolds Aluminum, to OEPA. This letter states that "We have been unable to convert our High Performance Architectural Aluminum Coatings to a low solvent formulation." Reynolds attached a December 6, 1984, letter from PPG which states that its efforts to develop compliant coatings for the architectural and recreational vehicle markets have been unsuccessful. USEPA proposed to disapprove this relaxation because OEPA has neither documented the infeasibility of add-on control nor the potential use of powder coatings. Three of these suppliers, Armstrong Products, Fuller O'Brien, and Polymer Corporation, expect their coatings to pass the 5 year exposure test. Some of these are currently in the third or fourth year of their 5-year testing period. Therefore, a permanent relaxation for high performance architectural aluminum coatings is not approvable.

B. Comments

OEPA's July 31, 1989 Comment: The USEPA purported availability of compliant coatings for high performance architectural aluminum coatings at 3.5 lbs VOC per gallon from Armstrong Products, Fuller O'Brien, and Polymer Corporation should be documented in the docket. If a permanent relaxation is not appropriate, does USEPA recommend a relaxation for a specific year (e.g., up to 1989 or 1990)?

USEPA Response: Documentation of USEPA's conversations with powder coating suppliers is in the Docket. The CTGs and Ohio SIP establish the presumptive RACT for this source category. Ohio's comments provide no support for its proposed relaxation. USEPA is only able to take actions on proposed SIP revisions that are submitted to it. USEPA will evaluate the merits of a compliance date extension if submitted and supported by OEPA. Therefore, USEPA is disapproving this relaxation.

Final Action

OEPA had proposed a number of revisions to its RACT I, RACT II, and general VOC rules. These are contained in OAC Chapter 3745–21–01, Definitions; OAC Chapter 3745–21–04, Compliance and Schedules; OAC Chapter 3745–21–09, Emission Limits; and OAC Chapter 3745–21–10, Test Methods. A listing and short description of all of these revisions are in USEPA's technical support documents, dated July 14, 1986, September 23, 1986, and July 27, 1988. Many of these revisions are minor.

Ohio submitted these regulations in 1986 in order to meet the RACT requirement of the pre-amended Act and USEPA reviewed this submittal against the general RACT requirement of the preamended Act, 1977 Act § 172.54 FR 22915 (May 30, 1989). Since USEPA did not issue a SIP call with respect to the elements of this submittal, these revisions are not required under the section 182(a)(2)(A) RACT fix-up requirement of the Act. However, amended section 172 retains a general requirement that States must adopt RACT for nonattainment areas. Therefore, USEPA is taking final partial approval action as proposed under Section 110 and Part D of the Amended Act, with the exception of the following:

1. USEPA is disapproving the proposed relaxation for food can end sealing compounds in 3745–21–09(D)(1)(e) (from 3.7 to 4.4 lbs VOC/gal).

2. USEPA is disapproving the proposed revision to the exemption, as well as the entire exemption in 3745–21–09(N)(3)(e) for the application by hand of any cutback asphalt or emulsified asphalt for patching or crack sealing. In addition, USEPA is disapproving the recordkeeping requirements in 3745–21–09(N)(4) because they are inadequate with respect to the time period during which records are required.

3. USEPA is disapproving the relaxation (from 3.5 to 6.2 lbs VOC/gal) for high performance architectural aluminum coatings in 3745–21–09 (U)(1)(a)(viii).

4. In the proposed rulemaking for this revision published at 54 FR 22915 (May 30, 1989), USEPA proposed to take no action on the exemption for new sources in 3745–21–09(U)(2)(f). USEPA believes that the Amended Clean Air Act affects this element and will repropose action on it consistent with the amended Act in a separate **Federal Register** document.

5. In the May 30, 1989, proposed rulemaking for this revision, USEPA proposed to disapprove the relaxation for miscellaneous metals in 3745–21–09 (U)(1)(a)(vii). This requested rule relaxation will be reproposed in a separate **Federal Register** notice because the relevant policy has changed with the Amended Act.

As stated earlier, Ohio's April 9, 1986, State submittal included new VOC regulations for additional RACT III source categories not specifically covered by Ohio's existing rules and a site-specific revision for the Huffy Corporation. This **Federal Register** document does not address these other elements of the April 9, 1986, submittal. This notice also does not address those amendments to the ozone SIP that were previously submitted on March 28, 1983, to USEPA and for which final rulemaking was taken on January 18, 1989 (54 FR 1934).

Under Executive Order 12866, this action is not significant. It has been submitted to the Office of Management and Budget (OMB) for review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 5, 1994. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 13, 1994.

Carol M. Browner,

Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(90) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(90) On April 9, 1986, the Ohio Environmental Protection Agency (OEPA) submitted amendments to the Ohio Administrative Code (OAC) Chapter 3745–21. The amendments are embodied in the following OAC regulations: Definitions, Rule 3745–21–01; Attainment dates and compliance time schedules, Rule 3745–21–04; Control of emissions of volatile organic compounds from stationary sources, Rule 3745–21–09; and Compliance test methods and procedures, Rule 3745–21–10. USEPA is approving these amendments with the following exceptions: The proposed relaxation for food can end sealing compounds in 3745–21–09(D)(1)(e) and (D)(2)(e) (from 3.7 to 4.4 lbs VOC/gallon); the proposed revision to the exemption in 3745–21–09(N)(3)(e) for the application by hand of any cutback asphalt or emulsified asphalt for patching or crack sealing; the recordkeeping requirements in 3745–21–09(N)(4); the relaxation from 3.5 to 6.2 lbs VOC/gallon for high performance architectural aluminum coatings in 3745–21–09(U)(1)(a)(viii); the exemption for new sources in 3745–21–09(U)(2)(f); and the relaxation for miscellaneous metals coatings in 3745–21–09(U)(1)(a)(vii).

(i) Incorporation by reference.

(A) Amendments to Ohio Administrative Code Rule 3745–21–01, effective on May 9, 1986.

(B) Amendments to Ohio Administrative Code Rule 3745–21–04, effective on May 9, 1986.

(C) Amendments to Ohio Administrative Code Rule 3745–21–09, effective on May 9, 1986, except for:

(1) 3745–21–09(D)(1)(e) and (D)(2)(e) (proposed relaxation for food can end sealing);

(2) 3745–21–09(N)(3)(e) (proposed revision to the exemption for the application by hand of any cutback or emulsified asphalt for patching crack sealing);

(3) 3745–21–09(N)(4) (recordkeeping requirements);

(4) 3745–21–09(U)(1)(a)(viii) (relaxation from 3.5 to 6.2 lbs VOC. gal for high performance architectural aluminum coatings);

(5) 3745–21–09(U)(2)(f) (the exemption for new sources); and

(6) 3745–21–09(U)(1)(a)(vii) (relaxation for miscellaneous metal coatings).

(D) Amendments to Ohio Administrative Code Rule 3745–21–10, effective May 9, 1996.

[FR Doc. 94–10652 Filed 5–3–94; 8:45 am]

BILLING CODE 6580–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[PP Docket No. 93–253, FCC 94–61]

Implementation of Competitive Bidding

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted rules establishing general procedures that will apply whenever it employs a system of competitive bidding ("auctions") to choose from among mutually exclusive applications for certain initial licenses. This action is taken to implement section 309(j) of the Communications Act of 1934, as amended. Procedures applicable to specific services will be determined in future Reports and Orders. The new rules will promote the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas. These rules also will promote economic opportunity and competition, and disseminate licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women. This action will provide recovery for the public of a portion of the value of the public spectrum made available for commercial use.

EFFECTIVE DATE: June 3, 1994.

FOR FURTHER INFORMATION CONTACT: Toni Simmons, Office of Plans and Policy, (202) 418–2030.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, PP Docket No. 93–253, adopted March 8, 1994, and released April 20, 1994. The full text of this Second Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., suite 140, Washington, DC 20037, telephone (202) 857–3800.

Paperwork Reduction Act

The Federal Communications Commission has submitted the following information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room 3225, New Executive Office Building, Washington, DC 20503, (202) 395–3561. For further information, contact Judy Boley, Federal Communications Commission, (202) 632–7513.

Please note: The Commission has requested emergency review of this collection by May 6, 1994, under the provisions of 5 CFR 1320.18.

Title: Implementation of Section 309(j) of the Communications Act—Competitive Bidding, Second Report and Order, PP Docket No. 93–253.

Action: New collections.

Respondents: Individuals, state or local governments, non-profit organizations, business or other for-profit entities, including small business.

Frequency of response: On occasion.

Estimated Annual Burden:

Section/forms	Number of respondents	Estimated average hours per response	Estimated annual responses
FCC Form 175	6,400	.50	3,200
Section 1.2105(a)(2)(i)–(ix)	6,400	.50	3,200
Section 1.2107	4,700	1.00	4,700
Section 1.2108	2,350	20.00	47,000
Section 1.2111	100	.50	50
FCC Form 175–S	2,700	.25	675
Microfiche Req	6,400	2.00	12,800
Total Annual Burden: 71,625.			

Needs and Uses: In the Second Report and Order in PP Docket No. 93–253, the Commission has amended 47 CFR part 1 to add a new Subpart Q which contains the general rules and requirements governing the competitive bidding process for certain initial licenses. Applicants are required to file certain information so that the Commission can determine whether the applicants are legally, technically, and financially qualified to be licensed. Affected public are any member of the public who wants to become a licensee. The foregoing estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data

needed, and completing and reviewing the burden estimates or any other aspect of the collection of information including suggestions for reducing the burden to the Federal Communications Commission Records Management Division, Paperwork Reduction project, Washington, DC 20554 and to the Office of the Management and Budget Paperwork reduction project, Washington, DC 20503.

Summary of Second Report and Order

Introduction

1. In this Second Report and Order, we prescribe general rules and procedures to implement the Commission's new authority under Section 309(j) of the Communications Act of 1934, as amended, to use competitive bidding to award licenses for use of the radio spectrum. In the future, in subsequent Reports and Orders, specific rules within the scope of these general rules will be adopted for each service subject to competitive bidding.

2. A voluminous number of comments and reply comments were filed by interested parties in response to the Notice of Proposed Rule Making (58 FR 53489 (October 15, 1993)) in this docket. These comments address the many proposals made in the Notice.

Eligibility of License Applications for Competitive Bidding

3. The Commission will use competitive bidding to award licenses only when the statutory criteria for auctionability set forth in Section 309(j) of the Communications Act are met. First, there must be mutually exclusive applications for an initial license or construction permit. Second, the service applied for must principally involve the transmission or reception of communications services to subscribers for compensation. Applying these criteria, the Commission determined that mutually exclusive licenses in the Interactive Video Data Service (IVDS), the Personal Communications Services, most of the Public Mobile Services, the Multipoint Distribution Service, the Multichannel Multipoint Distribution Service, the Specialized Mobile Radio Service, Marine Public Coast Stations and for exclusive frequencies above 900 MHz in the Private Carrier Paging Service should be awarded through competitive bidding.

4. Because licensees in the Broadcast Radio and Broadcast Television Services, Maritime Operational Fixed Stations, Personal Radio Services (except IVDS), certain Private Land Mobile Radio Services and certain other services do not receive compensation from subscribers, these services are excluded from the competitive bidding process. The following kinds of applications are not subject to competitive bidding: Applications for renewal of licenses, most applications for modification, applications for subsidiary communications services, and applications for frequencies used as intermediate links in the provision of service.

Competitive Bidding Design Options

5. We adopt simultaneous multiple round auctions as our primary auction methodology. However, as the record convinces us that there is no single competitive bidding design that is optimal for all auctionable services and because Congress directed us to design and test multiple alternative methodologies, we have provided alternative methods from which to choose under appropriate circumstances. The alternative design options are single round sealed bid auctions (either sequential or simultaneous) and sequential oral auctions.

6. The two primary characteristics that will determine the choice of auction design are: (1) The degree to which licenses are interdependent, and (2) whether the expected license values are high or low. Because we expect most licenses to be of high value and interdependent, the simultaneous multiple round auction is our preferred auction design. The Commission will select the competitive bidding design to be used in auctioning particular licenses on a service-specific basis. Combinatorial bidding, which may be used with any type of auction, is also authorized for use as a competitive bidding mechanism.

Procedures to Implement the Competitive Bidding Designs

7. To efficiently implement the competitive bidding designs, we must specify certain auction procedures. We will choose from these procedures and incorporate them into the service-specific rules that we will adopt in the future.

8. *Sequencing.* We will choose the sequence of what is auctioned. The importance of the choice of sequence increases with the degree of interdependence among the items auctioned in sequence. We intend to minimize the importance of the choice of sequence by auctioning licenses sequentially only when there is not a high degree of value interdependence across the licenses or groups that are offered in sequence.

9. *Duration of bidding rounds.* In simultaneous multiple round auctions, bids can be submitted continuously with the high bids announced at the end of each round. With discrete rounds, the Commission can more readily control the pace at which the auction proceeds. The duration of bidding rounds and the interval between rounds in simultaneous multiple round auctions may be varied by announcement during the course of an auction. We generally intend to give bidders a single business day to submit bids and intend to conduct a new bidding round each business day, but we may choose other round lengths and intervals between rounds.

10. *Minimum bid increments.* In multiple round auctions, whether they be sequential or simultaneous, the Commission will generally specify minimum bid increments. The bid increment is the amount or percentage by which the bid must be raised above the previous round's high bid in order to be accepted as a valid bid in the current round. Imposing a minimum bid increment speeds the progress of the auction and, along with activity and stopping rules, helps to ensure that the auction comes to closure within a reasonable period of time. We reserve the right to specify minimum bid increments in dollar terms as well as in percentage terms. We also may vary the minimum bid increments with respect to different licenses being awarded in one auction.

11. *Stopping rules for multiple round auctions.* Prior to each multiple round auction, the Commission will announce by Public Notice a stopping rule for determining when the auction is over. We seek a stopping rule that will (1) terminate the auction in a reasonable period of time, (2) be simple and clearly understood by participating bidders and observers of the auction process, and (3) in the case of simultaneous auctions, close all markets at approximately the same time. In simultaneous auctions, the stopping rules must also specify whether to close markets individually or simultaneously. Hybrid stopping rules are also possible.

12. The following stopping rules are preferred: (1) When auctioning licenses one at a time, or simultaneously and closing markets one at a time bidding on a market will close if a single round passes in which no new acceptable bids (*i.e.*, no bids that meet any applicable bid increment rule) are submitted for that license; (2) when auctioning licenses simultaneously and closing markets simultaneously—bidding on all markets will close if a single round

passes in which no new acceptable bids are submitted for any license.

13. *Activity rules.* To ensure that simultaneous auctions with our preferred simultaneous stopping rule close within a reasonable period of time, an activity rule is likely to be necessary to prevent bidders from waiting until the end of the auction before participating. Where we decide to employ an activity rule, we will seek one that (1) moves auctions along at an appropriate speed, (2) provides bidders with sufficient flexibility to pursue a wide range of alternative bidding strategies, and (3) is simple and clearly understood by participating bidders.

14. When the Commission employs a simultaneous stopping rule, our preferred activity rule will be the three stage rule proposed by Professors Paul Milgrom and Robert Wilson. Under this rule, the minimum activity level, measured as a fraction of the self declared maximum eligibility, would increase during the course of the auction. The auction would be divided into three stages. During the first stage of the auction, bidders would be required to be active on licenses encompassing at least one-third of the MHz-pops for which they are eligible. In the second stage, bidders would be required to be active on licenses encompassing at least two-thirds of the MHz-pops for which they are eligible. In the third stage, bidders would be required to be active on licenses encompassing 100 percent of the MHz-pops for which they are eligible. Bidders under this rule would be required to meet these activity levels to retain their desired eligibility. A shortfall in activity would reduce eligibility levels accordingly.

15. The Commission retains the flexibility to choose among activity rules, other than the three stage Milgrom-Wilson rule, on a case-by-case basis. These include: (1) A Milgrom-Wilson rule with one or two stages, (2) a rule that requires bidders to be active on a single license, (3) a rule that requires that a bidder's activity level remain within a single range throughout the action, (4) a rule that replaces the maximum allowed bidding levels in the Milgrom-Wilson rule with a bidding premium for exceeding those maximums, or (5) a combination of the foregoing rules. We conclude that a waiver procedure is necessary in conjunction with a Milgrom-Wilson activity rule. Under our preferred option, bidders will be permitted five automatic waivers of the minimum activity requirement during the course of an auction.

16. *Bid withdrawal and default penalties.* If a high bid is withdrawn prior to the close of a simultaneous round auction, the Commission will impose a penalty equal to the difference between the withdrawn bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal penalty will be assessed if the subsequent winning bid exceeds the withdrawn bid. If a winning bidder defaults after the close of such an auction, the defaulting bidder will be required to pay the foregoing penalty plus an additional penalty equal to three percent of the amount of the winning bid the next time the license is offered by the Commission or three percent of the amount of the defaulting bidder's bid, whichever is less.

17. In the case of open outcry auctions, the Commission may choose not to impose any penalty for bid withdrawal during the course of an auction and instead rely only on the default penalty to discourage insincere bidding. The default penalty will be assessed if a bidder fails to make the down payment on a license, fails to pay for a license or is disqualified after the close of an auction. In connection with single round bidding, only the basic penalty (and not the additional three percent penalty) would generally apply.

18. *Release of Bid Information.* We will announce bidder identification numbers and bid amounts during the course of an auction, but not the identities of bidders, to avoid potential manipulation and collusion among bidders.

19. *Delay, Suspension or Cancellation of Auction.* By Public Notice or by announcement during an auction, the Commission may delay, suspend or cancel an auction in the event of a natural disaster, technical obstacle, evidence of auction security breach, unlawful bidding activity, administrative necessity, or for any other reason that affects the fair and competitive conduct of the competitive bidding. In such cases, the Commission may, at its sole discretion, resume the auction starting from the beginning of the current or some previous round or may cancel the auction in its entirety.

Pre-Auction Procedures and Bidder and License Qualification

20. To streamline the processing of auction applications and ensure that bidders and licensees are qualified, we are adopting the following procedures. Usually, no less than 75 days before each scheduled auction, the Commission will release a Public Notice announcing the auction. The initial Public Notice will normally contain information such as the licenses to be auctioned and the time, place and method of competitive bidding to be used, including applicable bid withdrawal procedures and penalties, stopping rules and activity rules.

21. The initial Public Notice will also specify filing windows for short-form applications (no long form applications are to be filed at this stage of the competitive bidding application procedure) and bidder certifications, filing fees, upfront and down payments. Applications filed before or after the dates specified in the Public Notice will not be accepted by the Commission. Applications submitted after the deadline specified will be dismissed with prejudice. An auction information package will be made available to prospective bidders after the release of the initial Public Notice. Slightly different procedures will apply when the rules permit applicants to submit long form applications after the occurrence or nonoccurrence of certain events (*e.g.*, passage of time and failure to serve a particular area).

22. The short-form applications and bidder certifications will normally require applicants to provide the following information: (1) The license(s) for which the applicant wishes to bid, (2) the applicant's name, (3) the identity of the person(s) authorized to bid, (4) certifications that the applicant is legally, technically, financially, and otherwise qualified, and (5) certification that the applicant satisfies any financial qualification requirements for the service in question. Applicants seeking to file as designated entities eligible for bidding preferences must indicate their status in the short-form application and must certify that they are qualified to file as designated entities. Bidders will also be required to identify all parties with whom they have entered into partnerships, joint ventures, consortium, or other arrangements or agreements. Bidders will also be required to certify on their short-form applications that they have not entered into any explicit or implicit agreements with any parties other than those identified regarding the amount of their bid, bidding strategies or the particular properties on which they will or will not bid.

23. After reviewing the short-form applications, the Commission will issue a Public Notice listing all defective applications and notify applicants of the specific defect. If the Commission receives only one application that is acceptable for filing for a particular license, the Commission will issue a Public Notice cancelling the auction for

this license and establishing a date for the filing of a long-form application, the acceptance of which would trigger the relevant procedures permitting petitions to deny. Applicants whose short-form applications are substantially complete but have minor errors or defects will be provided an opportunity to correct their applications prior to the auction. However, applicants will not be permitted to make any major modifications to their applications, including ownership changes or changes in the identification of parties to bidding consortia. Also, applications that are not signed or that fail to make the requisite certifications will be dismissed as unacceptable.

24. After reviewing the corrected applications, the Commission will release another Public Notice announcing the names of all applicants whose applications have been accepted for filing. Applicants identified in the Public Notice will then be required to submit the full amount of their upfront payment to the Commission's lock-box bank by a date to be specified in that Public Notice which generally will be no later than 14 days before the scheduled auction.

25. Once the Commission has received from the lock-box bank the names of all applicants who have submitted timely unfront payments, the Commission will issue a fourth Public Notice announcing the names of all applicants that have been determined to be qualified to bid. Each of these applicants will be provided a bidder identification number and further information and instructions regarding the auction procedures.

Competitive Bidding Payments

26. *Upfront Payments.* In most cases, some form of upfront payment is necessary to deter frivolous or insincere bidding. We have determined that the best approach is to retain flexibility to determine the amount of upfront payment on an auction-by-auction basis. Generally, a bidder must submit an upfront payment equal to $0.02 per pop per MHz for the largest combination of MHz-pops the bidder anticipates bidding on in any single round of bidding. A bidder may file applications for every license being auctioned, but its actual bidding in any round of an auction will be limited by the amount of its upfront payment.

27. Upfront payments will provide the Commission with a source of available funds in the event a penalty must be assessed for bid withdrawal prior to further payments. In future Reports and Orders establishing service-specific auction rules, we may determine that the $0.02 per pop per MHz formula is inappropriate because of product market or license characteristics or auction design choice. In some circumstances, we may decide that it is more appropriate instead to set a fixed upfront payment or eliminate the upfront payment. We therefore reserve the option of revising or waiving the upfront payment. In such cases, we will adopt an alternative upfront payment in service-specific auction rules or in the Public Notice announcing the auction.

28. As a general rule, we will not cap upfront payments because we need to ensure that those bidding on large numbers of licenses have the financial capability to build out those licenses and are bidding in good faith. However, we reserve the right to institute caps in specific services if we are satisfied that an absolute dollar amount will provide sufficient deterrence against frivolous bidding and pernicious strategic bidding. Setting a minimum upfront payment may be appropriate when use of our preferred formula would result in a payment that would be too small. Although a general minimum upfront payment of $2,500 is reasonable, we retain the flexibility to modify this amount.

29. As a general matter, to protect the integrity of the auction process, all applicants should be required to tender their upfront payments to the Commission prior to bidding. However, given the likely magnitude of some upfront payments and the fact that there will be a significant interval between the date that short-form applications are filed and the auction date, we will not require the filing of upfront payments with short-form applications. Upfront payments will be required to be made to the Commission on a date to be announced by Public Notice, generally no later than 14 days before the scheduled auction.

30. *Down Payment.* A 20 percent down payment is appropriate to ensure that auction winners have the necessary financial capabilities to complete payment for the license and to pay for the costs of constructing a system and protect against possible default, while at the same time not being so onerous as to hinder growth and diminish access. We therefore will require that winning bidders supplement their upfront payments with a down payment sufficient to being their total deposits up to 20 percent of their winning bid(s). The down payment by cashier's check or wire transfer to our lock-box will generally be required within five business days after the auction is over.

31. *Remainder of License Payment.* The Commission will not permit licensees to satisfy their payment obligations to the Commission through the payment of royalties. With the exception of certain designated entities, we are requiring full payment of the remainder of the winning bid in a lump sum. This will leave financing to the private sector and eliminate the need for the Commission to conduct detailed credit checks.

32. *Default and Disqualification.* It is critically important to the success of our system of competitive bidding that potential bidders understand that there will be a substantial penalty assessed if they withdraw a high bid, are found not to be qualified to hold licenses, or default on a balance due. We will require any auction winner who defaults by failing to remit the required down payment within the prescribed time to reimburse the Commission in the amount of the difference between its high bid and the amount of the winning bid the next time the license is offered by the Commission.

33. A defaulting auction winner will also be assessed a penalty of three percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the three percent penalty will be calculated based on the defaulting bid's amount. This additional penalty will also apply if an auction winner is disqualified or fails to remit the balance of its winning bid after having made the required down payment. We will hold deposits made by defaulting or disqualified auction winners to help ensure that the penalty is paid.

34. If a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission also may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it may deem necessary. Where specific instances of collusion in the competitive bidding process are alleged during the petition to deny process, the Commission may conduct an investigation or refer such complaints to the United States Department of Justice for investigation.

35. If the high bidder makes the down payment in a timely manner, a long-form application will be required to be filed by a specified date, generally within ten business days after the close of the auction. The Commission will then review the long-form application to determine if it is acceptable for filing. Upon acceptance for filing, the Commission will release a Pubic Notice announcing acceptance for filing of the long-form application thus triggering the filing window for petitions to deny.

36. The long-form application must include as an exhibit a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement they have entered into relating to the competitive bidding process prior to the close of bidding. All such arrangements must have been entered into prior to the filing of the short-form application. If all petitions to deny are dismissed or denied, the Commission is satisfied that the applicant is qualified, the license(s) will be granted to the auction winner.

37. The Commission need not conduct a hearing before denial if it determines that an applicant is not qualified and no substantial issue of fact exists concerning that determination. In the event that the Commission identifies substantial and material issues of fact in need of resolution, Sections 309 (j)(5) and (i)(2) of the Communications Act permit in any hearing the submission of all or part of evidence in written form and allows employees other than administrative law judges to preside at the taking of written evidence.

38. As a general rule, when an auction winner defaults on its final payment or is otherwise disqualified after having made the required down payment, the best course of action is to re-auction the license. Nevertheless, if a default occurs within five business days after the end of bidding, the Commission retains the right to offer the license to the second highest bidder at its final bid level, or if that bidder declines the offer, to offer the license to other bidders at their final bid levels. If a new auction becomes necessary because of a disqualification or default more than five business days after the end of bidding, we will afford new parties an opportunity to file applications to assure that serious interested bidders are in the pool of qualified bidders at any re-auction.

39. *Reservation Prices.* We will retain the flexibility to utilize a reservation price below which a license would not be awarded if we decide that it is appropriate in a particular auction. The reservation price could be disclosed, in which case it would effectively constitute a minimum bid, or it could be undisclosed.

Regulatory Safeguards

40. We will impose a transfer disclosure requirement on licenses obtained through the competitive bidding process, whether by a designated entity or not. We will give particular scrutiny to action winners who have not yet begun commercial service and who seek approval for a transfer of control or assignment of their licenses within three years after the initial license grant, in order to determine if any unforeseen problems relating to unjust enrichment have arisen outside the designated entity context. The applicant will be required to file, together with its application, the associated contracts for sale, option agreements and all other documents disclosing the total consideration received in return for the transfer of its license

41. We believe that it is unnecessary and undesirable to impose performance requirements on all auctionable services in excess of those set forth in service rules for most existing services. We do not believe that additional, general requirements are needed to address concerns over "warehousing" of spectrum. With respect to those services where no performance requirements currently exist, however, we will prescribe such performance rules as are necessary at the same time we promulgate competitive bidding rules for each of those services.

Designated Entities

42. *Definitions.* We are adopting a menu of preferences from which we will choose in service-specific auction rules. These preferences are designed to ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women (collectively "designated entities") are given the opportunity to participate in both the competitive bidding process and in the provision of spectrum-based services. To qualify as a "small business" for the purposes of competitive bidding, an entity must be an independently-owned business with a net worth not exceeding $6 million dollars and an average net income after Federal income taxes for two preceding years not in excess of $2 million. In order to be eligible for preferences, businesses owned by women or minorities will be required to have at least 50.1 percent equity ownership and a 50.1 percent controlling interest owned by women or minorities. Rural telephone companies will be eligible for preferences if they are independently owned, have 50,000 access lines or fewer and serve communities with no more than 10,000 inhabitants.

43. *Installment payments.* We may allow small businesses (including rural telephone companies and businesses owned by women and minorities and rural telephone companies) that are winning bidders for certain blocks of spectrum to pay in installments over the term of their licenses. As a general matter, we will only allow installment payments for licenses in those smaller spectrum blocks that are most likely to match the business objectives of *bona fide* small businesses. The down payment for such designated entities will be 10 percent of the winning bid instead of 20 percent. Once the license is granted we will require that the remaining 10 percent of the down payment be made within five business days of grant, thereby commencing the eligible entity's installment payment plan, which will extend over the period of the license.

44. We will impose interest of installment payments equal to the rate for U.S. Treasury obligations of maturity equal to the license term. The schedule of installment payments will begin with interest-only payments for the first two years. After that, principal and interest will be amortized over the remaining term of the license. An eligible designated entity that elects installment payments will have its license conditioned upon the full and timely performance of its payment obligations under the installment plan. However, we will consider (on a case-by-case basis) a grace period before a delinquent payor's license cancels.

45. *Bidding credits.* Bidding credits (payment discounts) may be available to designated entities on certain frequency blocks. Competitive bidding rules applicable to individual services will specify the designated entities eligible for bidding credits, the licenses for which bidding credits are available, the amounts of bidding credits and other procedures. We reserve the option to determine, on a service-specific basis, whether certain auctionable services should allow other bidding credits to a consortium of companies organized to bid for auctionable services.

46. To further promote the investment and rapid deployment of new technologies and services in rural areas, we will also institute a system of bidding credits for rural telephone companies for licenses in their rural service areas. The amount of the bidding credit for rural telephone companies will be tied to their commitments to achieve certain telecommunications infrastructure build-out milestones in their rural service areas. The amount of the bidding credit will be proportionately linked to the amount by which the rural telephone company agrees to expand its built-out commitment. Failure to meet a build-out commitment will result in liability for a penalty in the amount of the bidding credit, plus interest. Grant of licenses to rural telephone companies utilizing bidding credits will be conditioned upon payment of this penalty, if and when it becomes applicable.

47. *Set-aside spectrum.* We may establish set-aside spectrum in certain services in which eligibility to bid may be limited to some or all designated entities. For any auctions of set-aside spectrum, we anticipate that we will establish lower upfront payments. This lower payment would serve to encourage participation by all eligible designated entities in the auction.

48. *Tax certificates, distress sales and royalties.* We will not at this time adopt a general tax certificate program for services subject to competitive bidding because other available measures will generally provide sufficient incentive to attract investors in designated entity enterprises. We will examine the feasibility of utilizing tax certificates in subsequent competitive bidding rules for particular services, especially where the record demonstrates a need to further stimulate designated entity participation in spectrum auctions and in the after-market for auctioned services. Before we determine whether distress sales to designated entities should be authorized, we will evaluate the success of our other measures. We do not adopt royalties as an alternative payment method for designated entities. Such a procedure would prove extremely intrusive and difficult to implement.

49. *Preventing unjust enrichment.* If we employ set-asides to benefit some or all of the designated entities, we will impose a recapture provision, applicable in the event of a sale to a non-designated entity, that would be designed to recoup for the government a portion of the value of the benefit received by the designated entity in the bidding. Such a recapture provision would require that licensees seeking to transfer their licenses for profit must within a specified time remit to the government a penalty equal to a portion of the total value of the benefit conferred by the government. We will generally reduce the penalty as time passes or construction benchmarks are met.

50. Any specific recapture provisions will be set forth in competitive bidding rules applicable to any services in which we decide to set aside licenses. In no event will recapture provisions apply to the transfer or assignment of a license that has been held for more than five years. If the transfer is made to another eligible designated entity, there would be no penalty.

51. If a small business making installment payments sells its license to an entity that does not qualify under the standards we have set for small businesses, we will require payment of the full amount of the remaining principal balance as a condition of the license transfer. Also, where bidding credits are used, transfer of a license to a non-designated entity or any action relating to ownership or control that will result in loss of status as an eligible designated entity, will require the designated entity to reimburse the government for the amount of the bidding credit, plus interest.

Final Regulatory Flexibility Analysis

Need for and purpose of this action:

52. This rulemaking proceeding was initiated to implement Section 309(j) of the Communications Act, as amended. The rules adopted herein will carry out Congress's intent to establish a system of competitive bidding for choosing from among mutually exclusive applications for initial licenses to use the electromagnetic spectrum principally for the transmission or reception of communications signals to or from subscribers for compensation. The rules adopted herein also will carry out Congress's intent to ensure that small businesses, rural telephone companies, and businesses owned by women and minorities are afforded an opportunity to participate in the provision of spectrum-based services.

Issues raised in response to the Initial Regulatory Flexibility Analysis:

53. The IRFA noted that the proposals under consideration in the NPRM included the possibility of new reporting and recordkeeping requirements for a number of small business entities. No commenters responded specifically to the issues raised to the IFRA. We have made some modifications to the proposed requirements as appropriate.

Significant alternatives considered and rejected:

54. All significant alternatives have been addressed in the Second Report and Order.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements, Telecommunications.

Amendatory Text

47 CFR part 1 is amended as follows:

PART 1—[AMENDED]

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

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

2. A new subpart (Q), consisting of §§ 1.2101–1.2111, is added to read as follows:

Subpart Q—Competitive Bidding Proceedings

General Procedures

Sec.

Subpart Q—Competitive Bidding Proceedings

General Procedures

§ 1.2101 Purpose.

The provisions of this subpart implement section 309(j) of the Communications Act of 1934, as added by the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66), authorizing the Commission to employ competitive bidding procedures to choose from among two or more mutually exclusive applications for certain initial licenses.

§ 1.2102 Eligibility of applications for competitive bidding.

(a) Mutually exclusive initial applications in the following services or classes of services are subject to competitive bidding:

(1) Interactive Video Data Service (see 47 CFR part 95, subpart F);

(2) Marine Public Coast Stations (see 47 CFR part 80, subpart J);

(3) Multipoint Distribution Service and Multichannel Multipoint Distribution Service (see 47 CFR part 21, subpart K). This subsection does not apply to applications in these services that were filed prior to July 26, 1993;

(4) Exclusive Private Carrier Paging above 900 MHz (see 47 CFR part 90, subpart P and the Private Carrier Paging Exclusivity Report and Order, 8 FCC Rcd 8318 (1993));

(5) Public Mobile Services (see 47 CFR part 22), except in the 800 MHz Air-Ground Radiotelephone Service, and in the Rural Radio Service. Paragraph (a)(g) of this section does not apply to certain applications in the cellular radio service that were filed prior to July 26, 1993;

(6) Specialized Mobile Radio Service (SMR) (see 47 CFR part 90, subpart S)

including finder's preference requests for frequencies allocated to the SMR service (see 47 CFR 90.173); and

(7) Personal Communications Services (PCS) (see 47 CFR part 24).

Note: To determine the rules that apply to competitive bidding in the foregoing services, specific service rules should also be consulted.

(b) The following types of license applications are not subject to competitive bidding procedures:

(1) Applications for renewal of licenses;

(2) Applications for modification of license; provided, however, that the Commission may determine in particular instances that applications for modification that are mutually exclusive with other applications should be subject to competitive bidding;

(3) Applications for subsidiary communications services. A "subsidiary communications service" is a class of service where the signal for that service is indivisible from that of the main channel signal and that main channel signal is exempt from competitive bidding under other provisions of these rules. See, *e.g.*, § 1.2102(c) (exempting broadcast services). Examples of such subsidiary communications services are those transmitted on subcarriers within the FM baseband signal (see 47 CFR 73.295), and signals transmitted within the Vertical Blanking Interval of a broadcast television signal; and

(4) Applications for frequencies used as an intermediate link or links in the provision of a continuous, end-to-end service were no service is provided directly to subscribers over the frequencies. Examples of such intermediate links are

(i) Point-to-point microwave facilities used to connect a cellular radio telephone base station with a cellular radio telephone mobile telephone switching office; and

(ii) Point-to-point microwave facilities used as part of the service offering in the provision of telephone exchange or interexchange service.

(c) Applications in the following services or classes of services are not subject to competitive bidding:

(1) Alaska-Private Fixed Stations (see 47 CFR part 80, subpart O);

(2) Broadcast radio (AM and FM) and broadcast television (VHF, UHF, LPTV) under 47 CFR part 73;

(3) Broadcast Auxiliary and Cable Television Relay Services (see 47 CFR part 74, subparts D, E, F, G, H and L and part 78, subpart B);

(4) Instructional Television Fixed Service (see 47 CFR part 74, subpart I);

(5) Maritime Support Stations (see 47 CFR part 80, subpart N);

(6) Marine Operational Fixed Stations (see 47 CFR part 80, subpart L);

(7) Marine Radiodetermination Stations (see 47 CFR part 80, Subpart M);

(8) Personal Radio Services (see 47 CFR part 95), except applications filed after July 26, 1993, in the Interactive Video Data Service (see 47 CFR part 95, subpart F);

(9) Public Safety, Industrial/Land Transportation, General and Business Radio categories above 800 MHz, including finder's preference requests for frequencies not allocated to the SMR service (see 47 CFR 90.173), and including, until further notice of the Commission, the Automated Vehicle Monitoring Service (see 47 CFR 90.239);

(10) Private Land Mobile Radio Services between 470–512 MHz (see 47 CFR part 90, subparts B through F) including finder's preference requests, see 47 CFR 90.173;

(11) Private Land Mobile Radio Services below 470 MHz (see 47 CFR part 90, subparts B through F) except in the 220 MHz band (see 47 CFR part 90, subpart T), including finder's preference requests (see 47 CFR 90.173); and

(12) Private Operational Fixed Services (see 47 CFR part 94).

§ 1.2103 Competitive bidding design options.

(a) The Commission will select the competitive bidding design(s) to be used in auctioning particular licenses or classes of licenses on a service-specific basis. The Commission will choose from one or more of the following types of auction designs for services or classes of services subject to competitive bidding:

(1) Single round sealed bid auctions (either sequential or simultaneous);

(2) Sequential oral auctions; or

(3) Simultaneous multiple round auctions.

(b) The Commission may use combinatorial bidding, which would allow bidders to submit all or nothing bids on combinations of licenses, in addition to bids on individual licenses. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified amount. Combinatorial bidding may be used with any type of auction.

(c) The Commission may use single combined auctions, which combine bidding for two or more substitutable licenses and award licenses to the highest bidders until the available licenses are exhausted. This technique may be used in conjunction with any type of auction.

§ 1.2104 Competitive bidding mechanisms.

(a) *Sequencing.* The Commission will establish the sequence in which multiple licenses will be auctioned.

(b) *Grouping.* In the event the Commission uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Commission will determine which licenses will be auctioned simultaneously or in combination.

(c) *Reservation price.* The Commission may establish a reservation price, either disclosed or undisclosed, below which a license subject to auction will not be awarded.

(d) *Minimum bid increments.* The Commission may, by announcement before or during an auction, require minimum bid increments in dollar or percentage terms.

(e) *Stopping rules.* The Commission may establish stopping rules before or during multiple round auctions in order to terminate the auctions within a reasonable time.

(f) *Activities rules.* The Commission may establish activity rules which require a minimum amount of bidding activity.

(g) *Withdrawal, default and disqualification penalties.* As specified below, when the Commission conducts a simultaneous multiple round auction pursuant to § 1.2103, the Commission will impose penalties on bidders who withdraw high bids during the course of an auction, or who default on payments due after an auction closes or who are disqualified.

(1) Bid withdrawal prior to close of auction. A bidder who withdraws a high bid during the course of an auction will be subject to a penalty equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal penalty would be assessed if the subsequent winning bid exceeds the withdrawn bid. This penalty amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(2) Default or disqualification after close of auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the penalty in paragraph (g)(1) of this section plus an additional penalty equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder's bid amount, the 3 percent penalty will be calculated based on the defaulting bidder's bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or

disqualified bidder has deposited with the Commission.

When the Commission conducts single round sealed bid auctions or sequential oral auctions, the Commission may modify the penalties to be paid in the event of bid withdrawal, default or disqualification; provided, however, that such penalties shall not exceed the penalties specified above.

(h) *Bidder identification during auctions.* During any auction, the Commission may identify bidders and the bids only by bid numbers.

(i) The Commission may delay, suspend, or cancel an auction in the event of a natural disaster, technical obstacle, evidence of security breach, unlawful bidding activity, administrative necessity, or for any other reason that affects the fair and efficient conduct of the competitive bidding. The Commission also has the authority, at its sole discretion, to resume the competitive bidding starting from the beginning of the current or some previous round or cancel the competitive bidding in its entirety.

§ 1.2105 Bidding application and certification procedures; prohibition of collusion.

(a) *Submission of Short Form Application (FCC Form 175).* In order to be eligible to bid, an applicant must timely submit a short-form application (FCC Form 175), together with any appropriate filing fee set forth in public notice. Unless otherwise provided by Public Notice, the Form 175 need not be accompanied by an upfront payment (see § 1.2106).

(1) All Form 175s will be due:

(i) On the date(s) specified by public notice; or

(ii) In the case of application filing dates which occur automatically by operation of law (see *e.g.*, 47 CFR 22.902), on a date specified by public notice after the Commission has reviewed the applications that have been filed on those dates and determined that mutual exclusivity exists.

(2) The Form 175 must contain the following information:

(i) Identification of each license on which the applicant wishes to bid;

(ii) The applicant's name, if the applicant is an individual. If the applicant is a corporation, then the short-form application will require the name and address of the corporate office and the name and title of an officer or director. If the applicant is a partnership, then the application will require the name, citizenship and address of all partners, and, if a partner is not a natural person, then the name and title of a responsible person should be included as well. If the applicant is a trust, then the name and address of the trustee will be required. If the applicant is none of the above, then it must identify and describe itself and its principles or other responsible persons;

(iii) The identity of the person(s) authorized to make or withdraw a bid;

(iv) If the applicant applies as a designated entity pursuant to § 1.2110, a statement to that effect and a declaration, under penalty of perjury, that the applicant is qualified as a designated entity under § 1.2110;

(v) Certification that the applicant is legally, technically, financially and otherwise qualified pursuant to section 308(b) of the Communications Act of 1934, as amended;

(vi) Certification that the applicant is in compliance with the foreign ownership provisions of section 310 of the Communications Act of 1934; as amended;

(vii) Certification that the applicant is and will, during the pendency of its application(s), remain in compliance with any service-specific qualifications applicable to the licenses on which the applicant intends to bid including, but not limited to, financial qualifications. The Commission may require certification in certain services that the applicant will, following grant of a license, come into compliance with certain service-specific rules, including, but not limited to, ownership eligibility limitations;

(viii) An exhibit, certified as truthful under penalty of perjury, identifying all parties with whom the applicant has entered into partnerships, joint ventures, consortia or other agreements, arrangements or understandings of any kind relating to the licenses being auctioned, including any such agreements relating to the post-auction market structure. All such arrangements must have been entered into prior to the filing of Form 175 and no such arrangements may be entered into after the filing of Form 175 until after the winning bidder has made the required down payment;

(ix) Certification under penalty of perjury that is has not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties other than those identified pursuant to paragraph (a)(2)(viii) of this section regarding the amount of their bids, bidding strategies or the particular licenses on which they will or will not bid;

Note: The Commission may also request applicants to submit additional information for informational purposes to aid in its preparation of required reports to Congress.

(b) *Modification and Dismissal of Form 175.* (1) Any Form 175 that is not signed or otherwise does not contain all of the certifications required pursuant to this section is unacceptable for filing and cannot be corrected subsequent to any applicable filing deadline. The application will be dismissed with prejudice and the upfront payment, if paid, will be returned.

(2) The Commission will provide bidders a limited opportunity to cure defects specified herein (except for failure to sign the application and to make certifications) and to resubmit a corrected application. Form 175 may be amended or modified to make minor changes or correct minor errors in the application (such as typographical errors). The Commission will classify all amendments as major or minor, pursuant to rules applicable to specific services. An application will be considered to be a newly filed application if it is amended by a major amendment and may not be resubmitted after applicable filing deadlines.

(3) Applicant who fail to correct defects in their applications in a timely manner as specified by public notice will have their applications dismissed with no opportunity for resubmission.

(c) *Prohibition of Collusion.* After the filing of short-form applications, all bidders are prohibited from cooperating, collaborating, discussing or disclosing in any manner the substance of their bids or bidding strategies with other bidders until after the high bidder makes the required down payment, unless such bidders are members of a bidding consortium or other joint bidding arrangement identified on the bidder's short-form application.

§ 1.2106 Submission of upfront payments.

(a) The Commission may require applicants for licenses subject to competitive bidding to submit an upfront payment. In that event, the amount of the upfront payment and the procedures for submitting it will be set forth in a Public Notice. No interest will be paid on upfront payments. In auctions for licenses set aside pursuant to § 1.2110(c), the Commission may establish lower upfront payments for eligible designated entities.

(b) Upfront payments must be made either by wire transfer or by cashier's check drawn in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission.

(c) If an upfront payment is not in compliance with the Commission's Rules, or if insufficient funds are tendered to constitute a valid upfront payment, the applicant shall have a limited opportunity to correct its submission to bring it up to the minimum valid upfront payment prior to the auction. If the applicant does not submit at least the minimum upfront payment, it will be ineligible to bid, its application will be dismissed and any upfront payment it has made will be returned.

(d) The upfront payment(s) of a bidder will be credited toward any down payment required for licenses on which the bidder is the high bidder.

(e) Notwithstanding the provisions of paragraph (d) of this section, in the event a penalty is assessed pursuant to § 1.2104 for bid withdrawal or default, upfront payments or down payments on deposit with the Commission will be used to satisfy the bid withdrawal or default penalty before being applied toward any additional payment obligations that the high bidder may have.

§ 1.2107 Submission of Down Payment and Filing of Long-Form Applications

(a) After bidding has ended, the Commission will identify and notify the high bidder and declare the bidding closed.

(b) Within five (5) business days after being notified that it is a high bidder on a particular license(s), a high bidder must submit to the Commission's lockbox bank such additional funds (the "down payment") as are necessary to bring its total deposits (not including upfront payments applied to satisfy penalties) up to twenty (20) percent of its high bid(s). (In single round sealed bid auctions conducted under § 1.2103, however, bidders may be required to submit their down payments with their bids.) This down payment must be made by wire transfer or cashier's check drawn in U.S. dollars from a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and must be made payable to the Federal Communications Commission. Winning bidders who are qualified designated entities eligible for installment payments under § 1.2110(d) are only required to bring their total deposits up to ten (10) percent of their winning bid(s). Such designated entities must pay the remainder of the twenty (20) percent down payment within five (5) business days of grant of their application. See § 1.2110(e) (1) and (2). Down payments will be held by the Commission until the high bidder has been awarded the license and has paid the remaining balance due on the license, in which case it will not be returned, or until the winning bidder is found unqualified to be a licensee or has defaulted, in which case it will be returned, less applicable penalties. No interest will be paid on any down payment.

(c) A high bidder that meets its down payment obligations in a timely manner must, within ten (10) business days after being notified that it is a high bidder, submit an additional application (the "long-form application") pursuant to the rules governing the service in which the applicant is the high bidder (unless it has already submitted such an application, as contemplated by § 1.2105(a)(1)(b). For example, if the applicant is a high bidder for a license in the Interactive Video Data Service (see 47 CFR part 95, subpart F), the long form application will be submitted on FCC Form 574 in accordance with Section 95.815 of the Rules. Notwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, high bidders need not submit an additional application filing fee with their long-form applications. Notwithstanding any other provision in title 47 of the Code of Federal Regulations to the contrary, the high bidder's long-form application must be mailed or otherwise delivered to: Office of the Secretary, Federal Communications Commission, 1919 M Street NW., room 222, Washington, DC 20554, Attention: Auction Application Processing Section.

An applicant that fails to submit the required long-form application as required under this subsection, and fails to establish good cause for any late-filed submission, shall be deemed to have defaulted and will be subject to the penalties set forth in § 1.2104.

(d) As an exhibit to its long-form application, the applicant must provide a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement it had entered into relating to the competitive bidding process prior to the time bidding was completed. Such agreements must have been entered into prior to the filing of short-form applications pursuant to § 1.2105.

§ 1.2108 Procedures for filing petitions to deny against long-form applications.

(a) Where petitions to deny are otherwise provided for under the Act or the Commission's Rules, and unless other service-specific procedures for the filing of such petitions are provided for elsewhere in the Commission's Rules, the procedures in this section shall apply to the filing of petitions to deny the long-form applications of winning bidders.

(b) Within thirty (30) days after the Commission gives public notice that a long-form application has been accepted for filing, petitions to deny that application may be filed. Any such petitions must contain allegations of fact supported by affidavit of a person or persons with personal knowledge thereof.

(c) An applicant may file an opposition to any petition to deny, and the petitioner a reply to such opposition. Allegations of fact or denials thereof must be supported by affidavit of a person or persons with personal knowledge thereof. The times for filing such opposition and replies will be those provided in § 1.45.

(d) If the Commission determines that:

(1) An applicant is qualified and there is no substantial and material issue of fact concerning that determination, it will grant the application.

(2) An applicant is not qualified and that there is no substantial issue of fact concerning that determination, the Commission need not hold an evidentiary hearing and will deny the application.

(3) Substantial and material issues of fact require a hearing, it will conduct a hearing. The Commission may permit all or part of the evidence to be submitted in written form and may permit employees other than administrative law judges to preside at the taking of written evidence. Such hearing will be conducted on an expedited basis.

§ 1.2109 License grant, denial, default, and disqualification.

(a) Unless otherwise specified in these rules, auction winners are required to pay the balance of their winning bids in a lump sum within five (5) business days following award of the license. Grant of the license will be conditioned on full and timely payment of the winning bid.

(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within five (5) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default penalty specified in § 1.2104(g)(2). In such event, the Commission may either re-auction the license to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. The down payment

obligations set forth in § 1.2107(b) will apply.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted and will be liable for the penalty set forth in § 1.2104(g)(2). In such event, the Commission will conduct another auction for the license, affording new parties an opportunity to file applications for the license.

(d) Bidders who are found to have violated the antitrust laws or the Commission's rules in connection with their participation in the competitive bidding process may be subject, in addition to any other applicable sanctions, to forfeiture of their upfront payment, down payment or full bid amount, and may be prohibited from participating in future auctions.

§ 1.2110 Designated entities.

(a) Designated entities are small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies.

(b) Definitions.

(1) Small businesses. Unless otherwise provided in rules governing specific services, a small business is an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years.

(2) Businesses owned by members of minority groups and/or women. A business owned by members of minority groups and/or women is one in which minorities and/or women who are U.S. citizens have at least 50.1 percent equity ownership and 50.1 percent controlling interest in the applicant. For applicants that are limited partnerships, the general partner either must be a minority and/or woman (or minorities and/or women) who is a U.S. citizen and owns at least 50.1 percent of the partnership equity, or an entity that is 100 percent owned and controlled by minorities and/or women who are U.S. citizens. The interests of minorities and women are to be calculated on a fully-diluted basis; agreements such as stock options and convertible debentures shall be considered to have a present effect on the power to control an entity and shall be treated as if the rights thereunder already have been fully exercised. However, upon a demonstration that options or conversion rights held by non-controlling principals will not deprive the minority and female principals of a substantial financial stake in the venture or impair their rights to control the designated entity, a designated entity may seek a waiver of the requirement that the equity of the minority and female principals must be calculated on a fully-diluted basis. The term minority includes individuals of African American, Hispanic-surnamed, American Eskimo, Aleut, American Indian and Asian American extraction.

(3) Rural telephone companies. A rural telephone company is an independently owned and operated local exchange carrier with 50,000 access lines or fewer, and serving communities with 10,000 or fewer inhabitants.

(c) The Commission may set aside specific licenses for which only eligible designated entities, as specified by the Commission, may bid.

(d) The Commission may permit small businesses, including small businesses owned by women and minorities and rural telephone companies that qualify as small businesses, that are high bidders for licenses specified by the Commission, to pay the full amount of their high bids in installments over the term of their licenses pursuant to the following:

(1) Unless otherwise specified, each eligible applicant paying for its license(s) on an installment basis must deposit by wire transfer or cashier's check in the manner specified in § 1.2107(b) sufficient additional funds as are necessary to bring its total deposits to ten (10) percent of its winning bid(s) within five (5) business days after the Commission has declared it the winning bidder and closed the bidding. Failure to remit the required payment will make the bidder liable to pay penalties pursuant to § 1.2104(g)(2).

(2) Within five (5) business days of the grant of the license application of a winning bidder eligible for installment payments, the licensee shall pay another ten (10) percent of the high bid, thereby commencing the eligible licensee's installment payment plan. Failure to remit the required payment will make the bidder liable to pay penalties pursuant to § 1.2104(g)(2).

(3) Upon grant of the license, the Commission will notify each eligible licensee of the terms of its installment payment plan. Such plans will:

(i) Impose interest based on the rate of U.S. Treasury obligations (with maturities closest to the duration of the license term) at the time of licensing;

(ii) Allow installment payments for the full license term;

(iii) Begin with interest-only payments for the first two years; and

(iv) Amortize principal and interest over the remaining term of the license.

(4) A license granted to an eligible entity that elects installment payments shall be conditioned upon the full and timely performance of the licensee's payment obligations under the installment plan.

(i) If an eligible entity making installment payments is more than ninety (90) days delinquent in any payment, it shall be in default.

(ii) Upon default or in anticipation of default of one or more installment payments, a licensee may request that the Commission permit a three to six month grace period, during which no installment payments need be made. In considering whether to grant a request for a grace period, the Commission may consider, among other things, the licensee's payment history, including whether the licensee has defaulted before, how far into the license term the default occurs, the reasons for default, whether the licensee has met construction build-out requirements, the licensee's financial condition, and whether the licensee is seeking a buyer under an authorized distress sale policy. If the Commission grants a request for a grace period, or otherwise approves a restructured payment schedule, interest will continue to accrue and will be amortized over the remaining term of the license.

(iii) Following expiration of any grace period without successful resumption of payment or upon denial of a grace period request, or upon default with no such request submitted, the license will automatically cancel and the Commission will initiate debt collection procedures pursuant to subpart O of this part.

(e) The Commission may award bidding credits (*i.e.*, payment discounts) to eligible designated entities.

(1) Competitive bidding rules applicable to individual services will specify the designated entities eligible for bidding credits, the licenses for which bidding credits are available, the amounts of bidding credits and other procedures.

(2) Any bidding credit for rural telephone companies will be available only for licenses in rural telephone company service areas and only if eligible rural telephone companies make an infrastructure build-out commitment beyond any standard performance requirement. The amount of the bidding credit for rural telephone companies will be based on the amount by which eligible applicants agree to expand or accelerate the build-out commitment. If a rural telephone company fails to meet an accelerated or expanded build-out

commitment, it must make payment to the Commission within ninety (90) days of a penalty equal to the amount of the bidding credit. Grant of the license will be conditioned upon payment of this penalty if and when it becomes applicable.

(f) The Commission may offer designated entities a combination of the available preferences or additional preferences.

§ 1.2111 Assignment or transfer of control: Unjust enrichment.

(a) *Reporting requirement.* An applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's Rules) of a license within three years of receiving a new license through a competitive bidding procedure must, together with its application for transfer of control or assignment, file with the Commission a statement indicating that its license was obtained through competitive bidding. Such applicant must also file with the Commission the associated contracts for sale, option agreements, management agreements, or other documents disclosing the total consideration that the applicant would receive in return for the transfer or assignment of its license. This information should include not only a monetary purchase price, but also any future, contingent, in-kind, or other consideration (*e.g.*, management or consulting contracts either with or without an option to purchase; below market financing).

(b) *Unjust enrichment payment: set-asides.* As specified in this paragraph (b), an applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's Rules) of a license acquired by the transferor or assignor pursuant to a set-aside for eligible designated entities under § 1.2110(c), or who proposes to take any other action relating to ownership or control that will result in loss of status as an eligible designated entity, must seek Commission approval and may be required to make an unjust enrichment payment (Payment) to the Commission by cashier's check or wire transfer before consent will be granted. The Payment will be based upon a schedule that will take account of the term of the license, any applicable construction benchmarks, and the estimated value of the set-aside benefit, which will be calculated as the difference between the amount paid by the designated entity for the license and the value of a comparable non-set-aside license in the free market at the time of the auction. The Commission will establish the amount of the Payment and the burden will be on the applicants to disprove this amount. No Payment will be required if:

(1) The license is transferred or assigned more than five years after its initial issuance; or

(2) The proposed transferee or assignee is an eligible designated entity under § 1.2110(c), and so certifies.

(c) *Unjust enrichment payment: installment financing.* An applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's Rules) of a license acquired by the transferor or assignor through a competitive bidding procedure utilizing installment financing available to designated entities under § 1.2110(d) will be required to pay the full amount of the remaining principal balance as a condition of the license transfer. No payment will be required if the proposed transferee or assignee assumes the installment payment obligations of the transferor or assignor, and if the proposed transferee or assignee is itself qualified to obtain installment financing under § 1.2110(d), and so certifies.

(d) *Unjust enrichment payment: bidding credits.* An applicant seeking approval for a transfer of control or assignment (otherwise permitted under the Commission's Rules) of a license acquired by the transferor or assignor through a competitive bidding procedure utilizing bidding credits available to eligible designated entities under § 1.2110(e), or who proposes to take any other action relating to ownership or control that will result in loss of status as an eligible designated entity, must seek Commission approval and will be required to make an unjust enrichment payment (Payment) to the Government by wire transfer or cashier's check before consent will be granted. The Payment will be the sum of the amount of the bidding credit plus interest at the rate applicable for installment financing in effect at the time the license was awarded. See § 1.2110(e). No payment will be required if:

(1) The proposed transferee or assignee is an eligible designated entity under § 1.2110(e), and so certifies; or

(2) The proposed transferor or assignor is a rural telephone company as defined in § 1.2110(b)(3), and the proposed transferee or assignee is also a rural telephone company and agrees to meet the same construction requirements as the transferor or assignor.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Editorial Note: This appendix will not appear in the Code of Federal Regulations.

BILLING CODE 6712-01-M

Appendix—FCC Form 175

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

APPROVED BY OMB
3060-XXXX
EXPIRES XX/XX/XX
Est. Avg. Burden Hrs.
Per Response: 30 minutes

APPLICATION TO ENTER AN FCC AUCTION

Notice: The solicitation of personal information requested in this form is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of this application is in the public interest. In researching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to the Commission rules. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to average 30 minutes per response including the time for reviewing instruction, searching existing data needed, and completing and reviewing the collection. Send comments regarding this burden, to the Federal Communications Commission, Office of Managing Director, Washington, D.C. 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20554.

The Notice is required by the Privacy Act of 1974, P.L. 93-579, December 31, 1974, 5 U.S.C. 552a(e)(3) and the Paperwork Reduction Act of 1980, P.L. 96-511, December 11, 1980.

FCC 175

Federal Communications Commission
Washington, DC 20554

Approved by OMB
3060-XXXX
Expires XX/XX/XX
Est. Avg. Burden Hrs.
Per Response: 30 min.

FOR FCC USE ONLY	

Application to Participate in an FCC Auction

(Read Instructions on Back Before Completing)

1. Applicant	8. Applicant Classification: ☐ Individual ☐ Partnership ☐ Trust ☐ Corporation ☐ Other _____
2. Mailing Address	9. Applicant Type: ☐ Rural telephone company ☐ Minority owned business ☐ Woman owned business ☐ Small business ☐ None of the above
3. City / 4. State / 5. Zip Code	
6. Auction No. / 7. Identification No.	10. Preference Claimed: ☐ Yes ☐ No

11. **Markets and Frequency Block for which you want to bid.** If more than 5 markets, use supplemental form (FCC-175S).

	Market No.	Frequency Block No. 1	2	3	4	5	6	7	8	9	10	11
(a)												
(b)												
(c)												
(d)												
(e)												

☐ Check here if supplemental forms are attached. Indicate number of supplemental forms attached:_____

12. Person(s) authorized to make or withdraw a bid (Typed/Printed Name)

(a)	(b)	(c)

Certification: I certify the following:

(1) that the applicant is and will be legally, technically, financially and otherwise qualified pursuant to Section 308(b) of the Communications Act and the Commission's Rules and is in compliance with the foreign ownership provisions contained in Section 310 of the Communications Act.
(2) that the applicant is the real party in interest in this application and that there are no agreements or understandings of any kind other than those specified in this application (see instructions for certification), which provide that someone other than the applicant shall have an interest in the license.
(3) that the applicant is aware that, if upon Commission inspection, this application is shown to be defective, the application will be dismissed without further consideration, and certain fees forfeited. Other penalties may also apply.
(4) that the applicant has not entered into and will not enter into any explicit or implicit agreements or understandings of any kind with parties not identified in this application regarding the amount to be bid, bidding strategies or the particular licenses on which the applicant or other parties will or will not bid.
(5) that the applicant, or any party to this application, is not subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.
(6) that, if a preference(s) is claimed in block 10, the applicant is eligible to receive a preference(s) under the Commission's Rules.

I declare under penalties of perjury, that I am an authorized representative of the above-named applicant for the license(s) specified above, that I have read the instructions and the foregoing certification and all matters and things stated in this application and attachments, including exhibits, are true and correct.

Typed/Printed Name of Person Certifying	Title of Person Certifying	Date
Signature of Person Certifying	Contact Person	Telephone Number

Willful false statements made on this form are punishable by fine and imprisonment (U.S. Code, Title 18, Section 1001) and/or revocation of any station license or construction permit (U.S. Code, Title 47, Section 312(a)(1), and/or forfeiture (U.S. Code, Title 47, Section 503).

INSTRUCTIONS

Item 1-Applicant Name Enter the legal name of the person or entity applying to participate in an auction. If other than an individual, insert the exact name of the entity as it appears on the legal document(s) establishing the entity such as the Articles of Incorporation.

[Note: Applicants who have entered into an arrangement(s) of any kind relating to the license(s) specified in this application must provide additional information. See certification instructions.]

Item 2-Applicant Mailing Address Enter the street address to which the entity wants future correspondence relating to this application to be mailed. Indicate street numbers or rural route numbers whenever appropriate.

Item 3-City Enter the city name for the applicant mailing address.

Item 4-State Enter the two-letter state abbreviation for the applicant mailing address.

Item 5-ZIP Code Enter the Zip Code for the applicant mailing address.

Item 6-Auction Number Enter the appropriate auction number. This number will have been supplied by the Commission in the Public Notice announcing the auction.

Item 7-Identification No. Enter your personal identification number. This number must consist of ten digits. You have two options to create this Identification Number. Option 1 - you may use your taxpayer identification number (TIN) with a prefix of "0" i.e., 0123456789. Option 2 - You may use your ten-digit telephone number (i.e., 5551234567). You should use this same number when submitting additional information/material regarding this application, including fees (i.e., FCC Account No.), to the Commission.

