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Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Agriculture.

ACTION: Final rule.

SUMMARY: This issuance revises the delegations of authority from the Secretary of Agriculture. The Secretary's authority to approve coverage of individual law enforcement and firefighter positions under the special retirement provisions of the Federal Employees Retirement System (FERS) is delegated to the Assistant Secretary for Administration.

EFFECTIVE DATE: June 21, 1994.

FOR FURTHER INFORMATION CONTACT: Curt Dahlke, Compensation Division, Office of Personnel, United States Department of Agriculture, Washington, DC 20250, (202) 720–4963.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) issued final regulations on July 23, 1992, which allow a Cabinet Secretary to redelegate his or her authority to approve coverage of individual law enforcement and firefighter positions under the special retirement provisions of FERS. The Secretary of Agriculture is delegating authority to make special retirement coverage determinations on FERS positions to the Assistant Secretary for Administration.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rule making and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order Nos. 12778 and 12866. Finally, this action is not a rule as defined by Pub. L. No. 96–354, the Regulatory Flexibility Act, and, thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, Part 2, Title 7, Code of Federal Regulations is amended as follows:

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

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.25 is amended by adding a new paragraph (e)(16) as follows:

§ 2.25 Delegations of authority to the Assistant Secretary for Administration.

* * * * *

(e) * * *

(16) Approve coverage of individual law enforcement and firefighter positions under the special retirement provisions of the Federal Employees Retirement System.

* * * * *

For Subpart C:

Dated: June 12, 1994.

Mike Espy,

Secretary of Agriculture.

[FR Doc. 94–14979 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–01–M

Agricultural Marketing Service

7 CFR Part 923

[Docket No. FV94–923–1FR]

Sweet Cherries Grown In Designated Counties in Washington; Establishment of Minimum Size and Maturity Requirements for Rainier Variety Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule establishes a minimum size requirement of 11 row size (61/64 inch diameter) and a minimum maturity requirement of 17 percent soluble solids for Rainier variety cherries that can be shipped to fresh market outlets under Marketing Order No. 923. This final rule ensures that consumers receive cherries of acceptable size and maturity. This is intended to enhance the quality and image of Washington Rainier cherries in the fresh market, thereby increasing sales and improving returns to producers. This final rule was recommended by the Washington Cherry Marketing Committee (committee), which works with the Department of Agriculture (Department) in administering the marketing order covering sweet cherries grown in designated counties in Washington.

EFFECTIVE DATE: June 21, 1994.

FOR FURTHER INFORMATION CONTACT: Mark J. Kreaggor, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–5127; or Teresa Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 134 and Marketing Order No. 923 (7 CFR Part 923), regulating the handling of sweet cherries grown in designated counties in Washington, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

The Department is issuing this rule in conformance with Executive Order 12866.

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

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

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

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

There are approximately 50 handlers of Washington sweet cherries that are subject to regulation under the order. In addition, there are approximately 1,100 producers in the regulated area. Small agricultural service firms, which include handlers of Washington sweet cherries, have been defined by the Small Business Administration [13 CFR 121.601] as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. A majority of these handlers and producers may be classified as small entities.

This final rule revises § 923.322 to establish a minimum size requirement of 11 row (61/64 inch diameter) and a minimum maturity requirement of 17 percent soluble solids for Rainier variety cherries under the order. The committee recommended these minimum size and maturity requirements by a vote of 13 to 1.

Section 923.52 of the order authorizes the establishment of grade, size, quality, maturity, pack and container regulations for any variety or varieties of cherries grown in the production area. Section 923.53 further authorizes the modification, suspension, or termination of regulations issued under § 923.52. Section 923.55 provides that whenever cherries are regulated pursuant to § 923.52 or § 923.53, such cherries must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

Currently, the regulations require that dark sweet cherries such as Bing cherries, the predominant variety grown in the production area, meet certain grade, size, pack and container requirements. Such cherries are also required to be inspected. Light sweet cherries, including the Rainier variety, are currently exempt from these requirements.

The Rainier variety was developed at Washington State University's Irrigated Agricultural Research and Extension Center in Prosser, Washington, and was first released to the Northwest cherry industry in 1960. Rainiers were initially used primarily as canning cherries. However, since the 1980s, production of the Rainier variety for the fresh market has increased substantially. Less than 600 tons were marketed fresh in 1987, but that increased to 1,543 tons in 1989 and 1,937 tons in 1992. A record crop of 2,427 tons was marketed in 1993, about 5 percent of Washington's total sweet cherry crop.

As the Rainier variety gained in importance as a fresh market cherry, the Washington cherry industry began to consider the need to establish minimum standards of size and quality for the variety. At its December 15, 1993, meeting, the committee made its first recommendation to regulate Rainier cherries. Specifically, the committee recommended that a minimum size requirement be established at 10½ row size (1 inch in diameter) for fresh market shipments of Rainier variety cherries. No minimum maturity requirement was recommended at that time, although concerns were expressed about ensuring that only ripe cherries be marketed.

Subsequent to the December meeting, the Department received correspondence from 19 cherry producers, packers, and marketers concerning the committee's recommended regulation. The majority (13 of 19) were in favor of the recommendation, and 6 were in opposition to regulating the Rainier variety.

Comments supporting the proposed minimum size requirement stated that such a regulation would be in the best interests of producers. Growing Rainier cherries is more labor intensive and costly than producing other varieties Producers need to offer a quality product in order to recoup these higher production costs. The sale of small, immature cherries results in buyer dissatisfaction, which reduces repeat purchases and damages the market for all cherries. Good cultural practices (e.g., proper pruning) will result in acceptable sizes. Fruit quality and maturity are enhanced by fruit size.

Those opposed to the recommendation stated that it would reduce the volume of Rainier cherries permitted to be marketed fresh, thus reducing returns on the crop. Further, they stated that taste and appearance are more important to cherry buyers than size. Those in opposition also claimed that a minimum size requirement would be detrimental to producers who farm at higher elevations, where fruit tends to be smaller, but may be sweeter.

Given the lack of industry consensus on this issue, the Department asked the committee to reconsider the need to regulate Rainier variety cherries, particularly in light of the concerns raised in the above-mentioned letters. The committee met again on March 15, 1994, and rescinded its earlier recommendation. The committee recommended a lower size requirement—at least 11 row size (61/64 inch in diameter)—coupled with a minimum maturity requirement of 17 percent soluble solids. The vote on this recommendation was 13 to 1, with the dissenting voter in favor of a smaller minimum size of 11½ row (57/64 inch in diameter).