Item 8-Applicant Classification Place an [X] in the appropriate box following the type of entity to indicate the type of legal entity applying. If an [X] is placed in the "Other" box indicate the type of entity applying in the space provided (e.g., governmental entity, association, etc.). Limited liability companies should check the "Partnership" box.

Item 9-Applicant Type Place an [X] in the appropriate box or boxes following the appropriate applicant type. This information will be used for purposes of determining the applicant's eligibility for any preferences available for designated entities. See Part 1 of the Commission's Rules for definitions of the different types of designated entities.

Item 10-Preference Claimed Place an [X] in the "Yes" box if you are claiming a preference(s) available to designated entities. If you are not claiming a preference(s) available to eligible designated entities, place an [X] in the "No" box. In order to claim a preference(s) you must have checked one or more of the boxes in item 9 other than the "None of the above" box, be eligible to receive a preference(s), and a preference(s) must be available for the license(s) for which you are applying.

Item 11-Markets/Frequency Blocks Enter the code for the market(s) which you want to bid on in the column under Market No. The codes will be provided by the Commission in a Public Notice. Use a separate line (a-e) for each different market. If you plan to bid on more than five markets place an [X] in the box below the table to indicate there are supplementary forms attached and list the number of supplementary forms attached in the space provided. You must use Supplementary Form 175-S. After each market list the code for the frequency block(s) or channel(s) for which you want to bid. These codes will be provided by the Commission in a Public Notice. For example, if you only wanted to bid on two frequency blocks in market (a) and one block in market (b) you would enter the codes for those two blocks in columns 1 and 2 on line (a) and leave the remaining columns on that line blank. On line (b) you would enter the code for the block you wanted in market (b) and leave the remaining columns on the line blank.

Item 12-Authorized Representatives Type or print the name(s) of the person(s) you which to designate as an authorized representative(s). Only authorized representatives will be allowed to make or withdraw bids at an auction. You may list a maximum of 3 authorized representatives.

Certification Read the certification. Enter the typed/printed name of the individual authorized to sign the application, his/her title, date signed, authorized individual's signature, the name of a person familiar with the application (contact person) and the phone number (including area code) of the contact person. See Part 1, Subpart Q of the Commission's Rules. All applications must bear an original signature of a person authorized to sign on behalf of the applicant.

List in the space provided below or in an exhibit the name, citizenship and address of all partners, if the applicant is a partnership; of a responsible officer or director, if the applicant is a corporation; of the trustee, if the applicant is a trust or, if the applicant is none of the foregoing, list the name and address of a principal or other responsible person. See Part 1, Subpart Q of the Commission's Rules.

Also list in the space provided below or in an exhibit all parties with whom the applicant has entered into an agreement(s), of any kind, relating to the licenses being auctioned including such agreement(s) relating to the post auction market structure. See Part 1, Subpart Q of the Commission's Rules.

NOTE: The Commission's Public Notice announcing the auction for the licenses for which you are interested in bidding on has information essential to completing this form correctly. Forms which are completed incorrectly may be dismissed without opportunity for resubmission.

Use this space for listing additional information required by the Certification. [If additional space is needed attach a separate sheet(s) as an exhibit.]

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

Approved by OMB
3060-XXXX
Expires XX/XX/XX
Est. Avg. Burden Hrs.
Per Response: 15 minutes

APPLICATION TO PARTICIPATE IN AN FCC AUCTION
SUPPLEMENTAL FORM
(This form is to be used in conjunction with FCC Form 175)

APPLICANT	Payor's ID No.	AUCTION NO.	PAGE ___ OF ___
STREET ADDRESS/CITY		STATE	ZIP CODE

Frequency Block

	Market No.	1	2	3	4	5	6	7	8	9	10	11
f												
g												
h												
i												
j												
k												
l												
m												
n												
o												
p												
q												
r												
s												
t												
u												
v												
w												
x												
y												
z												

FCC 175-S

BILLING CODE 6712-01-C

Notice: The solicitation of personal information requested in this form is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of this application is in the public interest. In researching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to the Commission rules. Your response is required to obtain the requested authority.

Public reporting burden for this collection of information is estimated to average 15 minutes per response including the time for reviewing instruction, searching existing data needed, and completing and reviewing the collection. Send comments regarding this burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20554.

The Notice is required by the Privacy Act of 1974, Public Law 93–579, December 31, 1974, 5 U.S.C. 552a(e)(3) and the Paperwork Reduction Act of 1980, Public Law 96–511, December 11, 1980.

[FR Doc. 94–10638 Filed 4–29–94; 4:43 pm]
BILLING CODE 6712–01–M

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47 CFR Part 73

[ET Docket No. 92–298, FCC 94–88]

Broadcast Services; AM Radio Stereophonic Transmitting Equipment Standard

AGENCY: Federal Communications Commission.

ACTION: Final rule; supplemental order.

SUMMARY: By this Supplemental Order, the Commission affirms its decision to adopt the Motorola C-Quam system as the standard for the stereophonic AM broadcast radio service. On November 23, 1993, the Commission released a Report and Order implementing the C-Quam AM stereo standard. Subsequent to the release on the Report and Order, it has come to the attention of the Commission that a number of comments had been inadvertently overlooked. After review of these additional comments, the Commission finds no new evidence or information that warrants a change in its decision in this matter.

EFFECTIVE DATE: March 20, 1994.

FOR FURTHER INFORMATION CONTACT: David L. Means, Office of Engineering and Technology, Authorization and Evaluation Division, (301) 725–1585, extension 206.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 94–88, adopted April 12, 1994, and released April 28, 1994. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. Copies may also be purchased from the Commission's duplicating contractor, International Transcription Services, at (202) 857–3800 or 2100 M Street NW., suite 140, Washington, DC 20037.

Summary of the Order

1. In response to the Telecommunications Authorization Act of 1992 (Authorization Act), the Commission adopted a Report and Order in this proceeding, 58 FR 66300, December 20, 1993, selecting the C-Quam system as the single AM stereo transmission standard.[1] Subsequent to the release of the Report and Order, it was found that twenty comments had inadvertently not been considered. Most of these comments were improperly or untimely filed. Nevertheless, because other late and improperly filed comments were considered in the Report and Order, we have elected to consider all of these comments at this time.

2. All of the previously unconsidered comments oppose the Commission's proposed selection of C-Quam as the AM stereo standard. Most parties generally allege some form of technical superiority of the Kahn system, or conversely, some technical inferiority of the C-Quam system. Specifically, these parties claim the C-Quam system exhibits technical flaws, including "platform motion," loss of coverage, and increased adjacent channel interference.[2] In addition, some commenting parties recommend that additional testing or evaluation be undertaken. Other parties question the compatibility of C-Quan with future AM band digital audio transmission systems, argue that adopting a system other than Kahn's as the standard will force them to re-engineer antenna array, or contend that Motorola unfairly manipulated the marketplace to create its competitive lead.

Discussion

3. The relative technical performance of the Kahn and C-Quam systems was addressed in the Report and Order, including specifically the issues of platform motion, coverage area and adjacent channel performance. With regard to platform motion, we concluded that recent improvements in receiver design mitigate such effects. Modern C-Quam receivers compensate for platform motion by gradually reducing stereo channel separation as signal-to-noise ratios deteriorate, creating a smooth transition to monaural operation when signals are weak. Further, as previously noted, such weak signal effects as platform motion generally occur beyond a station's protected coverage area. Claims of loss of coverage area and increased adjacent channel interference with C-Quam appear to be based on allegations that the C-Quam signal must be modulated at lower levels to avoid excessive bandwidth. As stated in the Report and Order, we find no evidence that currently authorized C-Quam equipment violates the Commission's bandwidth requirements when operated properly. The additional commenting parties present no new analysis or measurements to support their claims. We further note that the record contains no complaints of lost coverage from the hundreds of broadcasters currently using the C-Quam system.

4. With regard to suggestions that further testing and evaluation should be performed, in the Report and Order we noted that the Motorola and Kahn systems have been tested and comparatively evaluated over the years, and both systems were found to have technical advantages. As stated, we have no reason to expect that further testing would reveal any new information. Moreover, any further testing would lead to additional delays and would be inconsistent with the statutory time restrictions on this proceeding.

5. The issue of compatibility with future AM band digital audio broadcast systems was also discussed in the Report and Order. We noted that there is no reason to believe that either the C-Quam system or the Kahn system would have any advantage in compatibility with future digital systems. We further

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[1] See Telecommunications Act of 1992, Public Law No. 102–538. See also Report and Order, FCC 93–485 (released November 23, 1993).

[2] See, for example, comments of Hughes H. Brewer, Broadcast Devices, Inc. (BDI), E. P. De La Hunt, Joseph A. Dentici, David Smith Forsman, Interstate Broadcasting Company (Interstate), Richard W. Jolls, Robert M. Kanner, Patrick M. O'Gara, and Ridgefield Broadcasting Corporation (Ridgefield).

observed that, as we have no specific information on the likely design of such systems, we would not presuppose to consider fairly issues relating to their compatibility with AM stereo technologies.

6. With regard to comments that protest the potential costs associated with re-engineering the antenna arrays to accommodate C-Quam transmission, we observe that conversion of any station to any AM stereo system, either initially or from one system to another, will certainly involve re-engineering costs. Commenting parties have not provided any evidence from which to conclude that the conversion cost to the relatively few stations using the Kahn system outweigh the benefits to the public of requiring use of the C-Quam system.

7. We stated in the Report and Order that we were not persuaded that Motorola unfairly manipulated the market to deny any segment of the industry or the public a free choice. No new information in the additional comments convinces us otherwise. While vehicular receivers for any system other than C-Quam may indeed be generally unavailable, this is a result of market choices by vehicle and receiver manufacturers in anticipating the preference of their customers. We disagree that existing market penetration is inadequate to determine whether a de facto standard exists. As stated in the Report and Order, we find that there was indeed sufficient convergence in the market place toward C-Quam during the past twelve years of unrestricted competition between the systems to conclude that the public interest would be best served by adopting C-Quam as the standard.

8. With regard to the comments that the Commission should mandate multiple system receivers, allow systems other than the standard to be operated on a non-interference basis, or not adopt a standard, we find these positions to be inconsistent with the Congressional mandate in this matter. Specifically, the Authorization Act requires that we select a single standard for AM stereo.

9. In the Report and Order, we determined that stations employing power-side operation are not subject to the provisions of the stereophonic transmission standard and use of the Kahn system for such operation could continue. Thus, we believe that the decision made in the Report and Order is responsive to those parties wishing to use the Kahn system for power-side operation.

10. We remain convinced that the Motorola C-Quam system is the appropriate choice for the AM stereo standard. We find no arguments in any of the previously unconsidered comments that persuade us to modify any of the decisions previously adopted in the Report and Order.

Ordering Clause

11. Accordingly, it is ordered that this Supplemental Order is adopted.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–10610 Filed 5–3–94; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 89–521; RM–6963 and RM–7254]

Radio Broadcasting Services; Lancaster, WI, Clinton and Manchester, IA and Morrison, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On reconsideration, the Commission grants the request of K to Z, Ltd., licensee of Station WGLR-FM, Channel 249A, Lancaster, Wisconsin, to substitute Channel 249C3 in lieu of Channel 249A at Lancaster, rather than Channel 234C3 allotted to Manchester, Iowa in the Report and Order, 56 FR 56,472, published November 5, 1991, and to modify the license of Station WGLR-FM accordingly. The Commission substitutes Channel 234A in lieu of Channel 249A at Clinton, Iowa for Station KCLN (FM), and modifies Station KCLN (FM)'s license accordingly. The Commission also substitutes Channel 274A in lieu of Channel 236A at Morrison, Illinois for Station WZZT (FM), and modifies Station WZZT (FM)'s license accordingly. The Commission also rescinds both the substitution of Channel 234C3 at Manchester, Iowa and the modification of Station KMCH's license to reflect that substitution. With this action, the proceeding is terminated. See Supplemental Information, *supra.*

EFFECTIVE DATE: May 31, 1994.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89–521, adopted April 19, 1994 and released April 29, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street NW., suite 140, Washington, DC 20037, (202) 857–3800.

Channel 249C3 can be allotted to Lancaster in compliance with the Commission's minimum distance separation requirements at coordinates North Latitude 42–50–18 and West Longitude 90–40–14. Channel 234A can be allotted to Clinton in compliance with the Commission's minimum distance separation requirements at coordinates North Latitude 41–54–32 and West Longitude 90–13–20. Channel 274A can be allotted to Morrison in compliance with the Commission's minimum distance separation requirements at coordinates North Latitude 41–50–16 and West Longitude 89–55–29.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 249A and adding Channel 249C3 at Lancaster; under Iowa, is amended by removing Channel 249A and adding Channel 234A at Clinton; and under Illinois, is amended by removing Channel 236A and adding Channel 274A at Morrison.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy & Rules Division, Mass Media Bureau.

[FR Doc. 94–10653 Filed 5–3–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–21, Notice No. 8]

RIN 2127–AC88

Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

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

ACTION: Final rule, delay of effective date.

SUMMARY: This final rule delays until September 1, 1994, the effective date of the requirements in one section of a final rule issued November 2, 1992, which amended Federal Motor Vehicle Safety Standard No. 217, Bus Emergency Exits and Window Retention and Release, to revise the minimum requirements for school bus emergency exits and improve access to school bus emergency doors. On March 24, 1994, NHTSA issued an interpretation of the term "daylight opening" used in the final rule. Subsequently, NHTSA has learned that several school bus manufacturers had misunderstood this term and as a result, will not have designed many of their buses with sufficient exits to comply with the new requirement by the May 2, 1994 effective date. Because NHTSA agrees that this term could have been misunderstood, NHTSA is allowing manufacturers to continue certifying their buses as having the exits required prior to the November 2, 1992 final rule until September 1, 1994. All other requirements of the November 2, 1992 final rule will continue to be effective on May 2, 1994.

DATES: *Effective Date:* The amendments made in this rule are effective May 2, 1994.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than June 3, 1994.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mr. Leon DeLarm, NRM–15, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4920.

SUPPLEMENTARY INFORMATION: On March 15, 1991, NHTSA published a notice of proposed rulemaking (NPRM) proposing to amend Standard No. 217 to require that the minimum number of emergency exits on school buses be based upon the seating capacity of the school bus (56 FR 11153). Under the proposal, all school buses would have been required to have either a rear emergency exit door or a side emergency exit door and a rear push-out window. Depending on capacity, some school buses would have been required to have additional exits. The NPRM proposed two options regarding the means for providing the additional emergency exits. Option A would have required the use of emergency exit doors. Option B would have required a combination of emergency exit doors and emergency roof exits. The NPRM included a table indicating the additional exits required under each option for any bus with a designated seating capacity between 24 and 90. The determination of the number and type of exits used in the tables was based on crediting an emergency exit door with its minimum area (24 inches × 45 inches, or 1,080 inches^2) and crediting two emergency roof exits as a single emergency exit door.

On November 2, 1992, NHTSA published a final rule increasing the amount of emergency exit area required on school buses (57 FR 49413). As in the proposal, the final rule required that the minimum emergency exit area on school buses be based upon the seating capacity of the school bus. However, the final rule differed from the NPRM concerning the calculation by which the need for additional emergency exits was to be determined. (On December 2, 1992 NHTSA published a technical amendment to the November 2, 1992 final rule. Both of these notices will be referred to collectively as the November 2, 1992 final rule.)

The November 2, 1992 final rule specified that after calculating the total amount of additional emergency exit area [AEEA] needed for a school bus, using the formula proposed in the NPRM, each exit was to be credited with its "daylight opening." "Daylight opening" was defined as "the maximum unobstructed opening of an emergency exit when viewed from a direction perpendicular to the plane of the opening." The preamble to the final rule did not include a further discussion of what might constitute an obstruction.

On January 8, 1994, Mr. Bob Carver of Wayne Wheeled Vehicles (Wayne) wrote to the agency requesting clarification of the terms "daylight opening" and "unobstructed opening." The Wayne letter included Figure 5C from the November 2, 1992 final rule. This figure illustrates the permitted placement of a seat adjacent to a side emergency exit door. Wayne stated that agency personnel had indicated that only the area visually obstructed by the seat could not be credited, and requested confirmation of this interpretation.

The agency's response, dated March 24, 1994, did not agree with this interpretation. The March 24 letter states,

> The term "daylight opening" is defined in the Final Rule as "the maximum unobstructed opening of an emergency exit when viewed from a direction perpendicular to the plane of the opening." An obstruction in this context would include any obstacle or object that would block, obscure, or interfere with, in any way, access to that exit when opened. In determining the "maximum unobstructed opening of an emergency exit," we would subtract, from the total area of the opening, the area of any portions of the opening that cannot be used for exit purposes as a result of the obstruction. The area measurements would be taken when viewed from a direction perpendicular to the plane of the opening.

With regard to the particular illustration included with the Wayne letter, the March 24 letter states that the area forward of the seat back and leg would be considered obstructed.

On April 20, 1994, Mr. Thomas D. Turner of Blue Bird Body Company (Blue Bird) wrote to the agency regarding the March 24 letter. The Blue Bird letter states, "(w)e believed and were told (by agency personnel) that the definition of 'daylight opening' applied to the exit opening itself and did not involve access to the exit opening." The Blue Bird letter also notes that additional interpretations will be needed to address obstructions at rear emergency exit doors, emergency exit windows, and the front service door. Blue Bird requested that the agency suspend enforcement until either (1) a final rule is issued in connection with a December 1, 1993 NPRM which proposed two alternative means of determining the maximum credit of emergency exits or (2) September 1, 1994. Blue Bird stated that this would allow sufficient time to resolve these issues and make any necessary changes.

On April 26, 1994, Mr. Turner met with agency to further explain the scope of the problem for Blue Bird. In this meeting, Mr. Turner explained that the confusion resulted in part because the term "daylight opening" is used differently from the November 2 final

rule definition in other contexts. The alternate definition is consistent with Blue Bird's understanding of the term prior to the March 24, 1994 letter.

On April 27, 1994, Ms. Jane L. Dawson of Thomas Built Buses (Thomas Built) wrote to the agency to request a delay of the effective date of the November 2, 1992 final rule. Thomas Built stated that the March 24, 1994 letter "differs drastically from the general interpretation of the school bus industry." Thomas Built also stated that one effect of the March 24 letter was the need for additional interpretations regarding other emergency exits.

Interpreting the term "daylight opening" either as any area not visually obstructed or as the entire area of the exit opening, results in crediting some exits with more exit area than the agency intended. On some buses, this would result in an incorrect determination that either no additional exits or fewer additional exits are required. For example, if a rear emergency exit door is credited with greater area than allowed, a manufacturer may have determined that no additional exits were required. On other buses, the manufacturer may have determined that only an additional side emergency exit door was required. However, if the required exits and the additional side emergency exit door are credited with greater area than allowed, this determination would be incorrect and an additional emergency roof exit may also be required.

The agency has determined that the term "daylight opening," without clarifying explanation, is arguably ambiguous, in that it leaves open the question of whether an "obstruction" is a visual obstruction or a physical obstruction. This is the issue resolved by the agency's March 24, 1994 letter to Wayne.

Rather than penalize manufacturers that utilized the alternative interpretation, at significant cost to them, NHTSA has decided to allow manufacturers the option of complying with the previous requirements regarding the number and type of exits required for a school bus until September 1, 1994. That is, until September 1, 1994, manufacturers can install either a rear emergency exit door or a side emergency exit door and a rear push-out window.

In response to Blue Bird's request to suspend enforcement until a final rule is issued for the December 1, 1993, NPRM, NHTSA has determined that such a delay is not warranted. Each of the options proposed in the December 1, 1993 NPRM would further limit the amount of area that can be credited for an emergency exit. Because any final rule consistent with the proposals in the December 1, 1993 NPRM would require vehicle redesign, additional leadtime would be necessary after publication of such a final rule. Therefore, NHTSA has determined that suspension of the November 2, 1992 final rule until the rulemaking proceeding for the December 1, 1993 NPRM is final would unnecessarily delay the safety benefits of the November 2, 1992 final rule.

NHTSA believes that the safety effects of an extension to September 1, 1994 will be minimal. The November 2, 1992 final rule required additional exits on some school buses. The confusion about the amount of area credited for each exit has resulted in some school buses having fewer exits than the agency expected under the November 2, 1992 final rule. However, many of these school buses have been redesigned to have more exits than required prior to the November 2, 1992 final rule. The agency expects that manufacturers will not revert to prior designs during the extension period. Therefore, much of the anticipated benefits of the final rule will be retained during this time period. In addition, the length of the extension period is short. Therefore, NHTSA anticipates minimal loss of safety benefits as a result of this extension.

By contrast, the economic effects of denying manufacturers' requests to delay the effective date would be significant. Most of the school buses which are currently being manufactured or which will be manufactured during the extension period have already been ordered. Because it is common practice to order school buses by competitive bidding, manufacturers will have to sell these school buses at the price quoted when ordered. If a manufacturer based the price on installing fewer exits than required to comply with Standard No. 217, the manufacturer would have to absorb the cost. In addition, if an extension were not granted, manufacturers would have to stop production until changes could be made to designs, which could take several months.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures. As explained above, this notice merely extends the effective date of the final rule of November 2, 1992, which amended Standard 217. There will be no additional costs associated with this final rule. Rather, this final rule extends the date of compliance with the amendments of Standard 217 to September 1, 1994.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Since this notice merely extends the effective date of a previously-issued notice, no costs are associated with it. Accordingly, the agency has not prepared a regulatory flexibility analysis.

Paperwork Reduction Act

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

National Environmental Policy Act

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

Executive Order 12612 (Federalism)

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

Civil Justice Reform

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

reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR 571.217 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

§ 571.217 [Amended]

2. Section 571.217 is amended by revising § 5.2.3 and adding a new § 5.2.3.4, to read as follows:

§ 5.2.3 *School buses.* Except as provided in § 5.2.3.4, each school bus shall comply with § 5.2.3.1 through § 5.2.3.3.

* * * * *

§ 5.2.3.4 Each school bus manufactured before September 1, 1994 may, at the manufacturer's option, comply with either § 5.2.3.4(a) or § 5.2.3.4(b) instead of § 5.2.3.1 through § 5.2.3.3.

(a) Each bus shall be equipped with one rear emergency door that opens outward and is hinged on the right side (either side in the case of a bus with a GVWR of 4,536 kilograms or less); or

(b) Each bus shall be equipped with one emergency door on the vehicle's left side that is hinged on its forward side and meets the requirements of § 5.2.3.2(a), and a push-out rear window that provides a minimum opening clearance 41 centimeters high and 122 centimeters wide and meets the requirements of § 5.2.3.2(c).

Howard M. Smolkin,

Executive Director.

[FR Doc. 94–10758 Filed 4–29–94; 4:55 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 940422–4122; I.D. 042294B]

RIN 0648–AF61

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Annual management measures for the Ocean Salmon Fishery and Technical Amendment.

SUMMARY: NMFS establishes fishery management measures for the ocean salmon fisheries off Washington, Oregon, and California for 1994. Specific fishery management measures vary by fishery and area. The measures establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum lengths for salmon taken in the exclusive economic zone (3–200 nautical miles) off Washington, Oregon, and California. These management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among non-treaty commercial and recreational and treaty Indian fisheries. The regulations also are calculated to allow a portion of the salmon runs to escape the ocean fisheries to provide for spawning escapement and inside fisheries. This action also announces a technical amendment codifying the spawning escapement goal for Klamath Fall chinook. NMFS also announces 1995 recreational salmon seasons opening earlier than May 1, 1995.

DATES: Effective from 0001 hours Pacific daylight time (P.d.t.), May 1, 1994, until modified, superseded, or rescinded. Comments must be received by May 16, 1994.

ADDRESSES: Comments on the management measures may be sent to J. Gary Smith, Acting Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or Gary C. Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan (FMP). The framework FMP was approved in 1984 and has been amended five times since then (52 FR 4146, February 10, 1987; 53 FR 30285, August 11, 1988; 54 FR 19185, May 4, 1989; 56 FR 26774, June 11, 1991; [Amendment 11 approved 4/6/94 final rule is being published within days of these annual management measures]). Regulations at 50 CFR part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notification in the **Federal Register**.

These management measures for the 1994 ocean salmon fisheries were recommended by the Pacific Fishery Management Council (Council) at its April 5–8, 1994, meeting.

Schedule Used To Establish 1994 Management Measures

In accordance with the FMP, the Council's Salmon Technical Team (STT) and staff economist prepared several reports for the Council, its advisors, and the public. The first report, "Review of 1993 Ocean Salmon Fisheries," summarizes the 1993 ocean salmon fisheries and assesses how well the Council's management objectives were met in 1993. The second report, "Preseason Report I Stock Abundance Analysis for 1994 Ocean Salmon Fisheries," provides the 1994 salmon stock abundance projections and analyzes the impacts on the stocks and Council management goals if the 1993 regulations or regulatory procedures were applied to the 1994 stock abundance.

The Council met on March 8–11, 1994, in Portland, OR, to develop proposed management options for 1994. Three commercial and three recreational fishery management options were proposed for analysis and public comment. These options presented various combinations of management measures designed to protect numerous weak stocks of coho and chinook salmon and provide for ocean harvests of more abundant stocks of chinook salmon (primarily Sacramento Fall chinook). All options provided for no directed harvest of coho salmon coastwide and no non-treaty commercial or recreational fishing north of Cape Falcon, OR. After the March Council meeting, the STT and staff economist prepared a third report, "Preseason Report II Analysis of Proposed Regulatory Options for 1994 Ocean Salmon Fisheries," which analyzes the effects of the proposed 1994 management options. This report also was distributed to the Council, its advisors, and the public.

Public hearings on the proposed options were held March 28–30, 1994, in Westport, WA; Warrenton and Coos Bay, OR; and Arcata, CA.

The Council met on April 5–8, 1994, in Burlingame, California, to adopt its final 1994 recommendations. Following the April Council meeting, the STT and staff economist prepared a fourth report, "Preseason Report III Analysis of

Council-Adopted Management Measures for 1994 Ocean Salmon Fisheries," which analyzes the environmental and socio-economic effects of the Council's final recommendations. This report also was distributed to the Council, its advisors, and the public.

Resource Status

Many salmon runs returning to Washington, Oregon, and California streams in 1994 are expected to be at record low levels.

Primary resource concerns are for Klamath River fall chinook; Columbia River hatchery chinook; Oregon Production Index area coho stocks destined for the Columbia River and the California and Oregon coasts, particularly Oregon coastal natural coho; and Washington coastal and Puget Sound natural coho. Management of all of these stocks is affected by interjurisdictional agreements among tribal, State, Federal, and/or Canadian managers.

Chinook Salmon Stocks

California Central Valley stocks are relatively abundant compared to the other chinook stocks of the Pacific coast. The Central Valley Index of abundance of combined Central Valley chinook stocks is estimated to be 503,000 fish for 1994, slightly above the post-season estimate of the index for 1993 and 18 percent below the average of the index from 1970–1993. The escapement goal range of 122,000 to 180,000 Sacramento River adult fall chinook was not met in 1990, 1991, or 1992, and was near the low end of the goal range in 1993. Preseason modeling predicted that regulations comparable to those of 1993 would result in an escapement of Sacramento River fall chinook within the escapement goal range in 1994.

Winter-run chinook from the Sacramento River are listed under the Endangered Species Act (ESA) as an endangered species (59 FR 440, January 4, 1994) and are a consideration in establishing ocean fishing regulations. The 1993 spawning run size estimate totaled 341 adults, a substantial decline from the 1992 run-size estimate of 1,180 adults. The abundance of the winter run in the ocean at the beginning of the fishing season is not forecast.

Klamath River fall chinook ocean abundance is expected to be 137,600 age-3 and age-4 fish at the beginning of the fishing season. This forecast is 16 percent below last year's actual abundance, and 58 percent below the average of estimates for 1985–1993. The spawning escapement goal for Klamath River fall chinook is 33–34 percent of the potential adults with a minimum of 35,000 natural spawners (wild run salmon or fish that spawn independent of hatcheries). Although ocean escapement to the Klamath River (in-river run size) in 1993 was the largest recorded since 1989, the natural spawning escapement of 20,900 adults fell short of the goal of 38,000, set in 1993 by emergency action by the Secretary of Commerce (Secretary), and was below the FMP's minimum natural spawner requirement of 35,000 for a fourth consecutive year. Preseason modeling predicted that harvest regulations similar to those adopted in 1993 would result in an ocean escapement that would not be sufficient to achieve the minimum spawning escapement floor and to provide for in-river sport and Indian tribal fisheries in 1994.

In recent years of low abundance, the procedures used to model the Klamath fall chinook population have consistently overestimated stock abundance and underestimated the hatchery component of the spawning run. In 1994, the Council implemented changes in the predictor used to forecast age-3 ocean abundance and developed a new predictor of the relative sizes of the natural and hatchery spawning escapements. As a result, the 1994 forecast of the adult ocean population is 11 percent smaller, and the spawning escapement (hatchery and natural) required to achieve the natural spawner floor is 36 percent greater than would have been predicted using the previous methodology. The new predictor is considered to reflect more accurately the actual ocean abundance and proportion of natural and hatchery stocks.

In 1989, as authorized at 50 CFR part 661, Appendix IV.B., the Council recommended, and the Secretary approved, a change in the Klamath River fall chinook spawning escapement rate goal from 35 percent to between 33 and 34 percent (54 FR 19800, May 8, 1989). That change was not codified at the time. The change in the spawning escapement rate goal is herein codified in 50 CFR part 661 Appendix IV.A as a technical amendment.

Oregon coastal chinook stocks include south-migrating and localized stocks primarily from southern Oregon streams, and north-migrating chinook stocks that generally originate in central and northern Oregon streams. Abundance of south-migrating and localized stocks is expected to be low, similar to the levels observed in 1993. These stocks are important contributors to ocean fisheries off Oregon and northern California. The generalized expectation for north-migrating stocks is for a continuation of average to above-average abundance as observed in recent years. These stocks contribute primarily to ocean fisheries off British Columbia and Alaska. It is expected that the aggregate Oregon coastal chinook spawning escapement goal of 150,000 to 200,000 naturally spawning adults will be met in 1994.

Estimates of Columbia River chinook abundance vary by stock as follows:

1. *Upper Columbia River spring and summer chinook.* Numbers of upriver spring chinook predicted to return to the river (49,000) in 1994 are 56 percent below the 1993 run size of 111,500 fish, and 13 percent below the 1979–1984 average of 56,600 fish. The 1994 depressed stock status reflects a substantial decline from recent improvements (1985–1990 and 1992–1993) in the status of this stock. The 1985–1990 and 1992–1993 increases from the poor returns in the early 1980s are primarily the result of increases of hatchery stocks. The natural stock component remains depressed. Ocean escapement is expected to be significantly below the goal of 115,000 adults counted at Bonneville Dam. Upriver spring chinook are affected only slightly by ocean harvests in Council area fisheries, with the contribution of these stocks being generally 1 percent or less of the total chinook catch north of Cape Falcon, OR. Expected ocean escapement of adult upriver summer chinook is 15,700 fish. The 1994 stock status remains extremely depressed, with ocean escapement being about 20 percent of the lower end of the spawning escapement goal range of 80,000 to 90,000 adults counted at Bonneville Dam. Upriver summer chinook migrate to the far north and are not a major contributor to ocean fisheries off Washington and Oregon.

2. *Willamette River Spring Chinook.* Willamette River spring chinook returns are projected to be 72,000 fish, 15 percent above the 1993 run of 62,600 fish, and 11 percent greater than the 1980–1984 average return of 65,000 fish. Willamette River spring chinook stocks are important contributors to Council area fishery catches north of Cape Falcon.

3. *Columbia River Fall Chinook.* Four distinct fall chinook stock units initially were identified, and recently a fifth stock unit has been added, as follows:

(a) Upriver bright fall chinook ocean escapement is expected to be 85,400 adults, 17 percent below the 1993 return of 102,900 adults, and 7 percent above the 1981–1985 period of poor returns that averaged 79,500 adults. The escapement goal for upriver bright fall

chinook is 40,000 adults above McNary Dam. This stock has a northern ocean migratory pattern and constitutes less than 10 percent of Council-area fisheries north of Cape Falcon.

(b) Lower river natural fall chinook ocean escapement is forecast at about 14,700 adults, 10 percent above the 1993 run size of 13,400.

(c) Lower river hatchery fall chinook ocean escapement is forecast at 36,100 adults, a 31 percent reduction from the record low return observed in 1993 of 52,200 adults. This stock has been declining sharply since the record high return in 1987. Lower Columbia River fall chinook stocks normally account for more than half the total catch in Council-area fisheries north of Cape Falcon, with lower river hatchery fall chinook being the single largest contributing stock.

(d) Spring Creek hatchery fall chinook ocean escapement is projected to be about 20,200 adults, 20 percent above the 1993 return of 16,800 adults; the 1986–1990 average ocean escapement was 16,700 adults. The Spring Creek hatchery fall chinook stock has been rebuilding slowly since the record low return in 1987, with a downturn in 1992 and 1993.

(e) Mid-Columbia bright fall chinook ocean escapement is projected to be about 23,900 adults, 13 percent below the 1993 return of 27,400 adults. These fall chinook are returns primarily from hatchery releases of bright fall chinook stock in the area below McNary Dam, although some natural spawning in tributaries between Bonneville and McNary dams is also occurring.

4. *Snake River Wild Fall Chinook.* Also of concern are Snake River wild fall chinook, listed as a threatened species under the ESA. Information on the stock's ocean distribution and fishery impacts are not available. Attempts to evaluate fishery impacts on Snake River wild fall chinook have used the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook. The Lyons Ferry stock is widely distributed and harvested by ocean fisheries from southern California to Alaska.

5. *Washington Coastal and Puget Sound Chinook.* Washington coastal and Puget Sound chinook generally migrate to the far north and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

Coho Salmon Stocks

The Oregon Production Index (OPI) is an annual index of coho abundance from Leadbetter Point, WA, south through California. It is the primary index of coho abundance for the Pacific ocean fishery. Oregon coastal and Columbia River coho stocks are the primary components of the OPI. Beginning in 1988, the Council adopted revised estimation procedures that were expected more accurately to predict abundance of the following individual OPI area stock components: public hatchery, private hatchery, Oregon coastal natural (OCN) for rivers and lakes, and the Salmon Trout Enhancement Program. Prediction methodologies are described in the Council's "Preseason Report I Stock Abundance Analysis for 1988 Ocean Salmon Fisheries." In response to the extremely low abundances expected in 1994, some changes to the abundance predictors were implemented as described in the Council's "Preseason Report I Stock Abundance Analysis for 1994 Ocean Salmon Fisheries." In particular, the current predictor for the OCN river component does not adequately incorporate environmental variability, so an environment-based model is being used to predict abundance in 1994. This model incorporates annual measurements of upwelling and sea surface temperatures and contains no provision for the influence of spawner escapement. Further analysis of this model will occur before the 1995 season. The 1994 OPI is forecast to be a record low 239,700 coho, 69 percent below the 1993 preseason forecast of 767,000 coho, and 49 percent below the 1993 observed level of 470,900 fish. The 1994 estimate includes a record low of 140,900 OCN coho, 44 percent below the 1993 observed level of 250,800 fish and 27 percent below the previous record low of 192,500 fish observed in 1987. The 1993 spawning escapement of the OCN stock was 170,200 fish.

All Washington coastal and Puget Sound natural coho stocks are expected to be less abundant than forecast in 1993. Abundances for Washington coastal stocks of Hoh, Queets, and Grays Harbor natural coho are projected to be 40 percent, 47 percent, and about 60 percent below the 1993 preseason predictions, respectively. Abundances for Puget Sound stocks of Skagit, Stillaguamish, and Hood Canal natural coho are projected to be 45 percent, 65 percent, and 72 percent below the 1993 preseason predictions, respectively. Even in the absence of ocean and inside (Strait of Juan de Fuca and Puget Sound) fisheries, natural coho run sizes are forecast to be well below spawning escapement goals. These low expected abundances are thought to be the result of low freshwater flows in 1992, poor marine survival associated with anomalous ocean conditions, and long-term habitat degradation. Abundance forecasts for Washington coastal and Puget Sound hatchery production are also well below 1993 expectations.

Pink Salmon Stocks

Major pink salmon runs return to the Fraser River and Puget Sound only in odd-numbered years. Consequently, pink salmon runs are not of management concern in 1994.

Management Measures for 1994

The Council adopted allowable ocean harvest levels and management measures for 1994 that are consistent with the FMP and are designed to apportion the burden of protecting the weak stocks discussed above equitably among ocean fisheries and to allow maximum harvest of natural and hatchery runs surplus to inside fishery and spawning needs. The management measures below reflect the Council's recommendations.

South of Cape Falcon

In the area south of Cape Falcon, the management measures in this rule are based primarily on concerns for Klamath River fall chinook, Sacramento River winter chinook, and OCN coho. The greatest constraint on the ocean management measures was the record low abundance of OCN coho as described above.

The Council recommended measures that result in the harvest of Klamath River fall chinook being shifted predominantly southward off California, to maximize access to abundant Central Valley chinook stocks. Management constraints on Klamath River fall chinook resulted in restrictive fishing seasons in the area between Humbug Mountain, OR, and Horse Mountain, CA, termed the Klamath Management Zone (KMZ), as well as in the areas both north and south of the KMZ.

The Secretary issued a final rule (58 FR 68063, December 23, 1993) recognizing the Federally-reserved fishing rights of the Yurok and Hoopa Valley Tribes, as acknowledged and quantified in an opinion issued by the Solicitor, Department of the Interior, as other applicable law for the purposes of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The 1994 management measures provide for an ocean exploitation rate on age-4 Klamath fall chinook of 9 percent. This restriction of ocean harvest is required to provide equal sharing of the harvest of Klamath River fall chinook between the Tribes and non-Indian fishermen, as set out in the Solicitor's opinion, as well as to meet the spawning escapement

goal floor of 35,000 natural adult spawners.

Winter-run chinook from the Sacramento River are listed under the ESA as an endangered species. In 1991, NMFS concluded a formal consultation with the Council regarding the impacts of the ocean salmon fishing regulations on the winter run. The biological opinion issued from that consultation determined that the 1990 level of impacts from the ocean fisheries would not jeopardize the continued existence of the winter run. NMFS also recommended shortening the recreational fishing season off central California and closure of an area at the mouth of San Francisco Bay during the time when the winter run fish are entering the Bay. These recommended conservation measures were implemented in 1991 and remain a part of the salmon management measures for 1994. The overall impact of the 1994 salmon management program on the winter run is expected to be significantly less than in 1990, the base year for the biological opinion. This expectation is based on the harvest rate model for the Central Valley Index stocks of fall chinook, which predicts a harvest rate of 53 percent in 1994, as compared to 79 percent in 1990. These rates are only indicators of the relative impact on the winter run, because these fish are less vulnerable to the ocean fisheries than fall-run chinook, due to the timing of the seasons, as well as growth and migration patterns.

Under recently approved Amendment 11 to the FMP, the spawning escapement goal for OCN coho is 42 spawners per mile in the Oregon Department of Fish and Wildlife's "standard" coastal index survey areas. This translates to a maximum sustainable yield (MSY) goal of 200,000 spawners. At lower abundance levels, only incidental impacts, rather than directed OCN coho fisheries, are allowed. When the predicted spawner escapement is less than or equal to 28 spawners per mile (which translates to 135,000 spawners), the FMP allows an incidental exploitation rate of up to 20 percent, but only if it is the minimum incidental harvest necessary to prosecute other fisheries, and will not cause irreparable harm to the OCN stock (135,000 spawners was the spawning escapement floor under the FMP prior to approval of Amendment 11; 200,000 spawners is the spawning escapement floor established by Amendment 11).

The 1994 abundance estimate for OCN coho is for a record low of 140,900 fish. At this abundance level, the FMP only allows a minimum incidental harvest that will not cause irreparable harm to the stock. The 1994 management measures result in a total OCN coho exploitation rate of only 11 percent, of which about 6.4 percent are impacts associated with prosecution of Council area fisheries and about 4.6 percent are impacts associated with non-Council-managed directed fisheries (Canadian, Alaskan, and inside fisheries). Based on these measures, OCN coho spawning escapement is estimated to be 125,500 adults.

The Director, Northwest Region, NMFS, has determined that the recommended harvest rate will not cause irreparable harm to the OCN coho salmon stock for several reasons. First, the 1993 spawning escapement goal was achieved, although the geographic distribution of spawners was not optimal. As a result of achieving the spawning escapement goal in 1993, the resulting production of many individual stocks in 1996 should return to normal levels, if ocean survival conditions also return to normal. Second, under the 1994 fishing regime (no coho retention), spawning escapement is projected to be 125,500 fish. This level of escapement, although not optimal because it is less than the 200,000 MSY escapement goal, is not at such a low level that OCN coho stocks cannot recover when ocean survival conditions improve. Of greatest concern are specific individual stocks within the OCN complex, such as Tillamook Bay stocks, that have exhibited extremely poor spawning escapements in recent years. However, the predominantly southern distribution of the chinook harvest, the prohibition of coho retention in all chinook-only fisheries, and the extreme measures being imposed by the states in internal waters to protect coho salmon that return to individual watersheds, makes it unlikely that the ocean salmon fishing regime in 1994 will cause irreparable harm to any OCN coho salmon stock.

NMFS has also considered whether the 11 percent incidental harvest rate is the minimum necessary to prosecute other fisheries. Because the bycatch in non-salmon fisheries, such as the Pacific Coast groundfish fishery, is almost exclusively chinook salmon, the bycatch of coho salmon in non-salmon fisheries is not a large concern. The Council determined that harvestable numbers of Central Valley and Klamath River fall chinook stocks warranted a chinook fishery on these stocks. In order to minimize the impacts on OCN coho salmon during these chinook fisheries, the Council recommended, and NMFS provides in this action that no coho retention be allowed. Thus the only mortality to coho salmon will be the result of hooking mortality from chinook fishing. In addition, the Council adjusted the geographic distribution of the fisheries so that the majority of chinook fishing occurs to the south, primarily off California, where the catch of OCN coho is the lowest. The Council recommended this geographic shift to the South to protect coho. However, this shift occurs at the expense of Oregon fishermen, who now will not have the opportunity to harvest as large a proportion of Klamath River fall chinook stocks as they might have absent coho conservation concerns. Finally, the States of Oregon and Washington have closed the Columbia River Buoy 10 fishery for coho salmon, and Oregon has taken additional restrictive actions in estuarine and freshwater fisheries to minimize the impacts of fishing on OCN coho. Based on these actions, NMFS believes that the 11 percent ocean and freshwater harvest rate is the minimum harvest rate necessary to prosecute other fisheries.

Commercial Troll Fisheries

Retention of coho salmon is prohibited in all areas due to the projected record low coho abundance. All seasons listed below apply only to salmon species other than coho. Chinook quotas are being implemented in the area between Florence South Jetty and House Rock, OR, to ensure that the ocean impacts on Klamath River fall chinook do not exceed those that have been modeled. Specifically, commercial troll fisheries will be limited to quotas of 12,000 chinook during May and June in the area between Florence South Jetty and Humbug Mountain, 1,500 chinook during May in the area between Sisters Rocks and House Rock, 800 chinook during August in the area between Sisters Rocks and Mack Arch, and 10,000 chinook during September and October in the area between Cape Arago and Humbug Mountain. Troll fisheries in other areas south of Cape Falcon are not limited by any chinook quotas, because of the minor contribution of Klamath stocks to the fisheries.

From Point San Pedro, CA, to the U.S.-Mexico border, the commercial fishery for all salmon except coho will be open May 1 through June 11, then reopen July 1 through September 30.

From Point Reyes to Point San Pedro, CA, the commercial fishery for all salmon except coho will be open June 15 through September 30.

From Point Arena to Point Reyes, CA, the commercial fishery for all salmon except coho will be open August 1 through September 30.

From Horse Mountain to Point Arena, CA, the commercial fishery for all

salmon except coho will be open September 1 through September 30.

From Sisters Rocks to House Rock, OR, the commercial fishery for all salmon except coho will open the following days, until May 31 or attainment of the chinook quota, whichever occurs first: May 1–2, 5–6, 10–11, 14–15, 18–19, 22–23, 26–27, and 31. The days open may be adjusted inseason, if necessary, to manage the fishery. Gear is restricted to no more than four spreads per line, with the open area restricted to 0–6 nm from shore.

From Sisters Rocks to Mack Arch, OR, the commercial fishery for all salmon except coho will open August 8 and continue through August 31 or attainment of the chinook quota, whichever occurs first. This is a experimental fishery designed to determine the stock composition in the area in August, with particular concern for southern Oregon and Klamath chinook. It will be open to a limited number of fishers who must first preregister by July 1 with the ODFW office in Newport for selection by a random process.

From Florence South Jetty to Humbug Mountain, OR, the commercial fishery for all salmon except coho will open May 1 and continue through June 30 or attainment of the chinook quota, whichever occurs first. Gear is restricted to no more than four spreads per line.

From Cape Falcon to Florence South Jetty, OR, the commercial fishery for all salmon except coho will open May 1 through June 30, with gear restricted to no more than four spreads per line.

Later in the season, the area from Cape Arago to Humbug Mountain, OR, will open for all salmon except coho on September 1 and continue through October 31 or attainment of the chinook quota, whichever occurs first. Gear is restricted to no more than four spreads per line.

From Cascade Head to Cape Arago, OR, the commercial fishery for all salmon except coho will open September 1 through October 31, with gear restricted to no more than four spreads per line.

From Cape Falcon to Cascade Head, OR, the commercial fishery for all salmon except coho will open October 1 through October 31, with gear restricted to no more than four spreads per line. A subarea in state waters at the mouth of Tillamook Bay will be closed to commercial troll fishing.

Recreational Fisheries

Retention of coho salmon is prohibited from May 1, 1994, in all areas, due to the projected record low coho abundance. From Point Arena to the U.S.-Mexico border, the recreational fishery, which opened on the nearest Saturday to March 1 for all salmon, continues for all salmon except coho from May 1 through the nearest Sunday to November 1 with a two-fish daily bag limit.

From Horse Mountain to Point Arena, the recreational fishery, which opened on the nearest Saturday to February 15 for all salmon, continues for all salmon except coho from May 1 through June 30 with a two-fish daily bag limit. This area will reopen on August 1 for all salmon except coho and continue through the nearest Sunday to November 15 with a two-fish daily bag limit.

From Humbug Mountain to Horse Mountain, the recreational fishery will open May 1 for all salmon except coho and continue through June 30 or attainment of the 10,300 chinook quota, whichever occurs first, with a two-fish daily bag limit. This area will reopen on August 27 for all salmon except coho and continue through August 31 or attainment of the 500 chinook quota, whichever occurs first, with a two-fish daily bag limit; the mouth of the Klamath River is closed. This area will reopen September 1 through September 5, with no chinook quota and a two-fish daily bag limit.

From Cape Falcon to Humbug Mountain, the recreational fishery will open May 1 through June 5 for all salmon except coho, with a daily bag limit of two fish, no more than two fish in 7 consecutive days, no more than 10 fish per year, and the open area restricted to within the 27-fathom curve (49.4 m). This fishery will reopen only between Twin Rocks and Pyramid Rock, OR, on June 6 through June 19; this fishery is entirely in State waters so regulations to manage the fishery will be implemented by the State of Oregon.

North of Cape Falcon

Due to the projected record low returns for Washington coastal coho, Puget Sound natural and hatchery coho stocks, and Oregon coastal and Columbia River coho, unprecedented action is being taken to close the non-treaty commercial troll and recreational ocean fisheries north of Cape Falcon in 1994.

All Washington coastal and Puget Sound natural coho stocks are expected to be less abundant than forecast in 1993. Numbers of coho entering freshwater are either below spawner escapement goals (Queets, Grays Harbor, Skagit, Stillaguamish, and Hood Canal natural coho) or at the lower end of the spawner escapement goal range (Quillayute Falls and Hoh natural coho). These low expected abundances are the result of low flows in 1992, poor marine survival associated with anomalous ocean conditions, and long-term habitat degradation. Abundance forecasts for Washington coastal and Puget Sound hatchery production are also well below 1993 expectations.

Even in the absence of ocean salmon fisheries north of Cape Falcon, the Council wanted to ensure that the impacts on Snake River spring/summer and fall chinook stocks, which are listed as threatened species under the ESA, did not exceed recent years' levels of impacts. For Snake River wild spring chinook, the available information indicates that it is highly unlikely these fish are impacted in Council-area fisheries. For Snake River wild summer chinook, these fish comprise only a very small proportion of total chinook abundance in the Council management area, and it is unlikely these fish are significantly impacted in Council-area fisheries. For Snake River wild fall chinook that are caught in Council-area fisheries, the STT estimated significant reductions in the ocean exploitation rate under the Council's recommended 1994 ocean measures compared to the 1986–1990 average by using the Lyons Ferry Hatchery stock to represent Snake River wild fall chinook. These reductions in the ocean exploitation rate total over 90 percent for north of Cape Falcon and 80 percent for combined north and south of Cape Falcon.

Treaty Indian Fisheries

Ocean salmon management measures proposed by the treaty Indian Tribes are part of a comprehensive package of Indian and non-Indian salmon fisheries in the ocean and inside waters agreed to by the various parties. Treaty troll seasons, minimum length restrictions, and gear restrictions were developed by the Tribes and agreed to by the Council. The treaty Indian Tribes of the Washington coast agreed to a minimal chinook quota, with no directed coho fisheries. Recognition was made of the special right of the treaty Indian Tribes to fish in their usual and accustomed areas and the limitation of their location-dependent fisheries.

In 1994, treaty Indian troll fisheries north of Cape Falcon are governed by a quota of 16,400 chinook, with no retention of coho. The all-except-coho seasons will open May 1 and extend through June 30, if the chinook quota is not reached. The minimum length restrictions for all treaty ocean fisheries, excluding ceremonial and subsistence harvest, is 24 in. (61 cm) for chinook.

1995 Fisheries

The timing of the March and April Council meetings makes it impracticable for the Council to recommend fishing seasons to the Secretary that begin before May 1 of the same year. Therefore, openings earlier than May 1 for 1995 fishing seasons are being provided for at this time. The Council recommended, and the Secretary concurs, that the following recreational seasons will open in 1995: (1) The area from Point Arena to the U.S.-Mexico border will open on the nearest Saturday to March 1 for all salmon with a two-fish daily bag limit, except for closure of the control zone near the mouth of San Francisco Bay from the opening of the season through March 31; and (2) the area from Horse Mountain to Point Arena will open on the nearest Saturday to February 15 for all salmon with a two-fish daily bag limit.

The following tables and text are the management measures recommended by the Council for 1994 and, as specified, for 1995. The Secretary concurs with these recommendations and finds them responsive to the goals of the FMP, the requirements of the resource, and the socio-economic factors affecting resource users. The management measures are consistent with requirements of the Magnuson Act and other applicable law, including U.S. obligations to Indian Tribes with treaty-secured fishing rights.

The following management measures are adopted for 1994 and, as specified, for 1995 under 50 CFR part 661.

BILLING CODE 3510-22-P

Table 1. Commercial management measures for 1994 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, D, and E which must be followed for lawful participation in the fishery. Areas on the map are not proportional to actual geographic areas.)

A. SEASONS, SUBAREA QUOTAS, AND SPECIES
(Shaded areas represent closures.)

APR	MAY	JUNE	JULY	AUGUST	SEP/OCT
U.S.-CANADA BORDER					U.S.-CANADA BORDER
CAPE FALCON					CAPE FALCON
	5/1 thru 6/30. All salmon except coho. No more than 4 spreads per line.				10/1 thru 10/31. All salmon except coho. No more than 4 spreads per line. Subarea closure (see D.1.).
				CASCADE HEAD	
				9/1 thru 10/31. All salmon except coho. No more than 4 spreads per line.	
FLORENCE SOUTH JETTY					
	5/1 thru earlier of 6/30 or 12,000 chinook quota (E.1.). All salmon except coho. No more than 4 spreads per line.				
				CAPE ARAGO	
				9/1 thru earlier of 10/31 or 10,000 chinook quota (E.2.). All salmon except coho. No more than 4 spreads per line.	
HUMBUG MOUNTAIN					HUMBUG MOUNTAIN
	SISTERS ROCKS			SISTERS ROCKS	
	5/1 thru earlier of 5/31 or 1,500 chinook quota (E.3.). All salmon except coho. Open for 2-day periods only (see D.2.). No more than 4 spreads per line. Open 0-6 nautical miles of shore only.			8/8 thru earlier of 8/31 or 800 chinook quota (E.3.). All salmon except coho. Special registration fishery (see D.3.). No more than 4 spreads per line. Open 0-6 nautical miles of shore only.	
	HOUSE ROCK			MACK ARCH	
HORSE MOUNTAIN					HORSE MOUNTAIN
				9/1 thru 9/30. All salmon except coho.	
POINT ARENA					POINT ARENA
			8/1 thru 9/30. All salmon except coho.		
POINT REYES					POINT REYES
		6/15 thru 9/30. All salmon except coho.			
POINT SAN PEDRO					POINT SAN PEDRO
	5/1 thru 6/11. All salmon except coho.		7/1 thru 9/30. All salmon except coho.		
U.S.-MEXICO BORDER					U.S.-MEXICO BORDER

Table 1. Commercial management measures for 1994 ocean salmon fisheries (continued).

B. MINIMUM SIZE LIMITS (Inches)

	Chinook		Coho		
	Total Length	Head-off	Total Length	Head-off	Pink
North of Cape Falcon	—	—	—	—	—
Cape Falcon to Humbug Mountain	26.0	19.5	—	—	None
South of Humbug Mountain	26.0	19.5	—	—	None

C. GENERAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

C.1. Hooks - Single point, single shank barbless hooks are required.

C.2. Line Restriction - Off California, no more than 6 lines per boat are allowed.

C.3. Transit Through Closed Areas with Salmon on Board - It is unlawful for a vessel, which has been issued an ocean salmon permit by any state, to have troll gear in the water while transiting any area closed to salmon fishing while possessing salmon.

C.4. Landing Salmon in Closed Areas - Legally caught salmon may be landed in closed areas unless otherwise prohibited by these regulations.

C.5. Consistent with Council management objectives, the State of Oregon may establish some additional late-season, all-salmon-except-coho fisheries in state waters.

C.6. For the purposes of California Fish and Game Code Section 8232.5, the definition of the Klamath management zone for the ocean salmon season shall be that area from Humbug Mountain, Oregon, to Horse Mountain, California.

D. POSSESSION, LANDING, AND SPECIAL RESTRICTIONS BY MANAGEMENT AREA

If prevented by unsafe weather conditions or mechanical problems from meeting special management area landing restrictions, vessels must notify the U.S. Coast Guard and receive acknowledgement of such notification prior to leaving the area where landing is required. This notification shall include the name of the vessel, port where delivery will be made, approximate amount of salmon (by species) on board, and the estimated time of arrival.

D.1. Cape Falcon to Cascade Head in October - The following subarea at the mouth of Tillamook Bay is closed to commercial fishing for the month of October: Inside the 10 fathom curve between the latitude of Twin Rocks (45°35'48" N. latitude) and 45°33'00" N. latitude; or as otherwise established by Oregon Department of Fish and Wildlife in State regulations. The 10 fathom curve passes just west of the green bell buoy #1 at the Tillamook Bay entrance (approximately 1 nautical mile offshore) at the Tillamook Bay entrance.

D.2. Sisters Rocks to House Rock in May - The fishery will be open only on the following days until the earlier of May 31 or attainment of the chinook quota (see E.3.): May 1-2, 5-6, 10-11, 14-15, 18-19, 22-23, 26-27 and 31. The Oregon Department of Fish and Wildlife and the National Marine Fisheries Service may adjust the open/closure cycle through the inseason management process as necessary to manage the fishery. All salmon caught in the area must be landed in the immediate area ports only (Gold Beach, Brookings, or Port Orford) within 24 hours of each closure. Landing limits may be imposed inseason as required to maintain an orderly fishery.

Table 1. Commercial management measures for 1994 ocean salmon fisheries (continued).

D.3. Sisters Rocks to Mack Arch in August - This is an experimental fishery to collect stock composition information that will be opened to a limited number of fishers determined in a random process by the Oregon Department of Fish and Wildlife (ODFW). The days of fishing will be determined prior to August by ODFW. All salmon caught in the area must be landed in the immediate area ports only (Gold Beach, Brookings, or Port Orford) within 24 hours of each weekly closure. Landing limits may be imposed inseason as required to maintain an orderly fishery. State regulations will require that fishers preregister with the ODFW by July 1 and may impose special reporting requirements. All participating fishers must have in their possession, prior to fishing, a National Marine Fisheries Service (NMFS) experimental fishing permit and a fishing permit from ODFW. Both permits will be issued through the ODFW Marine Region Office in Newport.

E. QUOTAS

E.1. May/June Chinook Quota Between Florence South Jetty and Humbug Mountain - The May/June troll fishery will be limited to a catch quota of 12,000 chinook.

E.2. September/October Chinook Quota Between Cape Arago and Humbug Mountain - The September/October troll fishery will be limited by a catch quota of 10,000 chinook.

E.3. Chinook Quotas Between Sisters Rocks and House Rock - The troll fishery will be limited by catch quotas of 1,500 chinook for the May fishery between Sisters Rocks and House Rock, and 800 chinook for the August fishery between Sisters Rocks and Mack Arch.

Table 2. Recreational management measures for 1994 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, C, and D which must be followed for lawful participation in the fishery. Areas on the map are not proportional to actual geographic areas.)

A. SEASONS, SUBAREA QUOTAS, SPECIES AND BAG LIMITS
(Shaded areas represent closures.)

FEB/MAR/APR	MAY	JUNE	JULY	AUGUST	SEP/OCT/NOV
U.S.-CANADA BORDER					U.S.-CANADA BORDER
CAPE FALCON					CAPE FALCON
	5/1 thru 6/5. All salmon except coho. 2 fish per day. No more than 2 fish in 7 consecutive days and no more than 10 fish per year (C.6.). Open only within the 27 fathom curve (C.4.).	TWIN ROCKS 6/6 thru 6/19. Season in State waters (see C.7.). PYRAMID ROCK			
HUMBUG MOUNTAIN					HUMBUG MOUNTAIN
	5/1 thru earlier of 6/30 or 10,300 chinook quota (D.1.). All salmon except coho. 2 fish per day.			8/27 thru earlier of 8/31 or 500 chinook quota (D.1.). All salmon except coho. 2 fish per day. Control Zone 2 (C.2.), Klamath River mouth, closed. Fishery reopens 9/1 thru 9/5 with no chinook quota. All salmon except coho. 2 fish per day.	
HORSE MOUNTAIN					HORSE MOUNTAIN
	Nearest Sat. to 2/15 thru 6/30. All salmon thru 4/30, then all salmon except coho. 2 fish per day.			8/1 thru nearest Sun. to 11/15. All salmon except coho. 2 fish per day.	
POINT ARENA					POINT ARENA
	Nearest Sat. to 3/1 thru nearest Sun. to 11/1. All salmon thru 4/30, then all salmon except coho. 2 fish per day. In 1995, Control Zone 3 (C.3.), near mouth of San Francisco Bay, will be closed from the opening of the season thru 3/31.				
U.S.-MEXICO BORDER					U.S.-MEXICO BORDER

B. MINIMUM SIZE LIMITS (Total length in inches)

	Chinook	Coho	Pink
North of Cape Falcon	—	—	—
Cape Falcon to Humbug Mountain	20.0	—	None
South of Humbug Mountain	20.0	—	None, except 20.0 off California

Table 2. Recreational management measures for 1994 ocean salmon fisheries (continued).

C. SPECIAL REQUIREMENTS, RESTRICTIONS AND EXCEPTIONS

C.1. Hooks - Single point, single shank barbless hooks are required north of Point Conception, California.

C.2. Control Zone 2 - The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude (approximately 12 nautical miles off shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth), is closed August 27-31.

C.3. Control Zone 3 (Sacramento River Winter-Run Chinook Conservation Closure) - The ocean area bounded by a line commencing at Bolinas Point (Marin County, 37°54'17" N. latitude, 122°43'35" W. longitude) southerly to Duxbury Buoy to Channel Buoy 1 to Channel Buoy 2 to Point San Pedro (San Mateo County, 37°35'40" N. latitude, 122°31'10" W. longitude) is closed from the opening of the season in 1995 through March 31.

C.4. Area Within the 27 Fathom Curve Between Cape Falcon and Humbug Mountain - The ocean area that is bounded by a line from Cape Falcon to 45°46'00" N., 124°01'20" W. (approximately 1.6 nautical miles west of Cape Falcon) to 45°04'15" N., 124°04'00" W. (approximately 2.2 nautical miles northwest of Cascade Head) to 44°40'40" N., 124°09'15" W. (approximately 3 nautical miles west of Yaquina Head) to 44°08'30" N., 124°12'00" W. (approximately 3 nautical miles west of Heceta Head) to 43°40'15" N., 124°14'30" W. (approximately 0.5 nautical mile west of the Umpqua Whistle Buoy) to 43°31'30" N., 124°17'00" W. (approximately 1.7 nautical miles west of the beach) to 43°15'15" N., 124°28'00" W. (approximately 3 nautical miles west of the beach) to 43°01'30" N., 124°29'05" W. (approximately 2 nautical miles west of Four Mile Creek) to 42°56'00" N., 124°33'10" W. (approximately 2.4 nautical miles west of the mouth of Floras Creek) to 42°50'20" N., 124°38'30" W. (approximately 3.4 nautical miles west of Cape Blanco) to 42°40'30" N., 124°28'45" W. (approximately 1.1 nautical mile west of Humbug Mountain) to Humbug Mountain.

C.5. Inseason Management - To meet preseason management objectives, certain regulatory modifications may be necessary inseason. Such actions could include modifications to bag limits or days open to fishing and extensions or reductions in areas open to fishing.

C.6. Annual Possession Restriction Between Cape Falcon and Humbug Mountain - No more than 10 salmon of any species may be retained per year from the ocean area between Cape Falcon and Humbug Mountain, Oregon.

C.7. Restrictions Between Twin Rocks and Pyramid Rock - The fishery is entirely in State waters. Regulations to manage the fishery will be implemented by the State of Oregon. Contact the Oregon Department of Fish and Wildlife for current regulations.

C.8. Consistent with Council management objectives, the State of Oregon may establish limited, all-salmon-except-coho fisheries in state waters.

C.9. Consistent with Council management objectives, the State of Washington may establish limited fisheries in state waters.

D. QUOTAS

D.1. Chinook Quotas Between Humbug Mountain and Horse Mountain - The recreational fishery will be limited by harvest quotas of 10,300 chinook in May and June, and 500 chinook in August.

Table 3. Treaty Indian management measures for 1994 ocean salmon fisheries.

(Note: This table contains important restrictions in Parts A, B, and C which must be followed for lawful participation in the fishery.)

A. SEASONS, SPECIES, MINIMUM SIZE LIMITS, AND GEAR RESTRICTIONS

Tribe and Area Boundaries	Open Seasons	Salmon Species	Minimum Size Limit (inches) Chinook	Coho	Special Restrictions by Area
Makah – That portion of the Fishery Management Area (FMA) north of 48°02'15" N. latitude (Norwegian Memorial) and east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat or no more than 4 hand-held lines per person.
Quileute – That portion of the FMA between 48°07'36" N. latitude (Sand Point) and 47°31'42" N. latitude (Queets River) east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat.
Hoh – That portion of the FMA between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River) east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat.
Quinault – That portion of the FMA between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis) east of 125°44'00" W. longitude	May 1 thru earlier of June 30 or chinook quota	All except coho	24	—	Barbless hooks. No more than 8 fixed lines per boat.

B. SPECIAL REQUIREMENTS, RESTRICTIONS, AND EXCEPTIONS

B.1. All boundaries may be changed to include such other areas as may hereafter be authorized by a federal court for that tribe's treaty fishery.

B.2. Applicable lengths, in inches, for dressed, head-off salmon, are 18 inches for chinook. Minimum size and retention limits for ceremonial and subsistence harvest are as follows:
Makah Tribe – None.
Quileute, Hoh, and Quinault tribes – Not more than 2 chinook longer than 24 inches in total length may be retained per day. Chinook less than 24 inches total length may be retained.

B.3. The areas within a 6-mile radius of the mouths of the Queets River (47°31'42" N. latitude) and the Hoh River (47°45'12" N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Quinault Nation and/or the State of Washington and will not adversely affect the Secretary of Commerce's management regime.'

C. QUOTAS

C.1. The overall treaty troll ocean quotas are 16,400 chinook and no coho salmon. These quotas include troll catches by the Klallam and Makah tribes in Washington State Statistical Area 4B from May 1 through June 30.

BILLING CODE 3510-22-C

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3 of this preamble, the following gear definitions and restrictions will be in effect.

Troll Fishing Gear

Troll fishing gear for the Fishery Management Area (FMA) is defined as one or more lines that drag hooks behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be intentionally disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear

Recreational fishing gear for the FMA is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington.

In that portion of the FMA off California, the line must be attached to a rod and reel held by hand or closely attended. Weights directly attached to a line may not exceed 4 pounds (1.8 kg). There is no limit to the number of lines that a person may use while recreational fishing for salmon off California.

Fishing includes any activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

Geographic Landmarks

Wherever the words "nautical miles from shore" are used in this document, the distance is measured from the baseline from which the territorial sea is measured.

Geographical landmarks referenced in this notice are at the following locations:

Cape Falcon	45°46′00″ N. lat.
Twin Rocks	45°35′48″ N. lat.
Pyramid Rock	45°29′46″ N. lat.
Cascade Head	45°03′50″ N. lat.
Florence South Jetty	44°01′00″ N. lat.
Cape Arago	43°18′20″ N. lat.
Humbug Mountain	42°40′30″ N. lat.
Sisters Rocks	42°35′45″ N. lat.
Mack Arch	42°13′40″ N. lat.
House Rock	42°06′32″ N. lat.
Horse Mountain	40°05′00″ N. lat.
Point Arena	38°57′30″ N. lat.
Point Reyes	37°59′44″ N. lat.
Point San Pedro	37°35′40″ N. lat.
Point Conception	34°27′00″ N. lat.

Inseason Notice Procedures

Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, 206–526–6667 or 800–662–9825, and by U.S. Coast Guard Notice to Mariners 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. Inseason actions will also be filed with the Office of the Federal Register as soon as practicable. Since provisions of these management measures may be altered by inseason actions, fishermen should monitor either the telephone hotline or Coast Guard broadcasts for current information for the area in which they are fishing.

Classification

This notification of annual management measures and technical amendment are exempt from review under E.O. 12866.

Section 661.23 of title 50, Code of Federal Regulations states that the Secretary will publish a notice establishing management measures for ocean salmon each year and will invite public comments prior to their effective date. If the Secretary determines, for good cause, that a notice must be issued without affording prior opportunity for public comment, the measures will become effective, however, comments on the notice will be received by the Secretary for a period of 15 days after the filing of the notice with the Federal Register.

Because many ocean salmon seasons are scheduled to start May 1, the management measures must be in effect by this date. Each year the schedule for establishing the annual management measures begins in February with the compilation and analysis of biological and socioeconomic data for the previous year's fishery and salmon stock abundance estimates for the current year. Two meetings of the Council follow in March and April which incorporate a public review period. In 1994, the Council recommended management measures at the conclusion of its meeting on April 8, resulting in a short time frame for implementation.

In addition, delay in the start of the fishing season would deny ocean fishermen access to harvestable salmon stocks which, if taken later in the year, would produce unacceptable impacts on other salmon stocks, such as those listed under the ESA. Due to the migratory patterns of the various salmon stocks, harvest regimes account for the timing and location of harvestable stocks in concert with the stocks of concern. Therefore, in light of the limited available time and the adverse effect of delay, the Secretary has determined that good cause exists to waive prior notice and comment on the management measures.

Although this document will be effective without prior opportunity for comment, the public had opportunity to comment on these management measures during the process of their development. The public participated in the March and April Council, STT, and Salmon Advisory Subpanel meetings, and in public hearings held in Washington, Oregon, and California in late March that generated the management actions recommended by the Council and approved by the Secretary. Written public comments were invited by the Council between the March and April Council meetings.

The technical amendment provisions of this regulatory action make only minor, non-substantive changes and do not change operating practices in the fishery. Accordingly, it is unnecessary under 5 U.S.C. 553(b)(B) to provide for prior public comment, and there is good cause under 5 U.S.C. 553(d) not to delay the effective date of the technical amendment for 30 days. Comments will be accepted for 15 days after the effective date of this notice.

On March 31, 1991, NMFS issued a biological opinion that considered the effects of the FMP on Sacramento River winter-run chinook salmon. The opinion concluded that implementation of the plan is not likely to jeopardize the continued existence of the species. The 1994 season falls within the scope of the 1991 opinion, and the seasons and management measures comply with the recommendations and incidental take conditions contained in the biological opinion. Therefore, it was not necessary to reinitiate consultation on Sacramento River winter-run chinook salmon.

NMFS has issued a biological opinion that considered the effects of the 1994 salmon management measures on wild sockeye salmon, wild spring/summer chinook salmon, and wild fall chinook salmon from the Snake River, which concluded the fishery in 1994 under the FMP is not likely to jeopardize the continued existence of the listed stocks.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: April 29, 1994.

Rolland A. Schmitten,

Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 661 is amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

Appendix to part 661 [Amended]

2. The appendix to part 661, section IV.A., in the table "Summary of Specific Management Goals for Stocks in the Salmon Management Unit", is amended by revising the entry for the Klamath Fall Chinook to read as follows:

IV. Escapement Goals

A. * * *

SUMMARY OF SPECIFIC MANAGEMENT GOALS FOR STOCKS IN THE SALMON MANAGEMENT UNIT

System	Spawning [1] escapement goal
* * * * *	
Klamath Fall Chinook.	Between 33 and 34 percent of the potential adults from each brood of natural spawners, but no fewer than 35,000 naturally spawning adults in any one year.[3]
* * * * *	

[1] Represents adult natural spawning escapement goal for viable natural stocks or adult hatchery return goal for stocks managed for artificial production.

* * * * *

[3] The minimum escapement floor of 35,000 naturally spawning adults may be modified only by amendment to the FMP.

* * * * *

[FR Doc. 94–10722 Filed 4–29–94; 3:43 pm]

BILLING CODE 3510–22–P

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50 CFR Part 661

[Docket No. 940120–4123, I.D. 011094A]

RIN 0648–AE05

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce issues this final rule to implement Amendment 11 (Amendment) to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California (FMP). The Amendment modifies the spawning escapement goal for Oregon coastal natural (OCN) coho salmon and the criteria for establishing and managing subarea allocations for recreational coho salmon harvest south of Cape Falcon, OR. The Amendment is intended to: (1) Address persistent low OCN coho stock abundance and annual escapement goals below maximum sustainable yield (MSY), (2) prevent imbalances in recreational coho harvest allocation at low allowable harvest levels, and (3) prevent the frequent use of emergency rulemaking to implement annual management measures.

EFFECTIVE DATE: April 29, 1994.

ADDRESSES: Copies of the Amendment, including the environmental assessment and the regulatory impact review/initial regulatory flexibility analysis, are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council (PFMC), Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201–5344.

FOR FURTHER INFORMATION CONTACT: William L. Robinson (Northwest Region, NMFS) at 206–526–6140, Rodney R. McInnis (Southwest Region, NMFS) at 310–980–4040, or Lawrence D. Six (PFMC) at 503–326–6352.

SUPPLEMENTARY INFORMATION: The ocean salmon fisheries in the exclusive economic zone of the United States (3 to 200 miles offshore) in the Pacific Ocean off the coasts of Washington, Oregon, and California are managed under the FMP. The FMP was developed by the Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act), and approved by the Secretary of Commerce (Secretary) in 1978. Since then, the FMP has been amended 10 times, with implementing regulations codified at 50 CFR part 661. From 1979 to 1983, the FMP was amended annually. In 1984, a framework amendment was implemented that provided the mechanism for making preseason and inseason adjustments in the regulations without annual amendments. Amendments to the framework FMP were implemented in 1987, 1988, 1989, and 1991.

The Council prepared the Amendment to the FMP and submitted it to the Secretary for approval under the provisions of the Magnuson Act. On January 10, 1994, the Secretary began formal review of the Amendment. A notice of availability and a proposed rule were published in the **Federal Register** on January 21, 1994 (59 FR 3327), and February 2, 1994 (59 FR 4895), respectively. The preamble for the proposed rule discussed the rationale for the proposed amendment. The comment period on the Amendment ended March 10, and on the proposed rule March 21, 1994; two written comments were received. The Amendment was approved on April 6, 1994.

As implemented by this final rule, the Amendment modifies the spawning escapement goal for OCN coho salmon. The OCN coho stock is composed of naturally produced coho salmon from Oregon coastal streams. OCN coho are important contributors to the ocean harvest, as the stock aggregate constitutes the largest component of naturally produced coho caught in ocean salmon fisheries off Oregon and California.

The modified escapement goal is intended to achieve an aggregate OCN adult spawning density of 42 naturally spawning adults per mile in standard index survey areas each year. The standard index survey areas are 48 different stream sections that have been surveyed by the Oregon Department of Fish and Wildlife (ODFW) each year since 1950. Under the current methods used by ODFW, the spawners in the standard index area are extrapolated for 4,764 miles of coastal spawning habitat. This translates to a numerical spawning escapement goal of 200,000. The original FMP spawning escapement goal of 200,000 was based on this extrapolation. This number of adult spawners per mile was documented as the estimated MSY spawning escapement level in an ODFW study of coastal stream spawning escapements and subsequent production from 1950 to 1980.

The Amendment also provides that when OCN coho abundance is forecast to be less than 125 percent of the annual numerical escapement goal, or below 250,000 fish at the present spawner escapement goal of 200,000 adults, an incidental exploitation rate of up to 20 percent will be allowed for ocean and freshwater fisheries targeting on non-OCN coho salmon stocks.

When the predicted OCN coho spawning escapement is 28 or less adults per mile in standard index areas, the Council may allow only an incidental exploitation rate of up to 20 percent. The Council will evaluate the actual level of incidental harvest of OCN coho that might be expected to occur in fisheries for chinook salmon and non-OCN coho salmon and will recommend only the minimum incidental harvest rate necessary to prosecute other fisheries, provided that that rate will

cause no irreparable harm to the OCN coho stock.

The Amendment also modifies the criteria for establishing and managing subarea allocations for recreational coho salmon harvest south of Cape Falcon, OR, when the allowable recreational coho allocation for the entire area is equal to or less than 167,000 fish. The Amendment establishes two subareas with independent impact quotas to ensure that a large southward shift in the recreational harvest does not occur. Of the total recreational allocation, the subarea from Cape Falcon to Humbug Mountain, Oregon, receives 70 percent and the subarea south of Humbug Mountain receives 30 percent, the purpose being to avoid large deviations from historical harvest shares. The two subareas will be managed for their respective impact quotas; the recreational fisheries for coho salmon in each area may be closed upon attainment of the quota except for the area south of Point Arena, California (38°57'30" N. lat.). South of Humbug Mountain, there are two additional conditions: (1) An impact guideline of 3 percent of the overall recreational allocation south of Cape Falcon will be applied from Horse Mountain to Point Arena, California; and (2) the recreational fishery for coho salmon will not be closed south of Point Arena, even if the fishery between Humbug Mountain and Point Arena is closed, upon projected attainment of the south of Humbug Mountain impact quota; but the projected harvest through the end of the year will be included in the south of Humbug Mountain impact quota. Quota transfers between subareas are allowed on a one-for-one basis, but only if chinook constraints preclude access to coho.

At its March 8–11, 1994, meeting the Council considered and adopted management options for annual ocean salmon fisheries under the assumption that the Amendment and its implementing regulations would be in place when coastwide ocean salmon fishing seasons open on May 1, 1994, as regularly scheduled. During this meeting, the Council clarified its intent regarding the fishing allowed when the spawner escapement is less than or equal to 28 coho per mile in the standard index areas. Under the existing plan, no fishing would have been allowed at that level of spawner escapement. This is a standard that is more restrictive than under the Endangered Species Act (ESA), which allows some incidental take of listed stocks. Therefore, the Amendment will allow an incidental exploitation rate of up to 20 percent that will provide only the minimum incidental harvest necessary to prosecute other fisheries, and that under no circumstances will cause irreparable harm to the OCN coho stock. This standard of the minimum incidental harvest and no irreparable harm replaces other allocative measures in the plan regarding OCN coho at spawner escapement levels at or below 28 spawners per mile.

Implementation of the Amendment requires changes to the regulatory language in the Appendix to 50 CFR part 661. The only change to the proposed regulations published on February 2, 1994, clarifies this issue of allocation at low spawner levels by adding language in paragraph 2(b)(i) of Appendix section II.B.

Comments and Responses

Two written comments on the Amendment were submitted representing three individuals and two organizations, the Environmental Defense Fund and the Northwest Forest Resource Council.

Comment: The spawning escapement goal proposed in the Amendment and the proposed rule does not adequately reflect documented declines in fish size, fecundity, survival rates, ocean production, and rainfall since 1979. The spawning escapement goal of 200,000 adults is most likely inadequate.

Response: The OCN coho stock has been the subject of ongoing review under the Council management process, which requires using the best scientific information and methodology available. There are several reasons for the consistent and significant depression in the OCN coho stock, but determination of a primary cause is not currently possible given the inadequacies in the information available on the stock and its habitat. Additional studies may provide a better definition of the total OCN coho spawning population. The ODFW is currently in the fourth year of a 5-year study of the methodology used in estimating OCN coho escapements. The results of that study, coupled with any additional biological data, will be used to develop a biologically sounder OCN coho escapement goal. Implementation of the Amendment does not hinder further investigations on the appropriateness of the numerical goal of 200,000 adults. The proposed rule anticipated revision to the spawning escapement goal, including the 200,000 number, by describing the processes by which the goal would be revised. If the estimated total number of spawners at the MSY level that is calculated by extrapolating from the 42 adults per mile in the standard index survey areas is revised, further changes to the FMP or its implementing regulations would not be necessary. If the number (42) of adult spawners per mile in the standard index survey areas is revised, the FMP would need to be amended. The framework in 50 CFR part 661, Appendix IV.B. provides for the modification of escapement goals based on technical evidence.

Comment: Individual escapement goals should be set for the northern, central, and southern regional aggregates of OCN coho stocks.

Response: The Salmon Technical Team has expressed its concern that the unequal distribution of spawners along the Oregon coast may be an important factor in recent OCN stock status declines. The Council recognizes the problem, but there are insufficient data at this time to implement separate escapement goals by subdividing the OCN stock aggregate. This matter will be subject to further analysis.

Comment: The escapement goal should be increased by 10 percent to hedge against impacts of harvest on genetic diversity and ecosystem integrity.

Response: The 200,000-fish MSY escapement goal has not been met for a number of years, and does not appear to be attainable in 1994. Because the goal represents an optimal production level and not a conservation threshold, it provides for substantial genetic diversity. Although there does not appear to be a statistical basis for any particular level of additional conservatism, NMFS agrees that, when stock sizes are such that the number of spawners is forecast to be below 28 per mile when directed fisheries are not allowed, substantial conservatism should be used when allowing incidental impacts for other fisheries.

Comment: Allowable incidental take should be reduced to a maximum of 10 percent to prosecute other fisheries, and should only be allowed when abundance is between 225,000 and 150,000 fish. No incidental take should be allowed that would result in escapement below the escapement floor (28 spawners per mile) until scientific information establishes that incidental take that violates the floor would not result in irreparable harm.

Response: The maximum incidental exploitation rate of 20 percent provides flexibility during the annual preseason management process for structuring fishing seasons to access salmon stocks with allowable harvest levels. Flexibility is also needed to account for harvest impacts by fisheries outside the Council's purview (e.g., freshwater fisheries and Canadian fisheries). NMFS will rely on the annual management

process to determine the appropriate level of allowable incidental take. As with any management measure recommended by the Council, NMFS will consider comments by the Council, its advisers, and the public before implementing an incidental harvest rate. The Regional Director will provide guidance to the Council on an appropriate rate after consideration of the available information as supported by the administrative record. The Council demonstrated its ability to exercise harvest restraint on OCN coho, as in 1991, 1992, and 1993, when it recommended emergency regulations to reduce the ocean harvest rate on OCN coho from the levels set in Amendment 7 to the FMP. For the 1994 season, the Council recommended management measures with an incidental harvest rate of 11 percent. The standard of the minimum incidental harvest and no irreparable harm replaces other allocative measures in the plan regarding OCN coho at spawner escapement levels at or below 28 spawners per mile.

Comment: A reduction in the body size of salmon could cause a significant reduction in fish productivity and subsequent declines in stock abundance. The direct relationship between fecundity and fish size has been established in prior research. Yet the proposed spawning escapement goal has not taken this relationship into account.

Response: The OCN spawning escapement goal is based on data from many series of years. Body size and fecundity undoubtedly varied depending on ocean feeding conditions, with returning spawners being both above and below the average body size and fecundity for the time series. The spawning escapement goal is based on average conditions, which take into account this variability. Since fishery managers cannot predict whether body size will be larger or smaller than normal prior to the fish appearing in the catch and on the spawning grounds, it is not practical to adjust either the fishing seasons or the annual spawning escapement goals to account for body size. The spawning escapement goal implemented by the Amendment assumes average conditions and is set at a level to accommodate annual variations.

Comment: The Amendment fails to require measures or research for reducing the incidental take of OCN coho.

Response: Measures for reducing the incidental take of OCN coho are addressed during the annual process for setting management measures. The Council is currently reviewing its list of research and data needs, which includes improving estimates of commercial troll shaker mortality. These estimates will be determined by contact rates in various fisheries. The Council will continue to consider new information as it becomes available, in developing ways to reduce this mortality through gear selectivity or modification. The Council determined that the Amendment provides the best approach at the present time, given the currently available information.

Comment: The Amendment establishes OCN coho numerical annual spawning escapement goals at the expense of remaining wild stocks of coho salmon.

Response: The OCN spawning escapement goal implemented by this amendment is based solely on wild fish. Current hatchery practices are designed to discourage the intermixing of wild and hatchery stocks. Although some intermixing probably occurs, it is thought to be a small enough proportion of the total spawning population that it does not adversely affect the production of wild coho salmon.

Comment: A supplemental environmental impact statement (SEIS) on the FMP should be prepared incorporating new scientific information concerning coho and other salmon since the last SEIS was prepared in 1984.

Response: The environmental assessment (EA) for the Amendment was prepared in accordance with NOAA Administrative Order 216–6 on Environmental Review Procedures. The Assistant Administrator for Fisheries, NOAA (AA), reviewed the EA and concluded that this action will not significantly affect the human environment. Therefore, preparation of an SEIS is not required. While new information on salmon stocks has been developed since the last SEIS, prepared for the framework amendment to the FMP in 1984, there is not sufficient new information specific to the OCN coho stock to warrant preparation of an SEIS for this action. Under the ESA process, a thorough evaluation of salmon stocks in Washington, Oregon, and California is being conducted that may result in preparation of at least one SEIS for the FMP.

Classification

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

The Assistant Administrator determined that this rule will have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act. The Council prepared a regulatory impact review (RIR) and an initial regulatory flexibility analysis (IRFA) that are incorporated in the Amendment document and may be obtained from the Council (see **ADDRESSES**). A summary of the RIR/IRFA was published on February 2, 1994 (59 FR 4897). No public comments were received relating to small entities and no changes were made in the initial document. Therefore, the document will now serve as a final regulatory flexibility analysis (FRFA).

The AA determined that this rule must be effective no later than May 1, 1994, when coastwide ocean salmon fishing seasons are scheduled to open. Therefore, it is impracticable and contrary to the public interest to delay for 30 days the effective date of this final rule, and the agency finds good cause to waive the delayed effectiveness provision (5 U.S.C. 553(d)(3)) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

Dated: April 29, 1994.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 661 is amended as follows:

PART 661—OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

1. The authority citation for part 661 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In the appendix to part 661, in section II.B., three new sentences are added to the end of paragraph 2(b)(i), and a new paragraph 2(b)(v) is added to read as follows:

Appendix

* * * * *

II. Annual Changes to Management Specifications

* * * * *

B. Procedures for Establishing and Adjusting Annual Management Measures.

* * * * *

2. Allocation of ocean harvest levels.

* * * * *

(b) *Coho south of Cape Falcon.* (i) * * * The recreational allowable ocean harvest will be distributed between the two major recreational subareas when the recreational allocation is equal to or less than 167,000 fish, in accordance with paragraph 2(b)(v) of this appendix. At OCN spawning escapements of 28 or fewer adults per mile,

the allocation provisions of paragraph 2(b) of this appendix do not apply. Fisheries will be established that will provide only the minimum incidental harvest of OCN coho necessary to prosecute other fisheries, and that under no circumstances will cause irreparable harm to the OCN stock.

* * * * *

(v) When the recreational allocation is at 167,000 fish or less, the total recreational allowable ocean harvest of coho will be divided between two major subareas with independent impact quotas. The initial allocation will be 70 percent from Cape Falcon to Humbug Mountain and 30 percent south of Humbug Mountain. Coho transfers between the two impact quotas may be permitted on a one-for-one basis, if chinook constraints preclude access to coho. Horse Mountain to Point Arena will be managed for an impact guideline of 3 percent of the south of Cape Falcon recreational allocation. The recreational coho fishery between Humbug Mountain and Point Arena may be closed when it is projected that the harvest impact between Humbug Mountain and Point Arena, combined with the projected harvest impact that will be taken south of Point Arena to the end of the season, equals the impact quota for south of Humbug Mountain. The recreational fishery for coho salmon south of Point Arena will not close upon attainment of the south of Humbug Mountain impact quota.

* * * * *

3. In the appendix to part 661, in section IV.A., the table "Summary of Specific Management Goals for Stocks in the Salmon Management Unit" is amended by revising the entry for Columbia River and Oregon Coastal Coho and its footnote 4 to read as follows:

IV. Escapement Goals

A. * * *

SUMMARY OF SPECIFIC MANAGEMENT GOALS FOR STOCKS IN THE SALMON MANAGEMENT UNIT

System	Spawning escapement goal [1]
* * * * *	
Columbia River and Oregon Coastal Coho.	Oregon coastal natural (OCN) coho spawning escapement is based on an aggregate density of 42 naturally spawning adults per mile in standard index survey areas [4]
* * * * *	

[1] Represents adult natural spawning escapement goal for viable natural stocks or adult hatchery return goal for stocks managed for artificial production.

* * * * *

[4] At OCN stock sizes below 125 percent of the annual numerical escapement goal, an exploitation rate of up to 20 percent will be allowed for incidental impacts of the combined ocean troll, sport, and freshwater fisheries. At OCN spawning escapements of 28 or fewer adults per mile, an exploitation rate of up to 20 percent may be allowed to provide only minimum incidental harvest to prosecute other fisheries, provided the rate chosen will cause no irreparable harm to the OCN stock.

* * * * *

[FR Doc. 94–10721 Filed 4–29–94; 3:43 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 59, No. 85
Wednesday, May 4, 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.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 1530

Sugar Import Licensing

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Foreign Agricultural Service (FAS) is requesting suggestions for revising the regulations and other program provisions for the sugar import licensing programs in order to improve program efficiency and compliance as well as to carry out relevant provisions of the North American Free Trade Agreement (NAFTA).

DATES: Interested persons are invited to submit written comments concerning the rules or administration of these programs. All written comments must be received on or before June 3, 1994, in order to be assured of consideration.

ADDRESSES: Comments should be mailed or delivered to the Team Leader, Import Quota Programs, Foreign Agriculture Service, room 5531, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Fred R. Kessel, (202) 720–5676.

SUPPLEMENTARY INFORMATION: Paragraphs 21 and 22 of Annex 703.2 of Chapter 7 of the NAFTA relate to the trade of sugar and sugar containing products which receive benefits under re-export programs. Paragraph 21 requires that the United States notify Mexico, in writing, of any export to Mexico is not obligated to grant NAFTA duty preferences for such products. However, paragraph 22(b) provides that Mexico shall accord duty-free treatment to imports of (i) U.S. raw sugar that will be refined in Mexico and re-exported to the United States, and (ii) refined sugar that has been refined in the United States from Mexican raw sugar. Moreover, imports qualifying for duty-free treatment pursuant to paragraph 22(b) will not be subject to, or counted under, any tariff rate quota. Comments with respect to implementation of these provisions will be considered in drafting proposed regulations.

Interested persons are encouraged to consider the rules relating to the maximum license sizes (7 CFR 1530.102(c) and 1530.202(c)) and provide comments supporting any change. FAS is considering having all programs conform to the metric system. This change would revise the maximum license sizes from short tons to metric tons.

Another rule change being considered relates to changes in the notice of transfer submission to the Licensing Authority. The provisions at 7 CFR 1530.106(c) and 1530.204(c) relating to the original notice of transfer being submitted to the Licensing Authority within 10 days of the transfer date will be reviewed for possible changes. The agency is considering having the refiner licensee transmit to FAS the original notice of transfer within X days of the shipment date and then simply receive and store confirmations from the manufacturer licensees. Information concerning numerous transfers within an X-day period could be submitted to the Licensing Authority, either by mail or by electronic means.

FAS is also considering modifying the rule concerning licensee certifications in 7 CFR 1530.105(b). The additional requirement the agency is considering is having the licensee provide certification to the Licensing Authority within 95 days of the date of export or last certification which ever comes first. An alternative could be to have periodic reports (e.g., weekly, monthly, or quarterly depending on the volume of license activity). This change would allow the Licensing Authority to establish greater compliance safeguards.

Licensees in the Refined Sugar Re-export program have been informed by FAS that during the time domestic marketing allotments are in effect, licensees' sugar export shipments could not be certified to the Licensing Authority as being eligible for license credit except when any domestic sugar can be verified as being counted against marketing allotment allocations. FAS is interested in developing appropriate rules that would incorporate this limitation.

FAS also is interested in comments addressing the creation of a program to provide for imports of raw cane sugar exempt from the tariff-rate quota on condition that an equivalent quantity of raw sugar is exported. Currently, subheading 1701.11.02 and additional U.S. note 3(c) to chapter 17 of the Harmonized Tariff Schedule of the United States (HTS) authorizes the sugar licensing programs but provides only for imports of raw sugar "to be used for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or to be refined and re-exported in refined form or in sugar-containing products." This provision would need to be amended to permit a raw sugar swap program.

FAS is interested in comments relating to the implementation of an automated data system linking licensees with the Licensing Authority. Automated data processing procedures relating to the use of standardized forms for notices of transfer and certifications for export credit are of particular interest. Rule change suggestions for providing a structured data reporting format to enhance program administration and assist in verifying program compliance are also requested.

FAS will give major consideration to the suggestions of manufacturer licensees in the sugar to be re-exported in sugar containing products program with respect to contractual manufacturing arrangements with co-packers. Comments should center on the control of quota-exempt sugar to prevent diversion onto the domestic market and the means by which manufacturer licensees would establish eligibility to receive credit for sugar containing product exports for products manufactured and exported by a co-packer.

FAS is also considering changing the licenses used under the Sugar for the Production of Polyhydric Alcohol program from a license to import raw sugar to a license to receive transfers of refined sugar.

Since this will be the best opportunity to modify program regulations, program participants should address any other issues that they deem appropriate.

Signed at Washington, DC on March 31 1994.

Richard B. Schroeter,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 94–10621 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–10–M

Farmers Home Administration

7 CFR Parts 1823, 1910, 1941, 1942, 1943, 1944, 1945, 1948, 1951, and 1980

RIN: 0575–AA66

Denying Credit to Applicants Delinquent on Federal Debt

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations concerning program eligibility requirements. These revisions will direct field offices to suspend processing of an application if an applicant is found to be delinquent on a Federal debt until the delinquency is resolved, and to deny credit if a Federal judgment is found against an applicant. This action is necessary to implement requirements of OMB Circular A–129, "Policies for Federal Credit Programs and Non-Tax Receivables." Denying credit to applicants against whom there is a Federal judgment is mandated by provisions of the Federal Debt Collections Procedures Act of 1990. The intended effect of this action is to instruct field offices on how to obtain more information to be used in determining loan, grant and loan servicing eligibility.

DATES: Comments must be submitted on or before July 5, 1994.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, 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 working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Daniel K. Wanamaker, Senior Financial Analyst, Farmers Home Administration, U.S. Department of Agriculture, room 6446, South Agriculture Building, Washington, DC 20250, Telephone (202) 690–0501.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

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.

Paperwork Reduction Act

The information collection requirements contained in these regulations 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 numbers 0575–0134, 0575–0141, 0575–0132, 0575–0097, 0575–0123, 0575–0074, 0575–0085, 0575–0083, 0575–0059, 0575–0045, 0575–0047, 0575–0062, 0575–0090, 0575–0130, 0575–0066, 0575–0079, 0575–0029, and 0575–0137 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). The proposed rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Intergovernmental Review

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

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)
10.417 Very Low Income Housing Repair Loans and Grants
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
10.434 Nonprofit Corporations Loan and Grant Program
10.436 Technical Assistance and Training Grants

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 3015, subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Regulatory Flexibility Act

The Administrator of the 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

The current loan application procedures require that an applicant provide certification that it is not delinquent on a Federal debt. For the purpose of verifying an applicant's certification, FmHA proposes to amend its instructions by revising each eligibility section to instruct the field offices to access the Department of Housing and Urban Development's Credit Alert Interactive Voice System (CAIVRS) to verify that the applicant is not delinquent on a Federal debt. If a delinquency is found, processing of the application will be suspended. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued. If the applicant is unable to resolve the delinquency, or if an outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, is found, assistance may be denied.

List of Subjects

7 CFR Part 1823

Credit, Indians.

7 CFR Part 1910

Applications, Credit, Loan programs—agriculture, Loan programs—housing and community development,

Low and moderate income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1941

Crops, Livestock, Loan programs—agriculture, Rural areas, Youth.

7 CFR Part 1942

Business and industry, Community development, Community facilities, Grant programs—housing and community development, Industrial park, Loan programs—housing and community development, Loan programs—natural resources, Loan security, Rural areas, Soil conservation, Waste treatment and disposal—domestic, Water supply—domestic.

7 CFR Part 1943

Credit, Loan programs—agriculture, Recreation, Water resources.

7 CFR Part 1944

Administrative practice and procedure, Aged, Farm labor housing, Grant programs—housing and community development, Handicapped, Home improvement, Loan programs—housing and community development, Low and moderate income housing—rental, Migrant labor, Mobile homes, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing, Subsidies.

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—agriculture.

7 CFR Part 1948

Business and industry, Coal, Community development, Community facilities, Energy, Grant programs—housing and community development, Housing, Nuclear energy, Planning, Rural areas, Transportation, Economic development.

7 CFR Part 1951

Accounting servicing, Grant programs—housing and community development, Reporting requirements, Rural areas.

7 CFR Part 1980

Agriculture, Grant programs—Nonprofit corporations, Loan programs—agriculture, Loan programs—business and industry—Rural development assistance, Loan programs—nonprofit corporations, Rural areas, Loan programs—community programs, Rural development assistance.

Therefore, as proposed, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

1. The authority citation for part 1823 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 N—Loans to Indian Tribes and Tribal Corporations

2. Section 1823.403 is amended by adding paragraph (d) to read as follows:

§ 1823.403 Eligibility.

* * * * *

(d) Not be delinquent on any Federal debt or have a Federal judgment lien against its property.

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

PART 1910—GENERAL

3. The authority citation for part 1910 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 A—Receiving and Processing Applications

4. Section 1910.4 is amended by adding paragraph (g)(3) to read as follows:

§ 1910.4 Processing applications.

* * * * *

(g) * * *

(3) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any loan or grant until the judgment is paid in full or otherwise satisfied. FmHA loan or grant funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so. A decision to deny a loan for this reason is not appealable.

* * * * *

5. Section 1910.5 is amended by adding paragraph (e) to read as follows:

§ 1910.5 Evaluating applications.

* * * * *

(e) *Delinquency on a Federal debt.* Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," will be used to help determine if an applicant is delinquent on any Federal debt.

PART 1941—OPERATING LOANS

6. The authority citation for Part 1941 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 A—Operating Loan Policies, Procedures, and Authorizations

7. Section 1941.12 is amended in paragraphs (a)(1) and (b)(5)(i) in the fourth sentence by changing the reference from "INS Form G–641, 'Application for Verification of Information from Immigration and Naturalization Records,' " to "INS Form G–639, 'Verification Request Form,' " and in the last sentence by changing the reference from "INS Form G–641" to "INS Form G–639," by revising the introductory text and paragraphs (a)(4)

and (b)(5)(iii), and by adding paragraph (d) to read as follows:

§ 1941.12 Eligibility requirements.

Subject to the restrictions listed in paragraph (d) of this section, an applicant is eligible for loan assistance if the following requirements are met:

(a) * * *

(4) Have the character (emphasizing credit history, past record of debt repayment and reliability) and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant/borrower is not eligible if an honest attempt has been made to meet the payment(s). However, delinquency on a Federal debt shall cause the applicant to be ineligible for loan assistance (other than for certain Farmer Program loans as provided in § 1941.14 of this subpart).

(i) The County Office will use Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) If the applicant is delinquent on a Federal debt, and is unable to resolve the delinquency, the application will be rejected (unless applying for certain Farmer Program loans as provided in § 1914.14 of this subpart) and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(b) * * *

(5) * * *

(iii) They and the entity itself must have the character (emphasizing credit history, past record of debt repayment and reliability) and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant/borrower is not eligible if an honest attempt has been made to meet the payment(s). Delinquency on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of this subpart), by the entity or any of its members shall cause the entity to be ineligible.

(A) The County Office will use Form FmHA 1910–3 to check the Department of Housing and Urban Development's CAIVRS to determine if the entity or any of its members is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(B) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt) and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(d) *Restrictions.* An applicant will be considered ineligible for loan assistance under any of the following circumstances. A decision to deny a loan for any of these reasons is not appealable.

(1) In accordance with the Food Security Act of 1985 (Pub. L. 99–198), after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of this subpart (available in any FmHA office) for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crimes after December 23, 1985.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any Farmer Program loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

PART 1942—ASSOCIATIONS

8. The authority citation for part 1942 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 A—Community Facility Loans

9. Section 1942.2 is amended by redesignating paragraphs (a)(2) through (a)(4) as (a)(3) through (a)(5), by adding a new paragraph (a)(2), and by revising newly redesignated paragraph (a)(3)(ii) to read as follows:

§ 1942.2 Processing applications.

(a) * * *

(2) Delinquency on a Federal Debt

(i) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) An outstanding judgment obtained by the United States in a Federal Court

(other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

(3) * * *

(ii) The State Office shall maintain a working relationship with the State agency or official that has been designated as the single point of contact for the intergovernmental review process and give full consideration to their comments when selecting preapplications to be processed.

* * * * *

Subpart C—Fire and Rescue Loans

10. Section 1942.111 is amended by adding paragraph (d) to read as follows:

1942.111 Applicant eligibility.

* * * * *

(d) Delinquency on a Federal Debt

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter.

The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

11. Section 1942.305 is amended by adding paragraph (a)(4) to read as follows:

§ 1942.305 Eligibility and priority.

(a) * * *

(4) Delinquency on a Federal Debt

(i) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

* * * * *

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

12. Section 1942.356 is amended by adding paragraph (a)(4) to read as follows:

§ 1942.356 Applicant eligibility and priority.

(a) * * *

(4) Applicant is not delinquent on a Federal debt.

(i) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal

debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

* * * * *

Subpart I—Resource Conservation and Development (RCD) Loans and Watershed (WS) Loans and Watershed Advances

13. Section 1942.405 is amended by adding paragraph (f) to read as follows:

§ 1942.405 Eligibility.

* * * * *

(f) Applicant must not be delinquent on a Federal debt.

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

Subpart J—Technical Assistance and Training Grants

14. Section 1942.457 is amended by adding paragraph (d) to read as follows:

§ 1942.457 Eligibility.

* * * * *

(d) The applicant must not be delinquent on a Federal debt.

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

Subpart K—Emergency Community Water Assistance Grants

15. Section 1942.506 is amended by adding paragraph (c) to read as follows:

§ 1942.506 Eligibility.

* * * * *

(c) The applicant must not be delinquent on a Federal debt.

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

16. The authority citation for part 1943 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 A—Insured Farm Ownership Loan Policies, Procedures, and Authorizations

17. Section 1943.12 is amended in paragraphs (a)(1) and (b)(4)(i) in the fourth sentence by changing the reference from "INS Form G–641,

'Application for Verification of Information from Immigration and Naturalization Records,'" to "INS Form G–639, 'Verification Request Form,'" and in the last sentence by changing the reference from "INS Form G–641" to "INS Form G–639," by revising the introductory text and paragraphs (a)(4) and (b)(4)(iii), and by adding paragraph (d) to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

Subject to the restrictions listed in paragraph (d) of this section, an applicant is eligible for loan assistance if the following requirements are met:

(a) * * *

(4) Have the character (emphasizing credit history, past record of debt repayment, and reliability) and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant/borrower is not eligible if an honest attempt has been made to make the payment(s). If an applicant is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(i) The County Office will use Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt), and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(b) * * *

(4) * * *

(iii) Have the character (emphasizing credit history, past record of debt repayment, and reliability) and industry to carry out the proposed operation. This requirement must be met by the individual members, stockholders, partners, or joint operators. Past record of debt repayment will not be cause for a determination that the applicant/borrower is not eligible if an honest attempt has been made to make the payment(s). If the entity or any of its members is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), the entity is automatically ineligible for loan assistance.

(A) The County Office will use Form FmHA 1910–3 to check the Department of Housing and Urban Development's CAIVRS to determine if the entity or any of its members is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(B) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt) and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(d) *Restrictions.* An Applicant will be considered ineligible for loan assistance under any of the following circumstances. A decision to deny a loan for any of these reasons is not appealable.

(1) In accordance with the Food Security Act of 1985 (Pub. L. 99–198), after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of subpart A of part 1941 of this chapter (available in any FmHA office) for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crimes after December 23, 1985.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any Farmer Program loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

Subpart B—Insured Soil and Water Loan Policies, Procedures, and Authorizations

18. Section 1943.62 is amended in paragraphs (a)(1) and (b)(3) in the fourth sentence by changing the reference from "INS Form G–641, 'Application for Verification of Information from Immigration and Naturalization Records,'" to "INS Form G–639, 'Verification Request Form,'" and in the seventh sentence by changing the reference from "INS Form G–641" to "INS Form G–639," by revising the introductory text and paragraphs (a)(4) and (b)(1), and by adding paragraph (c) to read as follows:

§ 1943.62 Soil and water loan eligibility requirements.

Subject to the restrictions listed in paragraph (d) of this section, an applicant is eligible for loan assistance if the following requirements are met:

(a) * * *

(4) Have the character (emphasizing credit history, past record of debt repayment and reliability), and industry necessary to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant/borrower is not eligible if an honest attempt has been made to make the payment(s). If an applicant is delinquent on a Federal debt (other than a Farmer Program debt,

in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(i) The County Office will use Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt), and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(b) * * *

(1) Have the character (emphasizing credit history, past record of debt repayment and reliability), and industry necessary to carry out the proposed operation. This requirement also must be met by the individual members, stockholders, partners, or joint operators. Past record of debt repayment will not be cause for a determination that the applicant/borrower is not eligible if an honest attempt has been made to make the payment(s). If the applicant (the entity or any of its members) is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A or part 1941 of this chapter), the entity is automatically ineligible for loan assistance.

(i) The County Office will use Form FmHA 1910–3 to check the Department of Housing and Urban Development's CAIVRS to determine if the entity or any of its members is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt) and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(d) *Restrictions.* An applicant will be considered ineligible for loan assistance under any of the following circumstances. A decision to deny a loan for any of these reasons is not appealable.

(1) In accordance with the Food Security Act of 1985 (Pub. L. 99–198), after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of subpart A of part 1941 of this chapter (available in any FmHA office) for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Service," that as individuals or that its members, if an entity, have not been convicted of such crimes after December 23, 1985.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any Farmer Program loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

PART 1944—HOUSING

19. The authority citation for Part 1944 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 A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

20. Section 1944.9 is amended by adding paragraph (f)(5) to read as follows:

§ 1944.9 Other eligibility requirements.

* * * * *

(f) * * *

(5) The loan approval official will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the loan approval official will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued. An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection

upon specific determination that it is in the best interest of the Government to do so.

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

21. Section 1944.157 is amended by adding paragraph (a)(10) to read as follows:

§ 1944.157 Eligibility requirements.

(a) * * *

(10) Not be delinquent on a Federal debt or have a judgment lien against its property for a debt owed the United States.

(i) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

(iii) For the purposes of this paragraph, applicant is defined as the applicant entity. In the case of a limited partnership, the applicant entity and each general partner will be considered.

* * * * *

Subpart E—Rural Rental and Rural Cooperative Housing Loan Policies, Procedures, and Authorizations

22. Section 1944.211 is amended by adding paragraph (a)(15) to read as follows:

§ 1944.211 Eligibility requirements.

(a) * * *

(15) Not be delinquent on a Federal debt or have a judgment lien against its property for a debt owed the United States.

(i) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

(iii) For the purposes of this paragraph, applicant is defined as the applicant entity. In the case of a limited partnership, the applicant entity and each general partner will be considered.

* * * * *

Subpart J—Section 504 Rural Housing Loans and Grants

23. Section 1944.467 is amended by revising paragraph (c) to read as follows:

§ 1944.467 Processing applications.

* * * * *

(c) *Credit investigation.* Credit reports will be used for all loans of more than $7,500, and will be ordered at no cost to the applicant in accordance with subpart B of part 1910 (available in any FmHA office). Credit reports will not be used for grant assistance or loans of $7,500 or less. In all cases, before making a loan, the County Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued. An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection

upon specific determination that it is in the best interest of the Government to do so.

* * * * *

PART 1945—EMERGENCY

24. The authority citation for part 1945 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 D—Emergency Loan Policies, Procedures, and Authorizations

25. Section 1945.162 is amended in paragraph (b)(1) in the fourth sentence by changing the reference from "INS Form G–641, 'Application for Verification of Information from Immigration and Naturalization Records,'" to "INS Form G–639, 'Verification Request Form,'" and in the last sentence by changing the reference from "INS Form G–641" to "INS Form G–639," by revising the introductory text and paragraph (g), and by adding paragraph (n) to read as follows:

§ 1945.162 Eligibility requirements.

Subject to the restrictions listed in paragraph (n) of this section, an applicant is eligible for loan assistance if the following requirements are met:

* * * * *

(g) *Training and experience.* An applicant must have sufficient applicable training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years immediately preceding the application) which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation and have the character (emphasizing credit history, past record of debt repayment and reliability), and industry necessary to carry out the proposed operation. If an applicant is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(1) The County Office will use Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) If the individual applicant (or entity, or any member of the entity) is delinquent on a Federal debt (other than a Farmer Program debt), and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

(n) *Restrictions.* An applicant will be considered ineligible for loan assistance under any of the following circumstances. A decision to deny a loan for any of these reasons is not appealable.

(1) In accordance with the Food Security Act of 1985 (Pub. L. 99–198), after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of subpart A of part 1941 of this chapter (available in any FmHA office) for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FMHA Services," that as individuals or that its members, if an entity, have not been convicted of such crimes after December 23, 1985.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any Farmer Program loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

PART 1948—RURAL DEVELOPMENT

26. The authority citation for Part 1948 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 B—Section 601—Energy Impacted Area Development Assistance Program

27. Section 1948.54 is amended by designating the text as paragraph (a), and adding paragraph (b) to read as follows:

§ 1948.54 Eligible applicants.

* * * * *

(b) The applicant must not be delinquent on a Federal debt.

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing fo the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900

of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

Subpart C—Intermediary Relending Program (IRP)

28. Section 1948.117 is amended by adding paragraph (d) to read as follows:

§ 1948.117 Other regulatory requirements.

* * * * *

(d) *The applicant must not be delinquent on a Federal debt.*

(1) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter.

The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

29. Section 1948.128 is amended by redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d) to read as follows:

§ 1948.128 Requests to make loans to ultimate recipients.

* * * * *

(d) If the ultimate recipient is a partnership or for-profit corporation, the intermediary will provide certifications from each general partner or stockholder owning a 10 percent or more interest as to whether it is delinquent on any Federal debt or has a judgment lien against its property for a debt owed the United States.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

30. 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 E—Servicing of Community and Insured Business Programs Loans and Grants

31. Section 1951.230 is amended by adding paragraph (a)(13) to read as follows:

§ 1951.230 Transfer of security and assumption of loans.

(a) * * *

(13) The transferee must not be delinquent on a Federal debt or have a Federal judgment lien against its property.

(i) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the transferee is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The transferee will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the transferee provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the transferee to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the transferee is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the transferee will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

* * * * *

PART 1980—GENERAL

32. The authority citation for part 1980 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 B—Farmer Program Loans

33. Section 1980.175 is amended in paragraphs (b)(1)(i) and (b)(2)(iv)(A) in the fourth sentence by changing the reference from "INS Form G–641, 'Application for Verification of Information from Immigration and Naturalization Records,'" to "INS Form G–639, 'Verification Request Form,'" and in the last sentence by changing the reference from "INS Form G–641" to "INS Form G–639," by revising the introductory text of paragraph (b), by revising paragraphs (b)(1)(iv), (b)(1)(v), (b)(2)(iv)(C) and (b)(2)(iv)(D), and by adding paragraph (b)(3) to read as follows:

§ 1980.175 Operating loans.

* * * * *

(b) *Loan eligibility requirements.* Subject to the restrictions listed in paragraph (b)(3) of this section, an applicant is eligible for loan assistance if the following requirements are met:

(1) * * *

(iv) Have the character (emphasizing credit history, past record of debt repayment and reliability), and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant is not eligible if an honest attempt has been made to meet the obligation. If an applicant is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(A) The County Office will use Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to check the

Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(B) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt), and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

(v) Honestly endeavor to carry out the applicant's/borrower's undertakings and obligations. This would include, but is not limited to, providing current, complete, and truthful information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(2) * * *

(iv) * * *

(C) They and the entity itself must have the character (emphasizing credit history, past record of debt repayment and reliability), and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant is not eligible if an honest attempt has been made to meet the obligation. If the applicant (the entity or any of its members) is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(1) The County Office will use Form FmHA 1910–3 to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt) and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

(D) They and the entity itself will honestly endeavor to carry out the applicant's/borrower's undertakings and obligations. This would include, but is not limited to, providing current, complete, and truthful information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(3) *Restrictions.* An applicant will be considered ineligible for loan assistance under any of the following circumstances. A decision to deny a loan for any of these reasons is not appealable.

(i) In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of subpart A of part 1941 of this chapter (available in any FmHA office) for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crimes after December 23, 1985.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any Farmer Program loan or loan guarantee until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

34. Section 1980.185 is amended in paragraphs (b)(1)(i) and (b)(2)(iii) in the fourth sentence by changing the reference from "INS Form G–641, 'Application for Verification of Information from Immigration and Naturalization Records,'" to "INS Form G–639, 'Verification Request Form,'" and in the last sentence by changing the reference from "INS Form G–641" to "INS Form G–639," by revising the introductory text of paragraph (b), by revising paragraphs (b)(1)(iv), (b)(1)(v), (b)(2)(i) and (b)(2)(ii), and by adding paragraph (b)(3) to read as follows:

§ 1980.185 Soil and Water loans.

* * * * *

(b) *Soil and Water loan eligibility requirements.* Subject to the restrictions listed in paragraph (b)(3) of this section, an applicant is eligible for loan assistance if the following requirements are met:

(1) * * *

(iv) Have the character (emphasizing credit history, past record of debt repayment and reliability) and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant is not eligible if an honest attempt has been made to meet the obligation. If an applicant (the entity or any of its members) is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(A) The County Office will use Form FmHA 1910–3 to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate

Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(B) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt), and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

(v) Honestly endeavor to carry out the applicant's/borrower's undertakings and obligations. This would include, but is not limited to, providing current, complete, and truthful information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(2) * * *

(i) Along with all of its members, stockholders, partners, or joint operators have the character (emphasizing credit history, past record of debt repayment and reliability) and industry to carry out the proposed operation. Past record of debt repayment will not be cause for a determination that the applicant is not eligible if an honest attempt has been made to meet the obligation. If the applicant (the entity or any of its members) is delinquent on a Federal debt (other than a Farmer Program debt, in accordance with § 1941.14 of subpart A of part 1941 of this chapter), it is automatically ineligible for loan assistance.

(A) The County Office will use Form FmHA 1910–3 to check the Department of Housing and Urban Development's CAIVRS to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the County Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(B) If the applicant is delinquent on a Federal debt (other than a Farmer Program debt) and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

(ii) Along with all of its members, stockholders, partners or joint operators, honestly endeavor to carry out the applicant's/borrower's undertakings and obligations. This would include, but is not limited to, providing current, complete, and truthful information when applying for assistance and making every reasonable effort to meet the conditions and terms of the proposed loan.

* * * * *

(3) *Restrictions.* An applicant will be considered ineligible for loan assistance under any of the following circumstances. A decision to deny a loan for any of these reasons is not appealable.

(i) In accordance with the Food Security Act of 1985 (Pub. L. 99–198) after December 23, 1985, if an individual or any member, stockholder, partner, or joint operator of an entity is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance (see 21 CFR part 1308, which is exhibit C of subpart A of part 1941 of this chapter (available in any FmHA office) for the definition of "controlled substance") prior to loan approval in any crop year, the individual or entity shall be ineligible for a loan for the crop year in which the individual or member, stockholder, partner, or joint operator of the entity was convicted and the four succeeding crop years. Applicants will attest on Form FmHA 410–1, "Application for FmHA Services," that as individuals or that its members, if an entity, have not been convicted of such crimes after December 23, 1985.

(ii) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible for any Farmer Program loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. The Administrator may waive this restriction upon specific determination that it is in the best interest of the Government to do so.

* * * * *

Subpart E—Business and Industrial Loan Program

35. Section 1980.406 is added to read as follows:

§ 1980.406 Delinquency on a Federal debt.

(a) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(b) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant, loan or loan guarantee until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

Subpart G—Nonprofit National Corporations Loan and Grant Program

36. Section 1980.606 is amended by adding paragraph (f) to read as follows:

§ 1980.606 NNC eligibility.

* * * * *

(f) Not be delinquent on a Federal Debt. This applies to both the applicant and the ultimate recipients that are to be funded from Federal funds.

(1) The National Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny assistance can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the National Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(2) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant, loan or loan guarantee until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

Subpart I—Community Programs Guaranteed Loans

37. Section 1980.851 is amended by adding paragraph (a)(1)(vii) to read as follows:

§ 1980.851 Processing applications.

(a) * * *

(1) * * *

(vii) Determination of delinquency on a Federal debt.

(A) The District Office will check the Department of Housing and Urban Development's Credit Alert Interactive Voice Response System (CAIVRS), following the Forms Manual Insert for Form FmHA 1910–3, "Record of Credit Alert Interactive Voice Response System (CAIVRS) Inquiry," to determine if the applicant is delinquent on a Federal debt. No decision to deny credit can be based solely on the results of the CAIVRS inquiry. If CAIVRS identifies a delinquent Federal debt, the District Office will immediately suspend processing of the application. The applicant will be notified that processing has been suspended and will be asked to contact the appropriate Federal agency, at the telephone number provided by CAIVRS, to resolve the delinquency. When the applicant provides FmHA with official documentation that the delinquency has been paid in full or otherwise resolved, processing of the application will be continued.

(B) An outstanding judgment obtained by the United States in a Federal Court (other than the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. FmHA loan funds may not be used to satisfy the judgment. Questions about whether or not a judgment is still outstanding should be directed to the Office of the General Counsel. If the judgment remains unsatisfied, or if the applicant is delinquent on a Federal debt and is unable to resolve the delinquency, the application will be rejected and the applicant will be notified of its right for an appeal in accordance with subpart B of part 1900 of this chapter. The Administrator may waive the rejection upon specific determination that it is in the best interest of the Government to do so.

* * * * *

Dated: April 7, 1994.

Bob Nash,

Under Secretary for Small Community and Rural Development.

[FR Doc. 94–10618 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–07–U

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

Environmental Review for Renewal of Operating Licenses: Public Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) staff will meet with the Nuclear Energy Institute (NEI) and Yankee Atomic Electric Company (YAEC) to discuss their written comments that are responsive to the States' concerns regarding NRC's proposed rule on the environmental review required for renewal of nuclear power plant operating licenses. These concerns focus on provisions of the proposed rule that the States see as being in conflict with the traditional authority of the States to regulate electric utilities with respect to non-safety aspects of nuclear power generation. The purpose of the meeting is to assure that the NRC staff and the public understands the approaches proposed by NEI and YAEC.

DATES: The date of the meeting is May 16, 1994. The meeting will begin at 1 p.m. and will finish by 4:30 p.m.

ADDRESSES: The meeting will be held at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, room 1–S 7&9.

FOR FURTHER INFORMATION CONTACT: Donald P. Cleary, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555; Telephone: (301) 492–3936.

SUPPLEMENTARY INFORMATION: The NRC published proposed amendments to its environmental protection regulations, 10 CFR part 51, which would establish new requirements for the environmental review of applications to renew operating licenses for nuclear power plants (September 17, 1991; 56 FR 47016). Concurrently, the NRC published NUREG–1437, a draft Generic Environmental Impact Statement (GEIS) that contained the analyses which the NRC proposed to codify in Part 51. In commenting on the proposed rule and the draft GEIS, a number of States expressed dissatisfaction with the treatment of need for generating capacity, and alternative energy sources. The States' concerns involve provisions of the proposed rule that the States see as being in conflict with the traditional authority of the States to regulate electric utilities with respect to non-safety aspects of nuclear power generation. The Commission instructed the NRC staff to develop options for responding to these States' concerns and in doing so to solicit the views of the States.

The NRC staff solicited the views of the States and others through three regional meetings and a request for written comments (January 18, 1994; 59 FR 2542). To facilitate discussions with the States the NRC staff prepared a paper, "Addressing the Concerns of States and Others Regarding the Role of Need for Generating Capacity,

Alternative Energy Sources, Utility Costs, and Cost-Benefit Analysis in NRC Environmental Reviews for Relicensing Nuclear Power Plants: An NRC Staff Discussion Paper." The regional meetings were held in Rockville, MD, February 9, 1994; Rosemont, IL, February 15, 1994; and Chicopee, MA, February 17, 1994. A number of parties, including NEI and YAEC, filed written comments subsequent to the meetings. The discussion paper, meeting transcripts, and written comments, including NEI's proposal dated March 23, 1994, and YAEC's proposal dated March 18, 1994, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20037.

The NEI and the YAEC proposals were not adequately developed for discussion at the time of the regional meetings, and now the NRC staff needs to be assured that it understands the two proposals before reporting to the Commission on the options considered. All interested persons are invited to attend as observers. After the NRC staff's questions have been answered, time will be allowed to take questions and comments from the floor on the NEI and YAEC proposals. The meeting minutes will be transcribed by a court reporter.

Dated at Rockville, Maryland, this 22th day of April, 1994.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 94–10663 Filed 5–3–94; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Regulation E; Docket No. R–0830 and Docket No. R–0831]

Electronic Fund Transfers; Extension of Comment Period

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule and official staff interpretation; Extension of comment period.

SUMMARY: On March 7, 1994, the Board requested comment on a proposal to revise Regulation E (Electronic Fund Transfers and the Official Staff Interpretation (59 FR 10684 and 59 FR 10698). The Secretary of the Board, acting pursuant to delegated authority, has extended the comment period for 60 days to give the public additional time to provide comments.

DATES: Comments must be received by August 1, 1994.

ADDRESSES: Comments, which should refer to Docket No. R–0830 and Docket No. R–0831, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: Obrea Poindexter, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202)452–3667 or 452–2412. For the hearing impaired only, Telecommunications Device for the Deaf, Dorothea Thompson (202)452–3544.

SUPPLEMENTARY INFORMATION: The Board is extending the comment period on the proposed amendments to Regulation E (Electronic Fund Transfers) and the Official Staff Interpretation, to give the public additional time to comment on the proposal.

By order of the Secretary of the Board, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, April 28, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94–10646 Filed 5–3–94; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–NM–25–AD]

Airworthiness Directives; Jetstream Aircraft Limited Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Jetstream Model 4101 airplanes, that currently requires inspections to detect damage of the ball bearings in the aileron quadrants, replacement of damaged ball bearings with new ball bearings, and adjustment to the secondary stops. This action would require installation of new swivel bearings in the aileron quadrants, which would terminate the inspection requirement. This proposal is prompted by the development of a modification that eliminates the need to inspect repetitively. The actions specified by the proposed AD are intended to prevent failure of the bearings in the aileron quadrants, which could result in reduced controllability of the airplane.

DATES: Comments must be received by June 29, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–25–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Jetstream Aircraft, Incorporated, P.O. Box 16029, Dulles International Airport, Washington, DC 20041–6029. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report

summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 94–NM–25–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 94–NM–25–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On March 3, 1994, the FAA issued AD 93–25–10, Amendment 39–8849 (59 FR 11531, March 11, 1994), applicable to certain Jetstream Model 4101 airplanes, to require inspections to detect damage of the ball bearings in the aileron quadrants, replacement of damaged ball bearings with new ball bearings, and adjustment to the secondary stops. That action was prompted by a report that an in-flight failure of a ball bearing in a quadrant in the pilot's aileron control system caused abnormal backlash of the pilot's aileron control. The requirements of that AD are intended to prevent reduced controllability of the airplane.

Since the issuance of that AD, Jetstream has developed new swivel bearings that allow greater swivel action, which would significantly decrease the likelihood of abnormal backlash of the aileron control due to bearing failure. Bearing failure in the aileron quadrants, if not corrected, could result in reduced controllability of the airplane.

Jetstream has issued Service Bulletin J41–27–027, dated January 17, 1994, that describes procedures for installation of swivel bearings in the left and right aileron quadrants (Modification JM41307A).

Jetstream has also issued Revision 2 of Service Bulletin J41–A–27–026, dated January 17, 1994. The inspection procedures described in this revision are identical to those described in Revision 1 of the service bulletin (which was referenced in AD 93–25–10). The only change effected by Revision 2 is to reference the modification described in Service Bulletin J41–27–027 as terminating action for the inspections of the bearings in the aileron quadrants and adjustment to the secondary stops described in Service Bulletin J41–A–27–026. The CAA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in the United Kingdom.

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

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 93–25–10 to require installation of new swivel bearings in the left and right aileron quadrants (Modification JM41307A) as terminating action for the currently required inspections. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Paragraphs (a) and (b) of this proposal have been revised to reference Revision 2 of Service Bulletin J41–A–27–026, dated January 17, 1994, as an additional source of service information for accomplishing the inspections of the bearings in the aileron quadrants and adjustment to the secondary stops.

The FAA estimates that 8 airplanes of U.S. registry would be affected by this proposed AD.

The inspections that were previously required by AD 93–25–10, and retained in this proposal, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of these inspection requirements on U.S. operators is estimated to be $440, or $55 per airplane, per inspection cycle.

The adjustment to the secondary stops that were previously required by AD 93–25–10, and retained in this proposal, take approximately 1 work hour per airplane to accomplish, at an average labor rate of $55 per work hour. Based on these figures, the total cost impact of this adjustment requirement on U.S. operators is estimated to be $440, or $55 per airplane. The FAA estimates that all affected U.S. operators have already accomplished this action; therefore, the future cost impact of this requirement is minimal.

The installation of new swivel bearings (Modification JM41307A) that would be required by this proposal would take approximately 10 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the total cost impact of the modification requirement of this proposal on U.S. operators is estimated to be $4,400, or $550 per airplane.

The total cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

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 removing amendment 39–8849 (59 FR 11531, March 11, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Jetstream Aircraft Limited: Docket 94–NM–25–AD. Supersedes AD 93–25–10, Amendment 39–8849.

Applicability: Model 4101 airplanes having constructors numbers 41004 and subsequent on which Modification JM41307A or JM41307B has not been installed previously; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the bearings in the aileron quadrants, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 7 days after March 28, 1994 (the effective date of AD 93–25–10, Amendment 39–8849), perform a detailed visual inspection to detect damage of the bearings in the aileron quadrant in the pilot's and co-pilot's aileron control, in accordance with Jetstream Aircraft Limited Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993; or Revision 2, dated January 17, 1994.