The Rainier cherry is distinct from other cherry varieties marketed by the Washington cherry industry. It is a yellow-colored cherry, with some rosy blush. It is considered a specialty item, compared with the darker colored varieties.

The committee reports the costs of producing and handling Rainier cherries are higher than those associated with other cherry varieties. Rainier cherry trees need to be pruned more heavily than other cherry trees to ensure acceptable sized fruit. Rainier cherry trees are picked several times during a season, reflecting the fact that not all the fruit matures at the same time and that the cherries will not ripen after harvest. Rainier cherries are also fragile and susceptible to damage during handling. Thus, most Rainier cherries are sorted and packed by hand.

Rainier cherries are typically marketed from mid-June through July. AMS Market News data show that prices are highest for the earliest

offerings of these cherries, and that such prices decline as the season progresses. In 1992, for example, the opening f.o.b. price on June 18 was $35.00 per carton. This declined to $25.00 to $28.00 per carton a week later, and f.o.b. prices were $22.00 to $28.00 per carton at season's end. This price trend serves as an incentive for producers to harvest early, which has resulted in immature, sour Rainier cherries being marketed.

The committee reports that cherry size and quality are important to buyers. Consistency and dependability are equally important. Shipments of immature, low quality, under-sized Rainier cherries in recent seasons have resulted in disappointment by buyers and consumers. This reduces repeat purchases, and results in declines in prices and overall sales volumes. The general consensus of the industry is that some mandatory quality standards are needed to ensure buyer confidence. Voluntary standards have been unsuccessful.

Cherry size is related to maturity and other quality factors. That is, larger sized cherries tend to be sweeter and of higher overall quality. This is supported by prices received for different sizes of Bing cherries. Market News data show that f.o.b. prices for 12 row sized Bings (54/64 inch diameter) averaged about $15.00 per carton in mid-June 1992. At the same time, 10½ row sized (1 inch diameter) Bings were selling for about $25.00 per carton. This price relationship held steady throughout the season. Further, the committee has conducted research that shows that larger sizes correlate with higher maturity levels, and that larger sizes are preferred by cherry consumers. While research results and prices by size specifically for Rainier variety cherries are currently unavailable, industry consensus is that the same relationships are true for Rainier cherries.

The Washington cherry industry promotes the sale of Rainier variety cherries through the Washington State Fruit Commission (WSFC), a State research and promotion program funded by industry assessments. The WSFC publicizes the current voluntary 1-inch minimum size standard for Rainier variety cherries in its promotion efforts. The WSFC has reported that it receives buyer complaints when such standards are not upheld. For example, three large retail chains cancelled all of their in-store promotions of Rainier variety cherries planned for the 1993 season due to the receipt of small, immature Rainier cherries early in the season. Thus, the industry believes it needs to establish minimum size and maturity standards to protect its investment in promoting the crop.

The general consensus of the Washington cherry industry is that the shipment of poor quality Rainier cherries is disrupting the marketplace and that some minimum quality standards are needed to maintain the Rainier cherry market. However, some disagreement was expressed at the committee meeting as to precisely what those minimum standards should be.

Some questioned, for example, the 10½ row size requirement initially recommended by the committee, saying that this requirement would result in too many cherries being diverted to processors (an outlet exempt from regulation). Others stated that the smaller 11 row cherries have adequate sugar content. Still others opposed any size requirement, believing that other criteria (e.g., maturity levels) are more important than size and that size bears no relationship to those criteria. Additionally, concern was expressed that producers at higher elevations would be more adversely impacted than other producers by a minimum size requirement.

In regards to this last concern, the committee concluded that producers at higher elevations should not be adversely impacted by the 11 row minimum size regulation, since these producers have demonstrated the ability to produce other varieties at acceptable sizes (e.g., Bing cherries). Further, a number of producers who farm at higher elevations attended the meeting, and stated that they would not have a problem meeting the proposed minimum size requirement, and that proper cultural practices (including pruning) would ensure that other producers achieve appropriate sizing.

In an attempt to reach an industry compromise, the committee rescinded its December recommendation to establish a minimum size requirement for Rainier cherries at 10½ row size. It recommended instead a lower minimum size requirement of 11 row, coupled with a maturity requirement of at least 17 percent soluble solids. This recommendation is considered to be conservative, in that most handlers in the Washington cherry industry pack to higher standards. The committee intends to conduct research during the 1994 and subsequent seasons to determine whether further refinements in Rainier variety cherry standards are needed.

This final rule adds a new provision to § 923.322, Washington Cherry Regulation 22, to establish a minimum size requirement of 61/64 inch in diameter for Rainier variety cherries, which corresponds to the 11 row size. To provide for variances in packing, a tolerance of 10 percent will be provided for undersized Rainier cherries. Further, the regulation will provide that not more than 5 percent of the Rainier cherries in any lot could be less than 57/64 inch in diameter, which is 11½ row size, one size lower than the 11 row size. These tolerances are comparable to those in effect for other Washington cherry varieties.

Section 923.322 is also revised by adding a new section to require that any lot of Rainier cherries would have to contain a minimum of 17 percent soluble solids. The percentage of soluble solids would be determined by using a refractometer to measure the sugar level in a composite sample of cherries. This maturity test would be taken at the time of packing or just prior to shipment, at the option of the handler.

As previously discussed, § 923.55 of the order provides that whenever cherries are subject to grade, size, quality, maturity, pack or container regulations, those cherries must be inspected by the Federal-State Inspection Service (FSIS). Since this rule would establish minimum size and maturity requirements for Rainier variety cherries, such cherries would have to be inspected and certified by the FSIS as meeting the applicable requirements of the regulation.

A proposed rule concerning this action was published in the **Federal Register** on May 19, 1994, (59 FR 26148), which provided a 15 day comment period ending June 3, 1994. Three comments were received. The Washington Cherry Committee recommended a modification to the original minimum maturity requirement. Mr. Mike Hambelton of Stemilt Growers, Inc. did not support the original minimum maturity requirement, but supported the committee's recommended modification. Mr. Grady Auvil of Auvil Fruit Company also supported the modification recommended by the committee. Both Mr. Hambelton and Mr. Auvil did not support the minimum size requirement.