(1) If no damaged bearing is found, repeat the inspection, thereafter, at intervals not to exceed 7 days.

(2) If any damaged bearing is found, prior to further flight, replace the damaged bearing with a new bearing in accordance with the service bulletin, and repeat the inspection, thereafter, at intervals not to exceed 7 days.

Note 1: Paragraph (a) of this AD restates the requirement for an initial and repetitive inspections contained in paragraph (a) of AD 93–25–10. Therefore, for operators that have previously accomplished at least the initial inspection in accordance with AD 93–25–10, paragraph (a) of this AD requires that the next scheduled inspection be performed within 7 days after the last inspection performed in accordance with paragraph (a) of AD 93–25–10.

(b) Within 7 days after March 28, 1994 (the effective date of AD 93–25–10, Amendment 39–8849), adjust the aileron secondary stop in the pilot's and co-pilot's aileron control system in accordance with Jetstream Aircraft Limited Alert Service Bulletin J41–A–27–026, Revision 1, dated December 7, 1993; or Revision 2, dated January 17, 1994.

Note 2: Paragraph (b) of this AD restates the requirement to adjust the aileron secondary stop contained in paragraph (b) of AD 93–25–10. As allowed by the phrase "unless accomplished previously," if that requirement of AD 93–25–10 has been accomplished previously, this AD does not require that it be repeated.

(c) Within 7 days after March 28, 1994 (the effective date of AD 93–25–10, Amendment 39–8849), revise the Abnormal Procedures Section of the FAA-approved Airplane Flight Manual (AFM) to include the following. This may be accomplished by inserting a copy of this AD in the AFM.

"Where abnormal aileron control backlash is experienced by one pilot, the other pilot should assume control of the aircraft without using the disconnect facility. The disconnect facility should only be used in accordance with published procedures in cases of control restrictions or jamming."

Note 3: Paragraph (c) of this AD restates the requirement for an AFM revision contained in paragraph (c) of AD 93–25–10. As allowed by the phrase "unless accomplished previously," if that requirement of AD 93–25–10 has been accomplished previously, this AD does not require that it be repeated.

(d) Within 180 hours time-in-service after the effective date of this AD, install new swivel bearings in the left and right aileron quadrants (Modification JM41307A) in accordance with Jetstream Service Bulletin J41–27–027, dated January 17, 1994. Accomplishment of this modification constitutes terminating action for the requirements of this AD. The AFM revision required by paragraph (c) of this AD may be removed following accomplishment of this modification.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 28, 1994.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 94–10643 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 71

[Airspace Docket No. 94–AWP–6]

Proposed Establishment of Class E Airspace; Arcata, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Arcata, CA. An Instrument Landing System/Distance Measuring Equipment (ILS/DME) standard instrument approach procedure (SIAP) has been developed for the Arcata Municipal Airport. Controlled airspace extending from 700 feet above the surface is needed for aircraft executing the approach. The intended effect of this proposal is to provide adequate Class E airspace for instrument flight rules (IFR) operations at Arcata Municipal Airport.

DATES: Comments must be received on or before June 15, 1994.

ADDRESSES: Send comments on the proposal in triplicate to Manger, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, Docket No. 94–AWP–6, 15000 Aviation Boulevard, Lawndale, California 90261. The official docket may be examined in the Office of the Assistant Chief Counsel for the Western-Pacific Region at the same address. 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: Scott Speer, Airspace Specialists, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 297–0697.

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 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 the comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 94–AWP–6." 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 15000 Aviation Boulevard, Lawndale, California 90261, 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, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

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 Class E airspace at Arcata, CA. This proposal would provide adequate Class E airspace for IFR operators executing the ILS/DME approach at Arcata, CA. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as transition areas 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 listed in this document would be published subsequently in 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 10034; 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, Transition areas.

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.

* * * * *

AWP CA E5 Arcata, CA [Revised]

Arcata Municipal Airport, CA
(lat. 40°58'41" N, long. 124°06'31" W)

That airspace extending upward from 700 feet above the surface within a 4 mile radius of the Arcata Municipal Airport and that airspace beginning at lat. 40°29'00" N., long. 124°07'00" W.; to lat. 40°45'00" N., long. 123°50'00" W.; to lat. 41°05'00" N., long. 124°05'00" W.; to lat. 41°03'00" N., long. 124°19'00" W.; to lat. 40°36'00" N., long. 124°19'00" W.; thence to the point of beginning.

* * * * *

Issued in Los Angeles, California, on April 15, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–10707 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–AWP–7]

Proposed Establishment and Modification of Class E Airspace; Lompoc, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish and modify Class E airspace at Lompoc Municipal Airport, Lompoc, CA. Controlled airspace to the surface, a surface area, and a 700 foot transition area are needed for instrument flight rules operations at the airport.

DATES: Comments must be received on or before June 17, 1994.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, System Management Branch, AWP–530, Docket No. 94–AWP–7, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, room 6007, 15000 Aviation Boulevard, Lawndale, California. An informal docket may also be examined during normal business hours at the Office of the Manager, System Management Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Speer, Airspace Specialist, System Management Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (310) 297–0697.

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–AWP–7." 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 15000 Aviation Boulevard, Lawndale, California, 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, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. 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 designated as a surface area for an airport and to modify the 700 foot transition area. An Automated Weather Observing System has been installed at Lompoc Municipal Airport meeting the criterion for a Class E surface area. The coordinates for this airspace are based on North American Datum 83. Class E airspace designated as a surface area for an airport is published in Paragraph 6002 and Class E airspace designations for airspace 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 as of September 16, 1993 (58 FR 36298; July 6, 1993). The Class E airspace listed in the 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

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 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 6002 Class E airspace designated as a surface area for an airport

* * * * *

AWP CA E2 Lompoc, CA [NEW]

Lompoc Airport, CA
(lat. 34°39'58"N, long. 120°28'00"W)
Gaviota VORTAC
(lat. 34°31'53"N, long. 120°05'28"W)

That airspace extending upward from the surface within a 4.3-mile radius of Lompoc Airport, excluding that airspace within Restricted Areas R–2516 and R–2517.

* * * * *

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

* * * * *

AWP CA E5 Lompoc, CA [Revised]

Lompoc Airport, CA
(lat. 34°39'58"N, long. 120°28'00"W)
Gaviota VORTAC
(lat. 34°31'53"N, long. 120°05'28"W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Lompoc Airport and within 4.3 miles each side of the Gaviota VORTAC 293° radial extending from the 4.3-mile radius to 10.9 miles west of the Gaviota VORTAC and within 4 miles each side of the 083° bearing from the Lompoc NDB to 8 miles east of the NDB, excluding that airspace within Restricted Areas R–2516 and R–2517.

* * * * *

Issued in Los Angeles, CA, on April 19, 1994.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 94–10708 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 73, 74, 168, 172, 173, 182, and 184

[Docket No. 93N–0348]

Lead in Food and Color Additives and GRAS Ingredients; Request for Data; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to August 3, 1994, the comment period for the advance notice of proposed rulemaking (ANPRM) that appeared in the **Federal Register** of February 4, 1994, (59 FR 5363). The document announced the agency's intent to take several related actions to reduce the amount of lead in food from the use of food and color additives and ingredients whose uses are generally recognized as safe (GRAS). FDA is taking this action in response to a request to allow additional time for public comment.

DATES: Written comments and information by August 3, 1994.

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

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 4, 1994 (59 FR 5363), FDA published an ANPRM announcing the agency's intent to take several related actions to reduce the amount of lead in food from the use of food and color additives and GRAS ingredients. The ANPRM requested information on whether the specifications it is considering are feasible, and if they are not, why higher

levels will not endanger the public health, and what levels are feasible. Interested persons were given until May 5, 1994, to provide comments and information in response to the ANPRM.

FDA has received a request to extend the comment period to permit at least an additional 90 days for public comment. The request stated that additional time is needed to undertake testing, analysis, and data collection relating to the ANPRM. The request also asked that the extension be granted as quickly as possible, so that the requester can determine whether there will be adequate time to perform testing.

After careful consideration, the agency has concluded that it is in the public interest to allow additional time for interested persons to submit comments and information relating to the ANPRM. Accordingly, FDA is extending the comment period to August 3, 1994.

Interested persons may, on or before August 3, 1994, submit to the Dockets Management Branch (address above) written comments regarding this ANPRM. 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.

Dated: April 28, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–10605 Filed 5–3–94; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 878

[Docket No. 91N–0281]

General and Plastic Surgery Devices; Effective Date of Requirement for Premarket Approval of Silicone Inflatable (Saline-Filled) Breast Prosthesis; Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public hearing on a proposed rule to amend its regulations to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the silicone inflatable (saline-filled) breast prosthesis, a medical device. The purpose of the public hearing is to assist the agency in determining when to issue a final rule to require the filing of a PMA for the silicone inflatable breast prosthesis.

DATES: The public hearing will be held on Thursday, June 2, 1994, from 9 a.m. to 6 p.m. Submit written notices of participation and comments by May 16, 1994. Written comments will be accepted until July 5, 1994.

ADDRESSES: The public hearing will be held at the Sheraton Washington Hotel, 2660 Woodley Rd. NW., Washington, DC 20008. Submit written notices of participation and comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Written notices of participation can also be faxed to 301–594–0113. A limited number of hotel rooms have been reserved at the Sheraton Washington Hotel for June 1, 1994. Attendees are responsible for making their own reservations. In order to receive the established rate, attendees should refer to the FDA hearing. 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.

FOR FURTHER INFORMATION CONTACT: Thomas Arrowsmith-Lowe, Office of Health Affairs (HFY–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1472.

SUPPLEMENTARY INFORMATION.

I. Background

Section 515(b)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. Section 515(b)(2)(A) of the act provides that a proceeding for the promulgation of a final rule to require premarket approval shall be initiated by publication of a notice of proposed rulemaking in the **Federal Register**.

If the proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device under section 513 of the act (21 U.S.C. 360c), whichever is later. If a PMA or notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the investigational device exemption (IDE) regulations. The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed.

II. Summary of Risks and Benefits

In the **Federal Register** of January 8, 1993 (58 FR 3436), FDA published a proposed rule to require the filing, under section 515(b) of the act (21 U.S.C. 360e(b)), of PMA's for the classified silicone inflatable (saline-filled) breast prosthesis and all substantially equivalent devices. In accordance with section 515(b)(2)(A) of the act, FDA included in the preamble to the proposal the agency's proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirement of the act, and (2) the benefits to the public from use of the device (58 FR 3436 at 3438). The following is a summary of those findings.

The envelope or shell of the silicone inflatable breast prosthesis is made of silicone rubber. Accordingly, prolonged contact with the prosthesis raises the same questions about the potential risks for adverse immunological effects and/or connective tissue disorders that have been asked with regard to the use of silicone gel-filled breast prostheses and silicone injections. In addition, no satisfactory, independent data base has been compiled to serve as a basis for the thorough evaluation of the chronic toxic effects and the possible teratogenic effects of silicone. Lastly, neither particles which may shed from the silicone shell, nor the chemical forms of silicone monomers or other additives which may leach from the shell, have yet been adequately characterized with regard to metabolism, distribution, and excretion.

The most common risk associated with breast augmentation and reconstruction is fibrous capsular contracture, the formation of a constricting fibrous layer around the prosthesis. Capsular contracture may result in excessive breast firmness, discomfort, pain, disfigurement, and/or displacement of the implant. Deflation of the implant is another risk associated with use of the device. Deflation, which results from partial or total loss of the contents due to puncture, rupture, or other failure of the shell, or a faulty valve, results in the loss of shape of the prosthesis, and often requires surgical

intervention to correct. Lastly, the presence of any breast prosthesis may interfere with standard mammography procedures used to screen patients for breast cancer. By compressing overlying breast tissue, the presence of the implant makes it more difficult to detect small tumors. In addition, the presence of the implant can produce a shadow on the radiograph that may reduce visual clarity of a significant portion of the breast.

Whether performed for reconstruction or augmentation purposes, breast prosthesis implantation is a discretionary, elective surgical procedure performed for its psychological benefits. Several studies have been published that show psychological improvement in both reconstruction and augmentation patients; however, these studies did not use objective, standardized methodologies that have been validated for measuring the psychological benefit of the device.

The silicone inflatable (saline-filled) breast prosthesis is currently the only device legally available for breast augmentation. For breast reconstruction, the current legal restrictions on the use of silicone gel-filled implants limit their use to those cases where the silicone inflatable (saline-filled) breast prosthesis is considered medically unsatisfactory.

III. Public Hearing

Based on the available scientific evidence and comments received on the proposed rule, FDA has concluded that PMA's will need to be submitted and evaluated for the silicone inflatable (saline-filled) breast prosthesis. However, the agency has also determined that a public hearing is warranted to assist the agency in determining when to issue a final rule to require the filing of PMA's for the silicone inflatable breast prosthesis.

The agenda for the hearing will include: (1) An overview by FDA of the statutory procedure for requesting the submission of PMA's for preamendment class III devices; (2) a presentation by FDA on the preclinical and clinical studies that are required to be completed to support a PMA for the silicone inflatable breast prosthesis; (3) oral testimony by the manufacturers on the status of their scientific studies, including their prospective clinical studies, and the scheduled timeframe for completion of those studies; and (4) oral testimony by consumers and/or representatives of consumer and health professional organizations to assist the agency in determining when to require the filing of PMA's for the silicone inflatable breast prosthesis. To the extent possible, oral testimony should address the following issues:

Manufacturers

1. To what extent do protocols for your pre-clinical testing and ongoing clinical prospective studies reflect the elements identified in the guidance for submission of PMA's for the silicone inflatable breast prosthesis? For major items that do not comply with the FDA guidance document, what is the basis for the scientific validity of the involved tests and/or studies?

2. When were such studies commenced, and when do you expect to have completed all the studies that are necessary for submission of a PMA?

3. How many patients are being implanted with silicone inflatable (saline-filled) breast prostheses at the current time (e.g., 1993 through the present)?

Consumers and Representatives of Consumer and Health Professional Organizations

1. Based on the risks to health as you understand them today, what degree of priority do you recommend that FDA give to calling for safety and effectiveness data for the silicone inflatable breast prosthesis?

2. Based on the benefits of the device as you understand them today, to what extent do you believe that continued availability of the silicone inflatable breast prosthesis fulfills an important patient need that would otherwise be unmet if the device was no longer commercially available or restricted in its availability?

3. Do you believe that FDA should distinguish between use of the device for breast reconstruction versus use for augmentation purposes in its regulation of the silicone inflatable breast prosthesis?

IV. Notice of Hearing Under 21 CFR Part 15

The Commissioner of Food and Drugs is announcing that the public hearing will be held in accordance with 21 CFR part 15. The presiding officer will be Carol Scheman, Deputy Commissioner for External Affairs, Food and Drug Administration. Ms. Scheman will be joined by other FDA officals.

Persons who wish to participate must file a written notice of participation with the Dockets Management Branch (address above) on or before May 16, 1994. All notices submitted should be identified with the docket number found in brackets in the heading of this document and should contain the person's name, address, telephone number, FAX number, business affiliation, if any, a brief summary of the presentation, and the approximate time requested for the presentation.

The agency requests that individuals or groups having similar interests consolidate their comments and present them through a single representative. FDA may require joint presentations by persons with common interests. FDA will allocate the time available for the hearing among the persons who properly file a notice of participation.

After reviewing the notices of participation and accompanying information, FDA will schedule each appearance and notify each participant by mail, telephone, or FAX, of the time allotted to the person and the approximate time the person's presentation is scheduled to begin. The schedule of the public hearing will be available at the hearing. After the hearing, it will be placed on file in the Dockets Management Branch (address above) under docket number 91N–0281.

Under § 15.30 the hearing is informal, and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officer and panel members may question any person during or at the conclusion of their presentation.

Public hearings, including hearings under part 15, are subject to FDA's guideline (21 CFR part 10, Subpart C) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. Under § 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants. The hearing will be transcribed as stipulated in § 15.30(b). Orders for copies of the transcript can be placed at the meeting or through the Dockets Management Branch (address above).

Any handicapped persons requiring special accommodations in order to attend the hearing should direct those needs to the contact person listed above.

To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a waiver of those provisions as specified in § 15.30(h).

The administrative record of the proposed rule will remain open until July 5, 1994, to allow comments on matters raised at the hearing. Persons who wish to provide additional materials for consideration should file these materials with the Dockets

Management Branch (address above) by July 5, 1994.

Dated: April 29, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–10785 Filed 5–2–94; 10:14 am]

BILLING CODE 4160–01–F

POSTAL SERVICE

39 CFR Part 111

Revisions to Standards for Annual Fees and Use of Permit Imprints

AGENCY: Postal Service

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes changes in several Domestic Mail Manual (DMM) standards concerning bulk and presort mailing fees and the methods of paying postage.

E110.6.1, E312.2.6, and E411.4.0 are amended to standardize the terms of application of bulk and presort mailing fees on First-, third-, and fourth-class mail, by requiring payment of the fee only by the party entering the mail, regardless of whose permit imprint, precanceled stamp permit, or meter was used as the device for postage payment on the mailing. A single fee payment would allow mailing at all bulk or presort rate categories of the corresponding class of mail.

E213.4.3 is amended to change the publishing requirements for Form 3526, Statement of Ownership, Management, and Circulation, generally to allow publication anytime during October of the filing year rather than in a specific issue.

P040 is amended both to relax the conditions under which a company permit imprint may be used and to strengthen concurrently the Postal Service's ability both to identify the place of mailing of company permit imprint mail and to obtain information about such mailings. Generally, mailers will be allowed to use a company style imprint without having to obtain permits at two or more post offices, but mailers will be required to show a return address at which records of the mailing will be made available upon request.

P040 is also amended to relax the design restrictions of permit imprint indicia. Generally, the new standards allow for more creativity while retaining restrictions that ensure that the indicia content is readable and clearly identifiable as postage payment.

P200 is amended to set a sunset date for the use of key rates.

Miscellaneous other changes are made for consistency.

DATES: Comments must be received on or before June 20, 1994.

ADDRESSES: Written comments should be mailed or delivered to Manager, Mailing Standards, USPS Headquarters, 475 L'Enfant Plaza SW., Washington, DC 20260–2419. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 5610 at the above address.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268–5199.

SUPPLEMENTARY INFORMATION: This notice presents revisions to Domestic Mail Manual (DMM) standards suggested during the DMM revision project begun in 1992. DMM Issue 46 (July 1993) was the first result of that project, but was not intended to make changes simultaneously in substantive mailing requirements; such amendments were deferred for subsequent action such as this rulemaking. This notice focuses on several matters related to the use of permit imprints (for First-, third-, and fourth-class mail) and to the method of paying postage for second-class mail.

1. E110.6.1, E312.2.6, and E411.4.0 are amended to standardize the assessment of bulk or presort mailing fees on First-, third-, and fourth-class mail. Existing standards brought forward from DMM Issue 45 and earlier are inconsistent with one another. A single standard applies to all First-Class (and Priority) Mail—that a fee must be paid once each 12-month period by any person or organization entering mail at other than the single-piece rates. Payment of that fee allows use of any presort or bulk First-Class rate and the mailing of both the payer's mail and that of its clients. By contrast, third-class standards distinguish between postage-affixed (precanceled and meter stamp) and permit imprint mailers. Fourth-class presents its standards yet another way. Understandably this variation confuses both customers and postal employees and may cause fees to be assessed incorrectly.

The revision below amends the standards cited earlier to state them uniformly for all three classes: The mailing fee applicable to the particular class of mail must be paid once each 12-month period at each office of mailing (except as provided otherwise for plant-verified drop shipments) by any person or organization entering mailings of that class at other than a single-piece or nonpresorted rate, regardless of whose permit imprint, precanceled stamp permit, or meter was used to pay postage on the mail; payment of the one fee allows that person or organization to enter its own mail (and that of its clients) at all the bulk or presort rates available in the corresponding class of mail. By this revision, the Postal Service believes that confusion over this type of fee payment should be effectively eliminated.

2. E213.4.3 is amended to change the publishing requirements for Form 3526, Statement of Ownership, Management, and Circulation. The current standard requires each publisher of a second-class publication to file Form 3526 by October 1 of each year for each authorized publication. The information on that form (or a facsimile of the form) must be published in the first issue after October 1 of the corresponding general or requester second-class publication. Publishers have asked that this specification be relaxed to offer more latitude on the issue in which the information may appear. Because 39 U.S.C. 3685 allows the Postal Service the authority to administer such details as when the form is filed or published, the Postal Service believes it can change those criteria without adversely affecting the informational value of what is published. The Postal Service sees no benefit from retaining a stringent requirement when a reasonable relaxation is sought and supported by the industry. Therefore, the cited standard is amended as shown below to clarify its applicability and require publication of Form 3526 in any issue published during October.

3. P040 is amended to relax the conditions under which a company permit imprint may be used and to strengthen concurrently the Postal Service's ability both to identify the place of mailing of company permit imprint mail and to obtain information about such mailings. Current standards require a permit imprint indicium to contain the mailer's permit number and the name of the post office where the permit is held unless, for a mailer having permit imprint authorizations at two or more post offices, a "company" style indicium is used. In a company style indicium, the name of the permit holder is substituted for the permit number and post office name. This style is preferred and used extensively by customers who produce large mailings for entry at multiple sites, who may change printers or mailers regularly, who purchase large quantities of envelope stock, or who simply prefer the appearance of the company style over the basic format. Customers who have no need for multiple permit imprint authorizations have noted that

it is a pointless burden on the Postal Service and its customers to generate and maintain a second permit imprint account simply to gain access to the company style indicium. These customers have requested relaxation of the applicable standards to let any permit holder use the company style format.

Current standards also require that company permit imprint mailpieces bear a complete domestic return address, but do not specify what that address is to represent. Consequently, the Postal Service has found it difficult to trace such mailpieces back to the point of mailing in situations where classification or postage matters have been questioned. Moreover, no remedies exist for instances in which the permit holder deliberately frustrates the Postal Service's efforts to identify the point of mailing, what was mailed, and whether the correct postage was paid.

Therefore, P040 is amended as shown below to allow use of a company style permit imprint indicium by any permit mailer regardless of the number of permits held. The Postal Service is also requiring more information to document company permit imprint mailings (and mailings including company permit imprint pieces), is specifying the required return address, and is enhancing its administrative remedies when the permit holder fails to supply mailing or permit use information on the request of the Postal Service. No additional record-keeping responsibilities are being added for either the mailer or the local post office. Rather, it is proposed that mailers use the location (the permit holder's or its agent's) at which records for the mailing will be available to the Postal Service on request as the required return address. The revised standards allow suspension or revocation of permits if such records are not provided in a timely manner. The Postal Service believes the higher standards are a prudent administrative control and do not represent an unreasonable condition: each permit holder should be able to detail what was mailed, where, and how much postage was paid, and should have no legitimate reason to withhold such details from the Postal Service. Postal Service actions against fraudulent uses of permits should be enhanced by these proposed measures.

4. P040 is also amended to relax the design restrictions of permit imprint indicia. Current standards allow use of only the formats illustrated in the DMM—basically a plain box with plain lettering. While this format was adequate for years, contemporary marketing techniques and competitive pressures among mail users have made the attractiveness of the mailpiece a cornerstone of efforts to interest the addressee in what is inside the mailpiece. As a result, mailers have become more interested in using artistic latitude in designing the permit imprint indicium that appears on the mailpiece.

The Postal Service understands the mailer interest in this matter and accepts the validity of proposals for greater design flexibility. However, those must be balanced against the needs of the Postal Service to maintain the clear recognition of the indicium both as evidence of postage payment and as an indicator of the mailer's identity. Therefore, P040 is amended as shown below to allow some greater flexibility in the preparation of permit imprint indicia. Generally, the proposed standard reinforces the distinctiveness of an indicium but allows its incorporation into a design of the mailer's choice. The combined design must be in a prescribed area of the upper right corner of the address side, area, or label on the mailpiece, must not imitate a stamp or meter impression, and must keep the indicia free of words and other printing not specified by the format standards. While some mailers may prefer more latitude, the Postal Service believes the proposed standards grant significant new flexibility to mailpiece designers in a reasonable balance between such flexibility and the Postal Service's legitimate interest in maintaining recognizable permit indicia.

5. P200 is amended to set a sunset date for the use of key rates. Key rates basically represent a simplified method of computing zone-rate postage on issues of second-class publications having a stable distribution pattern. Publishers and others who provided the Postal Service with suggestions for simplifying these regulations noted the diminishing use of key rates in an era of centralized postage, electronic funds transfer, multiple editions, and other industry changes. At the same time, postal personnel, noting how seldom key rates are used and the resulting lessening of understanding and experience in their administration, agreed that their continued availability should be questioned.

Therefore, by the revision shown below, the Postal Service proposes to end the use of key rates. No new users would be added after September 30, 1994, or on adoption of a final rule, whichever is later, and, to allow for an orderly transition for remaining key rate users, termination of key rates would be deferred until March 31, 1995, or 6 months after adoption of a final rule, whichever is later. The Postal Service recognizes that there are some publishers that may still use key rates and does not wish to impact them more than necessary. However, the Postal Service, which also recognizes the need to eliminate nonessential regulations if the mailing community is to be better served, feels that key rates exemplify a potential for such action.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the DMM, incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

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

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

2. Revise the following units of the Domestic Mail Manual as noted below:

E110 Basic Standards

* * * * *

6.0 Fees.

6.1 Presort Mailing Fee.

A First-Class presort mailing fee must be paid once each 12-month period at each office of mailing by any person or organization entering mailings at other than the single-piece First-Class or Priority Mail or Nonpresorted First-Class rates, regardless of whose permit imprint, precanceled stamp permit, or meter was used to pay postage on the mail. Payment of one fee allows that person or organization to enter its own mail (and that of its clients) at all the First-Class and Priority Mail presort rates.

* * * * *

E213 Publisher Records

* * * * *

4.0 Statement of Ownership, Management, and Circulation.

* * * * *

4.3 Publication.

During October every year, the publisher of each publication authorized second-class mail privileges as a general or requester publication must publish a complete statement of ownership, containing all information required by Form 3526, in the issue of the publication to which data reported on that statement relate. A reproduction

of the Form 3526 submitted to the USPS may be used for this purpose. Other publications are not required to publish this statement.

* * * * *

E312 Additional Standards Applicable to Bulk Third-Class Mail

* * * * *

2.0 Standards for Rates, Fees, and Postage.

* * * * *

2.6 Bulk Mailing Fee.

A third-class bulk mailing fee must be paid once each 12-month period at each office of mailing (except as provided otherwise for plant-verified drop shipments) by any person or organization entering mailings at any regular or special bulk third-class rate, regardless of whose permit imprint, precanceled stamp permit, or meter was used to pay postage on the mail. Payment of one fee allows that person or organization to enter its own mail (and that of its clients) at all the third-class bulk rates. [Delete 2.7; renumber 2.8 through 2.10 as 2.7 through 2.9, respectively.]

* * * * *

E411 Standards Applicable to All Fourth-Class Mail

* * * * *

4.0 Fees.

4.1 Special Presort and DBMC Rates.

[Combine existing 4.1 and 4.3; renumber existing 4.4 as 4.3; revise 4.1 as follows:] A mailing fee must be paid once each 12-month period at each office of mailing by any person or organization entering mailings at the special fourth-class presort rate or (except as provided otherwise for plant-verified drop shipments) at the destination BMC (DBMC) parcel post rates, regardless of whose permit imprint, precanceled stamp permit, or meter was used to pay postage on the mail. A separate fee is required for each rate; payment of the applicable fee allows that person or organization to enter its own mail (and that of its clients) at the corresponding rate.

4.2 Pickup Service.

The parcel post pickup fee must be paid every time pickup service is provided, subject to the corresponding standards in D010.

* * * * *

P040 Permit Imprints

1.0 Basic Information

* * * * *

[Renumber existing 1.6 and 1.7 as 1.8 and 1.9; add new 1.6 and 1.7 and revise 1.8 as follows:]

1.6 Information

Upon request by the USPS, a permit holder or its agent must provide in a timely manner complete information (as specified in 3.5) about mailings, or including pieces, paid by company permit imprint.

1.7 Suspension.

The USPS may immediately suspend the permit holder's use of a permit imprint if the permit holder or its agent fails to provide information as specified in 1.6.

1.8 Revocation.

A permit is revoked for use in operating any unlawful scheme or enterprise, for nonuse during any 12-month period, for refusal to provide information about permit imprint use or mailings, or for any noncompliance with the standards applicable to using permit imprints. If revocation is for nonuse but the permit holder plans to resume mailings within a 90-day period, the permit may be continued for 90 days. The permit holder may appeal the revocation in writing to the postmaster within 10 days of receipt of the notice. Further appeal may be made through the postmaster to the district manager of customer service and sales or to the RCSC if the initial decision was made at the district level.

* * * * *

2.0 Preparing Permit Imprints.

* * * * *

2.4 Placement.

The entire permit imprint indicium must be aligned parallel with the address of the mailpiece and placed in the upper right corner of the address side, of the address area, or of the address label, subject to these conditions:

a. The indicium must not encroach on reserved space on the mailpiece (e.g., the OCR read area) if such a standard applies to the rate claimed.

b. The position (but not the format) of the indicium may be varied so that data processing equipment can simultaneously print the address, imprint, and other postal information.

* * * * *

3.0 Permit Imprint Content.

* * * * *

3.5 Company Permit Imprint.

A company permit imprint is one in which the exact name of the company or individual holding the permit is shown in the permit imprint indicium in place of the city, state, and permit number. A customer may use a company permit imprint indicium if:

a. For 2 years after the last date of mailing, the permit holder keeps records for each mailing paid by company permit imprint for USPS review on request. These records include (for each version of what was mailed, if applicable) a complete sample mailpiece; the weight of a single piece; the total number of pieces mailed; the total postage; the date(s) and post office(s) of mailing, and other records required by the rate of postage claimed or the method of payment used.

b. Each mailpiece bears the complete domestic return address of the mailer or the mailer's agent, that address being the physical location at which the records listed in 3.5a are available for USPS review. On unendorsed bulk third-class mail, the return address may be below the permit imprint.

4.0 Formats.

[Renumber existing 4.0 as 4.1, and Exhibits 4.0a-c as 4.1a-c; amend and add new 4.2 as follows:]

4.1 Basic Standard.

Unless prepared under the option in 4.2, permit imprint indicia for ordinary mail, official mail, and Mailgrams must be prepared in one of the formats shown in Exhibit 4.1a, Exhibit 4.1b, and Exhibit 4.1c, as applicable to the rate claimed or type of mail.

4.2 Optional Format.

Permit imprint indicia may be prepared in a format other than the basic format described in 4.1 subject to these conditions:

a. The rule that forms a box around the content of the indicium may be omitted if the content remains as specified in 3.0 and Exhibits 4.1a-c.

b. The indicium content specified in 3.0 is placed within a clear area no smaller than ½ inch high and ½ inch wide, no more than 1-½ inches below or left from the upper right corner of the mailpiece, of the address label, or of the address area, regardless of the processing category or the postage rate claimed.

c. No printing appears in the indicium area other than the information required or allowed under 3.0.

d. No printing appears above or to the right of the permit information.

e. The permit information is printed in no smaller than 4-point type.

f. Any decorative designs intended to be part of the permit imprint indicium design appear below or to the left of the permit information in an area extending no farther than 4-½ inches to the left of the right edge, and 1-½ inches below the top edge, of the mailpiece, address area, or address label, as applicable. Such designs must not resemble or imitate a postage meter imprint, postage stamp, postcard postage, or other method of postage payment. No words or symbols are included in a decorative design used by the USPS to identify a class of mail, rate of postage, or level of service, unless such words or symbols

are correctly used under the applicable standards for the mailpiece on which they appear and the corresponding postage and fees have been paid.

g. All other applicable standards in 1.0 through 5.0 are met.

* * * * *

5.0 Mailings.

* * * * *

5.3 Preparation of Mailing.

All pieces in a permit imprint mailing must be faced (i.e., have the address facing in the same direction) and meet the preparation standards applicable to the rate claimed. Mail claimed at a rate where postage varies by zone must be separated by zone when mailed unless authorized by the USPS.

5.4 Place of Mailing.

Mail must be deposited and accepted at the post office that issued the permit, at a time and place designated by the postmaster, except as provided for plant-verified drop shipments.

* * * * *

5.6 Prepayment.

Payment must be made for each mailing, either in cash or through an advance deposit account, before the mailing can be released for processing. Funds to pay postage must be deposited as prescribed by the USPS. If the funds paid or on deposit are less than that necessary to pay for a mailing, the difference must be paid or deposited before it or other permit imprint mailings can be accepted. Credit for postage is not allowed. Postage may not be paid partly in money and partly by postage stamps unless permitted by standard.

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P200 Second-Class Mail

* * * * *

3.0 Key Rate.

* * * * *

3.5 Termination of Key Rate Option.

New authorizations to use key rates may not be granted after September 30, 1994. Publications already authorized key rates may continue to use them until March 31, 1995. Effective April 1, 1995, use of key rates is eliminated and 3.0 is deleted.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 94–10644 Filed 5–3–94; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50604A; FRL–4779–1]

RIN 2070–AC37

Refractory Ceramic Fiber; Proposed Significant New Use of a Chemical Substance; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: EPA is reopening the comment period for a proposed significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act to require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of refractory ceramic fiber (RCF) in any new product for or any new application of an existing product form. The proposed rule was published in the **Federal Register** on March 21, 1994.

DATES: Written comments must be received by EPA by June 3, 1994.Q02

ADDRESSES: All comments should be sent in triplicate to: U.S. Environmental Protection Agency, OPPT Document Receipt (7407), 401 M St., SW., Washington, DC 20460, Attention Docket No. 50604. Comments that contain information claimed as confidential must be clearly marked "Confidential Business Information" (CBI). If CBI is claimed, three sanitized copies of any comments containing information claimed as CBI must also be submitted. Any party submitting comments claimed to be confidential must prepare and submit a nonconfidential version of the comments that EPA can place in the public file. Any comments marked as CBI will be treated in accordance with the procedures in 40 CFR part 2. Nonconfidential versions of comments on the proposed rule will be placed in the rulemaking record and will be available for public inspection. Comments not claimed as confidential at the time of submission will be placed in the public file.

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

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 21, 1994 (59 FR 13294), EPA proposed a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act to require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of refractory ceramic fiber (RCF) in any new product form not listed, or any new application of an existing product form not listed in the proposed rule. Written comments on the proposed rule were to be received on or before April 20, 1994. EPA received a request from a trade association seeking a 30–day extension of the public comment period because of additional time needed to provide EPA with information on uses not listed in the proposal. EPA believes that providing an additional 30–day period to prepare written comments is reasonable. EPA is therefore reopening the comment period 30 days in order to give all interested persons the opportunity to comment fully. Written comments must be received on or before June 3, 1994.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 26, 1994.

Mark Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 94–10699 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 745

[OPPTS–62134A; FRL–4778–3]

RIN 2070–AC21

Lead Fishing Sinkers; Response to Citizens' Petition and Proposed Ban; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the comment period for a proposed rule to prohibit the manufacture, processing, and distribution in commerce of certain lead- and zinc-containing fishing sinkers which was published in the **Federal Register** of March 9, 1994.

DATES: Comments must be received on or before July 8, 1994.

ADDRESSES: All comments should be submitted in triplicate to: TSCA Docket Receipt (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–G99, 401 M St., SW., Washington, DC 20460, Attention: Docket No. 62134A.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E–545, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: 202–554–0551.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 9, 1994 (59 FR 11122), EPA issued a proposed rule under section 6(a) of the Toxic Substances Control Act to prohibit the manufacture, processing, and distribution in commerce of certain lead- and zinc-containing fishing sinkers. Written comments on the proposed rule were to be received on or before May 9, 1994. EPA received requests seeking a 60–day extension of the public comment period because of additional time needed to provide EPA with information it requested in the proposed rule. EPA believes that providing an additional 60–day comment period to prepare written comments is reasonable. EPA is therefore extending the comment period 60 days in order to give all interested persons the opportunity to comment fully. Written comments must be received by EPA on or before July 8, 1994.

A person may assert a claim of business confidentiality for any comments submitted to EPA in connection with the proposed rule. Any person who submits a comment that contains information claimed as confidential, must also submit a nonconfidential version. Any claim of confidentiality must accompany the information when it is submitted to EPA. Persons may claim information confidential by circling, bracketing, or underlining it, and marking it with "CONFIDENTIAL" or some other appropriate designation. EPA will disclose information subject to a claim of business confidentiality only to the extent permitted by section 14 of TSCA and 40 CFR part 2, subpart B. If a person does not assert a claim of confidentiality for information in comments at the time it is submitted to EPA, the Agency will put the comments in the public docket without further notice to that person.

List of Subjects in 40 CFR Part 745

Environmental protection, Lead, Recordkeeping and reporting requirements.

Dated: April 26, 1994.

Mark Greenwood,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 94–10696 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 94–1; DA 94–314]

Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: The Commission adopted a Notice of Proposed Rulemaking initiating a comprehensive review of the performance of local exchange carriers under price cap regulation. The Commission pledged to undertake this fourth-year review when it adopted price cap regulation for the Regional Bell Operating Companies, GTE, and electing local exchange carriers. A motion for extension of time was filed on March 30, 1994, by the United States Telephone Association and granted by the Commission on April 7, 1994. This notice serves to grant all local exchange carriers additional time in which to file comments and replies on the issues set forth in the above-cited NPRM.

DATES: Comments must be filed on or before May 9, 1994, and reply comments on or before June 8, 1994.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joanne Wall, Tel. (202) 632–6917.

SUPPLEMENTARY INFORMATION:

Order

Adopted: April 6, 1994;
Released: April 7, 1994.

In the Matter of: Price Cap Performance Review for Local Exchange Carriers; Motion for Extension of Time.

By the Acting Chief, Common Carrier Bureau:

1. On March 30, 1994, the United States Telephone Association (USTA) filed a motion for extension of time to file comments in response to the Notice of Proposed Rulemaking [1] in the above-captioned proceeding. Comments are scheduled to be filed by April 18, 1994 and replies by May 17, 1994. USTA seeks an extension until May 9, 1994 for comments and until June 8, 1994 for replies.

2. USTA states that the Commission has requested that interested parties submit detailed information and quantitative data on a wide variety of issues, ranging from the broad policy goals underlying the price cap plan, to specific details of the plan, to transition issues related to increasing competition in access markets. USTA indicates that it is the principal trade association representing the entire local exchange carrier industry and views this proceeding as critically important to determining the future of the telecommunications industry. USTA asserts that the quantification and other analyses that it will be submitting cannot be completed in time for inclusion in comments to be filed on April 18. Therefore, it argues, an extension of time is necessary for USTA to gather and analyze relevant data and to allow its consultants to prepare their reports and obtain the approval of USTA's membership before those reports can be incorporated in its comments.

3. The Common Carrier Bureau has reviewed USTA's request for extension of time and has determined that good cause has been shown to grant all interested parties additional time, until May 9, 1994, to file comments and until June 8, 1994 to file reply comments.

4. Therefore, it is ordered that the United States Telephone Association's motion for extension of time is granted to the extent specified herein.

Federal Communications Commission.

A. Richard Metzger, Jr.,

Acting Chief, Common Carrier Bureau.

[FR Doc. 94–10611 Filed 5–3–94; 8:45 am]

BILLING CODE 6712–01–M

[1] Price Cap Performance Review for Local Exchange Carriers, Notice of Proposed Rulemaking, CC Docket No. 94–1, FCC No. 94–10, rel. Feb. 16, 1994.

47 CFR Part 73

[MM Docket No. 93–282, RM–8371]

Radio Broadcasting Services; Eureka, NV

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: The Commission dismisses the petition filed by Keith E. Lamonica requesting the allotment of Channel 233A to Eureka, Nevada, as the community's first local aural transmission service. See 58 FR 62319, November 26, 1993. Neither the petitioner nor any other party filed comments reiterating an intention to apply for the channel, if allotted.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report

and Order, MM Docket No. 93–282, adopted April 14, 1994, and released April 29, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 94–10654 Filed 5–3–94; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 94–30; RM–8457]

Television Broadcasting Services; Kaneohe, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Collins/West Broadcasting, proposing the allotment of Television Channel 66 to Kaneohe, Hawaii, as that community's first local television service. The allotment can be made consistent with the minimum distance separation requirements of Section 73.610 of the Commission's Rules. The coordinates for the proposed allotment of Channel 66 to Kaneohe are North Latitude 21–25–18 and West Longitude 157–48–06. This proposal is not affected by the freeze on television allotments or applications.

DATES: Comments must be filed on or before June 20, 1994, and reply comments on or before July 5, 1994.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jeffrey C. Hill, President, Collins/West Broadcasting, 45–934 Kamehameha Highway, #C–127, Kaneohe, Hawaii 96744 (petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 94–30, adopted April 14, 1994, and released April 29, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 94–10655 Filed 5–3–94; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

Regulations for the Administration of Special Use Permits on National Wildlife Refuges in Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice to the public that it will be developing regulations that will clarify, update, and add to existing regulations for the administration of special use permits (permits) on national wildlife refuges (refuges) in Alaska. These changes will include but not be limited to: Permit application, denial, and appeal procedures; permit fees; and the process for issuing permits where a competitive selection process is used to select the permit holder (e.g., big game guide-outfitters).

DATES: Comments must be received on or before July 5, 1994.

ADDRESSES: Comments should be addressed to: U.S. Fish and Wildlife Service, Regional Director, Attention: Daryle R. Lons, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Daryle R. Lons at the above address; telephone 907–786–3361.

SUPPLEMENTARY INFORMATION: The Alaska National Interest Lands Conservation Act of 1980 (ANILCA) (43 U.S.C. 1602–1784), the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) authorize the Secretary of the Interior to prescribe regulations as necessary to administer permits for compatible activities on refuges in Alaska.

The current regulations governing issuance of permits on refuge units in Alaska, codified at 50 CFR 36.41, were originally published in the **Federal Register** at 46 FR 40192 on August 7, 1981, and later amended at 51 FR 44794 on December 12, 1986. Since that time, the permit administration program on refuges in Alaska has continued to evolve. The purpose of the proposed regulations is to provide up-to-date guidance to both commercial users and Service employees for the administration of permits in Alaska. Prior to promulgating these revised regulations, the Service will be reviewing its existing permit administration program and will be proposing revisions based on over 12 years of experience with the program and the implementation of ANILCA.

The evolution of the program for administering permits has been influenced by a number of factors since the original regulations were promulgated. One factor has been the increased public awareness and understanding of the need for securing permits prior to engaging in many activities on refuges in Alaska.

Another factor is the November 1984 Inspector General's Audit Report that found that the Service was not collecting fees which were commensurate with the value of the commercial activities authorized. This audit resulted in the Service developing a fee schedule based on client use days instead of charging a fixed $100 administrative fee for all permits regardless of the scope of income generated by the commercial permittee.

Another event causing a significant impact on refuge permit administration in Alaska was the decision of the Alaska Supreme Court in *Owsichek* v. *State Guide Licensing and Control Board*, 763 P.2d 488 (Alaska, 1988). That ruling

found the State's system of assigning exclusive guide areas unconstitutional. Prior to this ruling, the Service had depended upon the State's system for selecting and assigning guides to areas which were located within refuge lands. In an attempt to allow the State an opportunity to develop a constitutionally acceptable system, and one which would satisfy Service needs, the Service imposed a moratorium on the issuance of permits to new guide applicants. This effectively limited the availability of permits to those who were guiding at the time of the 1988 court ruling.

After some time, the Service decided to develop its own interim program in order to provide an equal opportunity for all registered big game guide-outfitters to compete for permits. During late 1991 and early 1992, the Service proposed an interim system to select big game guide-outfitters. After soliciting public comment on the system, and making revisions based on substantive comments, an interim program was implemented in June 1992. Requests for proposals were then solicited and applicants were notified of selections in January 1993. Successful applicants were awarded 5-year permits effective July 1, 1993.

It now appears that the State may not be able to implement a satisfactory system for the selection of guide-outfitters prior to the expiration of the 5-year permits the Service issued in 1993. Accordingly, the Service proposes to initiate development of regulations related to the big game guide-outfitter program and include them in the revised regulations pertaining to the general administration of permits in Alaska (50 CFR 36.41).

The Service has identified several issues at this preliminary stage for which it invites public comment:

(1) Is the existing 180 day period allowed for filing appeals of adverse decisions on permits appropriate in this instance? Should a separate appeal system be developed which speaks directly to big game guide-outfitters?

(2) To what extent should the existing interim system for selecting big game guide-outfitters be made part of the regulations?

(3) If the State develops a selection system that meets Service requirements, should provision be made for the suspension of the Service permit selection system?

Comments on the foregoing issues, as well as other related aspects of this process, are encouraged. The Service will follow this comment period with the publication of a proposed rule which will allow, also, for additional comments prior to publication of a final rule.

Dated: April 1, 1994.

Mollie H. Beattie,

Director.

[FR Doc. 94–10517 Filed 5–3–94; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 940413–4113; I.D. 032394C]

RIN 0648–AG59

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule; proposed 1994 specification of Pacific halibut bycatch allowances; request for comments.

SUMMARY: NMFS proposes regulations to implement several management measures designed to prevent some Gulf of Alaska (GOA) trawl fisheries from taking an unnecessarily large share of the GOA halibut bycatch limit; amend the directed fishing standards to prohibit using retained amounts of arrowtooth flounder, or groundfish species that are closed to directed fishing, as a basis for calculating retainable amounts of other, more valuable groundfish species that are closed to directed fishing; change the opening date of the yellowfin sole and "other flatfish" fisheries in the Bering Sea and Aleutian Islands management area (BSAI) from May 1 to January 1; and implement changes pertaining to the annual specification and management of GOA halibut prohibited species catch (PSC) limits. This action is necessary to reduce the likelihood that one sector of the Alaska trawl fleet will preempt others for a share of the Pacific halibut bycatch limit established for vessels using trawl gear in the GOA, and provide greater opportunity to harvest available groundfish under halibut bycatch restrictions in both the GOA and BSAI fisheries. This action is intended to further the objectives of the fishery management plans for the groundfish fisheries off Alaska.

DATES: Comments must be received by May 31, 1994

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Individual copies of the environmental assessment/regulatory impact review (EA/RIR) prepared for this action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Kaja Brix, Fisheries Management Division, Alaska Region, NMFS, at 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone (EEZ) of the GOA and the BSAI are managed by the Secretary of Commerce in accordance with the Fishery Management Plan (FMP) for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations authorized under the FMP that pertain to the U.S. groundfish fisheries appear at 50 CFR parts 672 and 675.

At its September 1993 meeting, the Council requested NMFS to prepare a rulemaking that would implement several management measures that are intended to prevent some GOA trawl fisheries from taking an unnecessarily large share of the halibut bycatch limit relative to other groundfish trawl fisheries. This results in the attainment of the halibut bycatch cap before some groundfish total allowable catches (TACs) have been taken, causing a closure of trawling operations in the GOA even though the full groundfish harvest amount has not been taken in some fisheries. These measures were presented to the Council in September 1993 by GOA and BSAI trawl industry representatives as an alternative to FMP amendments under consideration by the Council that would establish a super-exclusive registration program for vessels participating in the GOA and BSAI groundfish fisheries.

Three measures were proposed to address the preemption of one trawl fishery sector by another:

1. Establish two GOA trawl fishery categories for the purpose of apportioning the GOA halibut bycatch limit already established for the trawl gear fisheries (§ 672.20(f)). These two categories are the following: (1) The shallow-water fishery complex (pollock, Pacific cod, Atka mackerel, shallow-water flatfish, flathead sole, and "other species"); and (2) the deep-water fishery complex (the deep water flatfish, rex sole, arrowtooth flounder, sablefish, and rockfish);

2. Revise the method for calculating retainable amounts of groundfish

species under directed fishing standards (§ 672.20(h) and § 675.20(i)). Revised methods prohibit using retained amounts of arrowtooth flounder, or groundfish species that are closed to directed fishing, as a basis for calculating retainable amounts of other, more valuable groundfish species that are closed to directed fishing; and

3. Adjust the opening date for the BSAI yellowfin sole and "other flatfish" fisheries from May 1 to January 1. As a result of this season adjustment, directed fishing standards governing retainable amounts of flatfish species at § 675.20(h)(2) are also revised.

At its December 1993 meeting, the Council requested that NMFS implement these measures early in the 1994 fishing year by emergency interim rulemaking. An emergency rule was issued on February 10, 1994 (59 FR 6222) under section 305(c) of the Magnuson Act.

A detailed description of, and justification for, each of the proposed management measures, including editorial changes to regulations addressing GOA halibut bycatch limits, follow.

Establishment of Two GOA Trawl Categories for Purposes of Apportioning the Halibut Bycatch Mortality Limit

Existing regulations at § 672.20(f) establish a framework process for the annual specification of separate Pacific halibut PSC limits for "trawl" and "fixed gear" fisheries, and for apportioning those limits by season. Although these regulations limit the bycatch of Pacific halibut in the GOA groundfish trawl fisheries, they have resulted in conflict among, and preemption of, groundfish trawling operations in the GOA as various trawl fishery components compete for shares of the available halibut PSC limit. This conflict occurs due to seasonal variations in halibut bycatch rates and amounts of halibut caught in the various trawl fisheries; NMFS lacks regulatory authority to apportion the halibut PSC limit among separate trawl fishery categories.

Under existing regulations, the possibility exists for the activities of one group of trawl vessels fishing for a particular groundfish species or species complex to take a disproportionate amount of the halibut PSC limit relative to other groundfish fisheries. The halibut PSC limit may be reached before the attainment of the fisheries' TAC amount and cause closure of all trawling operations in the GOA, except for trawling for pollock with pelagic trawl gear. Such closures may cause: significant amounts of economically important TAC to remain unharvested; idling of vessels and crew; and, a disruption of processing, fishing support sectors, fishery-dependent communities, and intermediate and final markets. Even if the total trawl PSC limit is not reached prematurely, the threat that it may be reached at any point in the fishing year can force other user groups to incur unnecessary costs, alter fishing plans, or operate in a manner that causes conflict among user groups.

Many of the potentially adverse impacts of the present process used to manage halibut bycatch in the GOA trawl fisheries could be avoided or reduced if the GOA trawl PSC limit were apportioned between competing fishery categories. Fishery data from the GOA trawl fisheries indicate that the variation in halibut bycatch rates and associated bycatch mortality in these fisheries appears to be relatively well demarcated by the following operational categories: (1) Those vessels fishing for species in the "shallow-water species complex" (pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, or "other species"); and (2) those vessels fishing for species in the "deep-water species complex" (sablefish, rockfish, deep water flatfish, and arrowtooth flounder). The Council's recommended management measure included flathead sole in the deep-water complex; however, 1993 fishery data show that more than 65 percent of the total GOA flathead sole harvest was associated with fisheries in the shallow-water complex. Therefore, NMFS proposes to include flathead sole in the shallow-water complex. In general, the shallow-water and deep-water complexes are associated with inshore and offshore trawl operations, respectively.

Based on Council recommendations at its September and December 1993 meetings, NMFS proposes to apportion the 1994 GOA halibut trawl PSC limit among fisheries and seasons as set out below:

Apportionment of the 2,000 metric ton (mt) halibut bycatch mortality limit established for the 1994 GOA trawl fisheries among the shallow and deep-water trawl fishery complexes and seasons. Seasons open and close at 12 noon, Alaska local time (A.l.t.), except that the first season opens at 0001 hours, A.l.t., January 20, and the last season ends at 12 midnight, A.l.t., December 31.

Season	Shallow complex	Deep complex	Total
Jan. 20–Mar. 31.	500 mt ..	100 mt ..	600 mt.
Mar. 31–Jun. 30.	100 mt ..	300 mt ..	400 mt.
Jun. 30–Sep. 30.	200 mt ..	400 mt ..	600 mt.
Sep. 30–Dec. 31.	(1)	(1)	400 mt.

[1] No apportionment.

Attainment of a seasonal (quarterly) bycatch allowance by a fishery complex would result in directed fishing closures for each species within that fishery complex for the remainder of the quarter, except that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water complex is reached, directed fishing for pollock with pelagic trawl gear may continue subject to other regulatory provisions under § 672.20(f). Any overages or shortfalls of a quarterly bycatch allowance would be accounted for in the subsequent quarterly allowance.

A detailed justification for the fishery and seasonal apportionments of the 1994 halibut PSC limit is described in the EA prepared for this management measure (see **ADDRESSES**). These apportionments are intended to accommodate seasonal bycatch requirements in a manner that optimizes the 1994 halibut PSC limit established for trawl gear relative to anticipated trawl fishing patterns and 1994 groundfish TACs.

Revision of the Methodology Used To Calculate Retainable Amounts of Groundfish Under Directed Fishing Standards

The proposed rule amends § 672.20(h) and § 675.20(i) to address problems with the current regulatory provisions for calculation of "retainable" bycatch amounts of groundfish species for which directed fishing is closed. Current regulations provide for an overly liberal computation of retainable amounts of groundfish bycatch species, because the basis for bycatch retention inappropriately includes species not open for directed fishing. This compromises the purpose of using directed fishing standards to restrict bycatch of species after directed fishery closures. This also creates a circular process, effectively allowing excessive bycatch retention.

An associated concern exists that operators of some vessels deliberately target on arrowtooth flounder merely to provide a basis for retaining allowable amounts of highly valued groundfish species for which directed fishing is

closed. In this case, arrowtooth flounder is harvested solely for the purpose of providing "directed catch" against which "retainable bycatch" quantities may be calculated and accumulated. The arrowtooth flounder directed catch is discarded and only the economically valuable bycatch, authorized on the basis of the quantity of the arrowtooth harvest, is actually retained for processing. This practice effectively subverts the "bycatch only" intent of fishery closures and associated directed fishing standards at § 672.20(g) and § 675.20(h). Furthermore, trawl operations for arrowtooth flounder experience relatively high bycatch rates of halibut and, thus, contribute to premature attainment of the halibut PSC limit, further aggravating the competition for the halibut PSC limit in the GOA trawl fisheries and increasing the potential for costly trawl fishery closures.

Adjustment of Season Opening Dates for the BSAI Flatfish Fisheries

The proposed rule would adjust the opening date for the yellowfin sole and "other flatfish" fisheries from May 1 to January 1. The purpose of this season adjustment is to provide the BSAI trawl industry with viable fishing alternatives; reduce the need for, and likelihood of, significant movement of fishing capacity from the BSAI to the GOA; reduce competition for the halibut PSC limit established for the GOA trawl fisheries; and reduce the likelihood that displacement of Bering Sea trawl effort into the GOA may preempt fishing opportunities for GOA operations later in the fishing year by exhausting the GOA trawl halibut PSC limit, thus necessitating GOA-wide trawl closures.

The original purpose for delaying directed fishing for yellowfin sole and "other flatfish" species until May 1 was to prevent the joint venture processing (JVP) and domestic annual processing (DAP) fisheries from taking a disproportionate share of their respective red king crab or halibut bycatch allowances established for Bycatch Limitation Zones 1 or 2H (defined at § 675.2), before available amounts of yellowfin sole and other groundfish species were harvested. Early attainment of red king crab or halibut bycatch allowances due to of high bycatch rates experienced in the early spring flatfish fisheries resulted in premature fishery closures that prevented available amounts of flatfish and other groundfish species from being harvested. Delaying the opening of the yellowfin sole and "other flatfish" fisheries until May 1 allowed the DAP fisheries to utilize the bulk of the available Zone 1 PSC limits in the rock sole and Pacific cod fisheries from January through April, optimizing their catch of allocated groundfish species.

The flatfish fisheries have changed substantially since the May 1 starting date was implemented. JVP fisheries no longer operate in the EEZ off Alaska. The domestic industry has developed profitable new markets for products from the "other flatfish" complex. In addition, the yellowfin sole and rock sole/"other flatfish" fisheries are allocated separate bycatch allowances that may be seasonally apportioned to optimize the groundfish harvest within the established prohibited species bycatch restrictions.

The May 1 opening date of the yellowfin sole and "other flatfish" fisheries now has the effect of preventing domestic fishermen from harvesting these resources at the beginning of the fishing year, when few other fishing opportunities exist. This season has contributed, for example, to a situation in which the available TAC for the "other flatfish" complex has been underutilized in recent years. In 1991, only about 47 percent of the TAC for this species group was harvested. In 1992 and 1993, that figure was 38 percent and 45 percent, respectively. Nonetheless, while these resources have been underutilized, despite an expressed interest in accessing them at the beginning of the fishing year, retention of the May 1 opening has forced BSAI trawl fishermen either to move into the GOA deep-water flatfish fishery, which opens in January, or cease fishing until May 1.

The rock sole fishery in the Bering Sea currently opens at the beginning of the fishing year to allow fishing in the lucrative "roe" fishery. This fishery typically closes in late February or early March when the rock sole have finished spawning. Seasonal halibut bycatch restrictions can close other fisheries (e.g., Pacific cod during 1991 and 1992), leaving, as noted above, few alternative fishing opportunities for the BSAI groundfish fleet. Flathead sole, one of the species in the Bering Sea "other flatfish" category, produce roe that matures just after rock sole roe matures. Markets for roe-bearing flathead sole have emerged, making this fishery a natural extension of that for roe-bearing rock sole in the Bering Sea. Other markets for these flatfish species, including a domestic fillets market, are under development.

Opening the BSAI yellowfin sole fishery and the "other flatfish" fishery at the beginning of the fishing year (January 1) would provide vessels operating in the Bering Sea with the opportunity to participate in a potentially profitable, developing fishery. This opportunity is expected to reduce the need for vessels to move into the GOA trawl fisheries early in the fishing year, and thus would decrease pressure on the GOA halibut PSC limit and diminish the probability of preemption of existing GOA groundfish fisheries through early closure.

The proposed rule would amend the directed fishing standard for flatfish species (§ 675.20(h)(2)) to accommodate this season change and allow sufficient bycatch amounts of rock sole, yellowfin sole, arrowtooth flounder, or "other flatfish" in the flatfish fisheries, while allowing for fishing operations to minimize the discard waste of these species. The proposed rule would also establish species-specific standards, rather than aggregate standards, for all flatfish species closed to directed fishing. The intent of this action is to simplify directed fishing standards, and to reduce discard waste by increasing the retainable amounts of flatfish species closed to directed fishing relative to other flatfish species that are open to directed fishing.

Editorial and Technical Changes to § 672.20(f)

NMFS proposes to reorganize § 672.20(f) to clarify the presentation and interpretation of regulations pertaining to halibut PSC limits. Existing regulations at § 672.20(f)(1)(i) and (2)(i) would be amended and redesignated as (f)(3)(i) and (f)(1), respectively, to implement management measures set out in this proposed rule. To eliminate redundant regulatory language, paragraph § 672.20(f)(2)(ii) would be amended and included as part of paragraph (f)(1) to cross reference the publication of proposed and final specifications required under § 672.20(c). These documents also include proposed and final halibut PSC limits and satisfy separate publication requirements currently set out in § 672.20(f)(2)(ii).

The following paragraphs would be redesignated as indicated; no changes would be made to the regulatory text:

Existing regulation	Redesignation
(f)(1)(ii)	(f)(3)(ii)
(f)(1)(iii)	(f)(3)(iii)
(f)(1)(iv)	(f)(1)(iii)(B)
(f)(1)(v)	(f)(1)(iii)(C)
(f)(2)(iii)	(f)(1)(iii)(A)
(f)(2)(iv)	(f)(2)
(f)(2)(v)	(f)(4)

The redesignated regulatory text is republished as part of the proposed rule. However, NMFS is not requesting

public comment on the redesignated paragraphs.

Classification

NMFS prepared an analysis of the economic impact on small entities as part of the EA/RIR. All vessels using trawl gear to harvest BSAI or GOA groundfish and processors receiving trawl-caught groundfish could be affected by the management measures proposed under this action. Most catcher vessels harvesting groundfish off Alaska meet the definition of a small entity under the Regulatory Flexibility Act. In 1993, 265 catcher vessels were issued permits to harvest groundfish with trawl gear in Federal waters. All these vessels could be affected due to adjustments in fishing patterns resulting from (1) changing the season of the BSAI flatfish fisheries, and (2) revising the management of the GOA halibut PSC limit established for trawl fisheries. These effects are not expected to result in a reduction in annual gross revenues by more than 5 percent, annual compliance costs that would increase total costs of production by more than 5 percent, or compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities. Therefore, the proposed action would not result in a "significant economic impact" on small entities under the RFA. A copy of the EA/RIR is available (see **ADDRESSES**).

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

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Recordkeeping and reporting requirements.

Dated: April 28, 1994.

John T. Everett,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH FISHERY OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In section 672.20, paragraphs (f) and (h)(1) are revised to read as follows:

§ 672.20 General limitations.

* * * * *

(f) *Halibut PSC limits*—(1) *Notification of proposed halibut PSC limits.* NMFS will publish annually in the **Federal Register**, proposed and final halibut PSC limits and apportionments thereof authorized under this paragraph (f), in the notification required under paragraph (c) of this section. Public comment will be accepted by NMFS on the proposed halibut PSC limits and apportionments thereof for a period of 30 days after publication in the **Federal Register**. NMFS will consider comments received on proposed halibut limits and, after consultation with the Council, will publish notification in the **Federal Register** specifying the final halibut PSC limits and apportionments thereof.

(i) *Trawl gear fisheries.* (A) After consultation with the Council, NMFS will publish notification in the **Federal Register** specifying the proposed halibut PSC limit for vessels using trawl gear. The halibut PSC limit specified for vessels using trawl gear may be further apportioned as bycatch allowances to the fishery categories listed in paragraph (f)(1)(i)(B) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (f)(1)(i).

(B) For purposes of apportioning the trawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species for which a TAC has been specified under paragraphs (a) and (c) of this section:

(*1*) *Shallow-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" that is greater than the retained aggregate amount of other groundfish species or species group.

(*2*) *Deep-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained catch of groundfish and is not a shallow-water species fishery as defined under paragraph (f)(1)(i)(B)(*1*) of this section.

(ii) *Hook-and-line and pot gear fisheries.* After consultation with the Council, NMFS will publish notification in the **Federal Register** specifying the proposed halibut PSC limits for the hook-and-line gear fisheries. The notification may also specify a halibut PSC limit for the pot gear fisheries. The proposed halibut PSC limit for hook-and-line gear fisheries may be further apportioned as bycatch allowances to the directed fishery for demersal shelf rockfish in the Southeast Outside District of the Eastern Regulatory Area and to all other hook-and-line gear fisheries.

(iii) *Seasonal apportionments.* (A) NMFS, after consultation with the Council, may apportion each halibut PSC limit or bycatch allowance specified under this paragraph on a seasonal basis. NMFS will base any seasonal apportionment of a halibut PSC limit or bycatch allowance on the following types of information:

(*1*) Seasonal distribution of halibut;

(*2*) Seasonal distribution of target groundfish species relative to halibut distribution;

(*3*) Expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catches of target groundfish species;

(*4*) Expected variations in bycatch rates throughout the fishing year;

(*5*) Expected changes in directed groundfish fishing seasons;

(*6*) Expected start of fishing effort; and

(*7*) Economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

(B) Unused seasonal apportionments of halibut PSC limits specified for trawl, hook-and-line, or pot gear will be added to the respective seasonal apportionment for the next season during a current fishing year.

(C) If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(iv) *Apportionment among regulatory areas and districts.* Each halibut PSC limit specified under this paragraph (f) may also be apportioned among the regulatory areas and districts of the Gulf of Alaska.

(2) NMFS may, by notification in the **Federal Register**, change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in paragraph (f)(1) of this section.

(3) *Attainment of a halibut PSC limit or bycatch allowance*—

(i) *Trawl gear fisheries.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraph (f)(1)(i)(B) of this section will catch the Pacific halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (f)(1) of this section, NMFS will publish notification in the **Federal Register** closing the entire Gulf of Alaska to

directed fishing with trawl gear for each species and/or species group that comprises that fishing category; provided, however, that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

(ii) *Hook-and-line fisheries*—(A) *Groundfish other than demersal shelf rockfish in the Southeast Outside District.* If, during the year, the Regional Director determines that the catch of halibut by operators of vessels using hook-and-line gear in groundfish fisheries other than the directed fishery for demersal shelf rockfish in the Southeast Outside District will reach the halibut bycatch allowance, or seasonal apportionment thereof, specified for hook-and-line gear under paragraph (f)(1) of this section, NMFS will publish notification in the **Federal Register** prohibiting directed fishing for groundfish, other than demersal shelf rockfish in the Southeast Outside District, by vessels using hook-and-line gear for the remainder of the season to which the halibut bycatch allowance or seasonal apportionment thereof applies.

(B) *Demersal shelf rockfish in the Southeast Outside District.* If, during the year, the Regional Director determines that the catch of halibut by operators of vessels using hook-and-line gear in the directed fishery for demersal shelf rockfish in the Southeast Outside District will reach the halibut bycatch allowance, or seasonal apportionment thereof, specified for this fishery under paragraph (f)(1) of this section, NMFS will publish notification in the **Federal Register** prohibiting directed fishing for demersal shelf rockfish in the Southeast Outside District by vessels using hook-and-line gear for the remainder of the season to which the halibut bycatch allowance or seasonal apportionment thereof applies.

(iii) *Pot gear fisheries.* If, during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, provided for under paragraph (f)(1) of this section, NMFS will publish notification in the **Federal Register** prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(4) When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Director may, by notification in the **Federal Register**, allow some or all of those vessels to continue to fish for groundfish using nonpelagic trawl gear under specified conditions, subject to the other provisions of this part. In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Director will take into account the following considerations, and issue relevant findings:

(i) The risk of biological harm to halibut stocks and of socio-economic harm to authorized halibut users posed by continued bottom trawling by these vessels;

(ii) The extent to which these vessels have avoided incidental halibut catches up to that point in the year;

(iii) The confidence of the Regional Director in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year;

(iv) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Director to increases in their incidental halibut catches; and

(v) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Director that adherence to the prescribed conditions can be assured in light of available enforcement resources.

* * * * *

(h) * * *

(1) *Calculations.* (i) In making any determination concerning directed fishing under paragraph (g) of this section, the amount or percentage of any species, species group, or any fish or fish products will be calculated in round-weight equivalents.

(ii) Arrowtooth flounder or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species under paragraph (g) of this section.

* * * * *

PART 675—GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

4. In section 675.20, paragraphs (h)(2) and (i)(1) are revised to read as follows:

§ 675.20 General limitations.

* * * * *

(h) * * *

(2) *Yellowfin sole, rock sole, arrowtooth flounder, or "other flatfish".* The operator of a vessel is engaged in directed fishing for yellowfin sole, rock sole, arrowtooth flounder, or "other flatfish" if he or she retains at any time during a trip an amount of one of these species equal to or greater than 35 percent of the amount of the other respective species retained at the same time on the vessel during the same trip, plus 20 percent of any groundfish species other than yellowfin sole, rock sole, or "other flatfish" retained at the same time on the vessel during the same trip.

* * * * *

(i) * * *

(1) *Calculations.* (i) In making any determination concerning directed fishing under paragraph (h) of this section, the amount or percentage of any species, species group, or any fish or fish products will be calculated in round-weight equivalents.

(ii) Arrowtooth flounder or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species under paragraph (h) of this section.

* * * * *

5. In § 675.23, paragraph (c) is revised to read as follows:

§ 675.23 Seasons.

* * * * *

(c) Directed fishing for arrowtooth flounder and Greenland turbot is authorized from 12 noon Alaska local time, May 1 through 12 midnight, Alaska local time, December 31, subject to the other provisions of this part.

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[FR Doc. 94–10640 Filed 4–29–94; 11:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 59, No. 85
Wednesday, May 4, 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

Farmers Home Administration

Authority To Act as Administrator

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: This notice provides for the executive direction of the Farmers Home Administration (FmHA).

1. When the Administrator, FmHA, is absent or unable to perform the duties of the position, by reason of enemy attack or other natural security emergency, the Associate Administrator, FmHA, is designated to serve as Acting Administrator, FmHA.

2. When both the Administrator and the Associate Administrator are absent or unable to perform their duties, the Deputy Administrators, FmHA, are designated to perform all functions assigned by law or delegated to the Administrator, FmHA, as described in 7 CFR 2.70, and to serve as Acting Administrator in the following order:

A. Deputy Administrator, Program Operators
B. Deputy Administrator, Management

3. When the Administrator, the Associate Administrator, the Deputy Administrators, and the Assistant Deputy Administrators, are absent or unable to preform their duties, the Director, Planning and Analysis Staff, FmHA, and the Assistant Administrators are designated to perform all the functions assigned by law or delegated to the Administrator, FmHA, as described in 7 CFR 2.70, and to serve as Acting Administrator, FmHA, in the following order:

A. Director, Planning and Analysis Staff
B. Assistant Administrator, Housing
C. Assistant Administrator, Farmer Programs
D. Assistant Administrator, Budget, Finance and Management

This document supersedes any previous document designating an official of the FmHA to serve as Acting Administrator, FmHA.

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Timothy J. Ryan, Assistant Administrator for Human Resources, Farmers Home Administration, USDA, Office of Human Resources, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 245–5561.

Dated: April 18, 1994.

Michael V. Dunn,

Administrator, Farmers Home Administration.

[FR Doc. 94–10620 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF AGRICULTURE

Forest Service

[4310–84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Interim Strategies for Managing Anadromous Fish-Producing Watersheds on Federal Lands in Eastern Oregon, et al.

AGENCY: Forest Service, USDA; Bureau of Land Management, Interior.

ACTION: Notice; extension of public comment period.

SUMMARY: The Forest Service and Bureau of Land Management (BLM) announce the extension of public comment on an environmental assessment and proposed finding of no significant impact on a proposal to establish interim management direction for anadromous fish habitat protection and restoration on all or part of 15 National Forests and seven BLM Districts. The affected areas are in the states of Oregon, Washington, Idaho, and California. The notice of availability, published March 25, 1994, established May 9, 1994, as the end of the public comment period. This notice extends that published date for two additional weeks.

DATES: Comments must be received in writing, postmarked by May 23, 1994.

ADDRESSES: Send written comments to "PACFISH EA," Forest Service, U.S. Department of Agriculture, P.O. Box 96090, Washington, DC 20090–6090.

Dated: April 28, 1994.

For the Forest Service.

Gray F. Reynolds,

Deputy Chief.

Dated: April 29, 1994.

For the Bureau of Land Management.

Laurence E. Benna,

Acting Deputy Director.

[FR Doc. 94–10702 Filed 5–3–94; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of the Census.

Title: 1996 Panel Content Tests for the Survey of Income and Program Participation (SIPP) Redesign.

Form Number(s): Control, Core, and Topical Modules in an automated instrument, Reminder Card.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 840 hours.

Number of Respondents: 840.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The 1996 Content Tests for the SIPP are part of a program of evaluation and development emerging from a comprehensive reassessment of SIPP. The SIPP redesign is an evolving process that has multiple developmental and testing stages. This stage involves proposed small–scale content tests to evaluate changes made to the new instrument in earlier pretests. The content tests will involve two waves of interviews to be conducted at an estimated 400 households. The objectives of these content tests are: to evaluate the improved wording and ordering of the instrument over what was implemented during the pretests; and to further test the total integration of the instrument; observe field interviewing techniques through laptop management application; assess the case management system's ability to assign, accept, and transfer cases; and test closeout

activities and post–closeout data preparations.

Affected Public: Individuals or households.

Frequency: Twice in 1994.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue NW, Washington, DC 20230.

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

Dated: April 28, 1994.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–10714 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–07–F

Agency Form Under Review by the Office of Management and Budget

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

Agency: Bureau of the Census.

Title: Current Population Survey—October 1994 School Enrollment Supplement.

Form Number(s):

Agency Approval Number: 0607–0464.

Type of Request: Reinstatement of a previously approved collection for which approval has expired.

Burden: 7,598 hours.

Number of Respondents: 57,000.

Avg Hours Per Response: 8 minutes.

Needs and Uses: The October Current Population Survey (CPS) supplement is the only source of data on enrollment in all schools by demographic, social, and economic characteristics. This annual supplement provides school enrollment data for persons 3 years old or older who are enrolled in elementary school, high school, college, and vocational/technical schools, as well as for children enrolled in nursery schools and kindergarten. It also provides higher education data for adults and computer usage data for adults and children. These data are collected from each household from both the full regular CPS sample and the CATI/CAPI Overlap sample. The data are used by Federal agencies; state, county, and city governments; and private organizations responsible for education to formulate and implement education policy. They are also used by employers and analysts to anticipate the composition of the labor force in the future.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Maria Gonzalez, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

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

Dated: April 28, 1994.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–10715 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–07–F

Foreign-Trade Zones Board

[Docket 16–94]

Foreign-Trade Zone 146; Lawrenceville, IL; Proposed Reorganization and Expansion of Foreign-Trade Subzones 146A & 146B North American Lighting, Inc. (Motor Vehicle Lighting Products) Flora, IL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Bi-State Authority, grantee of FTZ 146, Lawrenceville, Illinois, requesting authority for reorganization of and the expansion of zone activity at Subzone 146A and Subzone 146B at the North American Lighting, Inc. (NAL), facilities in Flora, Illinois, and the inclusion of a new facility in Salem, Illinois, as part of the reorganized subzone. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 14, 1994.

Subzones 146A and 146B were approved by the Board in 1988 for two adjacent manufacturing plant sites of NAL, both of which are located within the Flora Industrial Park, Flora, Illinois (Board Order 371, 53 FR 5436, 2–24–88). The two facilities (222,000 sq.ft./14 acres) were granted subzone authority to manufacture motor vehicle lighting components and other related auto parts. Subzone 146B was formerly operated by Hella Electronics, Inc., a NAL affiliate. Both plants are now operated as an integrated manufacturing unit by NAL.

NAL has added a third manufacturing site (380,000 sq. ft. on 22 acres), located in the Salem Industrial Park, 1075 West Main Street, Salem (Marion County), Illinois (30 miles west of Flora), which would become part of the reorganized zone. Construction is underway at the Flora facilities which will increase manufacturing space to 355,000 square feet. The completed expansion will yield a combined production capacity of some 28 million units annually. Based on the restructured management of the operations, the applicant requests that all three manufacturing facilities be consolidated under one subzone designation—146A.

The production activity that would occur within the consolidated subzone would be essentially the same as that currently occurring at the Flora facilities. The finished products would involve motor vehicle lighting components. Materials purchased from abroad include: various polymers and resins in primary form (HTSUS Ch. 39), articles of rubber and plastic, fasteners, optical elements of glass, certain electrical apparatus, lamps and lenses, insulated wire, optical fiber and cable/bundles (duty rates: free-16%, 3.1¢/kg+9%).

Zone procedures exempt NAL from Customs duty payments on the foreign materials used in export production. On domestic sales, the company is able to choose the duty rates that apply to finished automotive lighting equipment and parts (free-10%) for the foreign components noted above. The auto duty rate (2.5%) applies if the finished products are shipped via zone-to-zone transfer to U.S. motor vehicle assembly plants with subzone status.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is July 5, 1994. Rebuttal comments in response to material submitted during the foregoing period

may be submitted during the subsequent 15-day period (to July 18, 1994).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 8182 Maryland Avenue, Suite 303, St. Louis, MO 63105.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

Dated: April 26, 1994.

John J. Da Ponte,

Executive Secretary.

[FR Doc. 94–10716 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Intent To Revoke Antidumping Duty Orders and Two Findings

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty orders and two findings.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping duty orders and two findings listed below. Domestic interested parties who object to these revocations must submit their comments in writing no later than 30 days from May 4, 1994.

EFFECTIVE DATE: May 4, 1994.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping duty proceeding	Date of finding/order
Japan: Ferrite Cores (A–588–016) Contact: Lisa Raisner/ Tom Futtner, (202) 482–5253.	36 FR 4877, 03/13/71
Italy: Spun Acrylic Yarn (A–475–084) Contact: Kim Moore/Tom Futtner, (202) 482–5253.	55 FR 18925, 04/08/80
Japan: Spun Acrylic Yarn (A–588–086) Contact: Kim Moore/Tom Futtner, (202) 482–5253.	55 FR 37015, 04/08/80
Canada: Sugar and Syrups (A–122–085) Contact: David Dirstine/ Richard Rimlinger (202) 482–4733.	50 FR 24126, 04/09/80
France: Sorbitol (A–427–001) Contact: Sally Hastings/ John Kugelman, (202) 482–5253.	47 FR 15391, 04/09/82
Kenya: Standard Carnations (A–779–602) Contact: Michael Panfeld/ Richard Rimlinger, (202) 482–4733.	52 FR 9518, 04/23/87
Greece: Electrolytic Manganese Dioxide (A–484–801) Contact: Thomas Barlow/Wendy Frankel, (202) 482–5253.	54 FR 15243, 04/17/89

If interested parties do not request an administrative review in accordance with the Department's notice of opportunity to request administrative review, or domestic interested parties do not object to the Department's intent to revoke pursuant to this notice, we shall conclude that the antidumping duty orders and findings are no longer of interest to interested parties and shall proceed with the revocation.

Opportunity to Object

No later than 30 days from the publication date of this notice, domestic interested parties, as defined in § 353.2(k)(3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230.

This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: April 26, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–10719 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DS–M

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with §§ 353.22 or 355.22 of the Commerce Regulations (19 CFR 353.22/355.22 (1993)), that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than May 31, 1994, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

Antidumping duty proceedings	Period
Argentina: Light-Wall Welded Rectangular Carbon Steel Tubing (A–357–802)	05/01/93–04/30/94
Brazil: Certain Carbon Steel Butt-Weld Pipe Fittings (A–351–602)	05/01/93–04/30/94
Brazil: Certain Iron Construction Castings (A–351–503)	05/01/93–04/30/94
Brazil: Frozen Concentrated Orange Juice (A–351–605)	05/01/93–04/30/94
Dominican Republic: Portland Cement, Other Than White Nonstaining Portland Cement (A–247–003)	05/01/93–04/30/94
France: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof (A–427–801)	05/01/93–04/30/94
Germany: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof (A–428–801)	05/01/93–04/30/94
India: Certain Welded Carbon Steel Standard Pipes and Tubes (A–533–502)	05/01/93–04/30/94

Antidumping duty proceedings	Period
Italy: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof (A–475–801)	05/01/93–04/30/94
Japan: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof (A–588–804)	05/01/93–04/30/94
Japan: Impression Fabric (A–588–066)	05/01/93–04/30/94
Japan: Gray Portland Cement and Clinker (A–588–815)	05/01/93–04/30/94
Romania: Ball Bearings and Parts Thereof (A–485–801)	05/01/93–04/30/94
Singapore: Ball Bearings and Parts Thereof (A–559–801)	05/01/93–04/30/94
Sweden: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof (A–401–801)	05/01/93–04/30/94
Taiwan: Certain Circular Welded Carbon Steel Pipes and Tubes (A–583–008)	05/01/93–04/30/94
Taiwan: Malleable Cast-Iron Pipe Fittings, Other Than Grooved (A–583–507)	05/01/93–04/30/94
Thailand: Ball Bearings and Parts Thereof (A–549–801)	05/01/93–04/30/94
The People's Republic of China: Certain Iron Construction Castings (A–570–502)	05/01/93–04/30/94
The Republic of Korea: DRAMs of One Megabit and Above (A–580–812)	10/29/92–04/30/94
The Republic of Korea: Malleable Cast Iron Pipe Fittings, Other Than Grooved (A–580–507)	05/01/93–04/30/94
United Kingdom: Ball Bearings, Cylindrical Roller Bearings, and Parts Thereof (A–412–801)	05/01/93–04/30/94
Turkey: Welded Carbon Steel Standard Pipe and Tube Products (A–489–501)	05/01/93–04/30/94
Countervailing Duty Proceedings	
Brazil: Certain Heavy Iron Construction Castings (C–351–504)	01/01/93–12/31/93
Mexico: Ceramic Tile (C–201–003)	01/01/93–12/31/93
Singapore: Ball Bearings (C–559–802)	01/01/93–12/31/93
Singapore: Cylindrical Roller Bearings (C–559–802)	01/01/93–12/31/93
Singapore: Needle Roller Bearings (C–559–802)	01/01/93–12/31/93
Singapore: Spherical Plane Bearings (C–559–802)	01/01/93–12/31/93
Singapore: Spherical Roller Bearings (C–559–802)	01/01/93–12/31/93
Sweden: Viscose Rayon Staple Fiber (C–401–056)	01/01/93–12/31/93
Thailand: Ball Bearings and Parts Thereof (C–549–802)	01/01/93–12/31/93
Venezuela: Ferrosilicon (C–307–808)	08/25/92–12/31/93

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review. For antidumping reviews, the interested party must specify for which individual producers or resellers covered by an antidumping finding or order it is requesting a review, and the requesting party must state why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: John Kugelman, in room 3065 of the main Commerce Building. Further, in accordance with §§ 353.31(g) or 355.31(g) of the Commerce regulations, a copy of each request must be served on every party on the Department's service list.

The Department will published in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by May 31, 1994.

If the Department does not receive, by May 31, 1994, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: April 25, 1994.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 94–10720 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–834]

Initiation of Antidumping Duty Investigation: Stainless Steel Angle From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins or Kate Johnson, 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) 482–1756, or (202) 482–4929.

INITIATION OF INVESTIGATION:

The Petition

On April 8, 1994, we received a petition filed in proper form by Slater Steels Corporation, Specialty Alloys Division (petitioner), a U.S. producer of stainless steel angle. In accordance with 19 CFR 353.12, the petitioner alleges that imports of stainless steel angle from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition is filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

Scope of Investigation

For purposes of this investigation, the term "stainless steel angle" includes hot-rolled, whether or not annealed or descaled, stainless steel products angled at 90 degrees, that are not otherwise advanced. The stainless steel angle subject to this investigation is currently classifiable under subheadings 7222.40.30.20, and 7222.40.30.60 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioner based U.S. price (USP) on prices contained in a November 1993 price list for subject merchandise sold by an unrelated U.S. importer and reseller of Japanese stainless steel angle to its U.S. customer. Since these prices were quoted ex-dock, duty paid, petitioner deducted from USP amounts for U.S. duty, ocean freight, marine insurance, harbor maintenance and U.S. merchandise processing fees.

Petitioner used tax-exclusive, delivered prices of subject merchandise sold in Japan by three Japanese producers during the month of September 1993, as the basis for foreign market value (FMV). These prices were obtained from a market research report and pertained to the following three Japanese producers: Aichi Steel Works, Daido Steel and Sumitomo Metal Industries. To calculate an ex-factory price, petitioner used expense information from the market research report. Petitioner converted the home market prices to U.S. dollars based on the monthly average yen/dollar exchange rate effective during the month of the U.S. sale, as reported by the Federal Reserve Bank of New York. Petitioner deducted from FMV an amount for inland freight. Petitioner made circumstance-of-sale adjustments for differences in imputed credit costs between Japanese and U.S. sales based on the average payment period identified in the foreign market research report.

Based on a comparison of USP to FMV, the dumping margins alleged by petitioner for stainless steel angle from Japan range from 40.82 percent to 58.81 percent.

Preliminary Determination by the International Trade Commission

The International Trade Commission (ITC) will determine by May 23, 1994, whether there is a reasonable indication that imports of stainless steel angle from Japan are materially injuring, or threaten material injury to, a U.S. industry. A negative ITC determination will result in this investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: April 20, 1994.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10718 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DS–P

[A–122–824]

Termination of Antidumping Duty Investigation: Certain Carbon and Alloy Steel Wire Rod From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Louis Apple, Office of Antidumping Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4136 or 482–1769, respectively.

Scope of Investigation

The products covered by this investigation are hot-rolled carbon steel and alloy steel wire rod, in coils, of approximately round cross section, between 0.20 and 0.75 inches in solid cross-sectional diameter. The following products are excluded from the scope of this investigation:

- Steel wire rod 5.5 mm or less in diameter, with tensile strength greater than or equal to 1040 MPa, and the following chemical content, by weight: carbon greater than or equal to 0.79%, aluminum less than or equal to 0.005%, phosphorous plus sulfur less than or equal to 0.040%, and nitrogen less than or equal to 0.006%;
- Free-matching steel containing 0.03% or more of lead, 0.05% or more of bismuth, 0.08% or more of sulfur, more than 0.4% of phosphorus, more than 0.05% of selenium, and/or more than 0.01% of tellurium;
- Stainless steel rods, tool steel rods, free-cutting steel rods, resulfurized steel rods, ball bearing steel rods, high-nickel steel rods, and concrete reinforcing bars and rods; and
- Wire rod 7.9 to 18 mm in diameter, containing 0.48 to 0.73% carbon by weight, and having partial decarburization and seams no more than 0.075 mm in depth.

The products under investigation are currently classifiable under subheadings 7213.31.3000, 7213.31.6000, 7213.39.0030, 7213.39.0090, 7213.41.3000, 7213.41.6000, 7213.49.0030, 7213.49.0090, 7213.50.0020, 7213.50.0040, 7213.50.0080, 7227.20.0000, and 7227.90.6050 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

Termination of Investigation

On April 20, 1994, the Department of Commerce (the Department) published its Final Determination of Sales at Less Than Fair Value: Certain Carbon and Alloy Steel Wire Rod from Canada in the **Federal Register** (59 FR 18791). In a letter dated April 18, 1994, petitioner notified the Department of the withdrawal of its April 23, 1993, petition and requested termination of the antidumping investigation.

In accordance with 19 CFR 353.17(a), upon the petitioner's withdrawal of the petition, the Department may terminate an investigation after notice to all parties to the proceeding and after consultation with the International Trade Commission (ITC). Furthermore, the Department may not terminate an investigation unless it concludes that termination is in the public interest. All parties to the proceeding have been notified of the petitioner's withdrawal and we have consulted with the ITC. No objections were received regarding termination of the investigation. In addition, we have concluded that termination of the investigation is in the public interest. Accordingly, we are terminating the antidumping investigation of certain alloy and carbon steel wire rod from Canada. This action is taken pursuant to section 734(a)(1) of the Tariff Act of 1930, as amended.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 94–10717 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

[I.D. 042094B]

Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Receipt of applications for experimental fishing permits.

SUMMARY: NMFS announces receipt of experimental fishing permit (EFP) applications from Terra Marine Research and Education (TMRE), and Coastal Villages Fishing Cooperative (CVFC) and Golden Age Fisheries (GAF). TMRE requests approval of an EFP to retain salmon caught incidentally in the Bering Sea and Aleutian Islands (BSAI) during the 1994 pollock "B" and the 1995 pollock "A" season fisheries and the 1995 BSAI directed Pacific cod trawl fishery. The purpose is to assess whether the quantities of salmon donated to a foodbank program are sufficient to justify the costs associated with the processing and shipping of the product. CVFC and GAF request approval of an EFP to assess the feasibility of the establishment of an inshore fishery in the Kuskokwim Bay in the BSAI by the residents of this area.

ADDRESSES: Comments should be addressed to and copies of the EFP applications are available from Steven Pennoyer, Director, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel).

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, Fisheries Management Division, NMFS (907–586–7230).

SUPPLEMENTARY INFORMATION: The Fishery Management Plan (FMP) and its implementing regulations specify that EFPs may be issued to authorize fishing that otherwise would be prohibited by the FMP and regulations. The procedures for issuing permits are contained in the regulations at § 675.6.

The EFP applications submitted by TMRE, CVFC, AND GAF have been accepted for review and copies were forwarded to the North Pacific Fishery Management Council (Council). The Council reviewed these applications at its April 18–22, 1994, meeting, which was held in Anchorage, AK.

TMRE proposes to assess the feasibility of a voluntary donation of salmon caught incidentally in the directed 1994 pollock "B" and the 1995 pollock "A" season fisheries and the 1995 BSAI directed Pacific cod trawl fishery for the purpose of distribution to foodbanks. CVFC and GAF propose to assess the commercial feasibility of fishing for groundfish in the Kuskokwim Bay by the residents of this area by establishing a 500 metric ton allocation of groundfish in this area during the period May 1 through September 30, 1994. Vessels participating in these EFPs will accommodate a NMFS-certified observer at all times with costs paid for by operators of vessels fishing for the applicants. Information regarding project design, disposition of fish harvested, and other matters is contained in the applications.

Copies of the applications may be obtained from and comments should be addressed to the NMFS Regional Director (see **ADDRESSES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 28, 1994.

Joe P. Clem,

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

[FR Doc. 94–10639 Filed 4–29–94; 11:45 am]

BILLING CODE 3510–22–P

[I.D. 040794D]

Marine Mammals

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

ACTION: Receipt of application for a scientific research permit (P281C).

SUMMARY: Notice is hereby given that S. Jonathan Stern, Marine Mammal Research Program, Texas A&M University, 4700 Avenue U, Building 303, Galveston, Texas, has applied in due form for a permit to take minke whales (*Balaenoptera acutorostrata*), blue whales (*B. musculus*), fin whales (*B. physalus*), sei whales (*B. borealis*), humpback whales (*Megaptera novaeangliae*), gray whales (*Eschrictius robustus*), and killer whales (*Orcinus orca*) for purposes of scientific research.

DATES: Written comments must be received on or before June 3, 1994.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, (310/980–4001);

Director, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Bldg. 1, Seattle, WA 98115–0070, (206/526–6150); and

Director, Alaska Region, P.O. Box 21688, Juneau, AK 99802–1668, (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 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 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).

The applicant proposes to take by inadvertent harassment, up to several times daily, a maximum of 1,000 minke whales, 400 blue whales, 100 fin whales, 50 sei whales, 600 humpback whales, 500 gray whales, and 300 killer whales per year for 5 years for photo-identification purposes. A minimum population size estimate for the minke whale stocks under investigation will be generated from the total of individually identified whales. Of the number requested above, 150 minke whales, and 30 individuals of each of the remaining baleen whale species are requested for biopsy darting to collect blubber and skin samples to examine trophic level relationships with prey and among whale species, and to conduct genetic analysis. Individually identified whales are intended to be sampled once every 30 days, but not more than 12 times. A maximum of five individuals from each pod of killer whales encountered in the Gulf of the Farallones will be biopsied only once. The research will be centered in and around the Gulf of the Farallones National Marine Sanctuary from Bodega Bay to Point Sur, California, but will range opportunistically from the Gulf of

Alaska to the California/ Mexican border.

Dated: April 26, 1994.

Herbert W. Kaufman,

Deputy Director, Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 94-10637 Filed 5-3-94; 8:45a.m.]

BILLING CODE 3510-22-F

COMMISSION ON IMMIGRATION REFORM

Chicago Hearing

AGENCY: U.S. Commission on Immigration Reform.

ACTION: Announcement of hearing.

This notice announces a public hearing of the Commission on Immigration Reform. The Commission was established by the Immigration Act of 1990 under section 141. The mandate of the Commission is to review and evaluate the impact of U.S. immigration policy and transmit to the Congress a report of its findings and recommendations. The Commission's first report to Congress is due on September 30, 1994.

The Commission will hear from federal, state and local officials, representatives of community-based organizations, researchers and other experts. The hearing will focus on naturalization, civic participation, ethnic community roles and relations, and education for children and adults.

DATES: May 24, 1994, 9 a.m. to 1 p.m.

ADDRESSES: Chicago Cultural Center, GAR Hall, 78 East Washington St. Chicago, IL 60602.

FOR FURTHER INFORMATION CONTACT: David Howell or Beth Malks, Telephone: (202) 673-5348.

Dated: April 28, 1994.

Susan Martin,

Executive Director.

[FR Doc. 94-10651 Filed 5-3-94; 8:45 am]

BILLING CODE 6820-97-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in The People's Republic of China

April 26, 1994.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 26, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6703. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Group IV is being increased for swing and carryforward. The limit for Category 607 is being reduced to account for the swing applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 3847, published on January 27, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1994 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in The People's Republic of China and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on April 26, 1994, you are directed to adjust the limits for the following categories, as provided under the terms of the Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and The People's Republic of China:

Category	Adjusted twelve-month limit [1]
Group IV	11,450,428 square meters.
Sub-levels in Group I	
607	2,752,516 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94-10599 Filed 5-3-94; 8:45 am]

BILLING CODE 3510-DR-F

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

April 26, 1994.

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

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: May 4, 1994.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-5850. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 347/348, 351/651 and 448 are being increased for carryover. The limit for Categories 340/640 is being increased by recrediting unused carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645,

published on November 29, 1993). Also see 58 FR 61679, published on November 22, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 26, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 12, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period beginning on January 1, 1994 and extending through December 31, 1994.

Effective on May 4, 1994, you are directed to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Guatemala:

Category	Adjusted twelve-month limit [1]
340/640	953,325 dozen.
347/348	1,247,175 dozen.
351/651	213,924 dozen.
448	45,714 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The guaranteed access levels for the foregoing categories remain unchanged.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–10600 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DR–F

Exemption of Certain Textile and Apparel Products From Visa and Quota Requirements

April 28, 1994.

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

ACTION: Issuing a directive to the Commissioner of Customs exempting textile and apparel products imported in connection with certain international athletic events from visa and quota requirements.

EFFECTIVE DATE: May 2, 1994.

FOR FURTHER INFORMATION CONTACT: Nat Cohen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on May 2, 1994, textile and apparel products imported as personal effects of participants in certain world athletic events, such as The 1994 FIFA World Cup Games, properly classified under Harmonized Tariff Schedule number 9902.98.04 which are produced or manufactured in various countries and entered into the United States for consumption and withdrawal from warehouse for consumption shall be exempt from visa and quota requirements.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 28, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Effective on May 2, 1994, textile and apparel products properly classified under Harmonized Tariff Schedule number 9902.98.04 which are produced or manufactured in various countries and entered into the United States for consumption and withdrawal from warehouse for consumption are exempt from visa and quota requirements.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–10609 Filed 5–3–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

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: DoD FAR Supplement (DFARS), Part 225, International Acquisition; and Subpart 252.2, Texts of Provisions and Clauses.

Type of Request: Extension.

Number of Respondents: 3,465.

Responses Per Respondent: 4.7.

Annual Responses: 16,333.

Average Burden Per Response: .25 hours.

Annual Burden Hours: 4,083.

Needs and Uses: The provisions at DFARS 252.225–7006, Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate, and 252.227–7035, Buy American Act—North American Free Trade Agreement Implementation Act—Balance of Payments Program Certificate, require offerors to identify end products that are not domestic. This information is necessary to evaluate offerors under policy providing a preference for certain products. Under trade agreements, including the North American Free Trade Agreement Implementation Act, unless specifically exempted by statute or regulation, agencies are required to evaluate offers (over certain dollar limitations), without regard to restrictions of the Buy American Act or the balance of payments program. Offerors identify excluded end products in these two provisions.

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

Frequency: On occasion.

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

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, 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 29, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–10657 Filed 5–3–94; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Comparative Study of Waste Isolation Pilot Plant Transportation Alternatives; Availability

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy has issued a study comparing the transportation alternatives for the Waste Isolation Pilot Plant (WIPP) transuranic waste shipping campaign in support of the disposal phase at the WIPP facility. The study compares truck and train transport, including the use of dedicated trains. The study includes a consideration of the following elements in association with each transportation mode: occupational and public risks and exposures, other environmental impacts, emergency response capabilities, and an estimation of comparative costs. The report is available upon request.

ADDRESSES: The report is available at the Public Reading Room (Room 1E190), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Monday-Friday, excluding Federal holidays. Copies of the report have also been placed in the following WIPP reading rooms: WIPP Public Reading Room, National Atomic Museum, U.S. Department of Energy, Albuquerque Operations Office, P.O. Box 5400, Albuquerque, New Mexico 87115; Thomas Brannigan Memorial Library, 200 E. Picacho, Las Cruces, New Mexico 88005; New Mexico State Library, 325 Don Gaspar, Santa Fe, New Mexico 87503; Pannell Library, New Mexico Junior College, 5317 Lovington Highway, Hobbs, New Mexico 88240; Carlsbad Public Library, 101 S. Halagueno, Carlsbad, New Mexico 88220; Zimmerman Library, Government Publications Department, University of New Mexico, Albuquerque, New Mexico 87138; and Martin Speare Memorial Library, New Mexico Tech, Campus Station, Socorro, New Mexico 87801.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Sallani, Carlsbad Area Office, U.S. Department of Energy, Post Office Box 3090, Carlsbad, New Mexico 88220–3090, at (505) 234–7313.

SUPPLEMENTARY INFORMATION: WIPP is a research and development facility located in Southeastern New Mexico with the mission to demonstrate the safe disposal of transuranic radioactive wastes resulting from defense activities and programs of the United States. The study describes relevant transportation requirements and responsibilities of the U.S. Department of Energy, the U.S. Nuclear Regulatory Commission, and the U.S. Department of Transportation. Responsibilities of States, local governments, and Indian tribes are also included. The proposed transportation system is discussed which includes: The shipping containers to be used, the transportation fleet, shipment options, waste volumes, training, and the transportation tracking system. Risk analysis data is represented in the study in terms of occupational health and public exposure risks, as well as environmental impacts associated with the proposed WIPP shipping campaign. Emergency response capabilities for accidents involving radioactive materials for the states through which transuranic waste will be transported during the disposal phase are outlined. Finally, cost comparative data is presented for transportation by truck, regular train, and dedicated train.

Thomas P. Grumbly,

Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 94–10649 Filed 5–3–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER94–1174–000]

Florida Power Corp.; Filing

April 28, 1994.

Take notice that on April 20, 1994, Florida Power Corporation (FPC) tendered for filing an agreement between itself and Oglethorpe Power Corporation pursuant to which FPC will sell to Oglethorpe 50 MW of peaking capacity and energy in the months of June through September 1997 and 275 MW of peaking capacity and energy in the months of June through September 1998.

FPC proposes to make the Agreement effective 60 days after filing. FPC states that copies of its filing have been served upon Oglethorpe and the Public Service Commissions of Georgia and Florida.

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 May 12, 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. 94–10625 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

L'Energia, Limited Partnership; Notice of Filing

[Docket No. EL94–58–000 and QF87–249–004]

April 28, 1994.

Take notice that on April 15, 1994, L'Energia, Limited Partnership, a Delaware limited partnership (Applicant), filed a petition with the Federal Energy Regulatory Commission (the Commission) requesting a temporary waiver of the operating standard set forth in 18 CFR 292.205(a)(1) for calendar year 1992 and 1993 and the efficiency standard set forth in 18 CFR 292.205(a)(s)(i)(B) for calendar year 1992, as those standards apply to Applicant's cogeneration facility located in Lowell, Massachusetts.

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 May 16, 1994. Protests will 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. 94–10624 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

Interstate Natural Gas Pipeline Gas Supply Realignment Costs; Supplemental Notice

Docket No. PL94–1–000 (previously docketed as Docket No. RM94–12–000)

April 26, 1994.

On March 30, 1994, the Commission issued a notice (59 FR 16198, April 6, 1994) scheduling a public conference on May 26, 1994 in RM94–12–000 to examine the use of pricing differential mechanisms by interstate natural gas pipelines to recover gas supply realignment costs. The Commission is redocketing this proceeding as Docket No. PL94–1–000.

At the conference, the Commission would be interested in hearing commenters' views on the following issues:

1. The pricing differential mechanisms were designed to lessen the pipelines' costs of renegotiating gas supply contracts. The theory was that providing pipelines a means to honor existing contracts while they were being renegotiated would be less expensive for consumers than requiring contracts to be bought out immediately. Has this theory been validated?

2. How are the pricing differential cost (PDC) mechanisms functioning?

a. What impact, if any, do the PDC mechanisms have on pipelines' renegotiations with producers?

b. While the pipelines have been recovering PDCs, what percentage of their overall contract volumes and costs have been finally resolved?

3. What impact, if any, does the two-year authorization have on the use of the PDC mechanisms? What type of review should the Commission undertake to evaluate specific PDC mechanisms if a pipeline seeks to extend the authorization? If the Commission were to extend a pipeline's 2-year authorization period, what effect would that have on your response to question 1?

4. Are there alternatives to the PDC mechanisms?

a. If so what are they?

b. What impact would these alternatives have on the timing of cost recovery?

5. There are various procedural ways the Commission can deal with subsequent quarterly PDC filings where the first filing has been set for hearing. Possible alternative approaches include: establishing new hearings; consolidating new filings with the existing hearing; or, making subsequent filings subject to the first proceeding. Are there other approaches that should also be considered?

The Commission will provide for remote viewing of the conference in Hearing Room 1, 810 First Street, NE., Washington, DC. In addition, if there is sufficient interest, the Capitol Connection may broadcast the conference in the Washington, DC metropolitan area or nationally. Those interested in the local or national television broadcast should call The Capitol Connection at (703) 993–3100 no later than May 4, 1994. Requests from viewers outside of Washington, DC should be directed to Julia Morelli or Shirley Al-Jarani.

Any person who wishes to make a formal presentation to the Commission should submit a written request to the Secretary of the Commission no later than May 2, 1994. Written statements to accompany oral presentations are welcomed, but not required. Persons providing written statements should file 15 copies of the statement with the Office of the Secretary by May 16, 1994, and 100 copies at least one hour prior to their oral presentation.

All questions concerning the format of the technical conference should be directed to: Mary Hain, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4010J, 825 North Capitol Street, NE., Washington, DC 20426, Telephone: (202) 208–2143.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10623 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. RP94–72–002]

Iroquois Gas Transmission System, L.P.; Notice of Compliance Filing

April 28, 1994.

Take notice that on April 22, 1994, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheets, with a proposed effective date of June 1, 1994:

Substitute First Revised Sheet No. 15
Original Sheet No. 15A
Substitute First Revised Sheet No. 16

Iroquois states that it is filing the above tariff sheet in compliance with the Commission's order issued in the referenced proceeding on March 23, 1994. Specifically, Iroquois states that the tariff sheets reflect a new § 4.3(f) of Rate Schedule RTS in compliance with the Commission's directive in the March 23, 1994 Order that Iroquois refile tariff sheets to restore its interruptible transportation service revenue sharing mechanism. Iroquois further states that it is filing these tariff sheets under protest and subject to any subsequent order issued by the Commission on Iroquois' pending request for rehearing in this proceeding.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol street, NE., Washington, DC 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before may 5, 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 in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10626 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–235–000]

Northeast Utilities Service Co.; Notice of Filing

April 28, 1994.

Take notice that on April 21, 1994, Northeast Utilities Service Company (NUSCO) tendered for filing on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company and Holyoke Water Power Company, an amendment to a filing for sales of system power to Chicopee Municipal Lighting Plant. NUSCO renews its requests that the change in rate schedule become effective on December 1, 1993 and that such rate schedule change supersede FERC Rate Schedule Nos. CL&P 504 and HWP 49 at that time.

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 May 9, 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. 94–10627 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT94–4–000]

Northern Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

April 28, 1994.

Take notice that on April 25, 1994, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective May 25, 1994:

First Revised Sheet No. 219
First Revised Sheet No. 220

Northern states that such tariff sheets are being submitted to revise and update its tariff to reflect the current organizational structure of its merchant function to coincide with its revised Standards of Conduct.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protest must be filed on or before May 5, 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. 94–10628 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM94–4–28–001]

Panhandle Eastern Pipe Line Co.; Notice of Compliance Filing

April 28, 1994.

Take notice that on March 31, 1994, the Commission issued a letter order requesting Panhandle Eastern Pipe Line Company (Panhandle) to file workpapers and an explanation of how the lost and unaccounted for percentages were determined. On April 15, 1994, Panhandle filed with the Commission its workpapers and explanation of how the lost and unaccounted for percentages were determined.

Panhandle states that the lost and unaccounted for percentage is based on Panhandle's system actual unaccounted for gas lost for the years 1987 through 1991. Panhandle notes that the data and the calculation of the lost and unaccounted for percentage for the Panhandle system is reflected in appendix A to the filing.

Panhandle states that copies of the filing are being served on the parties 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 Rules 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 5, 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. 94–10629 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–931–000]

PowerNet G.P.; Issuance of Order

April 29, 1994.

On January 24, 1994 and March 16, 1994, PowerNet G.P. (PowerNet) submitted for filing a rate schedule under which PowerNet will engage in wholesale electric power and energy transactions as a marketer. PowerNet also requested waiver of various Commission regulations. In particular, PowerNet requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by PowerNet.

On April 22, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under 18 CFR part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PowerNet should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, PowerNet is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PowerNet's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is May 23, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10694 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP94–361–000]

Tennessee Gas Pipeline Co.; Notice of Application

April 28, 1994.

Take notice that on April 15, 1994, Tennessee Gas Pipeline Company ("Tennessee") filed an application pursuant to section 7(b) of the Natural Gas Act and §§ 157.7(a) and 157.18 of the Federal Energy Regulatory Commission's ("Commission") Regulations for authorization to abandon Tennessee's Rate Schedule X–67, a transportation and exchange service with Arkla Energy Resources Company (formerly Arkansas Louisiana Gas Company).

This transportation and exchange service was previously certificated on November 15, 1994, under Docket No. CP84–248–000 (29 FERC ¶ 61,184) and, according to Tennessee and Arkla, has been inactive and is no longer necessary. No facilities will be

abandoned as a result of the abandonment of this service.

Any person desiring to be heard or to make protest with reference to said application should, on or before May 12, 1994, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirement of the Commission's Rules or Practices 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 in motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10630 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–372–000]

Transcontinental Gas Pipe Line Corp.; Notice of Request Under Blanket Authorization

April 28, 1994.

Take notice that on April 22, 1994, Transcontinental Gas Pipe Line Corporation (TGPL), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP94–372–000 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 construct a new delivery point under TGPL's blanket certificate issued in Docket No. CP82–426–000 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.

TGPL proposes to construct a new delivery point to Piedmont Natural Gas Company, Inc. (Piedmont) in Mecklenburg County, North Carolina. TGPL states that the new delivery point, referred to as the "Hicks Crossroads Meter Station", will consist of a sixteen-inch tap on TGPL's Main Line "C", a sixteen-inch tap on Main Line "D" and a new metering and regulating station, all located approximately at milepost 5.0 on TGPL's Cowan Ford Loop.

TGPL states that the Hicks Crossroads Meter Station will be used by Piedmont to receive into its distribution system up to 204,000 Mcf of gas per day on a firm and/or interruptible basis TGPL states that it has sufficient system delivery flexibility to accomplish these deliveries without detriment or disadvantage to TGPL's other customers.

TGPL further states that it is not proposing to alter the total volumes authorized for delivery to Piedmont. TGPL also states that the addition of such delivery point will have no impact on TGPL's peak day deliveries and little or no impact on TGPL's annual deliveries, and is not prohibited by TGPL's FERC Gas Tariff.

TGPL states that the construction and operation of its facilities will comply with the environmental requirements set forth in § 157.206(d) of the Commission's regulations, and that TGPL will obtain all required clearances prior to the commencement of any construction work in the vicinity of the delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 94–10631 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM90–3–42–008]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 28, 1994.

Take notice that on April 25, 1994, Transwestern Pipeline Company (Transwestern) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with a proposed effective date of April 25, 1994:

3rd Revised Sheet No. 5M

On August 6, 1994, the Commission issued its Order on Rehearing and Terminating Technical Conference, in the above-referenced proceedings, directing Transwestern within thirty days to file revised tariff sheets to reflect the removal of:

(1) $4,200,000 of producer pricing settlement amounts,

(2) $2,219,314 of prior period adjustments, and

(3) $510,146 from Transwestern's direct bill to its former sales customers, and to refund with interest all the costs excluded from its Account No. 191 direct bill filings (August 6 order). In the August 6 order, the Commission specifically provided that Transwestern would be permitted to propose "a prospective charge to recover these costs from its current open access transportation customers."

Transwestern requested rehearing of the August 6 order and, in addition, filed motions requesting additional time with which to comply with the requirements of the August 6 order, which extensions were granted by the Commission. On March 25, 1994, the Commission issued its "Order Denying Rehearing," directing Transwestern to comply with the requirements of the August 6 order and reiterated that Transwestern could file to recover the disallowed costs through a mechanism that does not constitute a surcharge to its "former sales customers based upon their past sales contract demand" ("March 25 order"). Accordingly and without waiving its rights to file an alternate rate mechanism to recover the disallowed costs, Transwestern is filing a revised tariff sheet in compliance with the August 6 and March 25 orders. The only changes Transwestern is proposing in Sheet No. 5M are to adjust the direct bill amounts in accordance with such orders and to explain in footnote one that section 24, "Gas Supply Inventory Charge", has been canceled.

Transwestern requested any waiver of any Commission Regulation and its tariff provisions as may be required to allow the tariff sheet referenced above to become effective on April 25, 1994.

Transwestern states that copies of the filing were served on its gas utility customers, interested state commissions, and all parties to 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 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before May 5, 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. 94–10632 Filed 5–3–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4881–1]

Technology Innovation and Economics Committee of the National Advisory Council for Environmental Policy and Technology; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, Public Law 92–463, EPA gives notice of a conference call meeting of the Technology Innovation and Economics (TIE) Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues, and the TIE Committee examines issues associated with the development, commercialization and use of environmentally beneficial technologies.

At this meeting the TIE Committee will discuss the report it plans to submit to EPA containing its comments on the Agency's draft Innovative Technology Strategy.

Scheduling constrains preclude oral comments from the public during the meeting. Written comments can be submitted by mail, and will be transmitted to TIE Committee members for their consideration.

DATES: The public conference call meeting of the TIE Committee will be held on Wednesday, May 11, 1994, from 2 to 4 p.m. Please call the contact listed below for the call-in number.

ADDRESSES: Written comments should be sent to: Mark Joyce, 1601F, Office of Cooperative Environmental Management, USEPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark Joyce, Designated Federal Official, Direct Line (202) 260–6889, Secretary's Line (202) 260–6892.

Dated: April 25, 1994.

Mark Joyce,

Designated Federal Official.

[FR Doc. 94–10838 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–44608; FRL–4779–4]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on methylethylketoxime (MEKO) (CAS No. 96–29–7), submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

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

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for MEKO were submitted by the Industrial Health Foundation, Inc., on behalf of the test sponsors and pursuant to a test rule at 40 CFR 799.2700. They were received by EPA on March 24, 1994. The submission describes "an Inhalation Oncogenicity Study of MEKO in Rats and Mice; Part II - Rats." This chemical is sold primarily as a nonreactive antiskinning agent in alkyd surface coating and paints. It is also used as a blocking agent for isocyanates and siloxanes.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44608). This record includes copies of all studies reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. B–607, Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: April 21, 1994.

Charles M. Auer,

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

[FR Doc. 94–10695 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59978; FRL–4770–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 16 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 94–50, March 1, 1994.

Y 94–51, 94–52, March 7, 1994.

Y 94–53, March 8, 1994.

Y 94–54, 94–55, March 14, 1994.

Y 94–56, 94–57, 94–58, 94–59, 94–60, 94–61, 94–62, March 15, 1994.

Y 94–63, 94–64, 94–65, March 16, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 260–1024, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), Rm B–607, Northeast Mall, at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

Y 94–50

Manufacturer. Confidential.

Chemical. (G) Unsaturated urethane acrylate.

Use/Production. (G) Resin or resin additives. Prod. range: Confidential.

Y 94–51

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and bake coatings for metal substrates. Prod. range: Confidential.

Y 94–52

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and bake coatings for metal substrates. Prod. range: Confidential.

Y 94–53

Manufacturer. Caschem, Inc.

Chemical. (G) Urethane acrylate.

Use/Production. (G) UV Curable coating for electronic components open, non-dispersive use. Prod. range: Confidential.

Y 94–54

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Mixed resin.

Use/Production. (S) Industrial air-dry and force-dry coatings for metal substrates. Prod. range: Confidential.

Y 94–55

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and force-dry coatings for metal substrates. Prod. range: Confidential.

Y 94–56

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and force-dry coatings for metal substrates. Prod. range: Confidential.

Y 94–57

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and force-dry coatings for metal substrates. Prod. range: Confidential.

Y 94–58

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and force-dry coatings for metal substrates. Prod. range: Confidential.

Y 94–59

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry and force-dry coatings for metal substrates. Prod. range: Confidential.

Y 94–60

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry primers for metal substrates. Prod. range: Confidential.

Y 94–61

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Alkyd resin.

Use/Production. (S) Industrial air-dry primers for metal substrates. Prod. range: Confidential.

Y 94–62

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Polyester resin.

Use/Production. (S) Binder for xerographic toners. Prod. range: Confidential.

Y 94–63

Importer. Confidential.

Chemical. (G) Aliphatic amine derivative and aliphatic amide derivative copolymer.

Use/Import. (S) Additive for ink jet paper, retention aid for paper, dry strength agent for paper making. Import range: Confidential.

Y 94–64

Importer. Unitika America Corporation.

Chemical. (G) Co-polyester.

Use/Import. (G) Resin for powder coating. Import range: 40,000–50,000 kg/yr.

Y 94–65

Importer. Unitika America Corporation.

Chemical. (G) Co-polyester.

Use/Import. (G) Resin for powder coating. Import range: 10,000–20,000 kg/yr.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: April 26, 1994.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–10698 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59979; FRL–4770–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 9 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 94–66, 94–67, 94–68, 94–69, 94–70, March 27, 1994.

Y 94–71, 94–72, 94–73, March 28, 1994.

Y 94–74, March 29, 1994.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 260–1024, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), Rm B–607, Northeast Mall, at the above address between 12 noon and 4 p.m., Monday through Friday, excluding legal holidays.

Y 94–66

Importer. Hanse Chemical USA, Inc.

Chemical. (G) Biphenol A epoxy resin-silicone copolyester.

Use/Import. (G) Function: elastification additive application in epoxy resin additives, potting, and casting. Import range: 2,000–40,000 kg/yr.

Y 94–67

Manufacturer. Confidential.

Chemical. (G) An isophthallic acid, phthallic anhydride, neopentyl glycol, trimethyl propane, ethylene glycol, 2-butyl-2-ethyl-1,3 propanediol polyester.

Use/Import. (G) Polyester resin used for industrial coating. Prod. range: Confidential.

Y 94–68

Manufacturer. Confidential.

Chemical. (G) Acrylic acid/vinyl ester copolymer.

Use/Import. (S) Thickening agent mainly for the cosmetic industry. Prod. range: Confidential.

Y 94–69

Importer. Unitika America Corporation.

Chemical. (G) Co-polyester.

Use/Import. (G) Resin for powder coating. Import range: 3,000–6,000 kg/yr.

Y 94–70

Importer. Unitika American Corporation.

Chemical. (G) Co-polyester.

Use/Import. (G) Resin for powder coating. Import range: 3,000–6,000 kg/yr.

Y 94–71

Manufacturer. Confidential.

Chemical. (G) Epoxy ester resin.

Use/Production. (G) Thermoset epoxy-ester for metal coatings. Prod. range: Confidential.

Y 94–72

Manufacturer. Henkel Corporation.

Chemical. (G) Polyester.

Use/Production. (S) Plasticizer for polyvinyl chloride resin. Prod. range: 75,000–150,000 kg/yr.

Y 94–73

Manufacturer. Air Products and Chemicals, Inc.

Chemical. (G) Acrylic ester copolymer.

Use/Production. (G) Adhesive. Prod. range: Confidential.

Y 94–74

Manufacturer. Confidential.

Chemical. (S) Neopentyl glycol; trimethylolpropane; isophthalic acid; $C_{16'-18}$ and $C_{18'}$ fatty acids; phenyl, propyl silicone resin; and trimellitic anhydride.

Use/Production. (S) Resin for water based paint. Prod. range: 2,700,000 kg/yr.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: April 26, 1994.

Frank V. Ceasar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 94–10697 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4880–7]

Molokai Aquifer, Maui County, HI: Sole Source Aquifer Determination

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: Pursuant to section 1424(e) of the Safe Drinking Water Act, the Regional Administrator of the U.S. Environmental Protection Agency has determined that the aquifer underlying Molokai, Hawaii is the sole or principal source of drinking water for the island. The Regional Administrator has determined that contamination of this aquifer would create a significant hazard to public health. As a result of this determination, Federally financially assisted projects constructed anywhere in the designated area will be subject to EPA review to ensure that they do not contaminate the aquifer through a recharge zone so as to create a significant hazard to public health.

ADDRESSES: The data upon which this determination has been made are available to the public and may be inspected during normal business hours at the EPA, Region 9, Water Management Division, 75 Hawthorne Street, San Francisco, CA, 94105.

FOR FURTHER INFORMATION CONTACT: Sunny Kuegle, Groundwater Pollution Control Section, (W–6–2), (415) 744–1830.

SUPPLEMENTARY INFORMATION:

1. Background

Section 1424(e) of the Safe Drinking Water Act states:

> If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

In 1987, EPA delegated authority to designate Sole Source Aquifers to EPA Regional Administrators.

On April 23, 1993, Sarah Sykes submitted a petition for Sole Source Aquifer Designation to EPA Region 9. After Sarah Sykes submitted additional information pursuant to EPA's request, EPA determined the petition to be complete on September 29, 1993. EPA conducted a public hearing on Molokai, Hawaii on January 6, 1994. The public comment period on the petition closed on January 21, 1994.

II. Basis for Determination

The factors to be considered by the Regional Administrator in the designation of an area under section 1424(e) of the Safe Drinking Water Act are: (1) Whether the aquifer is the area's sole or principal source of drinking water and; (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of the information available to EPA, the Regional Administrator has made the following findings which are the basis for the determination:

1. The aquifer underlying Molokai currently serves as the sole or principal source of drinking water for the residents of the island.

2. Contamination of the aquifer would create a significant hazard to public health. There is no economically feasible alternative drinking water source or combination of sources near the designated area. Potential sources of contamination include: cesspools, landfills, and highway accidents.

3. The determination of the boundary of the Sole Source Aquifer is consistent with EPA's Sole Source Aquifer designation Decision Process: Petition Review Guidance (Office of Groundwater Protection, 1987).

III. Description of the Molokai Sole Source Aquifer

The Molokai Sole Source Aquifer underlies the entire island of Molokai, Maui County, Hawaii. The aquifer is largely constituted by igneous rocks formed by numerous lava flows. Fresh to brackish groundwater flows within the igneous rocks in a lens-shaped configuration under Molokai. Lateral groundwater flow is locally impounded by near vertical dikes. These dikes form relatively impermeable compartments of groundwater at elevations above the island-wide lens. Yields from wells on Molokai range from 0.5 to 1.8 million gallons per day.

IV. Information Used in the Determination

The information used in the determination includes the petition and the amended petition as submitted by Sarah Sykes. In addition, the determination is based on EPA's "Technical Support Document." The Technical Support Document is based on reviews of hydrogeologic studies conducted on Molokai. These documents are available to the public and may be inspected during business hours at the EPA, Water Management Division, 75 Hawthorne Street, San Francisco, California.

V. Project Review

EPA region 9 will seek to work with the Federal agencies that may in the future provide financial assistance to projects within the boundaries of the Molokai Sole Source Aquifer. EPA will seek to develop agreements with other Federal agencies whereby EPA will be notified of proposed commitments of Federal financial assistance for projects which could contaminate the aquifer. In the event that a Federal financially assisted project could contaminate the Molokai Sole Source Aquifer through its recharge zone so as to create a hazard to public health, no commitment of Federal financial assistance will be made. However, a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to insure it will not contaminate the aquifer.

Although the project review process cannot be delegated, EPA will consider, to the maximum extent possible, any existing or future state, tribal, and local control mechanisms in protecting the groundwater quality of the aquifer.

VI. Summary of Public Comments

EPA received six letters during the comment period. Sixteen people spoke at the public hearing at Kaunakakai, Molokai, Hawaii on January 6, 1994. Of those who expressed an opinion, six supported the designation of a Sole Source Aquifer for Molokai, whereas one opposed a designation. The public's written and oral comments are fully addressed in EPA's Responsiveness Summary which is available to the public during normal business hours at EPA, Water Management Division, 75 Hawthorne Street, San Francisco, California.

VII. Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this certification, the term "small entity" shall have the same meaning as given in Section 601 of the RFA. This action is only applicable to the area within the boundaries of the Molokai Sole Source Aquifer. The only affected entities will be those businesses, organizations, or governmental jurisdictions that request Federal financial assistance for projects which have the potential for contaminating the aquifer so as to create a significant hazard to public health. EPA does not expect to be reviewing small, isolated commitments of financial assistance on an individual basis; accordingly, the number of affected small entities will be minimal.

For those small entities which may be subject to review, the impact of this action will not be significant. For most projects subject to this review, a ground water impact assessment will be required pursuant to other federal laws, such as the National Environmental Policy Act, as amended (NEPA), 42 U.S.C. 4321, *et seq.* Integration of those related reviews with Sole Source Aquifer review will allow EPA and other federal agencies to avoid delay or duplication of effort in approving financial assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entity in order to pay for the redesign of the project to assure protection of the aquifer.

Under Executive Order 12866, EPA must judge whether a regulation is "significant" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not significant because it will not have an annual effect of $100 million or more on the economy, will not cause any major increase in costs or prices, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete in domestic or export markets. This action only affects the area within the boundaries of the Molokai Sole Source Aquifer. As a result of this action, no commitment of Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Dated: April 14, 1994.

John Wise,

Acting Regional Administrator.

[FR Doc. 94–10551 Filed 5–3–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 94–420]

Meeting Held To Discuss Role of Cable in Proposed Changes to the Emergency Broadcast System

April 28, 1994.

The Federal Communications Commission is nearing completion of a rulemaking proceeding to modernize the present Emergency Broadcast System (EBS), Docket FO 91–171 and FO 91–301. One of the areas under consideration is the inclusion of cable television systems as an equal partner with broadcast stations in a new emergency alerting system. On Wednesday, April 27, 1994, members of the Commission staff met in Washington, DC with some of the cable television equipment manufacturers and cable operators that had filed comments in the docket on the integration of cable systems into an alerting system.

The purpose of the meeting was to attempt to clarify and further document the estimated costs of emergency alerting equipment in cable systems. Such costs include the purchase of equipment, and the operation of such an alerting system over the multi-channel cable systems. While the discussions centered upon comments already filed with the Commission, it was hoped that this further discussion would enhance the Commission's understanding of the nuances and details for cable implementation of an alerting system.

An audio recording of the meeting was made and has been placed in the record as a part of the official proceeding in the docket. The public and all interested parties are invited to review this recording which consists of approximately six hours of discussion by the approximately 25 participants.

For further information contact the EBS staff at (202) 632–3906.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–10656 Filed 5–3–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1005–DR]

California; Amendment to Notice of 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 California (FEMA–1005–DR), dated October 28, 1993, and related determinations.

EFFECTIVE DATE: April 25, 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 the incident period for this disaster is closed effective April 22, 1994.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 94–10671 Filed 5–3–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1020–DR]

Georgia; Amendment to Notice of 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 Georgia (FEMA–1020–DR), dated March 31, 1994, and related determinations.

EFFECTIVE DATE: April 25, 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 the incident period for this disaster is closed effective April 10, 1994.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 94–10672 Filed 5–3–94; 8:45 am]

BILLING CODE 6718–02–P

[Docket No. FEMA–REP–10–OR–3]

Oregon WNP–2 Emergency Response Plan and Guidelines

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: The Region X Office of the Federal Emergency Management Agency gives notice that it has received a radiological emergency response Manual from the State of Oregon. The Manual contains plans which support the State of Oregon and plans of local governments near the WNP–2 Nuclear Power Plant located in Benton County, Washington.

DATE PLANS RECEIVED: March 24, 1994.

ADDRESSES: We invite comments on the State and Local plans portion of the Manual within 30 days of the date of this notice. Comments should be submitted in writing to Lloyd F. Hara, Regional Director, FEMA Region X, 130–228th Street SW., Bothell, Washington 98021–9796, (fax) (206) 487–4707, and to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (fax) (202) 646–4536.

FOR FURTHER INFORMATION CONTACT: Larry E. Moore, TE Team Leader, FEMA Region X, 130 228th Street SW., Bothell, Washington 98021–9796.

SUPPLEMENTARY INFORMATION: For continued operation of nuclear power plants, the Nuclear Regulatory Commission requires approved licensee and State and local governments' radiological emergency response plans. In support of the Federal requirement for emergency response plans, 44 CFR 350, Review and Approval of State and Local Radiological Emergency Plans and Preparedness, describes its procedures for review and approval of State and local governments' radiological emergency response plans. Pursuant to 44 CFR 350.7, Application by State for Review and Approval, the State of Oregon submitted its Radiological Emergency Plan for the State of Oregon and Affected Counties to the Federal Emergency Management Agency, Region X Office, for review and approval under 44 CFR part 350.