The Washington Cherry Committee's comment stated that the modification to its recommended minimum maturity requirement for Rainier cherries was to provide more flexibility for handlers. The proposed rule stated that maturity testing was to be conducted at the time of packing or shipment only. Since handlers use different methods of packing Rainier cherries, the committee agreed that it is important that handlers have the option to determine when the maturity test will be conducted. This

will prevent the unnecessary packing and repacking of Rainier cherries that do not meet the minimum size requirements. The new language will accommodate different methods by permitting maturity inspection, prior to packing, at the time of packing, or just prior to shipment. The Department believes that the comments concerning modifying the minimum maturity requirements for Rainier cherries have merit. Therefore, this final rule is modified to revise § 923.322(c) of Washington Cherry Regulation 22, to provide more flexibility in inspection.

Mr. Hambelton and Mr. Auvil also filed comments requesting that the Department not approve the committee's size recommendation. Mr. Hambelton suggested that the committee lacked formal research in the areas of Rainier cherry maturity and size. The committee has done research concerning cherries showing that size and quality are very important to buyers. Although no formal research was specifically conducted on Rainier cherries, there is among growers and handlers a tremendous amount of knowledge and experience about the marketing of Rainier cherries. The overwhelming view of the committee, which is made up of growers and handlers, is that shipments of small, sour Rainier cherries has been poorly received by consumers. In addition, the committee gave the issue full and timely consideration, as noted in the two meetings which were held. The committee in its final decision voted 13 to 1 in favor of its recommendation.

Mr. Auvil also stated that the minimum size requirement would limit supply, resulting in higher prices. Mr. Hambelton also claimed that the size regulation would reduce Rainier cherry supplies and result in grower prices exceeding parity levels. He cited that the 1993 parity price for sweet cherries was $1,640 per ton, and that Rainier cherry producers received on average $1,822 per ton. However, the $1,640 figure used by Mr. Hambelton is a national sweet cherry parity figure from the July 1993 National Agricultural Statistics Service report. This figure reflects prices for all sweet cherries grown in the United States, including Rainier cherries and other varieties of sweet cherries grown in the regulated area. There are no separate official data on Rainier cherries. The AMS has calculated an equivalent parity price for Washington sweet cherries of $2,083 per ton, and does not expect that prices received during the 1994 season will exceed parity levels.

More importantly, however, the intent of this action is to establish minimum levels of size and maturity to ensure consumer satisfaction and maintain current markets. The objective of this action is not to reduce supplies of Rainier cherries. As previously discussed, higher prices for earliest offerings of Rainier cherries provide an incentive for producers to harvest early, which has resulted in immature, sour Rainier cherries being marketed. The establishment of minimum size and maturity requirements should reduce this propensity to harvest prematurely, but should not reduce the overall volume of Rainier cherries.

Considering complaints received from consumers last season about immature Rainier cherries, the committee made its recommendation to make 11 row size the minimum for such cherries. The size recommendation ensures cherries of a good size will be shipped to market.

For the reasons stated above, the Department is not making any changes to the size requirements for Rainier cherries.

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

After consideration of all available information, it is found that establishing minimum size and maturity requirements, as set forth in this final rule, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exist for not postponing the effective date of this final rule until 30 days after publication in the **Federal Register** because: (1) The committee held several meetings concerning the need to regulate Rainier variety cherries and all interested persons were invited to participate and express their opinions on this issue; (2) the proposed rule provided a comment period and modifications were made based on the comments; and (3) to be of maximum benefit to the industry, any regulation covering Rainier cherries should be in place for the 1994 season which begins in mid-June, and adequate time is needed to advise producers and shippers.

List of Subjects in 7 CFR Part 923

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 923 is amended as follows:

PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

1. The authority citation for 7 CFR part 923 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 923.322 is amended by removing the introductory text, revising paragraph (a), redesignating paragraphs (b), (c), (d), and (e) as paragraphs (d), (e), (f), and (g) respectively, adding new paragraphs (b) and (c), and revising paragraphs (d)(2) and (f) to read as follows:

§ 923.322 Washington Cherry Regulation 22.

(a) *Grade.* No handler shall handle, except as otherwise provided in this section, any lot of cherries, except cherries of the Rainier, Royal Anne, and similar varieties, commonly referred to as "light sweet cherries" unless such cherries grade at least Washington No. 1 grade except that the following tolerances, by count, of the cherries in the lot shall apply in lieu of the tolerances for defects provided in the Washington State Standards for Grades of Sweet Cherries: *Provided,* That a total of 10 percent for defects including in this amount not more than 5 percent, by count, of the cherries in the lot, for serious damage, and including in this latter amount not more than one percent, by count, of the cherries in the lot, for cherries affected by decay: *Provided further,* That the contents of individual packages in the lot are not limited as to the percentage of defects but the total of the defects of the entire lot shall be within the tolerances specified.

(b) *Size.* No handler shall handle, except as otherwise provided in this section, any lot of cherries, except cherries of the Royal Anne and similar varieties other than the Rainier variety commonly referred to as "light sweet cherries" unless such cherries meet the following minimum size requirements:

(1) For the Rainier variety, at least 90 percent, by count, of the cherries in any lot shall measure not less than 61/64 inch in diameter and not more than 5 percent, by count, may be less than 57/64 inch in diameter.

(2) For all other varieties, at least 90 percent, by count, of the cherries in any lot shall measure not less than 54/64 inch in diameter and not more than 5 percent, by count, may be less than 52/64 inch in diameter.

(i) All shipments handled in such containers shall be under the supervision of the committee; and

(ii) At least 90 percent, by count, of the cherries in any lot of such

containers shall measure not less than 54/64 inch in diameter, and not more than 5 percent, by count, may be less than 52/64 inch in diameter.

(c) *Maturity.* No handler shall handle, except as otherwise provided in this section, any lot of Rainier cherries unless such cherries meet a minimum of 17 percent soluble solids as determined from a composite sample by refractometer prior to packing, at time of packing, or at time of shipment. *Provided,* That individual lots shall not be combined with other lots to meet soluble solids requirements.

(d) * * *

(2) Subject to the provisions of paragraphs (b)(2)(i) and (ii) of this section, shipments of cherries may be handled in such experimental containers as have been approved by the Washington Cherry Marketing Committee.