Included are radiological emergency response plans for local governments that are wholly or partially within the plume exposure pathway emergency planning zones of the WNP–2 Nuclear Power Plant. The Manual covers:

(1) Oregon's WNP–2 Emergency Response Plan, dated December 1993,

(2) Oregon's Hanford Emergency Response Plan, and

(3) Guidelines the State of Oregon, Morrow County, and Umatilla County will use to implement the plans in a WNP–2 and Hanford emergency. Oregon is not requesting FEMA review of the Oregon Hanford Plan section.

Copies of the Manual are available for review and copying at the FEMA Region X Office, or they will be made available upon request in accordance with the fee schedule for FEMA Freedom of Information Act requests, as set out in subpart C of 44 CFR part 5. There are 510 pages in this document; reproduction fees are $0.10 per page, payable with the request for a copy.

44 CFR 350.10 also calls for a public meeting prior to approval of the plans. This meeting will be held in accordance with 44 CFR 350.10 in Hermiston, Oregon, in advance of FEMA approval.

Dated: April 14, 1994.

Lloyd F. Hara,

Regional Director.

[FR Doc. 94–10670 Filed 5–3–94; 8:45 am]

BILLING CODE 6718–20–P

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Dolphin Cruise Line, Inc., Ulysses Cruises, Inc. and Compania de Vapores Seabreeze S.A., 901 South America Way, Miami, Florida 33132

Vessel: SEABREEZE I

Dolphin Cruise Line, Inc., Ulysses Cruises, Inc. and Masefield Company Limited, 901 South America Way, Miami, Florida 33132

Vessel: DOLPHIN IV

Dated: April 28, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94– 10616 Filed 5–3–94; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89–777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR Part 540, as amended:

Dolphin Cruise Line, Inc., Ulysses Cruises, Inc. and Compania de Vapores Seabreeze S.A., 901 South America Way, Miami, Florida 33132

Vessel: SEABREEZE I

Dolphin Cruise Line, Inc., Ulysses Cruises, Inc. and Masefield Company Limited, 901 South America Way, Miami, Florida 33132

Vessel: DOLPHIN IV

Dated: April 28, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 94–10617 Filed 5–3–94; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Mellon Bank Corp.; Acquisition of Companies Engaged in Nonbanking Activities

Mellon Bank Corporation, Pittsburgh, Pennsylvania (applicant), has applied pursuant to Section 4(c)(8) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1843(c)(8)) and § 225,23 of the Board's Regulation Y (12 CFR 225.23) to acquire, directly or indirectly, all of the voting securities of the following directly or indirectly held subsidiaries of the Dreyfus Corporation, New York, New York (Dreyfus):

(1) The Dreyfus Security Savings Bank, F.S.B., Paramus, New Jersey (DSSB), a federal savings bank (insured by the FDIC, Bank Insurance Fund), and thereby engage in operating a savings association pursuant to 12 CFR 225.25(b)(9);

(2) The Dreyfus Trust Company, Uniondale, New York (DTC), a trust company holding a limited purpose charter from the New York Department of Banking, and thereby engage in operating a trust company pursuant to 12 CFR 225.25(b)(3);

(3) Dreyfus Realty Advisors, Inc., New York, New York and Atlanta, Georgia (DRA), and thereby engage in certain investment advisory activities related to the acquisition, management, and disposition of real estate and real estate-related investments (DRA also has 21 wholly-owned corporate subsidiaries, each of which acts as a managing general partner in certain real estate limited or general partnerships); and

(4) The Truepenny Corporation, New York, New York (Truepenny), a holding company for the Trotwood Corporation (Trotwood), New York, New York, and thereby engage in certain community development initiatives and, with two of their subsidiaries and through several partnerships, in a real estate development project in New York City, known as the Queens West Redevelopment Project.

(5) Dreyfus Partnership Management, Inc., New York, New York (DPM), and thereby serve as a non-managing general partner of two mutual funds organized as limited partnerships which are sponsored, advised and managed by Dreyfus;

(6) Major Trading Corporation, New York, New York (MTC), and thereby engage primarily in investing in securities, including shares of certain mutual funds advised by Dreyfus-affiliates; and

(7) Dreyfus Acquisition Corporation, New York, New York (DAC), and thereby engage in making equity and debt investments, including investments in certain mutual funds advised by Dreyfus-affiliates and in certain limited partnerships.

Applicant proposes to acquire the above companies simultaneously with the proposed acquisition of Dreyfus by its subsidiary, Mellon Bank, N.A., which has filed a notice with the Office of the Comptroller of the Currency regarding such proposed acquisition of Dreyfus. Applicant proposes to acquire DSSB, DTC, DRA, DPM, MTC, and DAC through a wholly owned subsidiary, MBC Investments Corporation (MBC), and to acquire Truepenny directly.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity that the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the closely related to banking test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National courier Assn* v. *Board of Governors*, 516 F.2d 1229, 1237 (DC Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y (49 FR 806, January 6, (1984).

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities of the subsidiaries that Applicant proposes to acquire can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Applicant believes that the proposed activities will benefit the public by enabling Applicant to provide a broader range of services to its customers and thereby enhance Applicant's ability to compete and expand its participation in the investment advisory business. Applicant also believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

The Board has previously determined in §§ 225.25(b)(9) and 225.25(b)(3) of Regulation Y that the operation of a savings association and a trust company, respectively, are activities closely related to banking and permissible for bank holding companies. Applicant states that DSSB and DTC will be operated in accordance with these sections. DSSB operates out of a principal office in Paramus, New Jersey, has a branch office in San Francisco, California, and has received approval from the Office of Thrift Supervision to open 13 additional interstate offices.

Applicant asserts that DRA's real estate-related investment activities are permissible under § 225.25(b)(4) of Regulation Y. Applicant has committed that DRA will cease to engage in any

activities that are impermissible for bank holding companies or their nonbank subsidiaries and that all subsidiaries of DRA will cease to engage in impermissible activities or be divested within 2 years after consummation of the proposed transaction.

According to Applicant, the direct and indirect investments of Truepenny and Trotwood are authorized under § 225.25(b)(6) of Regulation Y as equity and debt investments in corporations or projects designed primarily to promote community welfare. Applicant asserts that the Queens West Redevelopment Project is designed to make affordable housing available to persons of lower middle income and will create significant employment opportunities for low- and moderate-income communities.

Applicant contends that its proposed investments in DPM, MTC and DAC are authorized under section 4(c)(7) of the BHC Act, which permits bank holding companies to acquire shares of investment companies that engage solely in acquiring 5 percent or less of the securities of other companies. With respect to the role of DPM as non-managing general partner to 2 mutual funds, Applicant claims that DPM engages only in investment activity permitted by section 4(c)(7) of the BHC Act and that the managing general partners have complete and exclusive control over the management, conduct and operation of the funds' business. Applicant commits to reduce any investment of DPM, MTC and DAC to below the 5% threshold in section 4(c)(7) of the BHC Act, including limited partnership interests that qualify as voting securities under § 225.2(p) of Regulation Y.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than May 30, 1994. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, April 28, 1994.

William W. Wiles,

Secreary of the Board.

[FR Doc. 94–10690 Filed 5–3–94; 8:45 am]

BILLING CODE 6210–01–P–M

GENERAL SERVICES ADMINISTRATION

Notice of Intent To Prepare an Environmental Impact Statement for the Construction of the Montgomery County, Maryland, Campus for the Headquarters of the Food and Drug Administration

Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and the General Services Administration (GSA) guidelines PBS P 1095.4B, GSA and the Food and Drug Administration (FDA) announce their intent to prepare an Environmental Impact Statement (EIS) for the acquisition of 350 to 400 acres in Montgomery County, Maryland for the construction of 2.1 million occupiable square feet (osf) of office and laboratory space for use by the FDA to house approximately 5,645 employees with 5,415 parking spaces. Acquisition of this site and construction of this facility will provide one of three campuses planned to allow FDA to consolidate its facilities. FDA is located in three buildings within the District of Columbia and 35 buildings in Maryland.

In March 1994, GSA advertised for expressions of interest from potential offerors to provide the required site. The site is to accommodate the construction of a campus for the Headquarters of the Food and Drug Administration. The list of sites that will be considered as alternatives in the EIS are as follows (not listed in order of preference):

- **The Clarksburg Triangle Site**

Approximately 535 acres in Clarksburg, Maryland, (bounded by Interstate 270, Route 121/Clarksburg Road, and Old Baltimore Road).

- **The King Farm Site**

Approximately 355 acres in the vicinity of Gaithersburg and Rockville, Maryland, (bounded by Route 355/Frederick Road, Shady Grove Road, Gude Drive and Interstate 270 at Piccard Drive).

- **The Marriott/Milestone Site**

Approximately 443 acres in Germantown, Maryland, (bounded by Interstate 270, Route 118/Germantown Road, and Route 355/Frederick Road).

- **The National Geographic Site**

Approximately 380 acres in Gaithersburg, Maryland, (bounded by Route 28/Darnestown Road, Great Seneca Highway, Route 124/Quince Orchard Road, and Muddy Branch Road).

The EIS will focus on the Government's programmatic needs and potential short and long-term impacts that may result from new construction. The consulting firms of Leo A. Daly and Greenhorne & O'Mara have been retained to prepare the draft and final EIS.

GSA will initiate a scoping process for the purpose of determining the scope of issues to be addressed and for identifying the significant issues related to this proposed action. A public scoping meeting will be held on May 16, 1994, at 7 p.m. at Rockville High School, 2100 Baltimore Road, Rockville Maryland.

A short, formal presentation will precede the request for public comments. GSA and FDA representatives will be available at this meeting to receive comments from the public regarding issues of concern. It is important that Federal, State, and County Agencies, interested individuals, and groups take this opportunity to identify environmental concerns and significant issues that should be addressed by the EIS. In the interest of available time, each speaker will be asked to limit their oral comments to five (5) minutes.

Agencies and the general public are also invited and encouraged to provide written comment in addition to, or in lieu of, comments at the public meeting. To be most helpful, scoping comments should clearly describe specific issues or topics which the commentator believes the EIS should address. Written statements concerning the alternatives should be postmarked no later than June 6, 1994, to Mr. Andrew Dempster, Planning Staff (WPL) room 7618, National Capital Region, General Services Administration, Room 7618, 7th and D Streets, SW, Washington, DC, 20407, Telephone (202)–708–5530.

Dated: April 29, 1994.

Mr. Jack Finberg,

Acting Director, NCR Planning Staff (WPL).

[FR Doc. 94–10673 Filed 5–3–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

President's Council on Physical Fitness and Sports

AGENCY: Office of the Assistant Secretary for Health, HHS.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the President's Council on Physical Fitness and Sports. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: To be determined.

ADDRESSES: Tentative, The White House Conference Center, Truman Room, 3rd Floor, 726 Jackson Place NW., Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT:

Sandra Perlmutter, Executive Director, President's Council on Physical Fitness and Sports, 701 Pennsylvania Ave., NW., Suite 250, Washington, DC 20004 202/272–3421.

SUPPLEMENTARY INFORMATION: The President's Council on Physical Fitness and Sports operates under Executive Order #12345, as amended, and subsequent orders. The functions of the Council are: (1) To advise the President and Secretary concerning progress made in carrying out the provisions of the Executive Order and recommending to the President and Secretary, as necessary, actions to accelerate progress; (2) advise the President and the Secretary on matters pertaining to the ways and means of enhancing opportunities for participation in physical fitness and sports actions to extend and improve physical activity programs and services; (3) advise the President and Secretary on State, local, and private actions to extend and improve physical activity programs and services.

The Council will hold this meeting to apprise the members of the national program on physical fitness and sports, to report on ongoing Council initiatives, and to plan for future directions.

Dated: April 29, 1994.

Sandra Perlmutter,

Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 94–10674 Filed 5–3–94; 8:45 am]

BILLING CODE 4160–17–M

Agency for Health Care Policy and Research

Notice of Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), announcement is made of the following special emphasis panel scheduled to meet during the month of May 1994:

Name: Health Care Policy and Research Special Emphasis Panel.

Dates and Times: May 3–4, 1994, 9:00 A.M.

Place: Ramada Inn, 8400 Wisconsin Avenue, Ambassador 1 Room, Bethesda, Maryland 20814.

This meeting will be closed to the public.

Purpose: The Panel's charge is to provide advice and recommendations to the Secretary and to the Administrator, Agency for Health Care Policy and Research (AHCPR), regarding the scientific and technical merit of contract proposals submitted in response to a specific Request for Proposals (PHS 94–2). The purpose of this contract, entitled Consumer Choices and Health Care Reform, is to develop a prototype decision support system, workbook, interactive video, or other tools for consumers to use in selecting health care plans, providers, and practitioners. The prototype should focus on one area of decision-making, e.g., evaluation of preventative health services. The final product should have the capacity to be adapted for new categories of choices related to a reformed system of health care.

Agenda: The session of this Panel will be devoted entirely to the technical review and evaluation of contract proposals submitted in response to a specific Request for Proposals. The Administrator, AHCPR, has made a formal determination that this meeting will not be open to the public. This is necessary to protect the free exchange of views and avoid undue interference with Panel and Department operations, and safeguard confidential proprietary information and personal information concerning individuals associated with the proposals that may be revealed during the sessions. This is in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, Department regulations, 45 CFR 11.5(a)(6), and procurement regulations, 48 CFR 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Anne R. Bavier, Center for General Health Services Extramural Research, Division of Primary Care, Agency for Health Care Policy and Research, Executive Office Center, 2101 E. Jefferson Street, Suite 502, Rockville, Maryland 20852, (301) 594–1357 extension 129.

Dated: April 26, 1994.

J. Jarrett Clinton,

Administrator.

[FR Doc. 94–10604 Filed 5–3–94; 8:45 am]

BILLING CODE 4160–90–P

Centers for Disease Control and Prevention

Meeting

The National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC), announces the following meeting.

Name: Poverty-Associated Mental Retardation (PAMR) Prevention Technical Assistance Workshop for Planning Grant Recipients.

Time and Date: 8:30 a.m.–4:30 p.m., May 10, 1994.

Place: Swissotel Atlanta, 3391 Peachtree Road, NE., Atlanta, Georgia 30326.

Status: Open to the public; limited only by the space available.

Purpose: The primary purpose of this workshop is to provide technical assistance to recipients of CDC grants as they plan programs to prevent PAMR. The workshop is not designed to provide general information on mental retardation or on prevention of PAMR.

SUPPLEMENTARY INFORMATION: The workshop will convent a group of recipients of CDC PAMR Planning Grants.

Seven of every 1,000 ten-year old children suffer from mild mental retardation, and three of every 1,000 suffer from more serious mental retardation. Poor children, especially those whose mothers have less than a high school education, are at risk of cognitive delay of as much as one standard deviation of IQ (15 points) at age three. Studies such as the Infant Health and Development Program and the Carolina Abecedarian Project have proven that an intensive early health and development intervention can prevent or reduce as much as two-thirds of PAMR. CDC is actively involved in research and planning to help States develop a community-based program to prevent PAMR.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Edward A. Brann, M.D., Chief, Mental Retardation Prevention Section, Developmental Disabilities Branch, Division of Birth Defects and Developmental Disabilities, NCEH, CDC, Mailstop F–15, 4770 Buford Highway, NE., Atlanta, Georgia 30341–3724, telephone 404/488–7360.

Dated: April 28, 1994.

Robert L. Foster,

Assistant Director for Special Programs, Office of Program Support, Centers for Disease Control and Prevention.

[FR Doc. 94–10642 Filed 5–3–94; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 93N–0490]

Public Workshop on Improvements in the Drug Master File System; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening until June 3, 1994 the comment period for a notice that appeared in the **Federal Register** of January 14, 1994 (59 FR 2413). The document announced a public workshop on possible improvements in the drug master file (DMF) system. This action is based on a request for an extension of the comment period.

DATES: Written comments by June 3, 1994.

ADDRESSES: Submit written comments regarding the workshop to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Transcripts and summaries of the workshop are available from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Eric P. Duffy, Center for Drug Evaluation and Research (HFD–635), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0360.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 14, 1994 (59 FR 2413), FDA announced that on January 31, 1994, the agency would be holding a public workshop on possible improvements in the DMF system, especially Type II DMF's, which concern drug substances, drug substance intermediates, and materials used in their preparation, or drug products. The workshop focused on alternative ways for the Center for Drug Evaluation and Research (CDER) to review Type II DMF's for drug substances and intermediates. The agency announced that it would accept data, information, or views on this subject until March 14, 1994.

The International Pharmaceutical Excipients Council (IPEC) requested that FDA extend the comment period for an additional 60 days. IPEC explained that several of its members could not attend the public workshop because of a scheduling conflict with the U.S. Pharmacopeia's Second Open Conference on Excipient Harmonization and that the members are reviewing the transcript and summary of the workshop.

The purpose of reopening the comment period is to provide an opportunity for interested persons to submit comments for review by CDER in considering possible improvements in the DMF system. FDA believes that reopening the comment period until June 3, 1994, provides sufficient opportunity to comment on the workshop transcript and summary.

Interested persons may, on or before June 3, 1994, submit to the Dockets Management Branch (address above) written comments regarding this notice. 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.

Dated: April 26, 1994.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 94–10606 Filed 5–3–94; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS), has submitted to OMB the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Public Law 96–511).

1. *Type of Request:* New; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA), Flexible Survey Protocol Form; *Form No.:* HCFA–667; *Use:* This form will be used for laboratories that are nonwaived, nonaccredited, and considered low risk by HCFA, in lieu of onsite inspection for the first survey cycle. This checklist is designed to screen laboratories and alert HCFA to any facility where an onsite inspection is vital; *Frequency:* Biennially; *Respondents:* State or local governments, Federal agencies or employees, small businesses or organizations, and nonprofit institutions; *Estimated Number of Responses:* 1,000; *Average Hours Per Response:* 1.5; *Total Estimated Burden Hours:* 1,500.

2. *Type of Request:* Extension; *Title of Information Collection:* Application for Health Insurance Benefits Under Medicare for Individual With Chronic Renal Disease; *Form No.:* HCFA–43; *Use:* The law requires the filing of an application to establish Medicare entitlement based on end stage renal disease. This form is the application form used to obtain information needed to determine Medicare eligibility. It guides district office personnel in securing the required development and becomes a permanent part of the claims file; *Frequency:* On occasion; *Respondents:* Individuals or households; *Estimated Number of Responses:* 21,000; *Average Hours Per Response:* .43; *Total Estimated Burden Hours:* 9,030.

3. *Type of Request:* Reinstatement; *Title of Information Collection:* Medicare Qualification Statement for Federal Employees; *Form No.:* HCFA–565; *Use:* Information is required on individuals filing for hospital insurance benefits (Part A) based on their Federal employment. This information is required in order to determine if they can get "deemed" quarters for work prior to 1983 to qualify for free Part A; *Frequency:* One time only; *Respondents:* Individuals or households; *Estimated Number of Responses:* 4,300; *Average Hours Per Response:* .17; *Total Estimated Burden Hours:* 731.

4. *Type of Request:* Reinstatement; *Title of Information Collection:* Attending Physician's Statement and Documentation of Medicare Emergency; *Form No.:* HCFA–1771; *Use:* This form is used to document the attending physician's statement that the hospitalization was required due to an emergency and give clinical support for the claim; *Frequency:* On occasion; *Respondents:* Businesses or other for profit; Estimated Number of Responses: 1,700; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 425.

5. *Type of Request:* Reinstatement; *Title of Information Collection:* Request for Part B Medicare Hearing by an Administrative Law Judge; *Form No.:* HCFA–5011B; *Use:* This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the carrier hearing decision fails to satisfy the claimant; *Frequency:* On occasion; *Respondents:* Businesses or other for

profit, individuals or households; *Estimated Number of Responses:* 10,000; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 2,500.

6. *Type of Request:* Reinstatement; *Title of Information Collection:* Request for Part A Medicare Hearing by an Administrative Law Judge; *Form No.:* HCFA–5011A; *Use:* This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the carrier hearing decision fails to satisfy the claimant; Frequency: On occasion; *Respondents:* Businesses or other for profit, individuals or households; *Estimated Number of Responses:* 10,000; *Average Hours Per Response:* .25; *Total Estimated Burden Hours:* 2,500.

7. *Type of Request:* New; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Adverse Action Extract; *Form No.:* HCFA–462; *Use:* The CLIA Adverse Action Extract will be used by HCFA surveyors (State health department surveyors and other HCFA agents) to record the adverse actions imposed against a laboratory. The form will also serve to track dates of the imposition of adverse actions, dates on which a laboratory corrects deficiencies, and all appeals activity; *Frequency:* Biennially or when adverse actions are imposed against a laboratory; *Respondents:* State or local governments, Federal agencies or employees, nonprofit institutions, small businesses or organizations; *Estimated Number of Responses:* 2,500 (reporting) 52 States (recordkeeping); *Average Hours Per Response:* 2.25 (reporting), 1.90 (recordkeeping); *Total Estimated Burden Hours:* 5,724.

8. *Type of Request:* New; *Title of Information Collection:* Medicare and Medicaid Coverage Data Bank Reports; *Form No.:* HCFA–163; *Use:* Employers are required to report information on individuals covered by the employer's group health plans to a data bank established by HHS. Information will be used to further purposes of Medicare Secondary Payer and Medicaid Third Party Liability provisions of the Social Security Act; *Frequency:* Annually; *Respondents:* State or local governments, Federal agencies or employees, nonprofit institutions, small businesses or organizations, individuals or households; *Estimated Number of Responses:* 120,000,000 (reporting), 10,000 (recordkeeping); *Average Hours Per Response:* 3.89 seconds (reporting), 100 hours (recordkeeping); *Total Estimated Burden Hours:* 2,300,000.

Additional Information or Comments: Call the Reports Clearance Office on (410) 966–5536 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 3001, Washington, DC 20503

Dated: April 25, 1994.

John A. Streb,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 94–10635 Filed 5–3–94; 8:45 am]

BILLING CODE 4120–03–P

National Institutes of Health

Division of Research Grants; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division, of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265, will furnish summaries of the meeting and roster of panel members.

Meeting To Review Individual Grant Applications

Scientific Review Administrator: Dr. Joseph Kimm (301) 594–7257.

Date of Meeting: May 4, 1994.

Place of Meeting: Westwood Bldg, Rm 309A, NIH, Bethesda, MD. (Telephone Conference)

Time of Meeting: 10 am.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 20, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–10725 Filed 5–3–94; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the NHLBI SEP on Mammalian Genotyping Service Contract, May 10, 1994, Holiday Inn, Bethesda, Maryland which was published in the **Federal Register** on April 22, (59 FR 19194).

This SEP was to have convened at 8 a.m. on May 10, but has been changed to 8:00 p.m. on May 9, Holiday Inn, Bethesda, Maryland.

The meeting will be closed from 8:00 p.m. on May 9, to adjournment on May 10, for the review and evaluation of contract proposals.

Dated: April 28, 1994.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 94–10724 Filed 5–3–94; 8:45 am]

BILLING CODE 4140–01–M

Public Health Services

[0905–ZA53]

Announcement of Availability of Funds for Family Planning Service Grants

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs announces the availability of funds for FY 1995 family planning services grant projects under the authority of Title X of the Public Health Service Act (42 U.S.C. 300, *et seq.*) and solicits applications for competing grant awards to serve the areas and/or populations set out below.

OMB Catalog of Federal Domestic Assistance. 13.217

DATES: Application due dates vary. See **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Additional information may be obtained from and completed applications should be sent to the appropriate Regional Health Administrator at the address below:

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): DHHS/PHS Region I, John F. Kennedy Federal Building, Government Center, room 1400, Boston, MA 02203

Region II

(New Jersey, New York, Puerto Rico, Virgin Islands): DHHS/PHS Region II, 26 Federal Plaza, room 3337, New York, NY 10278.

Region III

(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, W. Virginia): DHHS/PHS Region III, 3535 Market Street, Philadelphia, PA 19101.

Region IV

(Alabama, Florida, Georgia, Kentucky, Mississippi, N. Carolina, S. Carolina, Tennessee): DHHS/PHS Region IV, 101 Marietta Tower, suite 1106, Atlanta, GA 30323.

Region V

(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin): DHHS/PHS Region V, 105 West Adams Street, 17th floor, Chicago, IL 60603.

Region VI

(Arkansas, Louisiana, New Mexico, Oklahoma, Texas): DHHS/PHS Region VI, 1200 Main Tower Building, room 1800, Dallas, TX 75202.

Region VII

(Iowa, Kansas, Missouri, Nebraska): DHHS/PHS Region VII, 601 East 12th Street, 5th Fl. W., Kansas City, MO 64106.

Region VIII

(Colorado, Montana, N. Dakota, S. Dakota, Utah, Wyoming): DHHS/PHS Region VIII, 1961 Stout Street, Denver, CO 80294.

Region IX

(Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, Republic of the Marshall Islands): DHHS/PHS Region IX, 50 United Nations Plaza, room 327, San Francisco, CA 94102.

Region X

(Alaska, Idaho, Oregon, Washington): DHHS/PHS Region X, Blanchard Plaza, 2201 Sixth Avenue, M/S RX-20, Seattle, WA 98121.

FOR FURTHER INFORMATION CONTACT: Regional Grants Management Officers: Region I, Mary O'Brien—617/565–1482; Region II, Steven Wong—212/264–4496; Region III, Marty Bree—215/596–6653; Region IV, Wayne Cutchins—404/331–2597; Region V, Lawrence Poole—312/353–8700; Region VI, Joyce Bailey—214/767–3879; Region VII, Michael Rowland—816/426–2924; Region VIII, Susan A. Jaworowski—303/844–4461; Region IX, Howard F. (Al) Tevis—415/556–8233; Region X, Jim Tipton—206/615–2473.

Regional Program Consultants for Family Planning: Region I, James Sliker—617/565–1452; Region II, Eileen Connolly—212/264–2571; Region III, Elizabeth Reed—215/596–6686; Region IV, Christino Rodringuez—404/331–5254; Region V, George Hockenberry—312/353–1700; Region VI, Paul Smith—214/767–3072; Region VII, Susan Moskosky—816/426–2924; Region VIII, John J. McCarthy, Jr.—303/844–5955; Region IX, James Hauser—415/556–7117; Region X, Vivian Lee—206/615–2501.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services (HHS) to award grants to public or private nonprofit entities to assist in the establishment and operation of voluntary family planning projects to provide a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). The statute requires that, to the extent practicable, entities shall encourage family participation. Also, Title X funds may not be used in programs where abortion is a method of family planning. Implementing regulations appear at 42 CFR part 59 subpart A.

On February 5, 1993, HHS published at 58 FR 7462 an interim rule that suspends the 1988 Title X rules (popularly known as the "Gag Rule"), pending the promulgation of new regulations. The principle effect of this action was to suspend the definitions of "family planning," "grantees," "prenatal care," "Title X," "Title X Program," and "Title X Project" presently found at 42 CFR 59.2 and 42 CFR 59.7–59.10. Proposed rules were also published at 58 FR 7464 on the same date. During the pendency of rulemaking, the compliance standards that were in effect prior to the issuance of the 1988 rule, including those set out in the 1981 Family Planning Guidelines, will be used to administer the program. Copies of the pre-1988 compliance standards are available from the Regional Program Consultants listed above.

The Title X program has established these five priorities:

(1) Expansion of current clinic sites and development of new clinics in high-need areas;

(2) Outreach to low-income women, adolescents and persons at high risk of unintended pregnancy or infection with STD (including HIV) not now receiving family planning services;

(3) Increased emphasis on services to adolescents, including enhanced counseling as well as new service arrangements for providing services to teens;

(4) Increased focus on quality and comprehensiveness of services, including treatment of STDs, screening for cervical and breast cancer, substance abuse counseling, and counseling on avoidance of high risk behavior which may place clients at risk for STD and HIV; and

(5) Increased emphasis on training and retention of family planning nurse practitioners, particularly minority nurse practitioners and those working in clincis serving high-need populations.

These program priorities represent overriding goals which are being pursued to the extent that funding increases or increases in program efficiency allow. Some funding may be available to Title X grantees to improve and expand services.

The Administration's FY 1995 budget request for this program is $199 million. This amount represents a 10 percent increase over the appropriation for FY 1994 of $181 million, of which $168 million will be made available to Title X service grantees. Approximately 16 percent of the funds appropriated for FY 1995 and made available to Title X service grantees will be used for competing grants. The remaining funds will be used for non-competing continuation grants. This program announcement is subject to the appropriation of funds and is a contingency action being taken to ensure that, should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for the distribution of funds throughout the fiscal year. Since the precise funding levels for FY 1995 are uncertain at this point, the funding levels set out below are based on the FY 1993 appropriation level. However, it is expected that funding levels will be increased if the appropriation for FY 1995 increases.

Approximately $168 million will be awarded nationwide during FY 1994 for Title X services. The entire $168 million will be allocated among the 10 DHHS regions, and will be in turn awarded to public and private non-profit agencies located within the regions. Each regional office is responsible for evaluating applications, establishing priorities, and setting funding levels according to criteria in 42 CFR 59.11.

This notice announces the availability of funds to provide family planning

services in 11 States, Washington, DC and Guam. Competing grant applications are invited for the following areas:

Populations or areas to be served	Number of grants to be awarded	FY 1993 funding level	Application due date	Grant funding date
Region II:				
New York, excluding New York City	1	$6,429,872	3/1/95	7/1/95
Region III:				
Washington, DC	1	635,080	9/1/94	1/1/95
Region V:				
Indiana	1	3,616,959	10/1/94	2/1/95
Michigan	1	4,341,358	12/1/94	4/1/95
Minnesota	1	1,723,066	9/1/94	1/1/95
Wisconsin	1	2,533,949	11/1/94	3/1/95
Region VI:				
Arkansas	1	2,561,144	11/1/94	3/1/95
New Mexico	1	1,727,124	9/1/94	1/1/95
Region VII:				
Kansas, excluding Wyandotte County	1	1,439,100	3/1/95	7/1/95
Wyandotte County, KS	1	167,900	8/1/94	12/1/94
Region VIII:				
Larimer County, CO	1	128,122	9/1/94	1/1/95
Region IX:				
Guam	1	143,633	3/1/95	7/1/95
Region X:				
Idaho	1	921,574	4/1/95	7/1/95
Alaska Natives residing in the Yukon and Kuskokwim River area	1	80,000	4/1/95	7/1/95
Total	14	26,448,881		

Applications must be postmarked or, if not mailed, received at the appropriate Grants Management Office no later than close of business on application due dates listed above. Private metered postmarks will not be acceptable as proof of timely mailing. Applications which are postmarked or, if not sent by U.S. mail, delivered to the appropriate Grants Management Office later than the application due date will be judged late and will not be accepted for review. (Applicants should request a legibly dated postmark from the U.S. Postal Service.) Applications which do not conform to the requirements of this program announcement or do not meet the applicable regulatory requirements at 42 CFR part 59, subpart A will not be accepted for review. Applicants will be so notified,and the applications will be returned.

Applications will be evaluated on the following criteria:

(1) The number of patients and, in particular, the number of low-income patients to be served;

(2) The extent to which family planning services are needed locally;

(3) The relative need of the applicant;

(4) The capacity of the applicant to make rapid and effective use of the Federal assistance;

(5) The adequacy of the applicant's facilities and staff;

(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project; and

(7) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. This announcement is related to the priority areas of Family Planning. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report: Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Application Requirements

Applications kits (including the application form, PHS 5161) and technical assistance for preparing proposals are available from the regional offices. An application must contain:

(1) A narrative description of the project and the manner in which the applicant intends to conduct it in order to carry out the requirements of the law and regulations;

(2) A budget that includes an estimate of project income and costs, with justification for the amount of grant funds requested;

(3) A description of the standards and qualifications that will be required for all personnel and facilities to be used by the project; and

(4) Such other pertinent information as may be required by the Secretary as specified in the application kit. In preparing an application, applicants should respond to all applicable regulatory requirements. (The information collections contained in this notice have been approved by the Office of Management and Budget and assigned control number 0937–0189.)

Application Review and Evaluation

Each regional office is responsible for establishing its own review process. Applications must be submitted to the appropriate regional office at the address listed above. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

Grant Awards

Grant projects are generally approved for 3 to 5 years with an annual non-competitive review of a continuation application to obtain continued support. Non-competing continuation awards are subject to factors such as the project making satisfactory progress and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the Federal Government.

Review Under Executive Order 12372

Applicants under this announcement are subject to the review requirements of Executive Order 12372, State Review of applications for Federal Financial Assistance, as implemented by 45 CFR part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the Grants Management Office of the appropriate region. State Single Point of Contact comments must be received by the regional office 30 days prior to the funding date to be considered.

When final funding decisions have been made, each applicant will be notified by letter of the outcome of its application. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purpose of the grant, and terms and conditions of the grant award.

Gerald J. Bennett,

Acting Deputy Assistance Secretary for Population Affairs.

[FR Doc. 94–10658 Filed 5–3–94; 8:45 am]

BILLING CODE 4160–17–M

Substance Abuse and Mental Health Services Administration

Minority Fellowship Program

AGENCY: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice of intent to award a competing renewal clinical training grant for the Minority Fellowship Program (MFP) to the American Psychological Association.

SUMMARY: The Center for Mental Health Services (CMHS) is publishing this notice to provide information to the public of its intent to award a competing renewal MFP grant award to the American Psychological Association for the clinical training of psychology students who are ethnic minorities for entry into service careers in mental and addictive health areas. The project period for the competing renewal grant is anticipated to be three years. The first year's award will be approximately $266,000. This is not a general request for applications. The competitive renewal clinical training grant will only be made to the American Psychological Association.

AUTHORITY: The award will be made under the authority of section 303 of the Public Health Service (PHS) Act. The authority to administer this program has been delegated to the Director, CMHS. The Catalog of Federal Domestic Assistance number for this program is 93.244.

BACKGROUND: CMHS has the responsibility for mental health workforce development, including the clinical training of mental health professionals concerned with the treatment of underserved priority populations: Seriously mentally ill adults; seriously emotionally disturbed children; and elderly, ethnic minorities and rural populations with mental disorders; and individuals with co-occurring mental and addictive disorders. CMHS also has responsibility for training ethnic minorities to become mental health professionals, which is a very significant task in light of the gap between the growing ethnic minority populations requiring mental health services (approaching 25% of the total population) and the much smaller number of ethnic minority mental health professionals (less than 10% of the total).

Over the past several decades, the Federal mental health clinical training program at NIMH (and currently at CMHS) has addressed this gap primarily by attempting to increase the numbers of ethnic minority professionals. Ethnic minority professionals understand the customs and language of their own particular ethnic group and, therefore, are more likely to render high-quality mental health services to mentally ill minorities.

The CMHS MFP is designed to facilitate the entry of minority students into mental health careers. The long-term goal is to increase the number of professionals trained at the doctoral level to teach and provide mental health services, especially to ethnic minority groups.

The MFP was started at NIMH in the 1970s. This program for clinical training provides grants to each of the four core mental health professional organizations: The American Nurses Association, the American Psychological Association, the American Psychiatric Association, and the Council on Social Work Education. These 4 MFP grantees, in turn, conduct national competitions to make individual graduate fellowship awards to minority students throughout the country. Each of the four professional organizations has unique access to those students entering its profession. Each of the four has recruited the best students, assured that all program requirements were satisfied, and monitored the progress of fellows during and after the fellowship period. In short, there has been no reason to change the program structure or the grantees administering the four-discipline program; thus, the mechanism of peer-reviewed competing renewal clinical training grant has been appropriate.

Therefore, because the American Psychological Association's MFP grant support will end in FY 1994, the CMHS is providing additional support for up to three years via a competing renewal grant award. The American Nurses Association, the American Psychiatric Association and the Council on Social Work Education have ongoing CMHS MFP grant support.

FOR FURTHER INFORMATION: Questions concerning the CMHS MFP may be directed to Dr. Lemuel Clark, Chief, Human Resources Planning and Development Branch, CMHS, room 15C–18, 5600 Fishers Lane, Rockville, MD 20857, telephone (301) 443–5850.

Dated: April 28, 1994.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 94–10607 Filed 5–3–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–020–5101–10–B039; CACA–31406, NVN–57250]

Environmental Statements; Availability, etc; 345 Kilovolt Electric Power Transmission; Susanville District Office, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of Notice of Intent to Prepare an Environmental Impact Statement (EIS).

SUMMARY: This Notice Amends a Notice of Intent to Prepare an Environmental Impact Statement which was published in the **Federal Register** on March 24, 1994 (59 FR 13995–6). The original Notice of Intent requested scoping comments on the preparation of a joint Environmental Impact Statement and Environmental Impact Report (EIS/EIR) for the proposed construction of a 345 kilovolt electric power transmission line by the Sierra Pacific Power Company. The Bureau of Land Management (BLM) and the California Public Utilities Commission (CPUC) are preparing the combined EIS/EIR through a third party contractor. This Amendment to the Notice is published to announce the dates and locations of the public scoping sessions for the preparation of the EIR/EIS. Members of the public, affected Federal, State, and local agencies, any affected Indian tribes, the proponent of the action, and other interested persons are invited to participate in the scoping process for this project by attending the scoping sessions and providing written and verbal comments or recommendations concerning the issues to be analyzed in the EIS/EIR.

DATES: Public and governmental agency scoping sessions will be held as follows: (1) May 17, 1994 (Tuesday) in Susanville, CA, beginning at 6 p.m., at the Monticola Club, 140 S. Lassen St., Susanville. (2) May 18, 1994 (Wednesday) in Alturas, CA, beginning at 6 p.m., at the Modoc Middle School multi-purpose room 906 W. 4th St., Alturas. (3) May 19, 1994 (Thursday), in Sparks, NV at the Best Western McCarran Inn, 55 E. Nugget, in Sparks. A scoping session for agency concerns of Federal and State agencies will be held from 3 p.m. to 5 p.m., and the scoping session for the public will start at 6 p.m.

ADDRESSES: Written comments on the combined Federal EIS and State EIR must be sent to the California Public Utilities Commission (Attn: Julie Halligan, Project Manager); Commission Advisory and Compliance Division, Environmental and Energy Advisory Branch; 505 Van Ness Ave., room 3207; San Francisco, CA 94102. Written comments should reference BLM case number CACA–31406, and the "Alturas Intertie Project". Written and verbal comments will also be accepted at the scoping meetings.

FOR FURTHER INFORMATION CONTACT: This Amendment to the Notice of Intent to prepare an EIS is issued by the Associate District Manager, Bureau of Land Management, 705 Hall Street, Susanville, California 96130. For further information on the Federal action, call Peter Humm, BLM Project Manager, at (916) 257–0456.

Dated: April 25, 1994.

Robert J. Sherve,

Associate District Manager.

[FR Doc. 94–10603 Filed 5–3–94; 8:45 am]

BILLING CODE 4310–40–M

[NV–056–94–4333–01 4–00154]

Management Framework Plans, etc.; Nevada

April 20, 1994.

AGENCY: Bureau of Land Management, Interior.

ACTION: Release of the Proposed General Management Plan, Red Rock Canyon National Conservation Area, for public review and comment.

SUMMARY: The Proposed General Management Plan has been developed in conformance with Public Law 101–621–November 16, 1990, which designated Red Rock Canyon as a National Conservation Area. A 60 day comment period will be held from May 1, 1994 through June 30, 1994 to receive public comment on the Proposed Plan. During this period, the Bureau of Land Management will hold two "open houses," which will be informal sessions allowing the public to discuss the Proposed Plan with NCA specialists and gain clarification on issues of concern. In addition, a public hearing is scheduled. The hearing will be a formal process by which individuals will be allowed 3 minutes to testify with testimony being recorded by a court stenographer. The schedule will be as follows:

Open Houses—
May 11, 1994, 4 pm to 9 pm.
May 14, 1994, 4 pm to 9 pm.
Public Hearing—
May 25, 1994, 7 pm to 9 pm.

All of the above sessions will be held at the BLM District Office located at 4765 Vegas Drive, Las Vegas, Nevada. Written comments may be sent to the BLM office throughout the 60 day comment period at P.O. Box 26569, Las Vegas, Nevada 89126.

Individuals wishing to testify at the hearing are requested to notify Gene Arnesen (702 647–5000) prior to May 24, 1994.

For additional information or clarification of items in the Proposed Plan, please contact Dave Wolf or Gene Arnesen at (702) 647–5000.

Colin P. Christensen,

Acting District Manager.

[FR Doc. 94–10614 Filed 5–3–94; 8:45 am]

BILLING CODE 4310–HC–M

Public Land and Resources; Planning, Programming, and Budgeting

AGENCY: Bureau of Land Management Interior.

ACTION: Notification of resource management planning schedule.

SUMMARY: Resource management planning for the Bureau of Land Management (BLM) administered lands is governed by regulations in 43 CFR 1610.2(b). These regulations require that the BLM publish a planning schedule advising the public of the status of resource management plans (RMP's) in preparation. Projected new RMP starts for the three succeeding fiscal years are also identified to provide the public an opportunity to comment on the projected planning schedule and aid in the coordination of the schedule with other agencies.

SUPPLEMENTARY INFORMATION: A limited number of new starts for RMP's are projected. There are currently 34 RMP efforts underway (not including amendments and revisions). It is forecasted that 11 of the RMP's will be completed in fiscal year 1994 and an additional 11 will be completed in fiscal year 1995. These efforts are having a significant effect on BLM capability to initiate new RMP's and complete maintenance/monitoring and implementation of the existing RMP's.

Upon completion of a major portion of the current ongoing RMP's, the BLM will start a limited number of new RMP's or RMP revisions within its current capability. A priority ranking system will be utilized to allocate the limited new planning efforts. New RMP starts for fiscal year 1994 include Snake River/Deep Creek RMP (Idaho). New starts for 1995 include Malheur/Jordan RMP (Oregon) and Price RMP (Utah). New starts for 1996 include Andrews RMP (Oregon) and Winnemuca/Surprise (Nevada).

The planning process begins with the publication of a Notice of Intent to initiate an RMP. A public notice and and an opportunity for participation in each RMP are provided as required by the regulations (43 CFR 1610.2(f)). Publication of the draft RMP and associated draft environmental impact statement as indicated on the schedule is a key opportunity for public comment.

A key to the abbreviations used is provided after the schedule.

DATES: Comments on the schedule will be accepted until June 3, 1994.

ADDRESSES: Comments should be sent to Director (760), Bureau of Land Management, Rm. 406 LS, 1849 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jordon Pope or Colin Voigt (202) 452–5045.

Dated: April 20, 1994.

Mike Dombeck,

Acting Director.

TABLE 1.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE

State, district and resource area	Plan name and type (major resource/issue)	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996	Fiscal year 1997
Alaska: Glennallen	Southcentral RMP (recreation, wildlife).	DRMP/DEIS PRMP/FEIS	ARMP/ROD		
Arizona:					
Phoenix, Kingman	Kingman RMP (realty, ACEC, grazing, wildlife).	PRMP/FEIS ARMP/ROD			
Lower Gila	Lower Gila RMP (realty, recreation, wildlife).				
Safford	Safford RMP (recreation, off-road, vehicles, ACEC).	ARMP/ROD			
California:					
Bakersfield, Caliente	Caliente RMP O&G, realty	PRMP/DEIS	ARMP/ROD		
Desert, Palm Springs	South Coast RMP (O&G, realty, recreation, T&E).	PRMP/FEIS			
Colorado:					
Canon City, Royal Gorge.	Royal Gorge RMP (wild and scenic river, grazing, realty, O&G, recreation).	DRMP/DEIS PRMP/FEIS	ARMP/ROD		
Craig, White River	White River RMP (O&G, riparian, T&E, grazing, oil shale).	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Eastern States:					
Jackson	Florida RMP (lands, minerals, wildlife, recreation).	PRMP/FEIS	ARMP/ROD		
Milwaukee	Michigan RMP (oil and gas)		NOI	DRMP/DEIS	PRMP/FEIS ARMP/ROD
Idaho:					
Boise, Owyhee	Owyhee RMP (grazing, wildlife)	PRMP/FEIS	ARMP/ROD		
Burley					
Salmon, Challis	Snake River/Deep Creek RMP	NOI	DRMP/DEIS	PRMP/FEIS	ARMP/ROD
Shoshone Bennett Hills	Challis RMP (realty, grazing, T&E, wild & scenic rivers).	DRMP/DEIS	PRMP/FEIS ARMP/ROD		
	Bennett Hills RMP (grazing, recreation).	PRMP/FEIS ARMP/ROD			
Montana:					
Lewistown, Judith, Valley, Phillips.	Judith/Valley/Phillips RMP (O&G, realty, off-road vehicle).	ARMP/ROD			
Mile City, Big Dry	Big Dry RMP (realty, off-road vehicles).	ARMP/ROD			
Nevada:					
Battle Mountain, tonopah.	Tonopah RMP (O&G, realty)	PRMP/FEIS ARMP/ROD			
Las Vegas, Stateline	Stateline RMP (realty, T&E species)	SUPPLEMENTAL DRMP/DEIS	PRMP/FEIS ARMP/ROD		
Winnemucca, Sonoma,Gerlach, Paradise-Denio.	Winnemucca-Surprise RMP[1] (Minerals, Lands, Recreation).	NOI DRMP/DEIS	PRMP/FEIS		
New Mexico:					
Roswell, Roswell	Rowell RMP (O&G, mining, off-road vehicles).	DRMP/DEIS PRMP/EIS	ARMP/ROD		
Tulsa, Oklahoma	Oklahoma RMP (O&G, leasing & development, coal Leasing).	PRMP/FEIS ARMP/ROD			
	Texas RMP (O&G, leasing and development).		DRMP/DEIS	PRMP/FEIS ARMP/ROD	
Oregon:					
Coos Bay	Coos Bay RMP (forestry, watershed, wildlife, realty, ACEC).	PRMP/FEIS ARMP/ROD			
Eugene	Eugene RMP (forestry, watershed, ACED, realty).	PRMP/FEIS ARMP/ROD			
Lakeview, Klamath Falls.	Klamath Falls RMP (forestry, watershed, wildlife, range, ACEC).	PRMP/FEIS ARMP/ROD			

TABLE 1.—BUREAU OF LAND MANAGEMENT PLANNING SCHEDULE—Continued

State, district and resource area	Plan name and type (major resource/issue)	Fiscal year 1994	Fiscal year 1995	Fiscal year 1996	Fiscal year 1997
Medford	Medford RMP (forestry, wildlife, watershed, realty, ACEC).	PRMP/FEIS ARMP/ROD			
Roseburg	Roseburg RMP (forestry, wildlife, watershed, realty, ACEC).	PRMP/FEIS ARMP/ROD			
Salem	Salem RMP (forestry, wildlife, watershed, realty).	PRMP/FEIS ARMP/ROD			
Vale	Malheur/Jordan RMP (wildlife, watershed, minerals, range).		NOI	DRMP/DEIS	PRMP/FEIS ARMP/ROD
Burns	Andrews RMP (wildlife, watershed, recreation, range, who horses, ACEC).				
Utah:					
Cedar City, Kanab-Escalante.	Kanab-Escalante RMP (recreation, wildlife).	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Dixie	Dixie RMP (recreation, range, wildlife).	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Richfield, Henry Mountain.	Henry Mountain RMP (ACEC, wildlife).	DRMP/FEIS	PRMP/FEIS	ARMP/ROD	
Vernal, Diamond Mountain.	Diamond Mountain RMP (wildlife, O&G).	ARMP/ROD			
MOAB, Price Grand	Eastern Utah RMP (O&G, Wildlife, Recreation).		NOI	DRMP/DEIS	PRMP/DEIS
Wyoming:					
Casper, Newcastle	Newcastle RMP (O&G)	PRMP/EIS	ARMP/ROD		
Buffalo	Buffalo RMP revision (O&G, wildlife, range).	DRMP/DEIS	PRMP/FEIS	ARMP/ROD	
Rock Springs, Green River.	Green River RMP (O&G, grazing)	PRMP/FEIS	ARMP/ROD		
Worland, Grass Creek .	Grass Creek RMP (wildlife, watershed).	DRAMP/FEIS	PRMP/FEIS ARMP/ROD		

Key to planning schedule abbreviations:
ACEC—Area of Critical Environmental Concern.
ARMP/ROD—Approved Resource Management Plan and Record of Decision.
DRMP/DEIS—Draft Resource Management Plan and Draft Environmental Impact Statement.
PRMP/FEIS—Proposed Resource Management Plan and Final Environmental Impact Statement.
NOI—Notice of Intent.
O&G—Oil and Gas.
[1] This RMP will include the entire Winnemucca District as well as the Surprise Resource Area of the California Susanville District.

[FR Doc. 94–10608 Filed 5–3–94; 8:45 am]
BILLING CODE 4310–84–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Ellen T. Bauder, San Diego, CA, PRT–788074.

The applicant requests a permit to remove and reduce to possession no more than 2 percent of seeds, plant parts or whole plants of the following endangered plants: San Diego button celery (*Eryngium aristulatum* ssp. *parishii*), San Diego mesa mint (*Pogogyne abramsii*), Otay mesa mint (*P. nudiuscula*) and California Orcutt grass (*Orcuttia californica*) from vernal pools in and around Naval Air Station, Miramar, California, for scientific research on systematics, population dynamics, seed germination, and restoration of vernal pools. Soil samples will be taken from each collection site in Riverside, San Diego, and Orange Counties, California, and may contain Riverside fairy shrimp (*Streptocephalus woottoni*).

Applicant: Zool. Society of San Diego, Escondido, CA, PRT–788682.

The applicant requests a permit to import one captive-bred female kiang (*Equus hemionus holdereri*) from Tierpark Berlin, Berlin, Germany, to enhance the propagation of the species through captive breeding.

Applicant: Brian Bock, Athens, OH, PRT–788597.

The applicant requests a permit to collect blood and tissue samples from tartaruga (*Podocnemis expansa*) and tracaja (*Podocnemis unifilis*) from Colombia, Brazil, Peru and Venezuela for the purpose of enhancement of the survival of the species through genetic analysis. Sampling will result in sacrificing the specimens.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 420(c), Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: April 28, 1994.

Margaret Tieger,

Acting Chief Branch of Permits, Office of Management Authority.

[FR Doc. 94–10602 Filed 5–3–94; 8:45 am]

BILLING CODE 4310–55–P

Development of Permit Policy for Import of Giant Pandas; Suspension of Consideration of Giant Panda Import Permit Applications, and a Review of Existing Policy on Giant Panda Import Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces that it is suspending the review and processing of all future import permit applications of giant pandas for temporary exhibition and/or captive-breeding loans until it has completed an evaluation of available information and existing policies and guidelines relating to the import of giant pandas and has published a new panda policy. This will allow the agency to examine the potential impact of future imports on the survival of the giant panda. The Service will consider whether, and if so, how such imports into the United States might contribute to giant panda conservation. Any draft policy or guidelines developed as a result of this review will be published in the **Federal Register** for public review and comment. A public working meeting or meetings will be used to assist the Service in formulating the draft policy.

DATES: Public comments on this notice will be accepted until June 30, 1994. A public working meeting will be held on May 26, 1994, at 2:00 p.m., at 4401 Fairfax Drive, Room 200, Arlington, Virginia, 22203.

ADDRESSES: Comments may be submitted to the Chief of the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420(c), Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall P. Jones, Chief, Office of Management Authority, at the above address, or call (703) 358–2093.

SUPPLEMENTARY INFORMATION: The giant panda (*Ailuropoda melanoleuca*) is subject to U.S. and international protection as a result of its listing as an endangered species under the U.S. Endangered Species Act and its inclusion in Appendix I to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Section 2(b) of the Endangered Species Act (Act) states that the purposes of the Act "...are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section." CITES is one of the Conventions cited in subsection (a) of this statement.

The Service is responsible for deciding whether to issue import and export permits required by the Act and CITES for giant panda loans. Therefore, the Service must determine whether the purposes for such imports influence the continued existence of giant pandas in the wild. The Service believes that existing regulations and policy, including its March 14, 1991 "Policy on Giant Panda Import Permits" (56 FR 10809) have been sufficient for individual panda import permit decisions made to date. However, there is the possibility that an increasing number of import permits for numerous pandas will be sought for captive breeding purposes in the United States in the near future.

Before any import permit will be granted, it must be reviewed in terms of the application requirements of CITES and the Act by the Service's Offices of Management and Scientific Authorities. Issuance of an import permit under CITES requires prior findings that: (1) the proposed import would not be for purposes detrimental to the survival of the species; (2) the import would not be for primarily commercial purposes; and (3) the permit applicant is suitably equipped to house and care for the animal(s). Issuance of a permit under the Act requires prior determinations that, among other things: (1) the import would be for scientific purposes or to enhance the propagation or survival of the species in a manner consistent with the purposes and policies of the Act; and (2) issuance of the import permit would not be likely to jeopardize the continued existence of the species. These requirements are further implemented by application requirements and issuance criteria found in 50 CFR 13.12, 17.22, 23.14, and 23.15. With regard to making the first finding listed above under both CITES and the Endangered Species Act, the issue is whether the detrimental effects that might result from a loan would be sufficiently offset by specific enhancement features to allow a determination that the import would be for purposes that are not detrimental and that would, in fact, enhance the survival of the species.

While the Service was processing a previous application to import a pair of giant pandas for a temporary exhibition loan, the CITES Secretariat requested that the Service reevaluate its "Policy on Giant Panda Import Permits" for temporary exhibition loans. Therefore, the Service published a notice in the **Federal Register** on June 29, 1992 (57 FR 28825), requesting public comments on this policy. Before this evaluation was completed, the Service received additional applications for the import of giant pandas for purposes other than for temporary exhibition loans, and determined the need for additional review and comment, resulting in this notice. To date, comments received have not been incorporated into any revision of its existing policy, since such comments only were solicited on temporary exhibition loans.

On February 19, 1993, the Service received an application from the Zoological Society of San Diego to import a pair of giant pandas for a captive-breeding loan. Shortly afterwards, on April 20, 1993, the American Zoo and Aquarium Association (AZA) announced the development of a Giant Panda Conservation Action Plan, which currently includes approximately 29 zoological institutions that have agreed to participate in a giant panda captive-breeding program in North America.

It is estimated that there are fewer than 1000 giant pandas remaining in the wild in scattered and isolated populations, and that approximately 100 are held in captivity. Conservation of the giant panda appears to involve two broad areas of activities: habitat protection, management and expansion; and the captive breeding of animals with the ultimate goal of reintroductions into available habitat. The primary concerns associated with individual giant panda import permit applications are: (1) the potential for stimulating the unwarranted removal of additional pandas from the wild; (2) the need for a clear connection between imports and conservation activities for giant pandas; (3) the need to ensure that imports will not disrupt or defer existing captive-breeding efforts; and (4) the potential for planned captive-breeding efforts in the U.S. to maximize the probability of enhancing international captive-breeding efforts. With the possibility of receiving an increased number of import permit applications for giant pandas for public exhibition and/or captive breeding purposes, the Service feels that a re-examination of the long-range

implications of panda imports is necessary to further ensure that such imports best serve the conservation needs of the species.

In response to these rapidly developing events and the increased interest in a coordinated captive-breeding program for the giant panda, the Service has decided to suspend the review and processing of future permit applications for the import of giant pandas until it has had an opportunity to evaluate additional and pertinent information on the subject, and has developed, if necessary, new policy or guidelines for the issuance of import permits for giant pandas. During this moratorium the Service will evaluate the potential effects of further loans on the survival of the giant panda, including the cumulative impacts of an anticipated increase in the number of import permit applications from U.S. institutions.

As part of the review process, the Service will convene a public working meeting on May 26, 1994, (see **DATES** section of this notice), and perhaps additional meetings, to provide active participation in the process of developing a proposed policy. The meeting will provide an opportunity for discussion of specific topics presented below. Interested organizations and individuals that cannot participate in the meeting may submit comments on these issues to the address given above (see **ADDRESSES** section) by June 30, 1994.

In addition, at appropriate times during the review the Service will engage in direct discussions with representatives of the government of the People's Republic of China, and with the Secretariat of CITES in Geneva, Switzerland. Such discussions will be designed to ensure full understanding of the respective policies and goals of each country for implementation of CITES in general and for panda conservation in particular.

PUBLIC COMMENTS SOLICITED: The Service intends to complete the review and development of any necessary new policy or guidelines as quickly as possible. Interested organizations and the public are invited to comment on the existing need for new policy or guidance for the evaluation of giant panda import permit applications in the future, to suggest criteria that should be included or considered when developing new policy or guidance, and to suggest any other issues relative to giant panda conservation that the Service should consider during this review. Suggested criteria should take into account the necessary applicability of the requirements of the Endangered Species Act and CITES regarding permit issuance. Any draft policy or guidelines developed as a result of this review will be published in the **Federal Register** for review and comment.

Authority: The authority for this action is the Convention on International Trade in Endangered Species (TIAS 8249), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Federal Advisory Committee Act.

Dated: April 21, 1994.

George T. Frampton, Jr.,

Assistant Secretary—Fish and Wildlife and Parks.

[FR Doc. 94–10601 Filed 5–3–94; 8:45 am]

BILLING CODE 4310–55–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–360]

Decision Not To Review Initial Determinations Granting Joint Motions To Terminate the Investigation With Respect to Respondents ABL Electronics Corporation and Enhance Cable Technology, Inc. on the Basis of Settlement Agreements

In the Matter of certain devices for connecting computers via telephone lines.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (IDs) (Order Nos. 11 and 12) issued on March 31, 1994, by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the joint motion of complainant Farallon Computing, Inc. ("Farallon") and respondent ABL Electronics Corporation ("ABL") to terminate the investigation as to ABL on the basis of a licensing agreement, a settlement agreement, and a "U.S. Distributor Agreement," and the joint motion of Farallon and respondent Enhance Cable Technology, Inc. ("Enhance") to terminate the investigation as to Enhance on the basis of a licensing agreement and a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Rose, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Telephone: (202) 205–3113.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain devices for connecting computers via telephone lines, on November 12, 1993; a notice of the institution was published in the **Federal Register** on November 17, 1993 (58 FR 60671). Complainant Farallon alleges infringement of certain claims of U.S. Letters Patent 5,003,579.

On March 7, 1994, Farallon and ABL filed a joint motion to terminate the investigation with respect to ABL on the basis of a licensing agreement, a settlement agreement, and a U.S. Distributor Agreement. On March 10, 1994, Farallon and Enhance filed a joint motion to terminate the investigation with respect to Enhance on the basis of a licensing agreement and a settlement agreement. The Commission investigative attorney supported the motions. The ALJ issued IDs granting the joint motions and terminating the investigation as to ABL and Enhance. No petitions for review of the IDs were filed. No agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the nonconfidential version of the IDs and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at 202–205–1810.

Issued: April 28, 1994.

By order of the Commission.

Donna R. Koehnke

Secretary.

[FR Doc. 94–10700 Filed 5–3–94; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 337–TA–351]

Commission Determination Not To Review an Initial Determination Terminating the Investigation as to Respondent Srinivisan v. Chari Pursuant to 19 CFR 210.51(a) and as to Remaining Respondents on the Basis of a Settlement Agreement

In the Matter of certain removable hard disk cartridges and products containing same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") terminating the above-captioned investigation as to one respondent pursuant to 19 CFR 210.51(a) and as to remaining four respondents on the basis of a Settlement Agreement and Memorandum of Understanding.

FOR FURTHER INFORMATION CONTACT: Rachele R. Valente, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3089.

SUPPLEMENTARY INFORMATION: On May 20, 1993, the Commission instituted this investigation, which concerns allegations of violations of section 337 of the Tariff Act of 1930, as amended, in the misappropriation of trade secrets and trade dress, infringement of federally-registered trademarks, false designation of origin and passing off in the importation, the sale for importation, and the sale within the United States after importation, of certain removable hard disk cartridges.

On March 16, 1994, complainant Syquest Technology, Inc. filed a motion to terminate the investigation as to respondent Srinivisan V. Chari pursuant to 19 CFR 210.51(a). (Motion 351 24). On March 17, 1994, Syquest and respondents Nomai, S.A., Iomega Corporation, Marc Frouin, and Herve Frouin filed a joint motion to terminate the investigation on the basis of a Memorandum of Understanding and a Settlement Agreement (Motion 351–26).

On March 23, 1994, the Commission investigative attorney ("IA") filed a response in support of the Motion 351–24, and a response in support of Motion 351–26, contingent upon the parties' filing a more complete public version of their MOU. The IA concluded that Motion 351–26 met the requirements for termination based upon a settlement agreement, and that the settlement agreement does not appear contrary to the public interest. On April 5, 1994, the ALJ issued an ID granting both motions.

No petitions for review, or agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule 210.53, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on (202) 205–2648.

Issued: April 28, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–10701 Filed 5–3–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32482]

Genesee and Wyoming Industries, Inc.; Continuance in Control Exemption; GWI Switching Services, L.P.

Genesee and Wyoming Industries, Inc. (GWI), has filed a notice of exemption to continue in control of GWI Switching Services, L.P. (GWISS),[1] upon GWISS becoming a class III rail carrier.

GWISS, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32481, GWI Switching Services, L.P.—Operation Exemption—Southern Pacific Transportation Company, to operate a rail car storage yard owned by CMC Railroad I Ltd., and to operate under trackage rights over a railroad line owned by Southern Pacific Transportation Company (SP) between SP's rail yard and CMC's yard in the vicinity of Dayton, TX.[2] That transaction was expected to be consummated on or after April 5, 1994.

GWI also directly controls eight existing class III common carriers by rail: the Allegheny & Eastern Railroad, Inc., the Bradford Industrial Rail, Inc., Buffalo & Pittsburgh Railroad, Inc., the Dansville and Mount Morris Railroad, the Louisiana & Delta Railroad, Inc., the Rochester & Southern Railroad, Inc., and the Willamette & Pacific Railroad, Inc.

GWI indicates that: (1) The rail lines to be acquired and operated will not connect with any of GWI's rail subsidiaries; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other or any other railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: James B. Gray, Jr., 700 Midtown Tower, Rochester, NY 14604.

Decided: April 28, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10691 Filed 5–3–94; 8:45 am]

BILLING CODE 7035–01–P

[1] GWI Dayton, Inc., a wholly owned subsidiary of GWI, is the sole general partner of GWISS and has exclusive management control.

[2] Brotherhood of Locomotive Engineers (BLE) has filed a petition to reject the notices of exemption and the United Transportation Union (UTU) has filed a petition to revoke the notices of exemption and a motion to stay the transaction. BLE argues that the notices should be rejected because the Commission does not have jurisdiction over the transaction in Finance Docket No. 32481, as it involves yard operations which are exempt under 49 U.S.C. 10907 and not operations over a line of railroad under 49 U.S.C. 10901 and 49 CFR 1150.1. UTU argues that the exemption in Finance Docket No. 32481 should be revoked, alleging that this is a sham transaction to avoid Commission regulation and labor protective conditions under 49 U.S.C. 11343. These issues will be addressed in a separate decision.

[Finance Docket No. 32481]

GWI Switching Services, L.P. Operation Exemption; Rail Lines of Southern Pacific Transportation Company

GWI Switching Services, L.P. (GWISS), whose general partner is noncarrier GWI Dayton, Inc., has filed a notice of exemption to operate a rail car storage yard owned by CMC Railroad I Ltd. (CMC), and to operate under incidental trackage rights over a rail owned by Southern Pacific Transportation Company (SP) between CMC's yard and SP's rail yard in the vicinity of Dayton, TX. SP's rail car storage yard is located at Lafayette Main Line SP milepost 328.0; CMC's rail car storage has entrance connections at Baytown Branch SP mileposts 2.0 and 3.3. The incidental trackage rights cover the rail line between the two rail yards from the Baytown Branch SP milepost 5.0 to Baytown Branch SP milepost 0.0, which is also Lafayette Main Line SP milepost 327.8, and then from that point to the entrance to the SP yard at

Lafayette Main Line SP milepost 328.0. The proposed transaction was expected to be consummated on or after April 5, 1994.[1]

This proceeding is related to Finance Docket No. 32482, Genesee and Wyoming Industries, Inc.—Continuance in Control Exemption—GWI Switching Services, L.P., wherein Genesee and Wyoming Industries, Inc., has concurrently filed a notice of exemption under 1180.2(d)(2) to continue in control of GWISS and eight other class III rail carriers[2] when GWISS becomes a class III rail carrier upon consummation of the transaction described in this notice.[3]

Any comments must be filed with the Commission and served on: James B. Gray, Jr., 700 Midtown Tower, Rochester, New York, NY 14604.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 28, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10692 Filed 5–3–94; 8:45 am]

BILLING CODE 7035–01–P

[1] Under 49 CFR 1150.32(b), a notice of exemption does not become effective until 7 days after filling. Here, because the notice was not filed until March 29, 1994, consummation should not have taken place until on or after April 5, 1994. Applicant's verified notice of exemption states that consummation is scheduled for on or about April 4, 1994, or immediate following the effective date of the notice, whichever is later.

[2] Allegheny & Eastern Railroad, Inc., Bradford Industrial Rail, Inc., Buffalo & Pittsburgh Railroad, Inc., Dansville and Mount Morris Railroad Company, Genesee and Wyoming Railroad Company, Louisiana & Delta Railroad, Inc., Rochester & Southern Railroad, Inc., and Willamette & Pacific Railroad, Inc.

[3] Brotherhood of Locomotive Engineers (BLE) has filed a petition to reject the notices of exemption and the United Transportation Union (UTU) has filed a petition to revoke the notices of exemption and a motion to stay the transaction. BLE argues that the notices should be rejected because the Commission does not have jurisdiction over the transaction in Finance Docket No. 32481, as it involves yard operations which are exempt under 49 U.S.C. 10907 and not operations over a line of railroad under 49 U.S.C. 10901 and 49 CFR 1150.1. UTU argues that the exemption in Finance Docket No. 32481 should be revoked, alleging that this is a sham transaction to avoid Commission regulation and labor protective conditions under 49 U.S.C. 11343. These issues will be addressed in a separate decision.

[Finance Docket No. 32489]

Kiamichi Railroad Company, Inc.; Trackage Rights Exemption; The Kansas City Southern Railway Company

The Kansas City Southern Railway Company (KCS) has agreed to grant trackage rights to Kiamichi Railroad Company, Inc. (Kiamichi), to operate over a portion of KCS's line between milepost 0.0 at Hope, AR, to milepost 4.0 on the KCS Hope Subdivision near Anthony, AR. The trackage rights were to become effective on or after April 28, 1994.

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: W. James Wochner, The Kansas City Southern Railway Company, 114 West Eleventh Street, Kansas City, MO 64105.

As a condition to use of this exemption, any employees adversely affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Decided: April 28, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10693 Filed 5–3–94; 8:45 am]

BILLING CODE 7035–01–P

[Finance Docket No. 32036 (Sub-No. 1)]

Wisconsin Central Transportation Corporation, et al.—Continuance in Control—Fox Valley and Western Ltd.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: Applicants, shippers, and other interested parties may file written comments with the Commission regarding the competitive impacts of WCTC's continuance in control of FV&W. Participants are asked to address themselves in particular to: (1) Whether substantial competitive harm has resulted from the transaction, and (2) if so, whether appropriate and workable conditions can be formulated.

DATES: Comments will be accepted no later than July 5, 1994.

ADDRESSES: An original and 10 copies of the comments, referencing Finance Docket No. 32036 (Sub-No. 1), must be mailed to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. Comments need not be served on other persons.

FOR FURTHER INFORMATION CONTACT: Kay Anderson (202) 927–6203. TDD for hearing impaired: (202) 927–5721.

SUPPLEMENTARY INFORMATION: By a decision served February 11, 1993, the Commission instituted an oversight plan that allows us to monitor effectively the competitive results of Wisconsin Central Transportation Corporation's (WCTC) continuance in control of Fox Valley and Western Ltd. (FV&W).[1] As detailed in the decision, the oversight covers 5 years and contains five elements: Notification of shippers, reporting by applicants, discussion with selected parties, proceeding, and staff report. Commission staff has been actively monitoring the transaction since its consummation on August 28, 1993.

This notice announces the decision to initiate the fourth element of this year's oversight function—the proceeding. In the February 11 decision, the Commission stated that a proceeding would be conducted annually during which applicants, shippers, and other interested parties may express their views on the competitive impacts of the transaction and on appropriate conditions to remedy any substantial anticompetitive effects. This proceeding is a fact-finding mechanism and will not necessarily result in a formal ruling.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

The decision is being served on all persons appearing on the service list in Finance Docket No. 32036.

Decided: April 28, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, Commissioners Simmons and Philbin. Commissioner Philbin

[1] This transaction was approved by decision served December 10, 1992, which was corrected by a decision served December 22, 1992. See Wisc. Central Transportation Corporation, et al., 9 I.C.C.2d 233 (1992). On December 30, 1992, Chicago and North Western Transportation Company (CNW) petitioned the Commission to reopen the proceeding. CNW argued that the Commission materially erred in its competitive impact analysis and in its failure to impose any of CNW's proposed remedial conditions. By decision served July 23, 1993, the petition to reopen was denied. See Wisc. Central Transportation Corporation, et al., 9 I.C.C.2d 730 (1993).

was absent and did not participate in the disposition of this proceeding.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 94–10795 Filed 5–3–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, DOJ Clearance Officer, SPS/JMD/850 WCTR, Department of Justice, Washington, DC 20530.

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) The National Corrections Reporting Program:

Prison Admissions Report

Prison Releases Report

Parole Discharges Report

(2) NCRP–1A, NCRP–1B, NCRP–1C. Bureau of Justice Statistics.

(3) Annually.

(4) State and local governments, Federal agencies or employees. The NCRP is the only national data collection program furnishing information on sentencing, time served for prisoners and parolees under State and Federal jurisdiction. Bureau of Justice Statistics, the Congress, researchers, practitioners, and others in the criminal justice community use these data to profile offenders and to monitor trends.

(5) 625,000 annual respondents at 0.24 hours per response.

(6) 1,447 annual burden hours.

(7) Not applicable under Section 3504(h) Public comment on this item is encouraged.

Dated: April 28, 1994.

Robert B. Briggs,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 94–10622 Filed 5–3–94; 8:45 am]

BILLING CODE 1121–18–M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 18, 1994, Cambridge Isotope Lab, 50 Frontage Road, Andover, Massachusetts 01810, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Dimethyltryptamine (7435)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II
Fentanyl (9801)	II

The firm plans to import small quantities of these controlled substances for research purposes.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noticed in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 25, 1994.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10676 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration

By Notice dated October 28, 1993, and published in the **Federal Register** on November 4, 1993, (58 FR 58878), Hoffman-LaRoche Inc., 340 Kingsland Street, Nutley, New Jersey 07110, made

application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer Levorphanol (9220), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, Section 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 25, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10681 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Registration

By Notice dated March 3, 1994, and published in the **Federal Register** on March 11, 1994, (59 FR 11625), Mallinckrodt Specialty Chemicals Company, Mallinckrodt & Second Streets, St. Louis, Missouri 63147, made application on the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21 Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: April 25, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10684 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 15, 1994, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Opium, raw (9600)	II
Opium poppy (9650)	II
Poppy Straw Concentrate (9670)	II

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1994.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: April 25, 1994.

Gene R. Haislip,

Director, Office of Diversion Control.

[FR Doc. 94–10677 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 15, 1994, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Dihydromorphine (9145)	I
Pholcodine (9314)	I
Alphacetylmethadol (9603)	I
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Merperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium powdered (9639)	II
Opium granulated (9640)	II
Oxymorphone (9652)	II
Phenazocine (9715)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1994.

Dated: April 25, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10680 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 15, 1994, The PF Laboratories, Inc., 700 Union Blvd., Totowa, New Jersey 07512, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Codeine (9060)	II
Oxycodone	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Morphine (9300)	II

The firm plans to manufacture small quantities of the above controlled substances for use as laboratory standards.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 31 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1994.

Dated: April 25, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10678 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Application

Pursuant to 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 11, 1994, Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63178, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 3, 1994.

Dated: April 25, 1994.

Gene Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10679 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Registration

By Notice dated March 3, 1994, and published in the **Federal Register** on March 11, 1994 (59 FR 11625), Sanofi Winthrop LP, DBA Sterling Organics, 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Meperidine (9230), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: April 25, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10682 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Registration

By Notice dated March 3, 1994, and published in the **Federal Register** on March 11, 1994, (59 FR 11625), Sanofi Winthrop LP, DBA Sterling Organics, 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration to be registered as an importer of Meperidine (9230), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: April 25, 1994.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 94–10683 Filed 5–3–94; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Full Committee Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on May 17, 1994 at the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–4437B–D, Washington, DC. The meeting is open to the public and will begin at 9 a.m.

At this meeting, OSHA will consult with the Advisory Committee regarding any construction-specific considerations raised by the proposed rule for Indoor Air Quality. In addition, the Advisory Committee will receive the report of the

Permit-required Confined Space Work Group and will make recommendations to the Agency regarding a draft proposed rule for permit spaces encountered in construction employment.

Written data, views or comments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs, at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Persons who request the opportunity to address the Advisory Committee may be allowed to speak, as time permits, at the discretion of the Chairman of the Advisory Committee. Individuals with disabilities who wish to attend the meeting should contact Tom Hall, at the address indicated below, if special accommodations are needed.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone 202–219–8615. An official record of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC this 28th day of April, 1994.

Joseph A. Dear,

Assistant Secretary of Labor.

[FR Doc. 94–10668 Filed 5–3–94; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste Working Group Meeting on the NRC Staff Capabilities in Performance Assessment and Computer Modeling of High-Level Waste Disposal Facilities; Meeting

The ACNW Working Group on the NRC staff capabilities in performance assessment and computer modeling of high-level waste disposal facilities will hold a meeting on May 16, 1994, room P–110, 7920 Norfolk Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Monday, May 16, 1994–8:30 a.m. until the conclusion of business.

The ACNW will revisit this subject, which was originally addressed in an October 17, 1991 Working Group Meeting. Progress in the NRC's Iterative Performance Assessment (PA) Program, the NRC staff's total system performance assessment (TPA), the evolution of the reliance on expert elicitation, and progress made in the execution of the NRC's modular computer model will be subjects of interest to the Committee. This review will be performed periodically to determine the degree of in-house and contractor-supported PA capability, the coordination and integration between data analyst and computer modelers, revisions to the High-Level Radioactive Waste Management PA Strategy Plan, and future direction of Phase 3 for PA development.

Oral statements may be presented by members of the public with the concurrence of the ACNW Working Group Chairman; written statements will be accepted and made available to the Working Group. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Working Group, its consultants, and staff. Persons desiring to make oral statements should notify the ACNW staff member named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the ACNW Working Group, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACNW Working Group will then hear presentations by and hold discussions with representatives of the NRC staff and their consultants, national laboratories, state officials, and other interested parties, as appropriate.

Further information regarding the agenda for this meeting, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACNW staff member, Mr. Giorgio Gnugnoli (telephone 301/492–9851) between 8:15 a.m. and 6 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: April 25, 1994.

R. K. Major,

Chief, Nuclear Waste Branch.

[FR Doc. 94–10664 Filed 5–3–94; 8:45 am]

BILLING CODE 7590–01–M

Cleveland Electric Illuminating Co., et al.; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Facility Operating License No. NPF–58, issued to the Cleveland Electric Illuminating Company, et al. (the licensee), for operation of the Perry Nuclear Power Plant, Unit No. 1, located in Lake County, Ohio. The amendment is effective as of the date of issuance.

The amendment modified the Technical Specifications to delete the reactor core isolation cooling (RCIC) system isolation on high RCIC room differential temperature to improve the reliability of the RCIC system.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on February 28, 1990 (55 FR 7073). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of this amendment will not have a significant effect on the quality of the human environment (58 FR 65737).

For further details with respect to the action see (1) the application for amendment dated January 19, 1990, (2) Amendment No. 59 to License No. NPF–58, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment dated December 16, 1993. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at

the Perry Public Library, 3753 Main Street, Perry Ohio 44081.

Dated at Rockville, Maryland, this 28th day of April 1994.

For the Nuclear Regulatory Commission.

Jon B. Hopkins, Sr.,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III—IV, Office of Nuclear Reactor Regulation.

[FR Doc. 94–10665 Filed 5–3–94; 8:45 am]

BILLING CODE 7590–01–M

Northeast Nuclear Energy Co.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21, issued to Northeast Nuclear Energy Company (NNECO/the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 2, located in New London County, Connecticut.

The proposed amendment would revise the Technical Specifications (TS) to change the laboratory testing protocol for the charcoal absorbers for the Control Room Emergency Ventilation System (TS 3.7.6.1) and the Enclosure Building Filtration System (TS 3.6.5.1).

Because the present TS requires a test on carbon samples of charcoal absorbers that the licensee's vendor had not and could not perform, the TS must be changed to allow testing of carbon samples to a standard that is more accurate and capable of performance. The plant is presently operating and during a review of the recent ventilation system testing, the licensee's Quality Services Department discovered a discrepancy in the references identified in the vendor test procedure as compared to the Millstone Unit 2 TS requirements. Further, on April 12, 1994, the licensee discovered that the vendor's test equipment could not support the laboratory test required by the testing standard currently referenced in the Millstone Unit No. 2 TS. The inplace charcoal for the "B" facilities of the Control Room Emergency Ventilation System and the Enclosure Building Ventilation System were conservatively determined to be inoperable because the surveillance performed on these units had been satisfied utilizing a standard (ASTM Standard D3803–79/86) not specified in the Millstone Unit 2 TS. Thus the licensee immediately declared the affected facilities inoperable and entered the 7 day action statement. The action statements require the affected systems to be restored to an operable status within 7 days or the plant be placed in at least hot standby within the next 6 hours and in cold shutdown within the following 30 hours. Due to the fact that the time necessary to process the application for amendment would be longer than the remaining time of the 7 day action statement, exigent action is justified in order to reduce the time of enforcement discretion which was granted until the license amendment is issued.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards (SHC) consideration, which is presented below:

The proposed changes do not involve a SHC because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

NNECO's proposal to revise Millstone Unit No. 2 Technical Specifications 4.6.5.1.b.2., 4.6.5.1.c, 4.7.6.1.c.2, 4.7.6.1.d, 4.9.15.b.2, and 4.9.15.c will permit carbon samples to be tested in accordance with ASTM D3803–89 versus ANSI N509–1976. ASTM Standard D3803–89 is used industry wide, and is acknowledged by the NRC as an acceptable method for the testing of activated charcoal bed filters. In addition, testing in accordance with ASTM Standard D3803–89 yields more accurate results than testing in accordance with ANSI N509–1976. The removal efficiency requirement is not affected by the proposed changes.

NNECO's proposal to correct the reference to Regulatory position C.6.a in Technical Specification 4.9.15.b.2 is an editorial correction.

Based on the above, the proposed changes do not involve an increase in the probability or consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed changes to Millstone Unit No. 2 Technical Specifications 4.6.5.1.b.2, 4.6.5.1.c, 4.7.6.1.c.2, 4.7.6.1.d, 4.9.15.b.2, and 4.9.15.c do not involve any physical modifications to any equipment, structures, or components, nor do they involve any changes to any plant operating procedures. The only change would be to use a more reliable method to determine filter efficiency at the laboratory.

NNECO's proposal to correct the reference to Regulatory Position C.6.a in Technical Specification 4.9.15.b.2 is an editorial correction.

Thus, the proposed changes do not create the possibility of a new or different kind of accident from any previously analyzed.

3. Involve a significant reduction in the margin of safety.

The proposed changes to Millstone Unit No. 2 Technical Specifications 4.6.5.1.b.2, 4.6.5.1.c, 4.6.5.1.c.2, 4.7.6.1.d, 4.9.15.b.2, and 4.9.15.c do not modify the requirement for carbon sample removal efficiency, do not involve a change in any safety limits, setpoints, or design margins, and do not affect any protective boundaries. Additionally, the proposed methodology has been determined to be more accurate.

NNECO's proposal to correct the reference to Regulatory Position C.6.a in Technical Specification 4.9.15.b.2 is an editorial correction.

Therefore, the proposed changes do not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects

that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11555 Rockville Pike, Rockville Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 3, 1994, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at the Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, Connecticut 06360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in providing the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–4: petitioners' name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103–3499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 14, 1994, as supplemented April 20, 1994, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room, located at the Learning Resource Center, Three Rivers Community-Technical College,

Thames Valley Campus, 574 New London Turnpike, Norwich, Connecticut 06360.

Dated at Rockville, Maryland, this 26th day of April 1994.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Senior Project Manager, Project Directorate I–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–10666 Filed 5–3–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Request for Reclearance of Form RI 25–47

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of an information collection. Form RI 25–47, Survey of Continuing Full-Time School Attendance, is used to verify that students who certified they would be enrolled full time are still so enrolled.

Approximately 11,000 RI 25–47 forms are completed annually. It takes approximately 5 minutes to complete. The total annual burden is 917 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received by June 3, 1994.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., room 3349, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3002, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, Chief Forms Analysis & Design Section (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 94–10660 Filed 5–3–94; 8:45 am]

BILLING CODE 6325–01–M

Notice of Request for Reclearance of Revised Form RI 10–72

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a request for reclearance of a revised information collection. Form RI 10–72, Client Satisfaction Survey, is used to determine how well the Office of Personnel Management has served federal civil service annuitants and survivor annuitants.

The questionnaire will be sent to approximately 1500 annuitants and will require approximately 25 minutes to complete, for a total public burden of approximately 625 hours.

For copies of this proposal, contact C. Ronald Trueworthy on (703) 908–8550.

DATES: Comments on this proposal should be received by June 3, 1994.

ADDRESSES: Send or deliver comments to—

Kenneth H. Glass, Chief, Quality Assurance Division, Retirement and Insurance Group, U.S. Office of Personnel Management, 1900 E Street, NW., room 4316, Washington, DC 20415 and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., room 3002, Washington, DC 20503

FOR FURTHER INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Chief Forms Analysis & Design Section, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Director,

[FR Doc. 94–10661 Filed 5–3–94; 8:45 am]

BILLING CODE 6325–01–M

Federal Salary Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meetings.

SUMMARY: According to the provision of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the thirty-fourth and thirty-fifth meetings of the Federal Salary Council will be held at the times and places shown below. At the meetings the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meetings are open to the public.

DATES: May 18, 1994, at 10 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street, NW., room 5A06A, Washington, DC.

DATES: June 21, 1994, at 10 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street, NW., room 7B09, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office of Personnel Management, 1900 E Street, NW., room 6H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

FOR THE PRESIDENT'S PAY AGENT:

James B. King,

Director.

[FR Doc. 94–10662 Filed 5–3–94; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Meridan National Corporation, Common Stock, $0.01 Par Value) File No. 1–10286

April 28, 1994.

Meridan National Corporation ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Company, its Board of Directors (the "Board") unanimously approved resolutions on October 25, 1993, to withdraw the Company's Common Stock from listing on the BSE. The Company's Common Stock will continue to be traded in the over-the-counter market. The decision of the Board was based upon belief that listing of the Company on the BSE was not beneficial to its stockholders in that there was little or no activity in the Company's Common Stock.

Any interested person may, on or before May 19, 1994 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application

has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–10613 Filed 5–3–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–94–17]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before May 24, 1994.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick M. Haynes, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3939.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on April 25, 1994.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: 23455.
Petitioner: Reeve Aleutian Airways, Inc.
Sections of the FAR Affected: 14 CFR 121.574.
Description of Relief Sought/ Disposition: To permit Reeve Aleutian Airways, Inc. to continue to carry and operate, for emergency medical use by patients aboard its aircraft, certain oxygen storage, generating, and dispensing equipment. This equipment is furnished and maintained by hospitals, clinics or city/village emergency medical services within the state of Alaska. *Grant, Date, Exemption No. 4692.*

Docket No.: 26615.
Petitioner: State of Idaho Transportation Department.
Sections of the FAR Affected: 14 CFR 43.3(g).
Description of Relief Sought/ Disposition: To permit approximately trained and certificated pilots employed by part 135 operators, who operate only within the State of Idaho, to continue to remove and reinstall aircraft cabin seats while operating in remote areas when certificated mechanics are not available. *Grant, Date, Exemption No. 5464A*

Docket No.: 27406.
Petitioner: Diamond Flight Center.
Sections of the FAR Affected: 14 CFR 141.5(b).
Description of Relief Sought: To allow DFC to be issued a pilot school certificate with associated ratings for that certificate without meeting the requisite number of applicants for flight certificates required during the 24 months preceding the application. *Denial. 04/2/94, Exemption No. 5875*

Docket No.: 27487.
Petitioner: Rebecca Cohen-Pardo.
Sections of the FAR Affected: 14 CFR 61.39.
Description of Relief Sought: To allow Ms. Cohen-Pardo to be eligible for a flight test even though more examination was passed. *Denial, 04/20/94, Exemption No. 5876*

Docket No.: 27490.
Petitioner: Sections of the FAR Affected: 14 CFR 121.411(a)(2), (3), and (b)(2), 121.413(b), (c), and (d) and Part 121, Appendix H.
Description of Relief Sought/ Disposition: To permit CAE without holding an air carrier operating certificate, to train the certificate holder's pilots and flight engineers in initial, transition, upgrade, differences, and recurrent training in approved simulators and in airplanes without CAE's instructor pilots meeting all the applicable training requirements of subpart N and the employment requirements of appendix H of part 121. *Grant, 04/14/94, Exemption No. 5870*

Docket No.: 27698.
Petitioner: Carnival Air Lines, Inc.
Sections of the FAR Affected: 14 CFR 121.358.
Description of Relief Sought: To allow Carnival to operate one Airbus A300 B4 aircraft through September 1, 1994, without an airborne windshear warning system. *Denial, 04/14/94, Exemption No. 5859.*

[FR Doc. 94–10709 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–13–M

Proposed Establishment of the Longview, TX, Class C Airspace Area; Public Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting; correction.

SUMMARY: This correction clarifies that comments concerning the informal airspace meeting for the Longview, TX, Class C airspace area, published in the **Federal Register** on April 4, 1994, will be received until July 25, 1994.

FOR FURTHER INFORMATION CONTACT: Greg Juro, Federal Aviation Administration, Southwest Regional Office, ASW–530, 2601 Meacham Blvd, Fort Worth, TX 76137–4298, telephone: (817) 222–5591.

SUPPLEMENTARY INFORMATION:

In **Federal Register** Document 94–7919 published on April 4, 1994, (59 FR 15803), under Time and Date "Comments must be received on or before May 17, 1994," should be changed to "Comments must be received on or before July 25, 1994."

Issued in Washington, DC, on April 20, 1994.

Fred L. Gibbs,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 94-10710 Filed 5-3-94, 8:45 am]

BILLING CODE 4910-13-P

Federal Highway Administration

Environmental Impact Statement: Alameda and Contra Costa Counties, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed transportation project in Alameda and Contra Costa Counties, California.

FOR FURTHER INFORMATION CONTACT: John R. Schultz, Chief, District Operations–A, Federal Highway Administration, 980 9th Street, suite 400, Sacramento, California, 95814–2724, 916/551–1314.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the California Department of Transportation (Caltrans) and the California Toll Road Company (CTRC) will prepare an Environmental Impact Statement (EIS) on a proposal to construct a toll-operated highway facility in a corridor between Route 4 and Route 84 in Alameda and Contra Costa Counties, a distance of approximately 48-kilometers (30 miles). The proposed facility would consist generally of a divided limited access roadway. It is anticipated that majority of the roadway will be located on new alignment. Major roadways in the area are presently operating at peak hour levels of service (LOS) D to F, and are expected to decline to LOS F before the year 2010. There are also problems with the regional movement of freight on local roads because of the lack of regional transportation facilities.

Alternatives under consideration are:

(1) The "No-Build" Alternative;

(2) A Transportation Systems Management/Transportation Demand Management Alternative providing incremental improvements;

(3) A Mass Transit Alternative providing transit improvements, including buses and rail modes;

(4) A divided limited access toll road in a 48-kilometer (30 miles) corridor from the I–680/Route 84 Interchange southwest of the City of Livermore to Route 4 near Antioch; and

(5) A freeway in the same 48-kilometer (30-mile) corridor. In addition to the alternatives noted above, any other alternatives identified in the scoping process meetings will be studied and considered during the project development stage.

Letters describing the proposed action and soliciting comments were sent to the appropriate Federal, State and local agencies, and to private organizations and citizens who have expressed or are known to have interest in this proposal. Public scoping and community participation meetings will be held on May 10, 1994 at 6 p.m. at the Tracy Community Center, 300 East 10th Street, Tracy; on May 11, 1994 at 5 p.m. at the Brentwood Lions Club, 3700 Walnut Boulevard, Brentwood and; at the Triad Corporation Cafeteria at 3055 Triad Drive, Livermore, on May 12, 1994 at 5 p.m. An agency scoping meeting is scheduled at the Contra Costa Transportation Authority, Pacific Plaza Bldg., 1340 Treat Blvd., Suite 150, Walnut Creek at 10 a.m. May 12, 1994. The Public Participation Program for this study includes additional community information meetings and a Public Hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning this proposed action and the Environmental Impact Statement (EIS) should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on April 26, 1994.

John R. Schultz,

Chief, District Operations—A, Sacramento.

[FR Doc. 94–10615 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Research and Development Programs; Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects and requests suggestions for agenda topics.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on June 14, 1994, beginning at 1:30 p.m. and ending at approximately 5 p.m. The deadline for interested parties to suggest agenda topics is 4:15 p.m. on May 18, 1994. Questions may be submitted in advance regarding the Agency's research and development projects. They must be submitted in writing by June 7, 1994, to the address given below. If sufficient time is available, questions received after the June 7 date will be answered at the meeting in the discussion period. The individual, group or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by June 7 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Ramada Inn, near Detroit Metro, 8270 Wickham Rd., Romulus, MI 48174. Suggestions for specific R&D topics as described below and questions for the June 14, 1994, meeting relating to the Agency's research and development programs should be submitted to George L. Parker, Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh Street, SW., Washington, DC 20590. The fax number is 202–366–5930.

SUPPLEMENTARY INFORMATION: NHTSA intends to provide detailed presentations about its research and development programs in a series of quarterly public meetings. The series started in April 1993. The purpose is to make available more complete and timely information regarding the Agency's research and development programs. This sixth meeting will be held on June 14, 1994.

NHTSA requests suggestions from interested parties on the specific agenda topics. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by close of business at 4:15 p.m. on May 18, 1994. Before the meeting, it will publish a notice with an agenda listing the research and development topics to be discussed. NHTSA asks that the suggestions be taken from the list below and that they be limited to five, in priority order, so that the presentations at the June 14 R&D meeting can be most useful to the audience. Please note that almost all of these topics have been discussed at the previous five meetings to some extent and that presentations at

the sixth meeting will be reports on current status, results, and plans.

Specific Crashworthiness R&D topics are:

Improved frontal crash protection,
Highway traffic injury studies,
Head and neck injury research,
Lower extremity injury research,
Thorax injury research,
Human injury simulation and analysis,
Crash test dummy component development,
Vehicle aggressivity and fleet compatibility,
Upgrade side crash protection,
Upgrade seat and occupant restraint systems,
Child safety research, and
Electric and alternate fuel vehicle safety.

Specific Crash Avoidance R&D topics are:

Truck crashworthiness/occupant protection
Truck tire traction
Portable data acquisition system for crash avoidance research
Systems to enhance EMS response (automatic collision notification)
Vehicle motion environment,
Crash causal analysis,
Guidelines for crash avoidance warning devices,
Longer combination vehicle safety,
Drowsy driver monitoring,
Driver workload assessment, and
Performance guidelines for IVHS systems (approach).

Specific topics from the National Center for Statistics and Analysis are:

National safety belt use survey,
New data elements for FARS and NASS,
Special crash investigations program regarding air bag performance,
Pedestrian special NASS data collection project, and
Critical Outcome Data Evaluation System (CODES)—Linkage of databases on police accident reporting and medical outcomes.

Questions regarding research projects that have been submitted in writing not later than close of business on June 7, 1994, will be answered as time permits. A transcript of the meeting, copies of materials handed out at the meeting, and copies of the suggestions offered by commenters will be available for public inspection in the NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. Copies of the transcript will then be available at 10 cents a page, upon request to NHTSA Technical Reference Section. The Technical Reference Section is open to the public from 9:30 a.m. to 4 p.m.

NHTSA will provide technical aids to participant as necessary, during the NHTSA Industry Research and Development Meeting. Thus any person desiring assistance of "auxiliary aids" (e.g., sign language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Barbara Coleman on 202/366–1537 by COB June 7, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Strombotne, Special Assistant for Technology Transfer Policy and Programs, Office of Research and Development, 400 Seventh Street SW., Washington, DC 20590. Telephone: 202–366–4730. Fax number: 202–366–5930.

Issued: April 26, 1994.

George L. Parker,

Associate Administrator for Research and Development.

[FR Doc. 94–10633 Filed 5–3–94; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 26, 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.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0018.
Form Number: ATF F 6 Part II (5330.3B).
Type of Review: Extension.
Title: Application and Permit for Importation of Firearms, Ammunition and Implements of War.
Description: This information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. The information is used to secure authorization to import such articles. Forms are used by persons who are members of the United States Armed Forces.
Respondents: Individuals or households.
Estimated Number of Respondents: 9,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 4,500 hours.
OMB Number: 1512–0352.
Regulation ID Number: ATF REC 5170/1.
Type of Review: Extension.
Title: Importers Records and Reports (Alcoholic Beverages).
Description: Importers are required to maintain usual and customary business records and file letter applications or notices related to specific regulated activities.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 251 hours.
OMB Number: 1512–0367.
Regulation ID Number: ATF REC 5220/1.
Type of Review: Extension.
Title: Tobacco Export Warehouse—Record of Operations.
Description: Tobacco Export Warehouses store untaxpaid tobacco products until they are exported. Record is used to maintain accountability over these products. Allows ATF to verify that all products have been exported or tax liabilities satisfied. Protects tax revenues.
Respondents: Businesses or other for-profit.
Estimated Number of Recordkeepers: 213.
Estimated Burden Hours Per Recordkeeper: 1 hour.
Frequency of Response: Other.
Estimated Total Recordkeeping Burden: 1 hour.
Clearance Officer: Robert N. Hogarth (202) 927–8930 Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue N.W., Washington, DC 20226.
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. 94–10687 Filed 5–3–94; 8:45 am]

BILLING CODE 4810–31–P

Public Information Collection Requirements Submitted to OMB for Review

April 29, 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: 1545–0274.

Form Number: IRS Form 2163(c).

Type of Review: Extension.

Title: Employment—Reference Inquiry.

Description: Form 2163(c) is used by IRS to verify past employment history and to question listed and developed references as to the character and integrity of current and potential IRS employees. The Information received is incorporated into a report on which a security determination is based.

Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.

Estimated Number of Respondents: 20,000.

Estimated Burden Hours Per Respondent: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 4,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, N.W., 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. 94–10686 Filed 5–3–94; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

North-South Center External Research Grant Program

ACTION: Notice-request for proposals.

SUMMARY: The United States Information Agency (USIA) invites applications from eligible institutions under the auspices of the North-South Center's 1994 Research Grant Programs. The North-South Center is located at the University of Miami and is funded through a Congressional appropriation managed through the Bureau of Educational and Cultural Affairs of the United States Information Agency. The Center's External Research Grant Program and Short-Term Field Research Program support selected research activities which are of importance to the people and governments of the Western Hemisphere. Through grant awards, the Center brings together human and technical resources to address major themes relevant to policy making in North, South, and Central America and the Caribbean. The Grant Programs provide funding for research projects with innovative approaches to contemporary concerns throughout the region. There are currently two grant competitions for which solicitation of research proposals is being sought:

External Research Grant Program: The Program supports research, analysis, and the exchange of information important to the economic, social, political, and cultural development of the countries of the Western Hemisphere. The general aim of the grant program is to promote scholarly research of contemporary regional issues including: Democratization, social change and equity, trade, debt, investment, environment, and drug policy. Since 1991, approximately 100 External Research Grants have been awarded involving over 250 institutions throughout the hemisphere.

Short-term Field Research Grant Program on Poverty and Urban Violence: Designed to coincide with the upcoming United Nations World Summit for Social Development (March 1995) these awards are to be specifically focused around the theme of poverty. Research proposals will be accepted from various disciplines for research projects or field research to investigate issues of poverty and its relationship to migration pressures and illegal immigration, youth and violence, distributional equity, and the impact of stabilization and adjustment measures on the overall well-being of the population. The one-time competition for the Short-Term Field Research Grants on Poverty and Urban Violence will be held in Spring of 1994.

Dates/Deadlines: It is the responsibility of each grant applicant to ensure that proposals are received by the stated deadlines for selected program.

External Research Grant Program: For information purposes the External Research Grant Program requires one original and nineteen (19) copies of the final proposal, written in English, and have been received at the Office of Grant Programs, North-South Center by 5 p.m. Miami time on Monday, May 2, 1994. Please conserve paper by making copies double-sided. Faxed documents will not be accepted, nor will documents postmarked on May 2, 1994 but received at a later date. Project activities should begin no earlier than July 1, 1994 and should run no longer than September 30, 1995. An additional External Research Grant Program will be announced in July of 1994, with projects to begin no earlier than September 1994.

Short-term Field Research Grant Program on Poverty and Urban Violence: The deadline for submission of the original and nineteen (19) copies of the final proposal and required attachments, written in English, must be received at the Office of Grant Programs, North-South Center by 5 p.m. Miami time on Wednesday, May 25, 1994. Please conserve paper by making copies double-sided. Faxed documents will not be accepted, nor will documents postmarked on May 25, 1994 but received at a later date. Project activities should begin no earlier than July 1, 1994 and should run no longer than October 31, 1994.

ADDRESSES: Twenty complete proposals should be submitted by their respective deadlines to: Mary Uebersax, Director of Grant Programs, North-South Center, 1500 Monza Avenue, Coral Gables, FL 33146–3027, Fax (305) 284–6370.

FOR FURTHER INFORMATION: Interested organizations/institutions should contact the Office of Grant Programs at the address listed above or by telephone at (305) 284–8951, facsimile (305) 284–6370. The Director of Grant Programs can also be reached by electronic mail at: macondo2@umiami.ir.miami.edu to request detailed application packets, which include award criteria not mentioned in this announcement, all necessary forms, and guidelines for preparing proposals, including specific budget preparation information.

SUPPLEMENTARY INFORMATION: Proposals from all parts of the world, except where prohibited by U.S. law that are

consistent with the mission of the North-South Center and are of sound intellectual justification will be considered. Funding will not be authorized for any private for-profit institutions, profit-oriented individuals' initiatives, projects of a proprietary nature, or for projects of a partisan political nature. Principal investigators should have completed advanced degrees and must demonstrate an institutional affiliation. Pre and post doctoral scholars are eligible to complete for the Short-term Field Research Grants on Poverty and Urban Violence, however the investigators must demonstrate an institutional affiliation. The Center and its Grant Review Panel will not use political tests or political qualifications and will not discriminate in any manner whatsoever in selecting grantees.

Funding Limitations: The grant awards should not be used in lieu of salary or to support projects which could be funded by private foundations or government. In addition, applicants are encouraged to seek supplemental funding for projects.

Successful projects will be funded by means of a cost reimbursement subcontract agreement between the North-South Center, the University of Miami, and the applicant's institution. All current policies and requirements that govern federal research grants will be applied to the grant award.

Pursuant to the USIA's Bureau of Educational and Cultural Affairs authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life.

External Research Grant Program: North-South Center External Research Grant Awards will be capped at $50,000. Multi-year proposals will be funded on a yearly basis upon recommendation of the Grant Review Panel, contingent upon Congressional funding of the North-South Center.

Short-term Field Research Grant Program on Poverty and Urban Violence: The maximum award for this program will be $20,000. Support will include international travel expenses, domestic transportation, limited living expenses, and research and pre-publication expenses.

Overview—The general aim of the North-South Center's grant programs is to promote scholarly research that will increase knowledge and broaden understanding of contemporary regional issues. The long-term aims of the programs are to support scholarship in inter-American affairs, encourage collaboration in various fields of research among institutions throughout the hemisphere, stimulate discussion of policy-relevant issues, and promote scholarship from which policy solutions may derive.

Guidelines—The Center gives priority to projects involving the collaboration of institutions in more than one country and to projects addressing issues encompassing several countries. The Programs provide funding for projects that demonstrate a clear analytical focus, a solid method to achieve research goals in a timely manner, and relevance to contemporary policy. Research activities should generate a product of enduring value such as a publication or a series of publications.

Proposed Budget—Applicants must submit a comprehensive line item budget for which specific details are available in the application packet. The Center does not pay for costs that are not directly related to the specific project being funded (e.g., indirect costs). No support will be given for the purchase or lease of capital equipment (e.g., fax machines, computers), or other related infrastructural costs. Some degree of institutional support should be reflected in the proposed project budget. Salary support must be fully justified by the specific requirements of the projects and should not represent a major portion of total project expense. Salary support should be calculated as a percentage of time spent on research for the duration of the project. It is not permissible to request support in lieu of responsibilities for university course instruction.

Review Process: Grants made through the North-South Center External Research Grant Program are awarded through a competitive review process. The Grant Programs Office will acknowledge receipt of all proposals, and the Center's Executive Staff will review every proposal for eligibility, completeness, and competitiveness. Outside reviewers with expertise in a particular subject area may be called upon to provide critique on proposals. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the application packet. All eligible and complete proposals will be submitted to the Center's Grant Review Panel, comprised of a multidisciplinary group of distinguished experts from major university centers for Latin American and Caribbean Studies throughout the United States and two international business members.

Review Criteria: Applications which meet the aforementioned technical requirements will be competitively reviewed according to the following criteria:

1. *Contribution to the field of study:* Proposals should demonstrate a distinct theoretical, political, or applied academic significance to the stated subject area. The outcome of the research endeavor should be useful and applicable to the academic, government, and/or the policy-making community.

2. *Research cohesiveness and quality:* Clearly defined research hypotheses, including the specific questions which will be asked through this investigation, and an explanation of the means of testing and evaluating the research objectives should be provided. A detailed agenda and relevant work plan should demonstrate substantive rigor and logistical capacity. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

3. *Clarity and focus:* Proposals should illustrate that the research has been sufficiently developed prior to the request for funding, to ensure that its aims are clear and specific. Proposals should clearly demonstrate how the applicant will meet the program's objectives and research plan.

4. *Concrete and lasting impact of the investigations:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages. Proposals should provide a plan for continued follow-up activity which insures that the Center's supported programs are not isolated events. Effective dissemination of the project's results should be planned to reach the widest possible and most relevant audience.

5. *Potential:* Proposals should demonstrate the potential for fostering cooperation and understanding among peoples of the region.

6. *Applicant's "track record"/ evaluation plans:* Applicants should demonstrate a history of successful programs, including responsible fiscal management and full compliance with all reporting requirements for past research grants, where applicable. The Center will consider the past performance of prior grantees and the demonstrated potential of new applicants. Grantees must be willing to comply with evaluation requirements of the granting institution.

7. *Cost-effectiveness:* The overhead and administrative components of grants, as well as salaries and honoraria, should be kept as low as possible. All other research costs should be necessary, appropriate, and justified in the budget narrative

8. *Cost-sharing:* Proposals should maximize cost-sharing through other private support as well as direct funding contributions (such as full-time salaries) from their institution.

Notice: The terms and conditions published in this RFP are binding and may not be modified by any North-South Center or USIA representative. Explanatory information provided by the North-South Center that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Center. Final awards cannot be made until funds have been fully appropriated by the U.S. Congress, allocated and committed through internal North-South Center and University of Miami procedures.

Notification

All applicants will be notified in writing of the results of the review process. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: April 28, 1994.

Barry Fulton,

Acting Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 94–10634 Filed 5–3–94; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 85
Wednesday, May 4, 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).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 26, 1994.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94–10871 Filed 5–2–94; 2:55 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 19, 1994.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSONS FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 94–10872 Filed 5–2–94; 2:55 p.m.]

BILLING CODE 6351–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 59, No. 79, page 19750, April 25, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., April 27, 1994.

CHANGES IN MEETING: Meeting scheduled for April 27, 1994 has been postponed until May 3, 1994.

CONTACT PERSON FOR MORE INFORMATION: Sheldon D. Butts, Deputy Secretary, (301) 504–0800.

Dated: April 28, 1994.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 94–10859 Filed 5–2–94; 2:34 p.m.]

BILLING CODE 6355–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 59 FR 22216, April 26, 1994.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Tuesday, May 10, 1994.

CHANGE IN THE MEETING:

Open Session

The item listed below has been added to the agenda:

4. Extension of Comment Period on the Proposed Consolidated Guildelines on Harassment.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663–4070.

Dated: April 29, 1994.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 94–10789 Filed 5–2–94; 11:04 am]

BILLING CODE 6750–06–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on May 5, 1994, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. Reports

1. Chief Examiner's Quarterly Report

C. New Business

1. Regulations

a. Standards of Conduct, Personnel Administration [12 CFR Part 612] (Final).

b. Collateral Evaluation Requirements, Loan Policies and Operations [12 CFR Part 614] (Policy Discussion).

Closed Session*

A. Reports

1. Office of Secondary Market Oversight Quarterly Report

B. New Business

1. Enforcement Actions

Dated: May 2, 1994.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 94–10878 Filed 5–2–94; 3:57 pm]

BILLING CODE 6705–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sixteenth Annual Meeting of the Board of Directors

TIME AND DATE: 9:30 a.m., Friday, May 13, 1994.

PLACE: Federal Reserve System, 20th & C Streets, NW., Eccles Building, room 4001, Washington, DC 20552.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey T. Bryson, General Counsel/ Secretary (202) 376–2441.

Agenda

I. Call to Order
II. Approval of Minutes:
  March 11, 1994, Regular Mtg.
III. Committee Appointments:
  a. Audit Committee
  b. Budget Committee
  c. Personnel Committee
IV. Election of Officers
V. Board Appointments:
  a. Internal Audit Director
  b. Asst. Secretary/Paralegal
VI. Resolutions of Appreciation
VII. Treasurer's Report
VIII. Executive Director's Quarterly Management Report
IX. Adjourn

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 94–10786 Filed 5–2–94; 8:45 am]

BILLING CODE 7570–01–M

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* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c) (8), (9) and (10)

Corrections

Federal Register
Vol. 59, No. 85
Wednesday, May 4, 1994

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 261, 262, 263 and 267

[Docket No. 940387–4087; ID 120293B]
RIN 0648–AD53

U.S. General Standards for Grades of Finfish Products

Correction

In proposed rule document 94–9060 beginning on page 18091 in the issue of Friday, April 15, 1994, make the following correction:

On page 18092, in the first column, under **DATES**, in the second line, "May 2, 1994" should read "August 15, 1994".

BILLING CODE 1505–01–D

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AC08

Student Assistance General Provisions

Correction

In rule document 94–9747 beginning on page 22066 in the issue of Thursday, April 28, 1994, make the following correction:

§ 668.61 [Corrected]

On page 22068, in the third column, in § 668.61, insert the following below the five stars: "(Approved by the Office of Management and Budget under Control Number 1840–0570)".

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 150

[CGD 93–080]

RIN 2115–AE69

Louisiana Offshore Oil Port: Expansion of Deepwater Port Safety Zone Boundaries

Correction

In rule document 94–8837 beginning on page 17480, in the issue of Wednesday, April 13, 1994, make the following correction:

On page 17480, in the third column, under **SUMMARY**, in the sixth line, "of" should read "or".

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 115CE, Special Condition 23–ACE–74]

Special Conditions; Cessna Model 526 Airplane

Correction

In rule document 94–3620 beginning on page 8119 in the issue of Friday, February 18, 1994, make the following corrections.

1. On page 8124, in the second column, in SC23.157 (a), in the sixth line, "W+500+1300 " should read:

$$\frac{W+500}{1300}$$

and in SC23.157 (c), in the sixth line, "W+2800+2200" should read:

$$\frac{W+2800}{2200}$$

BILLING CODE 1505–01–D

federal register

Wednesday
May 4, 1994

Part II

Department of the Interior

Office of the Secretary

43 CFR Part 11
Natural Resources Damage Assessments; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

RIN: 1090–AA43

Natural Resource Damage Assessments

AGENCY: Department of the Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice solicits comment on proposed revisions of the regulations for assessing natural resource damages resulting from a discharge of oil into navigable waters under the Clean Water Act or a release of a hazardous substance under the Comprehensive Environmental Response, Compensation, and Liability Act. The Department of the Interior has previously developed two types of natural resource damage assessment regulations: Standard procedures for simplified assessments requiring minimal field observation (the type A rule); and site-specific procedures for detailed assessments in individual cases (the type B rule).

The Department is proposing, as part of its compliance with a court remand, to revise the type B rule to address the use of the economic methodology known as contingent valuation to assess lost values of injured natural resources. In general, the Department is considering and soliciting comment on a proposed natural resource damage assessment rule regarding contingent valuation recently published by the National Oceanic and Atmospheric Administration pursuant to the Oil Pollution Act of 1990. This notice constitutes the Department's proposed rulemaking document and solicits comment on rule language under consideration for a final rule. Upon consideration of the comments received in response to this notice, the Department intends to issue a final rule. The Department recently published a final rule to revise the type B rule to comply with all other aspects of the court order.

DATES: Comments must be received by July 7, 1994.

ADDRESSES: Comments should be sent in triplicate to the Office of Environmental Policy and Compliance, ATTN: NRDA Rule, Mail Stop 2340, Department of the Interior, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Mary C. Morton or David Rosenberger at (202) 208–3301.

SUPPLEMENTARY INFORMATION: This notice is organized as follows:

I. Background

A. Statutory Provisions

The Clean Water Act, as amended (33 U.S.C. 1251 et seq.) (CWA) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9601 *et seq.*) (CERCLA) authorize natural resource trustees to recover compensatory damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil into navigable waters or a release of a hazardous substance. CWA sec. 311(f); CERCLA sec. 107. Federal and State officials may be designated to serve as natural resource trustees under CERCLA and CWA. CERCLA also recognizes the authority of Indian tribes to commence actions as natural resource trustees.

Damages may be recovered for those natural resource injuries and losses that are not fully remedied by response actions. All sums recovered in compensation for natural resource injuries must be used to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources. Trustee officials may also recover the reasonable costs of assessing natural resource damages and any prejudgment interest.

CERCLA requires the promulgation of two types of regulations for the assessment of natural resource damages resulting either from a discharge of oil under CWA or from a release of a hazardous substance under CERCLA. CERCLA sec. 301(c). The type A regulations constitute standard procedures for simplified assessments requiring minimal field observation. The type B regulations constitute site-specific procedures for detailed assessments. Both regulations identify the best available procedures for determining natural resource damages. Assessments performed by Federal and State natural resource trustee officials in accordance with these regulations receive a rebuttable presumption in court. CERCLA sec. 107(f)(2)(C). The promulgation of these regulations was delegated to the Department of the Interior (the Department). E.O. 12316, as amended by E.O. 12580.

The Oil Pollution Act (33 U.S.C. 2701 et seq.) (OPA) was signed into law on August 18, 1990. Among other things, OPA amended the natural resource damage provisions of CWA. OPA authorized the National Oceanic and Atmospheric Administration (NOAA) to develop new natural resource damage assessment regulations for discharges of oil into navigable waters. The Department is coordinating its rulemakings with NOAA to ensure, to the maximum extent appropriate, that consistent processes are established for assessing natural resource damages under CERCLA and OPA. OPA provides that until NOAA develops final regulations, the Department's regulations may be used to assess natural resource damages under OPA. OPA sec. 6001(b).

B. Regulatory History

The Department has issued various final rules for the assessment of natural resource damages: 51 FR 27674 (Aug. 1, 1986); 52 FR 9042 (March 20, 1987); 53 FR 5166 (Feb. 22, 1988); and 53 FR 9769 (March 25, 1988). These rulemakings are all codified at 43 CFR part 11. The Department also recently published a final rule that has not yet been codified in the Code of Federal Regulations. 59 FR 14261 (March 25, 1994).

The natural resource damage assessment regulations provide an administrative process for conducting assessments as well as technical methods for the actual identification of injuries and calculation of damages. Under the regulations, both type A and type B, assessments consist of four major phases.

The first phase of an assessment conducted under the regulations involves the activities that precede the actual assessment. For example, upon detecting or receiving notification of a discharge or release, trustee officials perform a preassessment screen to ascertain whether further assessment actions are warranted.

The second phase involves the preparation of an Assessment Plan. The Assessment Plan, which is subject to public review and comment, assists the involvement of other interested trustee

officials, potentially responsible parties (PRPs), and the general public. The Assessment Plan also ensures that assessments are performed at a reasonable cost.

In the third phase, trustee officials conduct the work described in the Assessment Plan. The work involves three steps: Injury Determination; Quantification; and Damage Determination. In Injury Determination, trustee officials determine whether any natural resources have been injured. If trustee officials determine that resources have been injured, they proceed to Quantification, in which they quantify the resulting reduction in services provided by the resources. Finally, in Damage Determination, trustee officials calculate the monetary compensation to be sought as damages for the natural resource injuries.

In a type A assessment, trustee officials perform Injury Determination, Quantification, and Damage Determination through the use of standardized procedures involving minimal field work. The Department has adopted a phased approach to developing type A procedures for different environments. Only one type A procedure has been developed to date. The existing type A procedure provides for the use of a computer model to assess damages from small releases or discharges in coastal or marine environments. For other releases or discharges, trustee officials conduct a type B assessment, in which Injury Determination, Quantification, and Damage Determination are performed through the use of a range of alternative scientific and economic valuation methodologies. This notice addresses the use of a particular valuation methodology during the Assessment Phase.

The fourth phase of every natural resource damage assessment, whether the type A or type B rule is followed, consists of post-assessment activities such as: Preparation of a Report of Assessment; establishment of an account for damage assessment awards; and development of a Restoration Plan for use of the awards.

C. Judicial Review

A party may petition the Court of Appeals for the District of Columbia Circuit to review any regulation issued under CERCLA. CERCLA sec. 113(a). A number of parties filed such petitions for review of the natural resource damage assessment regulations.

The type B rule was challenged in *State of Ohio* v. *United States Department of the Interior*, 880 F.2d 432 (DC Cir. 1989) (*Ohio* v. *Interior*). The court in *Ohio* v. *Interior* upheld various challenged aspects of the type B rule but did remand three issues. The court ordered the Department to revise the rule to reflect the statutory preference for using restoration costs as the measure of natural resource damages. The court used the term "restoration costs" to encompass the cost of restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured natural resources. 880 F.2d at 441.

The court also ordered the Department to allow for the assessment of all reliably calculated lost values of injured natural resources, including both lost use values and lost nonuse values. Use values are derived through activities such as hiking or fishing. Nonuse values are not dependent on use of the resource. Nonuse values include existence value, which is the value of knowing that a resource exists, and bequest value, which is the value of knowing that a resource will be available for future generations. Finally, the court asked the Department to clarify whether the natural resource damage assessment regulations apply to natural resources that are not actually owned by the government.

The type A rule was challenged in State of *Colorado* v. *United States Department of the Interior*, 880 F.2d 481 (DC Cir. 1989) (*Colorado v. Interior*). *The court held that, based on the reasoning in the Ohio* v. *Interior* decision, the type A procedure for coastal and marine environments should be revised to allow for the calculation of restoration costs.

D. Implementation of the Court Order

The Department published an advance notice of proposed rulemaking on September 22, 1989, to announce its intent to revise the type B rule to comply with *Ohio* v. *Interior*. 54 FR 39016. The Department issued a proposed rule on April 29, 1991, with comments requested by June 28, 1991. 56 FR 19752. On July 2, 1991, the Department extended the comment period to July 16, 1991. 56 FR 30367. On July 22, 1993, the Department reopened the comment period to allow consideration of additional comments, including newly developed information on the contingent valuation methodology (CV), the only method currently available for the express purpose of estimating nonuse values. 58 FR 39328. The comment period was originally reopened until September 7, 1993, and then extended until September 22, 1993. 58 FR 45877 (Aug. 31, 1993).

After reviewing the comments received in response to the July 22, 1993, **Federal Register** notice, the Department proposes to revise the type B rule to include appropriate standards to improve the reliability of CV when used to estimate lost nonuse values. The Department is issuing this notice to ensure that interested parties have an adequate opportunity for review and comment.

On March 25, 1994, the Department published a final rule to revise the type B rule to comply with all aspects of the *Ohio* v. *Interior* remand other than the assessment of lost nonuse values. 59 FR 14281. Pending completion of this rulemaking, the Department is temporarily leaving unchanged the language of the original type B rule concerning the assessment of lost nonuse values.

E. Other Rulemakings

CERCLA mandates biennial review and revision, as appropriate, of the natural resource damage assessment regulations. The Department plans to begin the biennial update of the type B rule in July 1994. All aspects of the administrative process and the type B rule will be subject to review during that update. During the biennial review, the Department will consider ways of ensuring the greatest consistency appropriate between its damage assessment regulations and the damage assessment regulations being developed by NOAA.

Further, later this year the Department plans to issue a proposed rule to revise the type A rule for coastal and marine environments in compliance with *Colorado* v. *Interior*. The Department is also developing an additional type A rule for assessing damages in the Great Lakes. Like the type A rule for coastal and marine environments, the type A rule for the Great Lakes will incorporate a computer model.

II. Calculation of Damages Under the Type B Rule

A. Costs of Restoration, Rehabilitation, Replacement, and/or Acquisition of Equivalent Resources

The type B rule as originally published on August 1, 1986, provided that damages consisted of the lesser of the cost of restoring the injured resources (plus the lost interim use value) or the diminution in the value of the injured resources without restoration. In *Ohio* v. *Interior*, the court ordered the Department to revise the rule to reflect the statutory preference for using restoration costs as the measure of natural resource damages.

CERCLA provides that sums recovered in natural resource damage actions may be used to restore, rehabilitate, replace, or acquire the equivalent of the injured natural resources. The court used the simple term "restoration" costs as shorthand for the cost of performing any of these actions. 880 F.2d at 441. On March 25, 1994, the Department published a final rule that revised the type B rule to allow trustee officials to recover the costs of restoration, rehabilitation, replacement, and/or acquisition of equivalent resources in all cases. 59 FR 14281.

The March 25, 1994, final rule provides guidance on projecting the costs of restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured resources. Under that final rule, trustee officials first identify and consider a reasonable number of possible alternatives for restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured resources. Trustee officials also estimate those services that are likely to be lost to the public pending completion of each alternative under consideration. Trustee officials then select one of the possible alternatives based on several factors. The trustee officials document their decisions in a Restoration and Compensation Determination Plan, which is subject to public review and comment.

Once the trustee officials select a restoration, rehabilitation, replacement, and/or acquisition alternative, they choose the methods they intend to use to estimate the costs of implementing that alternative. To do this, trustee officials select among specified cost estimating methodologies. Trustee officials include the rationale for their selection in the Restoration and Compensation Determination Plan.

B. Compensable Value

Under the March 25, 1994, final rule, the costs of restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured resources are the basic measure of damages; however, these costs are only one component of the damages that trustee officials may assess. Trustee officials also have the discretion to assess the value of the resource services that the public lost from the date of the release or discharge until completion of restoration, rehabilitation, replacement, and/or acquisition of equivalent resources. 59 FR 14283. The term "compensable value" is used to encompass all of the lost public economic values, including both lost use values and lost nonuse values. The Restoration and Compensation Determination Plan includes a description of the methodologies trustee officials intend to use when estimating compensable value during Damage Determination.

The original type B rule provided a ranked list of methodologies that could be used to calculate lost use values. If the market for the injured resource was "reasonably competitive," then the diminution of the market price attributable to the discharge or release was used to estimate damages. If a market price methodology was not applicable, then the trustee officials were required to use appraisal methodologies. Only when neither market-price nor appraisal methodologies were appropriate for the resources being assessed did the original version of the rule allow trustee officials to use non-market-based methodologies.

Further, §§ 11.83(b)(2) and 11.83(d)(5)(ii) of the original version of the type B rule provided that lost nonuse values could only be assessed if trustee officials could not determine any lost use values. In the August 1, 1986, preamble to the original type B rule, the Department provided the following explanation for this restriction:

> Ordinarily, option and existence values would be added to use values. However, section 301(c) of CERCLA mentions only use values. Therefore, the primary emphasis in this section is on the estimation of use values * * * Another related reason for this limitation is that more is known about the determination of use values than option and existence values. Option and existence values are less well-defined and more uncertainty surrounds their measurement. 51 FR 27719.

Ohio v. *Interior* held that the type B rule incorrectly established a strong presumption in favor of the use of market price and appraisal methodologies to estimate lost use values. The court also held that the Department had "erroneously construed the statute" with regard to the assessment of lost nonuse values. The court stated:

> (S)ection 301(c)(2) requires Interior to "take into consideration factors including, *but not limited to* * * * use value." 42 U.S.C. 9651(c)(2) (emphasis added). The statute's command is expressly not limited to use value; if anything, the language implies that DOI is to include in its regulations other factors in addition to use value. 880 F.2d at 464.

The court went on to say that the Department

> is entitled to rank methodologies according to its view of their reliability, but it cannot base its complete exclusion of option and existence values on an incorrect reading of the statute. Id.

The court instructed the Department to consider a rule that would permit trustee officials to include all reliably calculated lost values in their damage assessments. Id.

CV is currently the only method available for the express purpose of estimating nonuse values. Under the original type B rule, CV was listed as a non-market-based methodology for calculating either lost use or lost nonuse values. *Ohio* v. *Interior* upheld the Department's inclusion of CV as a "best available procedure." Id. at 478. However, the court did not require the Department to allow unlimited use of CV. Moreover, the court did not address the difference between use of CV to calculate lost use values and use of CV to calculate lost nonuse values.

The March 25, 1994, final rule leaves trustee officials free to choose among the listed valuation methodologies, including CV, when estimating lost use values. 59 FR 14285–86. The final rule provides a number of criteria to guide the selection of valuation methodologies, including a requirement that the chosen methodologies are reliable for the particular incident and type of damage being measured. The final rule renumbers §§ 11.83(b)(2) and 11.83(d)(5)(ii) of the original rule, which restrict the assessment of lost nonuse values to cases where lost use values cannot be determined, as new §§ 11.83(c)(1)(iii) and 11.83(c)(2)(vii)(B), respectively. Pending completion of this rulemaking to address the final issue affected by the *Ohio* v. *Interior* remand, the Department is temporarily leaving unchanged the language of these renumbered sections.

III. Contingent Valuation: Discussion and Rule Language Under Consideration

CV is a survey-based approach to the valuation of nonmarket goods and services that relies on a questionnaire for the direct elicitation of information about the value of the good or service in question. The value obtained for the good or service is said to be contingent upon the nature of the constructed (hypothetical or simulated) market and the good or service described in the survey scenario. In the natural resource damage assessment context, CV studies generally derive values through elicitation of respondents' willingness to pay (WTP) to prevent injuries to natural resources or to restore injured natural resources.

The first published CV study, valuing outdoor recreation, appeared in 1963. There are now over 1,400 documented papers, reports, and books on CV. In recent years, CV has become one of the

most widely used methods of nonmarket valuation.

Four basic elements common to CV questionnaires are: (1) An explanation of the structure and rules of the market in which the good or service being valued is either bought or sold; (2) a description of the good or service and how it is to be provided; (3) the value elicitation question; and (4) validation questions to verify comprehension and acceptance of the scenario and to elicit socioeconomic and attitudinal characteristics to interpret the variation in responses to the valuation question across respondents. There are no universal rules on how each of these elements of a CV questionnaire should be designed, since the appropriate formulation of each depends on the good or service being valued and its context and, consequently, will vary across applications.

CV surveys generally measure total value of a good or service, which includes both use values and nonuse values. However, nonuse values, unlike use values, are not linked to observable behavior and, thus, are more difficult to validate externally than use values. Therefore, criticisms of CV pertain primarily to its use in valuing the nonuse component of total value and the difficulty of external validation of that component of total value. Among the most commonly cited criticisms of CV studies of nonuse values are: The stated intentions of WTP in CV surveys may exceed "true" WTP; CV may produce results that appear inconsistent with the tenets of rational choice; respondents to CV surveys on nonuse may be unfamiliar with the good or service being valued and therefore may not have an adequate basis for articulating their true value; CV respondents may be expressing a value for the satisfaction (warm glow) of giving rather than the value of the good or service in question; and respondents may fail to take CV questions seriously because the financial implications of their responses are not binding. Most proponents of CV acknowledge that poorly designed and administered CV studies can produce results that reflect the potential problems identified above. However, proponents also assert that these problems are not inherent to the method and that well-designed and well-executed CV studies can eliminate them or render them inconsequential. Proponents further assert that survey design, development, and administration standards will improve quality control for CV surveys.