* * * * *

(f) *Exceptions.* Any individual shipment of cherries which meets each of the following requirements may be handled without regard to the provisions of paragraphs (a), (b), (c), (d), and (e) of this section, and of §§ 923.41 and 923.55.

Dated: June 16, 1994.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 94–15143 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–02–P

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 94–053–1]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the tuberculosis regulations concerning the interstate movement of cattle and bison by reducing the designation of Virginia from an accredited-free State to an accredited-free (suspended) State. We have determined that Virginia no longer meets the criteria for designation as an accredited-free State but meets the criteria for designation as an accredited-free (suspended) State. This change is necessary to prevent the spread of tuberculosis in cattle and bison.

DATES: Interim rule effective June 21, 1994. Consideration will be given only to comments received on or before August 22, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 94–053–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald A. Stenseng, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, Veterinary Services, APHIS, USDA, room 729, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8715.

SUPPLEMENTARY INFORMATION:

Background

Bovine tuberculosis is the contagious, infectious, and communicable disease caused by *Mycobacterium bovis.* The tuberculosis regulations contained in 9 CFR part 77 (referred to below as the regulations), regulate the interstate movement of cattle and bison because of tuberculosis. Cattle or bison not known to be affected with or exposed to tuberculosis are eligible for interstate movement without restriction if those cattle or bison are moved from jurisdictions designated as accredited-free States, accredited-free (suspended) States, or modified accredited States. The regulations restrict the interstate movement of cattle or bison not known to be affected with or exposed to tuberculosis if those cattle or bison are moved from jurisdictions designated as nonmodified accredited States.

The status of a State is based on its freedom from evidence of tuberculosis, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards contained in a document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which is part of the regulations via incorporation by reference in part 77.

An accredited-free State, as defined in § 77.1 of the regulations, is a State that has no findings of tuberculosis in any cattle or bison in the State for at least 5 years. The State must also comply with all the provisions of the "Uniform Methods and Rules—Bovine Tuberculosis Eradication" regarding accredited-free States.

An accredited-free (suspended) State is defined as a State with accredited-free status in which tuberculosis has been detected in any cattle or bison in the State. A State is qualified for redesignation of accredited-free status after the herd in which tuberculosis is detected has been quarantined, an epidemiological investigation has confirmed that the disease has not spread from the herd, and all reactor cattle and bison have been destroyed. However, if tuberculosis is detected in two or more herds in the State within 48 months, the State's accredited-free status is revoked.

Before publication of this interim rule, Virginia was designated in § 77.1 of the regulations as an accredited-free State. However, because tuberculosis has recently been confirmed in one herd within the State, the Administrator has determined that Virginia no longer meets the criteria for designation as an accredited-free State, but instead meets the criteria for designation as an accredited-free (suspended) State. Therefore, we are amending the regulations by removing Virginia from the list of accredited-free States in § 77.1 and adding it to the list of accredited-free (suspended) States in that section.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to change the regulations so that they accurately reflect the current tuberculosis status of Virginia as an accredited-free (suspended) State. This will provide prospective cattle and bison buyers with accurate and up-to-date information.

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

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866.

For this action, the Office of Management and Budget has waived its

review process required by Executive Order 12866.

Virginia has approximately 29,000 cattle herds containing 1,710,000 cattle and bison. An estimated 90 percent of these herds are owned by small businesses. Changing the status of Virginia may affect the marketability of cattle and bison from the State, since some prospective cattle and bison buyers prefer to buy cattle and bison from accredited-free States. This may result in a small detrimental economic impact on some small entities. We anticipate that this action will not have a significant effect on marketing patterns in Virginia and will therefore not have a significant effect on those persons affected by this action.

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

Executive Order 12372

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

Executive Order 12778

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

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

Accordingly, 9 CFR part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for part 77 continues to read as follows:

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

§ 77.1 [Amended]

2. In § 77.1, in the definition for *Accredited-free state*, paragraph (2) is amended by removing "Virginia."

3. In § 77.1, in the definition for *Accredited-free (suspended) State*, paragraph (2) is amended by removing "None" and adding "Virginia" in its place.

Done in Washington, DC, this 15th day of June 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–15033 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 78

[Docket No. 93–120–2]

Official Brucellosis Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the brucellosis regulations by revising standards established for the brucellosis testing of cattle and bison with the particle concentration fluorescence immunoassay test. By revising the standards for this test, we will help designated epidemiologists avoid incorrectly classifying cattle and bison as brucellosis suspects.

EFFECTIVE DATE: July 21, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. John Kopec, Senior Staff Veterinarian, Cattle Diseases Staff, Veterinary Services, APHIS, USDA, room 730, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–6188.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a serious infectious and contagious disease, caused by bacteria of the genus Brucella, that affects animals and man. The Secretary of Agriculture is authorized to cooperate with the States in conducting a brucellosis eradication program and in preventing the interstate spread of brucellosis. The regulations in 9 CFR part 78 (referred to below as the regulations) govern the interstate movement of cattle, bison, and swine in order to help prevent the spread of brucellosis.

Official brucellosis tests are used to determine the brucellosis status of cattle, bison, and swine. The regulations stipulate that testing negative to an official brucellosis test is a condition for certain interstate movements. Additionally, official tests are used to determine eligibility for indemnity payments for animals destroyed because of brucellosis.

On March 2, 1994, we published in the **Federal Register** (59 FR 9938–9939, Docket No. 93–120–1) a proposal to revise the standards for one such official test, the particle concentration fluorescence immunoassay (PCFIA) test. We solicited comments concerning our proposal for a 60-day comment period ending May 2, 1994. During that period, we received one comment, from a national veterinary medical association. The commenter supported the proposal.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Incorrect brucellosis classification of cattle and bison as a result of the current PCFIA test standards creates marketing delays and unnecessary costs for farmers. Under the regulations, cattle and bison classified as brucellosis suspects must either be quarantined and retested within 30 days or sold for slaughter (usually at a loss). Consequently, farmers may unnecessarily quarantine or slaughter, at a loss, incorrectly classified cattle and bison. Therefore, revising the PCFIA test result standards will save farmers both time and money.

Though we believe that the economic impact of this action will be positive, we also believe it will be minimal. We anticipate that only about 7,200 cattle and bison in 560 herds (less than one thousandth of a percent of all cattle and bison in the United States) are classified incorrectly as brucellosis suspects under our current regulations. We estimate that all of the cattle and bison affected by this action will be owned by farms classified as small entities under Small Business Administration standards.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires

intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

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

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

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

Accordingly, 9 CFR part 78, is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

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

2. In § 78.1, the definition of *Official test*, paragraph (a)(10), the table is revised to read as follows:

§ 78.1 Definitions.

* * * * *

Official test.

(a) * * *

(10) * * *

S/N ratio	Classification
Greater than .60	Negative.
Greater than .30 but less than or equal to .60	Suspect.
.30 or less	Positive.

* * * * *

Done in Washington, DC, this 15th day of June 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–15036 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 92

[Docket No. 93–073–2]

Quarantine Fee for Horses, Ruminants, and Swine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations to require importers of horses, ruminants, and swine wishing to use a United States Department of Agriculture quarantine facility to pay a reservation fee covering 100 percent of the estimated cost of care, feed, and handling of the animals. This requirement will protect the Department from financial losses in the event an importer places animals in quarantine and then fails to pay outstanding bills.

EFFECTIVE DATE: July 21, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel Richeson, Senior Staff Veterinarian, Import-Export Animals Staff, Veterinary Services, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8170.

SUPPLEMENTARY INFORMATION:

Background

The animal import regulations contained in 9 CFR part 92 (referred to below as the regulations) govern the importation of certain animals into the United States, and require certain animals to be quarantined in the United States as part of their importation. The regulations in §§ 92.304, 92.404, and 92.504 require importers to pay a reservation fee covering 25 percent of the estimated cost of care, feed, and handling of horses, ruminants, and swine, respectively, to be quarantined in U.S. Department of Agriculture (USDA) facilities. The fee may not exceed $2,500.

On September 14, 1993, we published in the **Federal Register** (58 FR 48003–48004, Docket No. 93–073–1) a proposal to amend the regulations to require importers of horses, ruminants, and swine wishing to use a USDA quarantine facility to pay a reservation fee covering 100 percent of the estimated cost of care, feed, and handling of the animals. We solicited comments concerning our proposal for a 30-day comment period ending October 14, 1993. During that period, we received one comment. The comment, from a horse importer, opposed the proposal, arguing that it would place an undue economic hardship on horse importers. The importer also stated his belief that the majority of horse importers have established credit histories with USDA and that this proposal, if enacted, would punish those importers for the actions of a few.

We recognize that raising the quarantine reservation fee to 100 percent of estimated quarantine costs may inconvenience importers. However, based on our experience conducting quarantines at USDA facilities, we have discovered that requiring only a partial payment of estimated costs prior to quarantine leaves USDA vulnerable to significant financial losses in the event importers abandon their animals in quarantine facilities.

For example, in 1993, an importer abandoned at a USDA quarantine facility a shipment of camels discovered to be tubercular. Quarantine and subsequent destruction of the camels cost USDA over $100,000. We were unable to recover any expenses beyond the prepaid maximum reservation fee of $2,500, as the importer, who was neither a United States citizen nor resident, left the country. There have been several other cases in the last few years where USDA lost considerable sums due to nonpayment for quarantine services and/or abandonment of animals in quarantine. Two cases have involved horse imports; in one case, USDA lost more than $30,000, in the other, about $11,000.

By requiring quarantine reservation fees of 100 percent of estimated costs, this action will provide USDA with protection against these sorts of financial losses. Though this action undoubtedly will inconvenience importers, we believe it is imperative to prevent any further loss of Federal resources because of nonpayment for quarantine services and/or abandonment of animals in quarantine.

Forfeiture of Quarantine Reservation Fees

The regulations in §§ 92.304(a)(3)(iv), 92.404(a)(4)(iv), and 92.504(a)(4)(iv) require importers to forfeit 100 percent of their quarantine reservation fees in the event they fail to present their animals for entry at USDA quarantine facilities within 24 hours of the designated time of arrival, and if they fail to qualify for any of the exemptions from forfeiture specified in the regulations. This action does not revise those regulations. However, animal importers failing to present their animals as required will stand to forfeit a larger sum since this action raises the quarantine fee from 25 percent to 100 percent of estimated quarantine costs. Increasing the possible forfeiture amount hopefully will deter importers from frivolously reserving quarantine space and will further protect USDA from financial losses in the event we reserve space at a quarantine facility for an importer who fails to present his animals for quarantine.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

Requiring horse, ruminant, and swine importers to pay reservation fees covering 100 percent of estimated quarantine costs will have no significant economic consequences. Importers will pay the same fees as previously required, only sooner.

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

Executive Order 12778

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

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 92 CFR Part 92

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 114a, 134a, 134b, 134c, 134d, 134f, 135, 136, and 136a; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.304 [Amended]

2. In § 92.304, paragraph (a)(3)(i), the second sentence is amended by removing "25" and adding "100" in its place; and the third sentence is removed.

§ 92.404 [Amended]

3. In § 92.404, paragraph (a)(4)(i), the second sentence is amended by removing "25" and adding "100" in its place; and the third sentence is removed.

§ 92.504 [Amended]

4. In § 92.504, paragraph (a)(4)(i), the second sentence is amended by removing "25" and adding "100" in its place; and the third sentence is removed.

Done in Washington, DC, this 15th day of June 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–15035 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 27

[Docket No. 94–09]

RIN 1557–AB33

Fair Housing Home Loan Data System

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document makes a technical correction to the final regulations (Docket No. 94–09), which were published Friday, May 20, 1994, (59 FR 26411). The regulations relate to data collection requirements on home loans made by certain national banks.

EFFECTIVE DATE: June 20, 1994.

FOR FURTHER INFORMATION CONTACT: F. John Podvin, Jr., Attorney, Bank Operations and Assets Division, (202) 874–4460, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction amend 12 CFR part 27 on the effective date and affect national banks required to maintain information on home loans under either the Fair Housing Home Loan Data System (FHHLDS) or the Home Mortgage Disclosure Act, 12 U.S.C. 2801 *et seq.*

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and therefore must be corrected. Options 3 and 4 of Item 23 on appendix IV were omitted. This correction document adds options 3 and 4 to Item 23 back into appendix IV.