The Department received many, often conflicting, comments on the use of CV to calculate nonuse values. As the Department noted in the July 22, 1993, **Federal Register** notice, NOAA convened a panel of economic and survey experts (the NOAA panel), pursuant to its rulemaking authority under OPA, to evaluate the reliability of CV to measure nonuse values. The NOAA panel issued a report in January, 1993. 58 FR 4601 (Jan. 15, 1993).

Based upon consideration of all comments received and the NOAA panel report, the Department is proposing to revise the type B rule to include standards for the use of CV to estimate lost nonuse values. The Department believes that standards to improve the reliability of CV surveys of lost nonuse values are needed in the Department's type B rule, because assessments performed in accordance with the rule will be given a rebuttable presumption in litigation over the specific amount of money a particular party must pay as compensation for liability. However, this same level of precision for CV surveys may not necessarily be required for other applications of CV, such as use of CV in regulatory cost-benefit analyses.

On January 7, 1994, NOAA published a proposed natural resource damage assessment rule under OPA. 59 FR 1062. Section 990.78(b)(5) of NOAA's proposed rule includes standards for the use of CV. 59 FR 1182–83; see also 59 FR 1142–48. In the interest of consistency and after consultation with other Federal agencies, the Department is soliciting comment on whether the Department's type B rule should be revised to include standards for the use of CV substantially similar to those proposed by NOAA. Upon consideration of the comments received in response to this notice, the Department intends to issue a final rule.

NOAA's proposed standards for use of CV cover five areas: (1) Survey instrument design and development; (2) survey administration; (3) the nature of the results; (4) calibration; and (5) reporting. NOAA's proposed standards are intended to provide flexibility to trustee officials so that they can take advantage of new developments that may occur in CV methodology. Further, any standards included in the Department's type B rule may be subject to amendment during the statutorily required biennial review of the regulations to reflect the results of new research.

A. Survey Instrument Design and Development

The reliability of a CV study begins with the design and development of the survey instrument. NOAA has proposed several survey instrument design and development standards. The Department solicits comment on whether the same standards should be included in the Department's type B rule. NOAA's proposed rule language, which the Department is considering for its type B rule, is as follows:

> Survey instrument design and development—(A) Willingness to pay for Prevention or Restoration. (1) The survey instrument shall elicit from respondents their willingness-to-pay (WTP) either to prevent described injuries to natural resources or to restore injured resources as described to their baseline or comparable condition.
>
> (2) The trustee(s) shall document the rationale for selecting a prevention program or restoration program as the commodity to be valued.
>
> (B) Commodity definition. (1) During development of the survey, the trustee(s) shall determine whether respondents understood and found credible the description of the injuries (including whether they are permanent or interim losses) and the program (including the timing of the process) for preventing injuries or restoring the natural resources.
>
> (2) Prior to the value elicitation, the trustee(s) shall identify the natural resource context of the injured resources, if related resources exist, including commodities that might serve as substitutes.
>
> (C) Budget constraints. Prior to the value elicitation, respondents shall be reminded of their budget constraints and their alternative expenditures. Respondents shall be reminded that their WTP for the environmental program in question would reduce their expenditures on other goods. This reminder should be more than perfunctory, but less than overwhelming. The goal is to induce respondents to keep in mind other likely expenditures, including those on other environmental goods, when evaluating the main scenario. After the value elicitation, respondents shall be reminded again of their alternative expenditure possibilities. Respondents shall be given an opportunity to reconsider and change their votes (bid) after this second reminder of alternative expenditure possibilities.
>
> (D) Comparability with real transactions. (1) The survey instrument shall use a credible choice mechanism and payment vehicle.
>
> (2) The trustee(s) shall select a choice mechanism that is incentive compatible and shall document the rationale for the selected choice mechanism.
>
> (3) The trustee(s) shall ask follow-up questions to determine whether the respondents accepted the choice mechanism and payment vehicle as credible.
>
> (4) (Note: Calibration requirement discussed in Section III.D of this notice)* * *
>
> (E) Pretesting. (1) Survey development shall include adequate field testing to ensure that the above design criteria are met. 59 FR 1182–83.

One important aspect of survey instrument design and development is the selection of a choice mechanism.

Past CV studies have used different methods to elicit values, including open-ended WTP questions; bidding cards; and voting formats typically termed "referenda." The Department believes that selection of a choice mechanism should be left to the discretion of trustee officials, as provided in NOAA's proposed rule. Nonetheless, the Department believes that the current state of the art shows many advantages for using a voting format as the choice mechanism for CV surveys in natural resource damage assessments. Therefore, if trustee officials select a choice mechanism other than a voting format, they should document the factors that led them to reject a voting format. Nevertheless, the Department solicits comments regarding the incentive compatibility of alternative choice mechanisms and whether the final regulation or its preamble should state a preference for the voting format. The Department also solicits comments regarding the administrative and analytical costs associated with alternative choice mechanisms.

The Department believes that the method of elicitation should be one with which people are familiar and one which provides a realistic context in which respondents can choose to increase levels of public goods. Local jurisdictions and State governments often ask voters to increase taxes on themselves so that public goods may be increased (e.g., school bond issues; special assessments for public infrastructure). Second, in our society, most goods are offered using posted prices. Asking an individual to reveal his or her maximum WTP for a good is both unfamiliar and unrealistic. Third, it is important that respondents believe that they will receive the program offered in the CV survey. To CV respondents, the cost of the program naturally determines the price they must pay. If no set price is offered, the respondents may perceive uncertainty regarding the program's costs and, therefore, uncertainty regarding the provision of the program. Finally, the voting format is incentive compatible. Respondents must reveal their preference and vote for the program if they desire the program at the stated price. Voting against or refusing to vote will only lower the probability of obtaining the program.

B. Survey Administration

The most carefully designed CV survey can produce unreliable results if the survey administration is faulty. NOAA has proposed several standards for survey administration. The Department solicits comment on whether the same standards should be included in the Department's type B rule. NOAA's proposed rule language, which the Department is considering for its type B rule, is as follows:

> Survey administration—(A) Sampling procedures. (1) The trustee(s) shall determine the relevant population(s) to be sampled and document the rationale for that determination.
>
> (2) The trustee(s) shall draw a probability sample(s) from the target population for the administration of the final survey. Less rigorous sampling is suitable for pretesting and pilot surveys so long as the heterogeneity of the target population is considered.
>
> (3) The sample size(s) shall be sufficient to draw statistically significant population inferences and to estimate WTP valuation functions or to test relevant statistical hypotheses.
>
> (4) The trustee(s) shall minimize nonresponse bias to the extent practicable by striving for as high a response rate in the final survey as possible, consistent with the requirements of reasonable cost. In no case shall the response rate be less than seventy percent.
>
> (5) The trustee(s) shall document the rationale for the selected response rate.
>
> (B) Mode of administration. (1) The trustee(s) shall document the rationale for the selected mode of survey administration.
>
> (2) If interviewers are used, the survey administration shall be conducted by trained interviewers who are supervised by experienced interviewer field managers.
>
> (3) Regardless of the mode of administration, the trustee(s) shall use an experienced survey research organization to administer the survey.
>
> (C) Confidentiality. The trustee(s) should ensure respondent confidentiality. 59 FR 1183.

One important aspect of survey administration is the determination of an appropriate response rate. The Department believes that trustee officials should obtain as high a response rate as possible, consistent with the requirements of reasonable cost, in order to ensure reliable inferences to the general population. Low response rates pose a risk of compromising the statistical validity of the survey when nonrespondents have systematically different values than respondents. Another risk associated with low response rates is that estimates of response variance may be significantly affected such that the indicated confidence of survey results is questioned. Since the likelihood of these risks cannot be determined unless nonrespondents have been surveyed, trustee officials should minimize nonresponse in the final survey to the extent practicable. For example, trustee officials could design the survey instrument so that individuals must decide whether to respond before the exact nature of the environmental insult is revealed.

NOAA has proposed that response rates shall not fall below 70 percent. The Department solicits comments on whether there should be a specified minimum response rate and, if so, whether 70 percent is a reasonable floor. Further, the Department solicits comments regarding the administrative costs associated with alternative response rates.

Another important aspect of survey administration is selection of the mode of administration. The three generally used CV survey administration modes are in-person, mail, and telephone. There are advantages and disadvantages of each method, and often the selection of the appropriate method is dependent on a number of factors such as cost, turn-around time, desired response rate, type of information to be conveyed, use of visual aids, required population coverage, and the ultimate use of the survey results. For example, telephone surveys can approximate simple random sampling of households through random digit dialing; can produce fast results; are relatively easy to administer; and are less expensive than in-person interviews. On the other hand, visual aids cannot be used; interviews need to be relatively short; interviewer bias may be involved; and individuals without telephones are necessarily omitted from the sample. Self-administered mail surveys are the least costly of the three methods. However, probability sampling is difficult; respondents can review the survey before deciding to participate (imparting self-selection bias); there can be no random selection within the household and no control of question sequencing; and a higher number of incomplete responses are likely to result because there is no interviewer to motivate the respondent. Finally, in-person interviews permit random selection of the respondent within the household; maintain control of question ordering; allow the use of visual materials; and generate high response rates. In-person interviews, though, are the most costly method to administer; require complex field operations; involve the use of many documents and forms (e.g., calling cards, interviewer evaluation forms, verification forms); and may involve interviewer bias. For a more in-depth discussion of each method, see EPA, "Survey Management Handbook," vol. II, pp. 24–35, 230/12–84–002, December, 1984.

The Department believes that selection of a mode of administration should be left to the discretion of trustee officials, as provided in NOAA's

proposed rule. Nonetheless, the Department believes that in-person interviews provide certain advantages in the natural resource damage assessment context. Therefore, if trustee officials select a mode of administration other than in-person interviews, they should document the factors that led them to reject in-person interviews. The Department solicits comments on whether the final regulation or its preamble should state a preference for in-person interviews.

While recognizing that mail surveys can provide invaluable information for many academic studies and regulatory purposes (e.g., the U.S. decennial census), the Department believes that mail surveys at this time lack certain features that are desirable for use in the natural resource damage assessment context. Telephone surveys also have limitations. A CV survey designed for natural resource damage assessment purposes is likely to impart a large amount of information to respondents causing interviews to be lengthy and often complex. In-person interviews offer the opportunity to motivate the respondents and to hold their interest by providing important information in a graphic and pictorial format and asking interactive questions regarding the respondents' understanding and acceptance of key features of the survey instrument. In-person interviews also permit interviewers to record verbatim responses to important open-ended questions. Such information may be critical in demonstrating that a trustee official has adhered to regulatory standards for the design and administration of the CV study.

The Department also believes that trustee officials should consider the use of modes of administration other than in-person interviews during the survey instrument development stage. For example, a telephone survey may be an appropriate and cost-effective method to test a design feature such as question ordering or the understanding of technical terms. Further, the Department is interested in comparative empirical testing of other administration modes, such as random digit dialing for initial contacts, followed by mailed descriptive information and visual materials, culminating with a telephone survey. If such testing demonstrates that other modes can produce the type of information and results comparable to in-person interviews, the Department would consider encouraging trustee officials to use those methods for the final survey.

Regardless of the mode of administration, the Department believes that all surveys should be administered by a survey research organization, as provided in NOAA's proposed rule. The Department believes that use of a survey research organization is necessary because the preparation and administration of a general population survey require practical survey expertise and substantial logistical support. The Department also believes that trustee officials should select a survey research organization that has implemented procedures to meet the standards outlined in either the Council of American Survey Research Organizations' Code of Standards for Survey Research or the American Association for Public Opinion Research's Code of Professional Ethics and Practices. Use of such an organization would help to maintain reliability and confidentiality. Further, such organizations are likely to have proven track records and the staff necessary to conduct a survey in accordance with any regulatory standards. Nevertheless, the Department solicits comments regarding the requirement that surveys be administered by an experienced survey research organization. Further, comments regarding alternative codes of standards for survey administration are solicited.

C. Nature of Results

A commonly expressed concern about CV is that it can produce results that are not sensitive to all relevant characteristics of the described natural resource injuries and methods of preventing or restoring the injured resources. NOAA has proposed a test to address this concern. The Department solicits comment on whether the same test should be included in the Department's type B rule. NOAA's proposed rule language, which the Department is considering for its type B rule, is as follows:

> Nature of results. (A) Scope test. Controlling for attitudinal, demographic, perceptual, and other differences across respondents, the trustee(s) shall demonstrate statistically that the aggregate WTP across all respondents for the prevention or restoration program increases (decreases) as the scope of the environmental insult is expanded (contracted). The scope of the environmental insult is characterized by the severity of the natural resource injuries and the level of effectiveness and timing of the restoration or prevention program. The demonstration shall be conducted through the use of split samples.
>
> (B) Number of scenarios. The trustee(s) shall administer to split samples different survey instruments containing three variations of the scope of the environmental insult that respondents perceive as different unless the trustee(s) can provide a reasonable showing that the three-scenario test is infeasible due to considerations of cost or lack of plausibility of scenarios. Where three scenarios are feasible, the statistical test shall involve pairwise comparisons. In either case, the scenarios may vary along any of the margins of intensity, geography, and duration of damage and, for prevention scenarios, the probability of an event occurring. The trustee(s) shall document the rationale for the selected variations of the scope of the environmental insult. In determining the descriptions to be used with the split samples, the trustee(s) shall use realistic injury scenarios and prevention or restoration programs that the respondents accept as credible.
>
> (C) Maximum amount of difference between scenarios. The trustee(s) shall develop scenarios for the total value test. Prior to the performance of the test, the trustee(s) shall demonstrate that not more than ninety-five percent of respondents in a pre-test or in focus groups indicate that there are meaningful value differences between the scenarios to be tested in any pairwise comparison. The demonstration shall be based on a minimum of sixty valid responses. The trustee(s) shall exclude from this demonstration any individuals who indicate in screening questions that they are not willing to pay anything for any size environmental cleanup or who would be willing to pay unrealistically large and invariant amounts for any size environmental cleanup. 59 FR 1183.

If this test were included in the Department's type B rule, one important aspect would be the determination of the relevant dimensions of the scope of the environmental insult. The scope of an environmental insult such as a discharge of oil or release of a hazardous substance is multi-dimensional, where the dimensions are influenced by biological and social attributes. A discharge or release can affect all or part of an ecosystem. Its effects can be short- or long-lived, lethal or sublethal, geographically contained or widely dispersed. From the human perspective, the effects of a discharge or release may be directly visible and disturbing, or out of sight and perceived only indirectly once there is knowledge about the loss of natural resources.

In the first phase of NOAA's proposed test, the relevant dimensions of the scope of the discharge or release under investigation would need to be identified. Once the trustee official had defined the relevant dimensions of scope, the trustee official would employ a split sampling technique where some respondents were provided with an alternative survey instrument. The trustee official would begin the analysis with the primary survey instrument that would be used to estimate the values lost due to the discharge or release in question. This instrument would be designated the base instrument. Trustee

officials would pre-test and perform pilot tests on the instrument to ensure that the instrument met any design and development standards. Analyses performed using incompletely developed or tested preliminary instruments would not be considered evaluations of scope sensitivity because in these situations it would not be possible to distinguish the effects of variations in survey instrument design from the effects of changes in the scope of the injury or proposed prevention or restoration program.

In designing a CV survey instrument, trustee officials would determine the dimensions of scope that were relevant to the discharge or release under investigation and decide whether there existed a subset of dimensions that were important to the values being measured or whether all of the dimensions were linked and therefore equally important. In cases where a subset were deemed important, trustee officials would choose whether to scale these dimensions up or down in relation to the levels described in the base instrument and by how much to scale the dimensions. If all relevant dimensions were to be scaled, trustee officials would still decide in which direction and magnitude to scale each dimension.

After the trustee officials had decided on the dimensions to be scaled, in what direction and by how much, they would produce second and third instruments that differed from the base instrument only with respect to the scope dimensions. Trustee officials could choose to scale dimensions regarding the injury description, dimensions concerning the prevention or restoration programs offered to respondents, or both. Regardless, trustee officials must take care to ensure that the expected ordinal change in WTP remains unambiguous when simultaneously scaling different dimensions.

The scope test would be designed to determine ordinal changes in the aggregate WTP estimates. The Department is considering a hierarchy of preferred scope tests. The first priority in this hierarchy would be to demonstrate the transitivity of aggregate WTP estimates with respect to the scope of the environmental insult. The second priority would be to demonstrate the sensitivity of aggregate WTP estimates to both an expansion and a contraction of the environmental insult.

The most preferred test would involve two alternative instruments: One reflecting an expansion of the environmental insult from that described by the base instrument and the other reflecting a contraction of the environmental insult from that described by the base instrument. Joint pairwise comparisons would determine whether the three aggregate WTP estimates were transitive (i.e., A<B and B<C, where B is the aggregate WTP estimate of the base instrument).

The Department recognizes that such a test may not be feasible all cases. It may not be feasible in some cases to design credible alternative instruments reflecting either an expansion or a contraction of the environmental insult. For those cases, the second most preferred test would involve two alternative instruments: Both reflecting either an expansion or a contraction of the environmental insult from that described by the base instrument. Regardless, joint pairwise comparisons would determine whether the three aggregate WTP estimates were transitive (e.g., A<C and C<B, where B is the aggregate WTP estimate of the base instrument).

Alternatively, it may not be feasible in some cases to determine whether the three aggregate WTP estimates were transitive if different dimensions were scaled in the two alternative instruments. For those cases, the third most preferred test would involve separate pairwise comparisons to determine ordinal changes in the aggregate WTP estimates (e.g., A<B and C<B, where B is the aggregate WTP estimate of the base instrument).

Finally, it may not be feasible in some cases to design two credible alternative instruments. For those cases, the test would involve one alternative instrument reflecting either an expansion or a contraction of the environmental insult from that described by the base instrument. This would be the least preferred test. In all cases, trustee officials would be required to document the rationale for the selected scope test. The Department solicits comments on the need for and desirability of such a hierarchy of preferred scope tests.

After the scaled instruments were pretested, all three instruments would be employed in a split sample design. Since inferences to the relevant population would not be part of a scope analysis, true probability sampling would not be required and convenience samples could be employed so long as random assignment of the different treatments were maintained. Trustee officials would endeavor to employ large samples in these analyses since changes in scope could be small and large samples may be needed to attain significant differences in WTP. Trustee officials would be free to demonstrate sensitivity to scope using statistical techniques of their choosing.

The validity of the scope test could depend on the respondents' perception of differences in the scope dimensions across the three treatments. Trustee officials would include questions that could be used to determine whether respondents understood and found credible the description of the injuries.

The three-scenario approach would not be required when trustee officials provided a reasonable showing that it was infeasible due to considerations of cost or lack of plausibility of the scenarios. In such circumstances, trustee officials could perform the analysis using only the original scenario and one alternative scenario. However, as CV surveys are routinized and their costs fall, trustee officials may find that the three-scenario analysis is feasible in most cases.

Concern has been expressed that differences between the scenarios not be so large that passing the scope test would be a foregone conclusion, nor so small that it would be very difficult to demonstrate statistical differences without extremely large (and costly) split samples. The issue is complicated by the possibility, based on the State of Alaska-sponsored study of the Exxon Valdez spill, that a significant minority of the population may be insensitive to any reasonable differences in scenarios: Some individuals may not be willing to pay anything for any environmental cleanup, others may be willing to pay unrealistically high (and invariant) amounts for any size environmental cleanup. In response to this concern, NOAA has proposed that trustee officials should develop procedures for identifying and eliminating these responses, so that the demonstration that the scenarios are meaningfully different would rest on the remaining participants. To accept the scenarios for the scope test, no more than 95 percent of the remaining participants could indicate that the differences between the scenarios were real and meaningful, i.e. that the values of the respective commodities differed. The Department is seeking comment on ways to design such a procedure to demonstrate differences in scenarios, and on alternative schemes to achieve a comparable goal. For example, should "insensitive" individuals be excluded from the survey and, if so, how should such individuals be identified? How should the threshold defining "meaningful differences" be characterized? Should the threshold criterion for determining "meaningful difference" be adjusted, since individuals impose internal consistency

on their answers in the face of direct comparisons (recognizing much finer differences than in split samples)? Once a procedure has been developed to determine if individuals are sensitive to the scope of the environmental insult, should this information be incorporated into the selection of the sample for the scope test?

While NOAA's proposed rule would require a split sample with multiple scenarios for demonstrating the scope test, the Department seeks comment on the option of alternatively using an indirect test to explain variation in WTP as a function of a set of explanatory variables, including belief in the size of the damage scenario, and/or effectiveness of the prevention or restoration program. Commenters should consider under what circumstances such an indirect test should be allowed for performing the scope test. An indirect approach examines the sensitivity to scope indirectly through the use of a WTP valuation function, relying entirely on the base instrument. In the context of a single dichotomous choice referendum (or a double-bounded formulation), a WTP valuation function may relate the probability of a yes vote to a list of variables assumed to underlie the voting decision (e.g., the amount the household is asked to pay, household demographics, etc.). The indirect approach may expand this list to include variables based on information collected from respondents that are related to the scope dimensions of the discharge or release. These measures must be meaningful to the respondent given the information provided in the survey. For example, a useful question following the WTP elicitation question is one that asks whether the respondent believed the injuries caused by the discharge or release to be more or less severe than described. All other things being equal (i.e. similar preferences, budget constraints, etc.), respondents believing the injuries to be worse than described, and having equal confidence in the prospects for restoring the injured resources through the offered plan, might be willing to pay more. Such a finding would be an indirect verification of scope sensitivity.

D. Calibration

NOAA has proposed a requirement that trustee officials calibrate WTP values derived from CV studies to "actual" WTP. The Department is aware of a number of studies examining the relationship between "hypothetical" WTP and "actual" WTP. In this work, an effort is made to calibrate hypothetical WTP values derived from CV studies to actual WTP. The results of this work are not definitive and are based on CV studies of a lower quality survey design than would be required under NOAA's proposed rule. However, because of uncertainty associated with CV estimates, the Department is soliciting comment on whether the calibration requirement in NOAA's proposed rule should be included in the Department's type B rule. NOAA's proposed rule language requiring calibration is as follows:

> The survey instrument or analysis method shall provide a factor for calibrating hypothetical WTP to actual WTP. The trustee(s) shall document the rationale for the selected calibration factor. If the survey instrument or analysis method fails to provide such a factor or the trustee(s) fails to document the rationale for the selected factor, actual WTP shall be presumed to be one-half of stated WTP. 59 FR 1183.

As NOAA's preamble recognizes, the proposed default factor was included for the purpose of soliciting comment. 59 FR 1146.

The Department seeks comment on a number of questions regarding the calibration of CV results. Is a calibration requirement necessary in light of the other proposed standards for survey instrument design and development, survey administration, and nature of results? Is a calibration requirement warranted given that, but for the difficulties in elicitation, willingness to accept (WTA) would be a more appropriate measure of damages than WTP? The economics literature concludes that, for changes in the provision of a public good, the difference between WTA and WTP depends on the availability of substitute goods. The fewer substitutes available, the greater the difference between WTA and WTP. See W.M. Hanemann, "Willingness to Pay and Willingness to Accept: How Much Can They Differ?" American Economic Review, vol. 81, pp. 635–647 (1991). This result suggests that WTP may significantly understate WTA, the more appropriate measure of damages for natural resource injuries. The Department also seeks comment on: The rationale for calibration or the justification for assuming that hypothetical WTP equals actual WTP; the appropriate default, if any, for a calibration factor; whether a calibration requirement should be included in a technical information document rather than in the rule; and whether inclusion of a calibration requirement is consistent with the *Ohio* v. *Interior* decision upholding the inclusion of all reliably calculated values in a damage assessment.

Finally, the Department solicits comments regarding whether marketing research which attempts to establish relationships between stated intentions to purchase and actual purchase behavior for private goods is relevant to the calibration of CV results for natural resource damage assessments. If commenters believe that research to be relevant, additional comments are solicited regarding the appropriate actual behavior with which similar relationships could be established the hypothetical behavior elicited by CV studies. Commenters should explicitly state the behavioral links between the suggested actual behavior and the hypothetical behavior elicited by CV studies.

The Department wishes to emphasize to those who support the use of a default calibration factor that they should supply specific information to support whatever factor they believe the Department should adopt. The adoption of a definite calibration factor would have to be supported by information in the administrative record.

E. Reporting

NOAA has proposed a standard for reporting the results of CV surveys. The Department solicits comment on whether the same standard should be included in the Department's type B rule. NOAA's proposed rule language, which the Department is considering for its type B rule, is as follows:

> Reporting. The trustee(s) shall ensure that reports of contingent valuation studies discuss the relevant factors identified in the standards pertaining to survey instrument design and development, survey administration, and nature of results in this section. A copy of the survey instrument shall be included. 59 FR 1183.

F. Additional Requests for Comment

1. Prior Knowledge

The objective of conducting a CV study in a natural resource damage assessment is to determine the damages suffered by the public as a result of a discharge of oil or a release of a hazardous substance into the environment. For consideration of lost nonuse values, the relevant public may include the entire U.S. population, or may include a regional subset of the population. Damages may be sustained by each individual in the relevant public, but only a small fraction of the public will actually participate in the survey. The damages an individual suffers from a discharge or release depend on many factors. These include the effects of the discharge or release on natural resources, how much the individual uses the services provided by

the injured resources, individual preferences, and the individual's information about the release or discharge and the world in general.

In conducting the survey, it is necessary to educate the respondent about the natural resource itself, the facts surrounding a discharge or release, and the impacts of the discharge or release on the resource. This education process greatly changes the respondent's information set. Upon gaining this new information, respondents are then asked to place a value on the losses suffered. There is general agreement that the losses an individual experiences from a discharge or release after learning the new information are likely to be systematically different than the losses they would experience prior to learning the new information.

Some commenters have argued that the fact that the CV method itself actively changes the information set of an individual prior to valuing the good or service makes it fundamentally different from other economic valuation methodologies. These commenters have questioned whether it is appropriate to extrapolate value estimates based on post-survey information to the general population. Given the assessment's objective of estimating damages owed to the public at large, and the small fraction of the public that actually participates in the survey, some have argued that the relevant information set for the purposes of extrapolating to the general population is the pre-survey information set. One way to move towards value estimates that reflect the information set of the general public is to obtain information in the survey itself regarding the respondents' pre-existing knowledge about the resource and injury to it. Regardless of the value a respondent states after learning information from the survey, those respondents who were not aware of the resource or an injury to it or both would be assigned a value of zero. The rationale for assigning a zero value is that if X percent of the survey respondents did not know about the resource or injury, then X percent of the relevant public is likely to be similarly uninformed. (Implicit is the assumption that individuals who are unaware of the injury at the time of the survey would continue unaware, but for the survey, for the foreseeable future.)

Other commenters have articulated the point of view that the level of respondents' prior information about the injury is irrelevant to the determination of natural resource damages. According to these commenters, an education process increases the reliability of CV by exposing respondents to a uniform set of information regarding the characteristics of the commodity, availability of substitutes, and prices. Consumers undertake a similar education process in private markets to form their demands for other commodities. In this sense, the education process is necessary so that CV is not fundamentally different from other valuation methodologies. Further, these commenters have stated that the fact that an individual is not informed of a specific injury does not mean that he or she suffers no loss as a result of the injury. Natural resources are held in trust for the public. Therefore, WTA rather than WTP would be the most appropriate measure of lost values of injured resources, were it not for the technical difficulties involved in eliciting WTA. Each member of the public has an interest in the injured natural resources being valued regardless of whether he or she is aware of the particular resources and injuries. Therefore, these commenters believe it would be inappropriate to require that CV respondents' values only be counted if they were aware of the injured resources before the survey.

The Department seeks comments on whether it is appropriate to use information regarding pre-existing knowledge of respondents to reassign to zero any positive values expressed by individuals who were unaware of the injuries prior to the survey in the calculation of damages. Commenters who believe it is appropriate to assign zero damages to individuals with limited prior knowledge should articulate the rationale for doing so. Commenters who believe that it is inappropriate to assign zero damages to individuals with limited prior knowledge should articulate their rationale for using the post-survey information set to extrapolate damages to a public that only has pre-survey information.

2. Screening or Threshold Factor

Because of concern by many commenters that CV surveys may be undertaken in damage cases where expected damages may be too small to justify the costs of the CV survey, the Department is seeking comment on the concept of a screening factor that trustee officials should apply in deciding whether to conduct a CV survey of nonuse values in a particular case. Factors currently limiting the use of CV include the high costs of surveys to meet NOAA's proposed standards, trustee budget and staff limitations, and trustee desire for speedy judgment to enable expeditious restoration activities. To employ an additional screening factor, expected damages might be estimated using a small sample with protocols designed to minimize survey costs and, therefore, not necessarily subject to the standards contained in NOAA's proposed rule. Alternatively, expected damages might be estimated by scaling damages estimated in other CV studies. Other methods may be possible. Several possible thresholds have been suggested. These possibilities include setting the threshold for a particular case at the greater of twice the expected cost of a full CV survey or the product of multiplying $5 per household by the number of households expected to hold nonuse values for the resource of concern. The Department is specifically seeking comment on: Whether such a screening factor would be appropriate; what form a factor might take; whether the factor should apply to total damages or only to lost nonuse values; and whether inclusion of a screening factor is consistent with the *Ohio* v. *Interior* decision upholding the inclusion of all reliably calculated values in a damage assessment.

IV. Technical Information Document

The Department intends to work with NOAA and other interested agencies to develop a guidance document on use of CV. This document will provide additional technical information on possible means of satisfying any standards contained in the damage assessment regulations as well as other issues involved in conducting CV studies. Once a draft of the document has been prepared, the Department will publish a notice in the **Federal Register** announcing its availability and soliciting comment.

The Department requests comments on additional tests for determining the reliability of CV estimates for possible inclusion in the technical information document. In order to evaluate any additional tests, the Department requests that commenters provide a complete list of the behavioral assumptions underlying their theoretical framework of rational choice. The Department assumes that commenters will begin with what economists consider to be the generally accepted axioms of neoclassical consumer choice theory or revealed preference theory. The Department requests that commenters clearly state all further assumptions underlying the test and describe the sensitivity of the test's results to the assumptions presented. Second, if commenters are proposing tests that rely on marginal or infra-marginal changes in the scope of the injuries, the commenters should describe how the variation of scope

dimensions involved in the test would be quantified. Third, and perhaps most important, the Department asks that commenters explain how any proposed test can be accomplished feasibly within the survey instrument design and development and survey administration standards specified in NOAA's proposed rule. Tests causing CV surveys to violate these standards are themselves unreliable tests. Fourth, the commenter should give examples of how these tests would be structured in the context of a hazardous substance release.

Finally, commenters have expressed concern about the valuation of past nonuse losses. The Department believes that when little time has elapsed since the occurrence of a nonuse loss, trustee officials might conclude that CV respondents' WTP is not likely to have changed significantly. On the other hand, in cases where a great deal of time has elapsed since the occurrence of the nonuse loss, determination of WTP becomes more problematic. Therefore, the Department is soliciting comment on methods for estimating nonuse values lost over a significant amount of time for possible inclusion in the technical information document.

V. Response to Comments

The Department received numerous comments on the July 22, 1993, **Federal Register** notice. The Department appreciates the time and effort expended by the commenters. This notice discusses only those comments concerning the assessment of lost nonuse values or the use of CV. All other comments submitted on the July 22, 1993, **Federal Register** nqtice are addressed in the notice of final rulemaking to revise the Department's type B rule, which was published on March 25, 1994. 59 FR 14261.

Comment: The comments on the assessment of lost nonuse values were widely divergent but generally fell into two primary schools of thought. One set of commenters thought that trustee officials should have the discretion to decide on a case-by-case basis when lost nonuse values should be included in a damage assessment. These commenters stated that assessment of lost nonuse values is necessary to ensure that the public is made whole for natural resource injuries. One commenter noted that inclusion of lost nonuse values in damage assessments is particularly crucial in the case of injuries to tribal resources because of the special spiritual and cultural significance that natural resources hold for Indian tribes. Some commenters stated that if the Department does not include provisions for assessing lost nonuse values in the regulations, then the Department would send inappropriate economic signals to PRPs and could cause risky activities to be directed toward pristine environments where use values are very low.

Further, this set of commenters thought that CV is a reliable methodology for calculating lost nonuse values. Some of these commenters stated that studies purporting to demonstrate that CV produces unreliable results have failed to distinguish between well and poorly designed CV surveys. A few of these commenters took issue with the Department's discussion in the July 22, 1993, **Federal Register** notice of the potential for bias in CV studies. Some commenters stated that the Department had failed to recognize that the real bias lies in using methodologies that consistently undervalue public losses by computing compensable value based solely on lost use values. Other commenters questioned the Department's statement in the July 22, 1993, **Federal Register** notice that although all valuation methodologies have potential reliability problems, CV, when used to estimate lost nonuse values, poses more significant problems because the per-person bias is multiplied by a larger population. These commenters thought that the Department's line of reasoning, if taken to its logical extreme, would dictate the nonsensical result that only small values should be measured. A number of commenters made reference to the report issued by the NOAA panel. According to these commenters, the NOAA panel report concluded that CV can produce reliable estimates of lost nonuse values.

The other set of commenters thought that the rule should not include any provisions for the assessment of lost nonuse values. These commenters stated that assessment of lost nonuse values is not necessary to compensate the public because trustee officials already have the discretion to assess lost use values in addition to the cost of restoring, rehabilitating, replacing, and/or acquiring the equivalent of the injured resources. These commenters stated that assessment of lost nonuse values was inconsistent with general legal principles designed to prevent speculative damages. For example, the commenters noted that courts only allow certain categories of individuals to recover damages for pain and suffering in tort cases. Other commenters stated that allowing assessment of lost nonuse values would be punitive because it amounts to charging PRPs for hurting the public's feelings. Some commenters expressed concern that allowing assessment of nonuse values could drive companies out of business and cause an increase in consumer prices. A few commenters expressed skepticism that nonuse values were actually economic values.

This set of commenters also thought that CV cannot reliably calculate nonuse values. These commenters stated that the results of CV studies are inconsistent with rational decisionmaking. For example, a number of commenters cited CV surveys in which stated WTP did not respond to increases in the commodity being valued. Some commenters stated that the results of CV surveys are overly sensitive to the wording and administration of the survey instrument. Several commenters thought that CV results seem unrealistically high compared to actual contributions to environmental causes. Some commenters stated that such disparities result because CV respondents do not adequately consider their budget constraints when determining their WTP. A number of commenters thought that responses to CV surveys were likely to reflect feelings of vengeance toward PRPs or the warm glow of supporting a worthy cause rather than the respondents' actual WTP to prevent injury to the specific resources in question. Other commenters noted that CV studies require respondents to perform difficult valuation tasks with which they have little prior experience. A few commenters expressed particular concern about the public's ability to provide accurate values for injuries in industrial areas where contamination may exist that is unrelated to the release in question.

Some commenters provided citations to studies purporting to demonstrate the unreliability of CV. A number of commenters stated that even some CV practitioners have called CV experimental. Other commenters noted that the NOAA panel did not conclude that CV could produce estimates of lost nonuse values that were reliable enough to be granted a rebuttable presumption. Rather, according to these commenters, the NOAA panel stated that even if a CV study met a number of strict standards, it would only be reliable enough to serve as a starting point in litigation. Therefore, these commenters thought that even if the Department allowed CV to be used to estimate lost nonuse values, it should not grant the results of CV studies of lost nonuse values a rebuttable presumption. Finally, most of the commenters who thought that CV was unreliable when used to estimate

lost nonuse values also thought that this unreliability was the result of fundamental flaws that economists do not know how to correct at this time.

Response: Section 11.80(b) of the March 25, 1994, final rule provides that trustee officials have the discretion to include all or a portion of compensable value in their natural resource damage assessments. 59 FR 14283. *Ohio* v. *Interior* held that the Department's type B rule should allow for the recovery of all reliably calculated lost values of injured resources, including lost nonuse values. 880 F.2d at 464. Therefore, the focus of this notice is not whether lost nonuse values per se are an appropriate component of a natural resource damage assessment. This notice addresses whether lost nonuse values can be reliably calculated and, if so, under what conditions.

The Department acknowledges that a poorly designed or administered CV study, like any poorly designed or administered valuation study, can produce unreliable results. However, based on the evidence received to date, the Department does not believe that CV is a fundamentally flawed methodology. The Department believes that a properly designed and administered CV study can produce reliable estimates of lost nonuse values.

The Department also believes that the results of a CV study of lost nonuse values performed in accordance with whatever standards are ultimately included in the type B rule should receive a rebuttable presumption. CERCLA provides that the natural resource damage assessment regulations are to identify the best available procedures and that assessments performed in accordance with the regulations receive a rebuttable presumption. *Ohio* v. *Interior* further instructed the Department to consider a rule that would permit trustee officials to include all reliably calculated lost values in their damage assessments. The Department believes that a properly designed and administered CV study is a best available procedure and can produce reliable estimates of lost nonuse values.

Comment: There were numerous comments on possible guidance for the conduct of CV studies. A few commenters thought that guidance was unnecessary. Most commenters, though, thought that some guidance was advisable. A number of commenters, noting that NOAA is developing standards based on the NOAA panel report, suggested that the Department postpone development of guidance until NOAA evaluates the report and issues a proposed rule. Some commenters thought that the Department should incorporate NOAA's rulemaking record before deciding on guidance. Other commenters urged the Department to make any proposed guidance available for public review and comment before issuing a final rule.

Response: The Department believes that standards for the use of CV should be included in the type B rule to improve reliability. The Department does not think it is advisable to incorporate NOAA's rulemaking record because that record covers a wide range of issues beyond CV. However, the Department did consider the NOAA panel report. Also, numerous commenters on the Department's July 22, 1993, **Federal Register** notice submitted copies of comments they had provided to NOAA on its rulemaking. The Department agrees that commenters should have an adequate opportunity to review and comment on the standards being considered for the use of CV; therefore, the Department has issued this notice. The Department invites commenters on NOAA's proposed rule to submit comments to the Department on this proposed rule as well.

Comment: A number of commenters responded to the Department's request for suggestions on the content of possible guidance on the use of CV to estimate lost nonuse values. Several commenters suggested that the Department adopt some or all of the standards contained in the NOAA panel report. Some commenters thought that the Department should include both the standards in the NOAA panel report and additional standards. Other commenters offered their own standards. The suggested standards covered six major areas: restrictions on the type of resource for which lost nonuse values could be assessed; restrictions on the relevant population; protection against the influence of improper motives; standards for ensuring that respondents consider all relevant factors when estimating their WTP; standards for determining whether CV results are consistent with basic tenets of rationality; and methods of calibrating CV results.

Some commenters thought that assessment of lost nonuse values should be limited to cases where there have been long-lasting injuries to resources with few substitutes. These commenters stated that such a limitation was necessary to prevent speculative claims. These commenters also agreed with the Department's statement in the July 22, 1993, **Federal Register** notice that in cases where injuries are of short duration and where the injured resources have many substitutes, nonuse losses are likely to be minimal. Other commenters objected to such a limitation noting that there is no empirical evidence that there cannot be a loss of nonuse values in cases where injuries are of short duration or where there are many substitutes for the injured resources. These commenters also noted that such a restriction is unrelated to reliability. Some commenters stated that such a limitation might prevent assessment of lost nonuse values where individual animals had been killed but overall population levels were unaffected. These commenters stated that the public may well experience nonuse losses for the death of the individual animals since each individual animal is, in some sense, irreplaceable.

A number of commenters suggested that trustee officials be required to limit the relevant population to those persons with prior knowledge of the release or discharge and the affected resources. These commenters thought that if individuals did not have prior knowledge of the injury, then they could not have experienced a loss.

Several commenters suggested that the Department develop standards to protect against the influence of improper motives. These commenters expressed concern that respondents might provide answers based on the warm glow of supporting a worthy cause rather than their WTP for injury prevention or resource restoration. These commenters also thought that the Department should ensure that respondents are not motivated by vengeance against PRPs. In particular, some commenters suggested that trustee officials be required to demonstrate that the results of a CV study do not change if respondents are asked their WTP to prevent a naturally occurring injury rather than an injury resulting from human activity.

Other commenters thought that, given the novelty of the task they are asked to perform, CV respondents are unlikely to consider all relevant factors on their own. Therefore, these commenters suggested that respondents be reminded of their budget constraints and the availability of substitutes for the resources being valued.

Numerous commenters thought there should be standards for determining whether CV studies produce results consistent with the basic tenets of rationality. For example, several commenters thought that WTP should increase as the amount of the commodity being valued increases.

Several commenters thought that the Department should develop guidance on how to calibrate hypothetical WTP with

actual WTP. Some commenters suggested that trustee officials attempt to collect actual funds from CV respondents and use the results to calibrate stated WTP. Other commenters thought that the Department should develop a formula for calibrating WTP based on a ratio between lost use values and lost nonuse values.

Response: The Department has carefully reviewed the standards offered by the commenters and the standards included in the NOAA panel report. The Department does not believe that assessment of lost nonuse values should be restricted only to cases involving long-lasting injuries to resources with few substitutes. The Department believes that such a restriction would not address the reliability of CV and, therefore, would be inconsistent with *Ohio* versus *Interior.*

With regard to restricting the relevant population to persons with prior knowledge of the discharge or release and the affected resources, the Department has decided to solicit additional comment, as discussed above.

With respect to improper motive, the Department finds no evidence to suggest that warm glow and vengeance are necessarily prevalent in CV studies. The Department believes that when CV respondents are asked their WTP in a credible context they are adequately focused on the commodity of injury prevention or resource restoration rather than some other commodity such as the warm glow of giving or vengeance toward PRPs. NOAA's proposed rule includes a requirement that trustee officials use a choice mechanism that is credible and incentive compatible. Further, the Department believes that vengeance is not a prevalent motivation in a CV study in which respondents are asked how much they would be willing to pay rather than how much a PRP should be required to pay.

The Department agrees that CV respondents may not always consider every relevant factor on their own. NOAA's proposed rule would require that the survey instrument place the commodity to be valued in the context of related natural resources. NOAA's proposed rule would also require respondents to be reminded of their budget constraints prior to being asked their WTP.

The Department also agrees that questions of unreliability arise when studies produce results that are inconsistent with basic tenets of rationality. NOAA's proposed rule includes a standard to ensure that CV survey responses satisfy one important tenet of rationality, namely that WTP increases as the severity of the injuries or the level of effectiveness and timing of the restoration or prevention program increase.

With regard to calibrating hypothetical WTP to actual WTP, NOAA's proposed rule includes a calibration requirement.

Comment: Several commenters responded to the Department's request for comment on the proper placement of any guidance developed for the use of CV. Some commenters thought that any guidance developed by the Department should be placed in the preamble or in a guidance document. These commenters noted that CV is an evolving methodology and expressed concern that placing guidance in the rule could lock in standards that might soon be found to be ill-advised. Other commenters thought that detailed standards should be placed in the rule itself to minimize the risk of unreliable studies being given a rebuttable presumption. Some commenters thought that the establishment of clear standards in the rule was particularly important since there are no generally accepted standards among CV practitioners. These commenters noted that any standards placed in the rule could be updated during biennial reviews.

Response: The Department believes that poorly designed and administered CV studies can pose reliability problems. Therefore, the Department believes that standards for the use of CV should be included in the rule itself to improve the reliability of CV studies that receive a rebuttable presumption. However, the Department recognizes that CV is an evolving methodology. Therefore, the Department believes that only those standards that are unlikely to change over time should be included in the rule and that trustee officials should be given some flexibility in determining how to meet these standards.

Further, as discussed above, the Department intends to work with NOAA and other interested agencies to develop a technical information document on the use of CV. This document will provide additional technical information on possible means of satisfying any standards contained in the rule as well as other issues involved in conducting CV studies.

Comment: A few commenters responded to the Department's request for comments on how to ensure that CV studies are cost-effective and can be performed at a reasonable cost. Some commenters thought that the real issue was how to reduce the cost of performing a CV study, rather than how to ensure cost-effectiveness and reasonable cost. These commenters suggested that the Department fund reference CV studies.

Response: As discussed above, the Department intends to work with NOAA and other interested agencies to develop a technical information document on use of CV. This document should assist trustee officials in conducting reliable studies at a reasonable cost. The Department may consider the feasibility and utility of funding reference CV studies in the future. However, consideration of such studies is beyond the scope of this rulemaking, which is designed solely to comply with *Ohio* versus *Interior.*

Comment: Some commenters stated that trustee officials should provide PRPs with the opportunity to conduct an independent review of all data collected in a CV survey.

Response: The Department agrees that PRPs should have access to all assessment data collected by trustee officials, including any data collected in a CV study. Section 11.90 of the Department's existing type B rule provides that at the conclusion of an assessment, trustee officials must prepare a Report of Assessment that is presented to the PRP. The Report of Assessment includes all test results. NOAA's proposed rule provides that the report of a CV study must include a discussion of the relevant factors identified in the standards pertaining to survey instrument design and development, survey administration, and nature of results, as well as a copy of the survey instrument. If the same standards were added to the Department's type B rule, the report of the CV study would be included in the Report of Assessment. Also, under § 11.91(c) of the Department's existing type B rule, everything in the administrative record of the assessment, including all data collected in a CV survey, would be available for review during the judicial discovery process.

Comment: A few commenters noted that WTA, not WTP, is the correct theoretical measure of lost resource values. These commenters acknowledged that there are practical problems with using CV studies to calculate WTA. However, the commenters stated that the Department should allow trustee officials to use methods that translate WTP into WTA and provided copies of articles describing such methods.

Response: As was stated in the August 1, 1986, preamble to the original rule:

> The Department maintains that willingness to pay and willingness to accept are both theoretically valid criteria for estimating damages to nonmarketed natural resources.

In addition, the Department continues to maintain that willingness to accept may be the criterion most germane to natural resource damages, since the public has the property right to the injured natural resource. However, the Department also agrees with many of the comments that recognize that the application of the willingness-to-accept criterion can lead to more technical difficulties and uncertainties than the willingness-to-pay criterion. 51 FR 27721.

The Department believes it is inadvisable at this time to revise the rule to allow for use of methods to translate WTP into WTA.

Comment: A few commenters thought that if the Department allows assessment of lost nonuse values, it should not allow assessment of so-called intrinsic values that purport to represent the value of the resource in and of itself rather than the value of the resource to humans.

Response: Compensable value includes only those values lost by the public. Therefore, only human values should be considered in a CV study of lost nonuse values.

Comment: Some commenters stated that if the Department allows assessment of lost nonuse values, it should also require trustee officials to assess the benefits to society of the activity giving rise to the release or discharge and claim only the net loss.

Response: When Congress passed CERCLA and CWA it decided that parties responsible for hazardous substance releases or oil discharges should compensate the public for the resulting natural resource damages, notwithstanding the possible societal benefits of the activities giving rise to the release. CERCLA and CWA were designed to ensure full compensation for natural resource damages resulting from hazardous substance releases or oil discharges. Nothing in the statutes suggests that trustee officials are required to assess the benefits to society of the activity giving rise to the release or discharge and claim only the net loss. Further, many of these benefits are already accounted for in current market activity whereas the costs of the associated release or discharge are not.

Comment: A few commenters disagreed with the Department's statement that CV is the only method available for estimating lost nonuse values. These commenters thought that trustee officials should be allowed to estimate lost nonuse values through analysis of charitable donations, insurance premiums, and conservation expenditures.

Response: Section 11.83(c)(3) of the March 25, 1994, final rule allows trustee officials to use any valuation methodology, regardless of whether it is explicitly listed, provided it measures the public's WTP and satisfies the criteria set forth in § 11.83(a)(2). 59 FR 14286. The Department is currently unaware of any methodology available for the express purpose of estimating economically valued nonuse losses of specific injured resources, other than CV, that meets these specifications.

Comment: Some commenters thought that if assessment of lost nonuse values is allowed, the Department should restrict such assessment to present and future values.

Response: Where little time has elapsed since the occurrence of a nonuse loss, trustee officials might conclude that CV respondents' WTP is not likely to have changed significantly. On the other hand, in cases where a great deal of time has elapsed since the occurrence of the nonuse loss, determination of WTP becomes more problematic. Therefore, as discussed above, the Department is soliciting comment on methods for estimating nonuse values lost over a significant amount of time for possible inclusion in a technical information document.

Comment: A few commenters requested that the Department clarify that even if a CV study of lost nonuse values met any conditions set forth in the natural resource damage assessment regulations, it would still have to meet judicial standards for admissibility of evidence. Some commenters cited case law for the proposition that CV studies of lost nonuse values do not meet judicial standards for admissibility of evidence. *State of Idaho* v. *Southern Refrigerated Transport Inc.*, No. 88–1279, slip op. (D. Idaho Jan. 24, 1991) (*Idaho* v. *Southern Refrigerated Transport*).

Response: CERCLA and *Ohio* v. *Interior* mandate that the natural resource damage assessment regulations include the best available procedures for reliably calculating lost values of injured resources. Therefore, the Department believes that any CV study of lost nonuse values performed in accordance with these regulations should satisfy judicial standards for admissibility of evidence.

The Department is unaware of any case that has held CV studies per se to be inadmissible in court. *Idaho* v. *Southern Refrigerated Transport* addressed the use of a particular CV study in a case where the natural resource damage assessment regulations were not followed. The study had been conducted not for the purposes of the specific case but rather to guide a utility council in making operational changes in a hydropower system. Slip op. at 20. The court did not rule that the study was inadmissible. However, the court did find that the study was not sufficiently persuasive to sustain the claim for lost nonuse values, noting that the survey questions were aimed at doubling fish runs from 2.5 million to 5 million whereas only 1,688 fish had actually been lost due to the specific release in question. Id.

National Environmental Policy Act, Regulatory Flexibility Act, Paperwork Reduction Act, and Executive Orders 12866, 12630, 12778, and 12612

The Department has determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no further analysis pursuant to section 102(2)(C) of the National Environmental Policy Act (43 U.S.C. 4332(2)(C)) has been prepared.

The Department certifies that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule provides technical procedural guidance for the assessment of damages to natural resources. It does not directly impose any additional cost. As the rule applies to natural resource trustees, it is not expected to have an effect on a substantial number of small entities.

It has been determined that 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. 3501 *et seq.*).

This final rule has been reviewed under Executive Order 12866 and has been determined to constitute a significant regulatory action. However, because of the difficulty of evaluating the effects of alternatives to this rule, the Office of Information and Regulatory Affairs within the Office of Management and Budget has waived preparation of the assessments described in sections 6(a)(3)(B) and 6(a)(3)(C) of Executive Order 12866 for the final rule.

It has been determined that this rule does not have takings implications under Executive Order 12630. The Department has certified to the Office of Management and Budget that this rule meets the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order 12778. It has been determined that this rule does not have federalism implications under Executive Order 12612.

Dated: April 28, 1994.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management, and Budget.

[FR Doc. 94–10636 Filed 5–3–94; 8:45 am]

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federal register

Wednesday
May 4, 1994

Part III

The President

Executive Order 12913—Revocation of Executive Order No. 12582

Federal Register
Vol. 59, No. 85
Wednesday, May 4, 1994

Presidential Documents

Title 3—

The President

Executive Order 12913 of May 2, 1994

Revocation of Executive Order No. 12582

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 1440 of title 8, United States Code, and in consideration of *Matter of Reyes*, 910 F.2d 611 (9th Cir. 1990), I hereby order as follows:

Section 1. Executive Order No. 12582 is revoked and shall be treated as void, effective February 2, 1987.

Sec. 2. Revocation of Executive Order No. 12582 is not intended to affect the status of anyone who was naturalized pursuant to the terms of that order prior to the date of publication of this order in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
May 2, 1994.

[FR Doc. 94–10932
Filed 5–3–94; 11:40 am]
Billing code 3195–01–P

federal register

Wednesday
May 4, 1994

Part IV

Advisory Committee on Human Radiation Experiments

Open Meeting; Notice

ADVISORY COMMITTEE ON HUMAN RADIATION EXPERIMENTS

Open Meeting

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

DATES: May 18, 1994, 9 a.m.–5 p.m., May 19, 1994, 9 a.m.–3 p.m.

PLACE: The Ramada Plaza Hotel, 10 Washington Circle, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Anna Mastroianni, The Advisory Committee on Human Radiation Experiments, 1726 M Street, NW., suite 600, Washington, DC 20036. Telephone: (202) 254–9795.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The Advisory Committee on Human Radiation Experiments was established by the President, Executive Order No. 12891, January 15, 1994, to provide advice and recommendations on the ethical and scientific standards applicable to human radiation experiments carried out or sponsored by the United States Government. The Advisory Committee on Human Radiation Experiments reports to the Human Radiation Interagency Working Group, the members of which include the Secretary of Energy, the Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Veterans Affairs, the Attorney General, the Administrator of the National Aeronautics and Space Administration, the Director of Central Intelligence, and the Director of the Office of Management and Budget.

Tentative Agenda

Wednesday, May 18, 1994

9:00 a.m. Call to Order and Opening Remarks
9:15 a.m. Briefing on Background Issues, Advisory Committee Members
10:45 a.m. Break
11 a.m. Briefing on Background Issues, Advisory Committee Members (continued)
12:15 p.m. Lunch
1:30 p.m. Discussion, Status and Strategies of Document Collection and Review
3 p.m. Break
3:15 p.m. Public Comment
5 p.m. Meeting Adjourned Thursday, May 19, 1994
9 a.m. Opening Remarks
9:15 a.m. Discussion, Status and Strategies of Document Collection and Review (continued)
10:45 a.m. Break
11:00 a.m. Discussion, Status and Strategies of Document Collection and Review (continued)
12:15 p.m. Lunch
1:30 p.m. Discussion, Status and Strategies of Document Collection and Review (continued)
2:45 p.m. Future Meeting(s)
3 p.m. Meeting Adjourned

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. The chairperson is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement within the Advisory Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should contact the Advisory Committee at the address or telephone number listed above. Requests must be received at least five business days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcript: Available for public review and copying at the office of the Advisory Committee at the address listed above between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Dated: May 3, 1994.

Stephen R. Neuwirth,

Associate Counsel to the President.

[FR Doc. 94–10972 Filed 5–3–94; 1:31 pm]

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Federal Register

Vol. 59, No. 85

Wednesday, May 4, 1994

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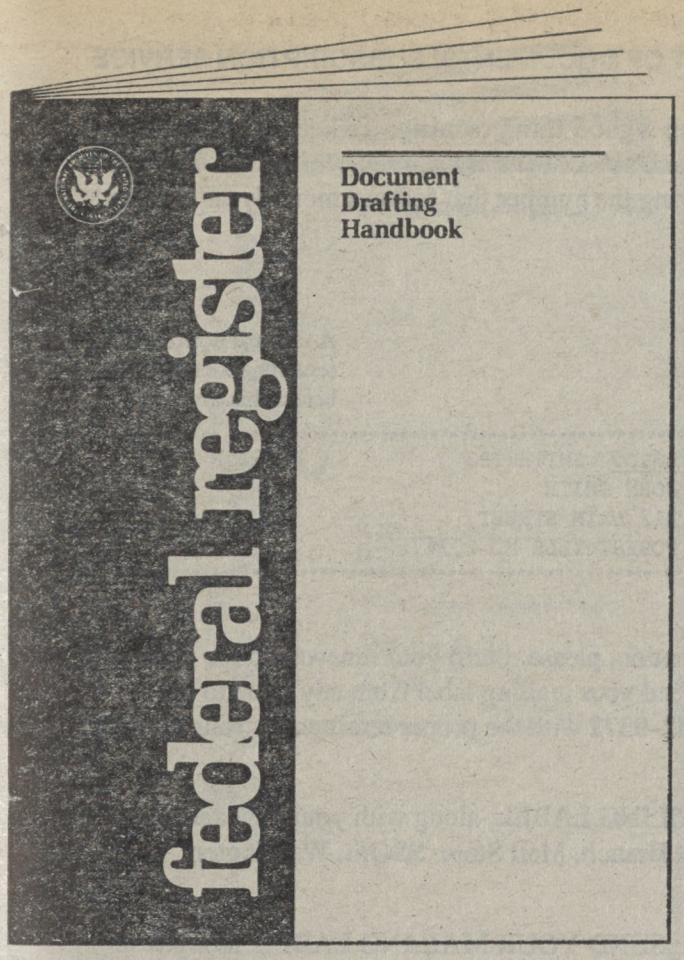

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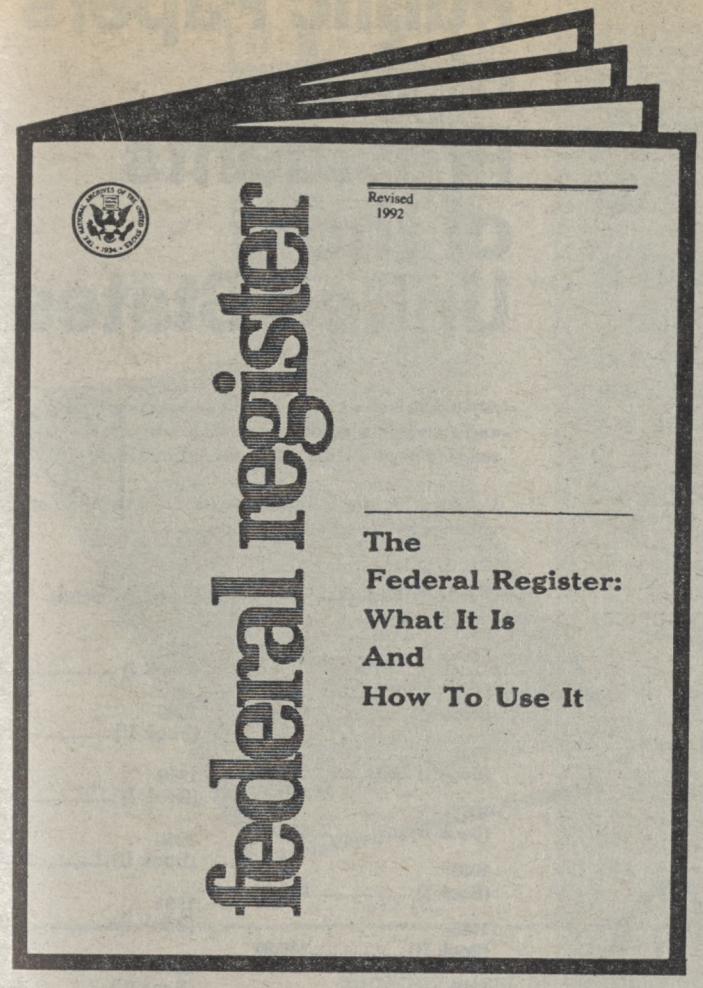

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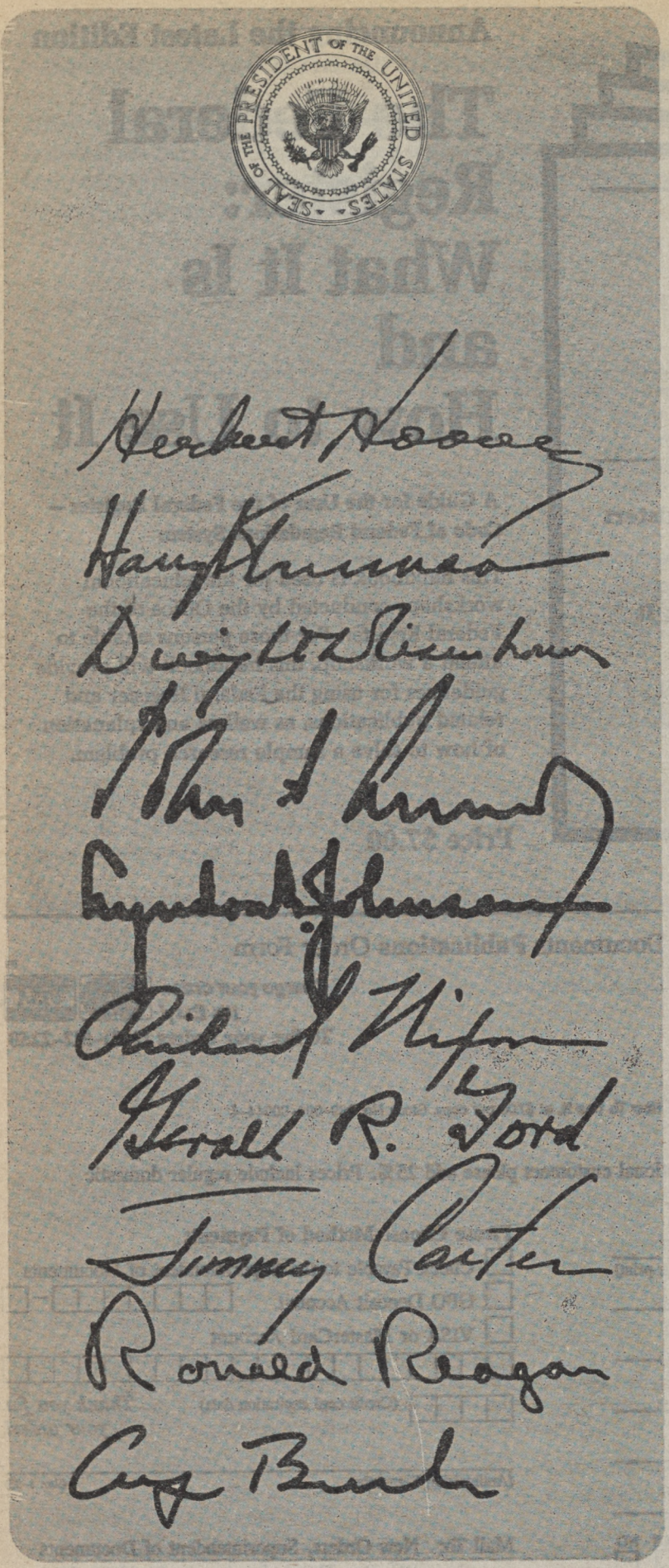

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