Correction of Publication

Accordingly, the publication on May 20, 1994, of the final regulations (Docket No. 94–09), which were the subject of FR Doc. 94–12270, is corrected as follows:

PART 27—[CORRECTED]

Appendix IV to Part 27 [Corrected]

On pages 26418 and 26419, Appendix IV of Part 27 is corrected to read as follows:

BILLING CODE 4810–33–P

Appendix IV

COMPTROLLER OF THE CURRENCY HOME LOAN DATA SUBMISSION

NAME OF BANK _____

CHARTER NUMBER _____ (1-5)
DECISION CENTER NO. _____ (6-9)

(Enter dollar amount as whole dollars)

APPLICATION FORM

1. Application file Number _ _ _ _ _ _ _ _ _ _ _ _ _ _ (10-21)
2. Amount of Loan Requested $ _ _ _ , _ _ _ (22-27)
3. Number of Months Requested to Maturity _ _ _ (28-30)
4. County _ _ _ _ _ _ _ _ (31-37)
5. State _ _ (38-39)
6. Number of Units 1 ☐ 2 ☐ 3 ☐ 4 ☐ (40)
7. Year House Was Built _ _ _ _ (41-44)
8. Purpose of Loan 1 ☐ Purchase 2 ☐ Construction-Permanent 3 ☐ Refinance (45)

Applicant	Co-Applicant? 1 ☐ Yes 2 ☐ No (49) (If #11 is No, proceed to #14)
9. Age _ _ (46-47)	12. Age _ _ (50-51)
10. Marital Status (48)	13. Marital Status (52)
1 ☐ Married 2 ☐ Separated	1 ☐ Married 2 ☐ Separated
3 ☐ Unmarried (Includes single divorced, widowed)	3 ☐ Unmarried (Includes single divorced, widowed)

14. Applicant Gross Monthly Income $ _ _ _ , _ _ _ _ . (53-58)
15. Co-Applicant Gross Monthly Income $ _ _ _ , _ _ _ _ . (59-64)
16. Proposed Monthly Housing Payments $ _ _ , _ _ _ _ . (65-69)
17. Purchase/Sales Price $ _ _ _ , _ _ _ _ . (70-75)
18. Other Total Monthly Payments $ _ _ _ , _ _ _ _ (76-81)

Applicant	Co-Applicant? (If none, proceed to #23)
19. Race 1 ☐ American Indian or Alaskan Native (82)	21. Race 1 ☐ American Indian or Alaskan Native (84)
2 ☐ Asian or Pacific Islander	2 ☐ Asian or Pacific Islander
3 ☐ Black, not of Hispanic origin	3 ☐ Black, not of Hispanic origin
4 ☐ White, not of Hispanic origin	4 ☐ White, not of Hispanic origin
5 ☐ Hispanic	5 ☐ Hispanic
6 ☐ Other	6 ☐ Other
20. Sex 1 ☐ Female 2 ☐ Male (83)	22. Sex 1 ☐ Female 2 ☐ Male (85)

23. Bank Relationship at Subject Bank (86)

1 ☐ Current Banking Relationship 2 ☐ Past Banking Relationship
3 ☐ No Banking Relationship 4 ☐ Unable to Determine

Appraisal

24. Census Tract _ _ _ _ . _ _ . (67-92)
25. Appraised Value $ _ _ _ , _ _ _ . (93-98)

Action Taken

26. Description of Action (99)

1 ☐ Withdrawn Before Terms Were Offered
2 ☐ Denied
} (If checked, skip remaining questions)

3 ☐ Withdrawn After Terms Were Offered
4 ☐ Approved and Loan Closed
} (If checked, complete remaining questions)

Terms of Mortgage or of Mortgage Offer

27. Committment Date _ _ / _ _ / _ _ (100-105)
M M D D Y Y

28. Type of Mortgage (106)

1 ☐ Standard Fixed Payment 2 ☐ Variable Rate
3 ☐ Graduated Payment 4 ☐ Roll-Over 5 ☐ Other

29. Private Mortgage Insurance Required? (107)

1 ☐ No 2 ☐ Yes

30. Loan Amount $ _ _ _ , _ _ _ . (108-113)

31. Note (Simple) Interest Rate _ _ . _ _ % (114-117)

32. Points to Buyer _ . _ _ (118-120)

33. Months to Maturity _ _ _ (121-123)

34. Downpayment Amount $ _ _ _ , _ _ _ . (124-129)

BILLING CODE 4810–33–C

Dated: June 15, 1994.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 94–15015 Filed 6–20–94; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 965

[Docket No. R–94–1676; FR–3275–F–02]

RIN: 2577–AB21

Lead-Based Paint Liability Insurance Coverage for Housing Authorities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: Public housing agencies and Indian housing authorities (collectively, housing authorities or HAs) conducting lead-based paint testing and abatement activities need to assure that they have adequate liability insurance coverage to cover the hazards inherent in these activities, in order to comply with insurance requirements of their Annual Contributions Contracts with HUD. This rule prescribes the nature and quality of liability insurance to protect HAs and contractors performing this work for HAs. The rule is being issued to comply with directions in the Department's appropriation act for Fiscal Year 1992 to adopt regulations specifying the nature and quality of insurance to cover HAs in the performance of this work.

EFFECTIVE DATE: July 21, 1994.

FOR FURTHER INFORMATION CONTACT: John Comerford, Director, Financial Management Division, Office of Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1872. A telecommunications device for hearing or speech-impaired persons is available at (202) 708–0850. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and approved under OMB control number 2577–0187, which is valid through August 1994.

II. Background

A. HUD Contract Requirements for Insurance

Under their Annual Contributions Contract (ACC) or Mutual Help Annual Contributions Contract (MHACC) with HUD, Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) (hereinafter referred to as HAs) must carry adequate (1) owner's, landlord's, and tenant's public liability insurance; and (2) manufacturer's and contractor's public liability insurance (both now combined and referred to by the insurance industry as commercial general liability insurance). When the conditions of the ACC or MHACC were formulated in 1969, it was not anticipated that there was any reason to address the issue of bodily injury due to the ingestion of lead-based paint, since the health hazard of this chemical was not well-known. Also, at that time, no pollution exclusion in the general liability policy was thought to apply to claims of this nature.

However, during subsequent years, as environmental claims started arising, insurance companies began to exclude pollution and environmental liability; and it is the opinion of most insurance companies that, since lead is a chemical which is included in the definition of a "pollutant", claims arising from lead poisoning are excluded from current policies. However, some courts have differed with the insurance companies' position on pollution exclusions.

HAs are engaging in lead-based paint testing and abatement, often funded by HUD under the Comprehensive Improvement Assistance Program or Comprehensive Grant Program, which support rehabilitation work needed to improve the condition of public housing units. The Department published a document in the **Federal Register** to guide these activities, entitled "Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing" (55 FR 14556, April 18, 1990, and revised 55 FR 39874, September 28, 1990, and 56 FR 21556, May 9, 1991). Use of these guidelines is the subject of other program regulations and notices of funding availability, and it is not addressed in this rule.

B. Appropriations Act

The Departments of Veterans Affairs and Housing and Urban Development Appropriations Act for Fiscal Year 1992, Pub L. 102–139, 105 Stat. 736 (approved October 28, 1991) ("1992 Act") included an express provision concerning selection of insurance to protect against the liability hazards involved in the testing and abatement of lead-based paint, at 758 and 759:

> Hereafter, until the Department of Housing and Urban Development has adopted regulations specifying the nature and quality of insurance covering the potential personal injury liability exposure of public housing authorities and Indian housing authorities (and their contractors, including architectural and engineering services) as a result of testing and abatement of lead-based paint in federally subsidized public and Indian housing units, said authorities shall be permitted to purchase insurance for such risk, as an allowable expense against amounts available for capital improvements (modernization): Provided, That such insurance is competitively selected and that coverage provided under such policies, as certified by the authority, provides reasonable coverage for the risk of liability exposure, taking into consideration the potential liability concerns inherent in the testing and abatement of lead-based paint, and the managerial and quality assurance responsibilities associated with the conduct of such activities.

In other words, until a final rule is effective, HAs may proceed with lead-based paint abatement activities, selecting their own lead-based paint liability coverage so long as they determine it is appropriate for their needs.

A proposed rule was published on November 2, 1993 (FR 58513) which covered this subject. This final rule responds to comments received on that proposed rule.

III. Public Comments

The Department received comments from nine public sources. Three were from housing authorities. Two were from testing/abatement contractors or consultants. Three were from PHA-owned insurance entities or their administrators, and one was from a trade association.

Comment. Three sources questioned HUD's reasoning in not attempting to secure another master insurance policy that would provide liability coverage for both the contractor performing testing and abatement work, as well as the HA, and requested reconsideration of this decision. Two of the sources also recommended that such master policy also cover any type of contractor (plumbing, heating, mechanical, electrical, painting and decorating) who might come in contact with lead-based paint while performing their work.

Response. The Department rejects this recommendation for a number of reasons. In its report to Congress dated September 24, 1991, concerning the previous master policy which expired on October 1, 1993, the HUD Inspector General questioned the involvement of

HUD staff in the procurement of that policy. The IG felt that since this was not a Federal procurement, but an HA procurement subject to State procurement statutes and regulations, HUD's involvement should have been only in an advisory capacity. In addition, it is extremely doubtful that any insurance company would consider issuing a liability insurance policy to a HA that would cover as insured parties, contractors engaged in performing various types of skilled work only while working on HA premises. Should the housing authorities or any contractor trade associations desire to secure a master policy that meets the requirements of this rule and provides adequate protection for the exposure, they are free to do so. Also, since the passage of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992 (42 U.S.C. 4851–4856), other public and private housing owners are required to engage in lead-based paint testing and abatement. Since contractors performing these operations need insurance when working for other housing owners, a master policy obtained by HUD insuring them only while performing work for HAs would not fill all of their needs. In addition, there appears to be a more available market for this type of insurance than prevailed in 1990 when the previous master policy was obtained.

Comment. The rule should have a "grandfather clause" allowing HAs and contractors to continue coverage that was obtained prior to the effective date of the rule even though the policy does not meet the rule requirements.

Response. The Department agrees that it should not require midterm cancellation of any policy that would result in a short rate penalty in order to comply with the rule and has modified the rule accordingly. It will be necessary, however, to comply with the requirements of the rule when the policy in force on the effective date of the rule expires.

Comment. In order to expand the availability of insurance policies that would qualify under the rule, allow a "claims made" form as long as it has a discovery period.

Response. The Department is willing to allow a "claims made" form, as long as it has a discovery period of at least five years, and the rule has been changed to that effect.

Comment. Professional Liability insurance for architects and engineers cannot be obtained on an "occurrence" form and insurance companies insuring the contractors and HAs for liability do not want to add this coverage to their policies.

Response. It was not the intent that this rule was to apply to Professional Liability policies obtained by architectural and engineering firms, and the rule has been clarified accordingly. The HA, however, should have these firms provide evidence that they do have some type of Professional Liability insurance in effect.

Comment. Even though the contractor purchases the insurance and names the HA as an additional insured, the HA should also be required to purchase primary insurance to cover any exposure to liability for claims not directly related to work being done by the contractor.

Response. While such an exposure may exist, the Department believes that the exposure is more limited than the exposure that already exists prior to any abatement work, and liability insurance to protect against claims for the mere existence of lead-based paint has never been required. Although not a requirement, there is no prohibition against the HA purchasing this insurance if it feels it is necessary and can afford to do so.

Comment. The rule should allow defense costs to be included within the policy limit, since some of the insurance companies providing this insurance are now issuing policies on this basis.

Response. To make coverage more readily available, the Department is willing to allow a limit being placed on the cost of defense prior to being deducted from the limit of liability, as long as the defense limit is not less than $250,000 per claim. The rule has been amended to that effect.

Comment. The rule should encourage insurers to underwrite the risk by requiring them to analyze the risk of each abatement project and assure that there is proper guidance and technical assistance throughout the abatement process.

Response. The Underwriting Department of each insurance company is charged with the responsibility of approving and accepting each risk they insure. Most insurance companies also have Loss Control Departments that work with their insureds in an effort to promote safe work habits and procedures and reduce losses. It would be inappropriate for HUD to attempt to dictate to the insurance company how they should underwrite and service the accounts they insure.

Comment. Since the statutory requirement found in the 1992 Appropriations Act that coverage be purchased through a competitive process expires with the promulgation of this regulation, HAs should be entitled to purchase this coverage from a HA-owned insurance entity without competitive bidding.

Response. We agree. Since issuance of the Final Rule setting Financial Standards for Housing Authority-Owned Insurance Entities which became effective on November 4, 1993, HAs are now authorized to obtain any line of insurance from a non-profit insurance entity that is owned and controlled by HAs and approved by HUD. Since this is now permitted by 24 CFR 905.190 and 965.201, no additional clarification in this rule is necessary.

Comment. Paragraph (e) should be eliminated from the rule since it is gratuitous.

Response. The provision concerning the HA's responsibility for supervision of testing and abatement activity has been moved to the general paragraph.

Comment. Requiring small (some as low as one or two persons) contractors to purchase this type of insurance will have an enormous impact on small businesses due to the high minimum premiums and total cost involved.

Response. While this may very well be true, the Department is not willing to waive the insurance requirement for small businesses. The underwriting standards of insurance companies may preclude them from insuring accounts that do not generate a certain minimum premium. However, if the Department were to waive the insurance requirement for small contractors, it would place both the contractor and the HA at risk for uninsured claims.

Comment. The minimum required limit should be raised to $1,000,000 per occurrence with no annual aggregate being permitted.

Response. The $500,000 limit is only a minimum. Higher limits are permitted and highly recommended. It was not felt that the Department should require substantially higher minimum limits than required for other forms of insurance, particularly automobile and commercial general liability. The absence of an annual aggregate limit would be very desirable. However, few insurance companies are willing to issue a policy without one. To insist upon having no annual aggregate limit would severely restrict the market availability and certainly increase the cost.

Comment. The rule should address all forms of insurance including workers compensation, general liability and professional liability.

Response. This rule is concerned only with the provisions of Pub. L. 102–139, 105 Stat. 736 concerning selection of insurance to protect against the liability

hazards involved in the testing and abatement of lead-based paint.

IV. Findings and Certifications

A. Environmental Review

A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332, when the proposed rule was issued. No changes made in this final rule require any changes in that finding. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

B. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule merely gives standards used by HUD in approving the sources of insurance coverage selected by HAs in accordance with longstanding provisions of the contracts between them and HUD. As a result, the rule is not subject to review under the order.

C. Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

D. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and, by approving it, certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is limited to specifying the nature and quality of liability insurance for the hazards of testing for and abatement of lead-based paint; and while it may be more difficult for small entities to obtain the insurance or to obtain it at a reasonable cost, this is a factor controlled by the insurance marketplace, and not by the establishment of this rule.

E. Regulatory Agenda

This rule was listed as item 1703 under the Office of Public and Indian Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1994 (59 FR 20424, 20474) under Executive Order 12866 and the Regulatory Flexibility Act.

F. Catalog

The Catalog of Federal Domestic Assistance numbers for the public housing and Indian housing programs affected by this rule are 14.850 and 14.851.

List of Subjects

24 CFR Part 905

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Individuals with disabilities, Lead poisoning, Loan programs—housing and community development, Loan programs—Indians, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

24 CFR Part 965

Energy conservation, Government procurement, Grant programs—housing and community development, Lead poisoning, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements, Utilities.

Accordingly, the Department amends 24 CFR parts 905 and 965 as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for part 905 continues to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee, and 3535(d).

2. A new § 905.195 is added to subpart B, to read as follows:

§ 905.195 Lead-based paint liability insurance coverage.

(a) *General.* The purpose of this section is to specify what HUD deems reasonable insurance coverage with respect to the hazards associated with testing for and abatement of lead-based paint that the IHA undertakes, in accordance with the IHA's ACC or MHACC with HUD. The insurance coverage does not relieve the IHA of its responsibility for assuring that lead-based paint testing and abatement activities are conducted in a responsible manner.

(b) *Insurance coverage requirements.* When the IHA undertakes lead-based paint testing and abatement, it must assure that it has reasonable insurance coverage for itself for potential personal injury liability associated with those activities. If the work is being done by IHA employees, the IHA must obtain a liability insurance policy directly to protect the IHA. If the work is being done by a contractor, the IHA may obtain, from the insurer of the contractor performing this type of work in accordance with a contract, a certificate of insurance providing evidence of such insurance and naming the IHA as an additional insured; or it may obtain such insurance directly. Insurance must remain in effect during the entire period of testing and abatement and must comply with the following requirements:

(1) *Named insured.* If purchased by the IHA, the policy shall name the IHA as insured. If purchased by an independent contractor, the policy shall name the contractor as insured and the IHA as an additional insured, in connection with performing work under the IHA's lead-based paint testing and abatement contract. If the IHA has executed a contract with a Resident Management Corporation (RMC) to manage a building/project on behalf of the IHA, the RMC shall also be an additional insured under the policy in connection with the lead-based paint testing and abatement contract. (The duties of the RMC are similar to those of a real estate management firm.)

(2) *Coverage limits.* The minimum limit of liability shall be $500,000 per occurrence written, with a combined single limit for bodily injury and property damage.

(3) *Deductible.* A deductible, if any, may not exceed $5,000 per occurrence.

(4) *Supplementary payments.* Payments for such supplementary costs as the costs of defending against a claim must be in addition to, and not as a reduction of, the limit of liability. However, it will be permissible for the policy to have a limit on the amount payable for defense costs. If a limit is applicable, it must not be less than $250,000 per claim prior to such costs being deducted from the limit of liability.

(5) *Occurrence form policy.* The form used must be an "occurrence" form, or a "claims made" form that contains an extended reporting period of at least five years. (Under an occurrence form, coverage applies to any loss if the policy

was in effect when the loss occurred, regardless of when the claim is made.)

(6) *Aggregate limit.* If the policy contains an aggregate limit, the minimum acceptable limit is $1,000,000.

(7) *Cancellation.* In the event of cancellation, at least 30 days' advance notice is to be given to the insured and any additional insured.

(c) *Exception to requirements.* Insurance already purchased by the IHA or contractor and in force on the date this rule is effective which provides coverage for the hazards involved in the testing for and abatement of lead-based paint, shall be considered as meeting the requirements of this rule until the expiration of the policy. This rule is not applicable to architects, engineers, or consultants who do not physically perform lead-based paint testing and abatement work.

(d) *Insurance for the existence hazard.* An IHA may also purchase special liability insurance against the existence hazard of lead-based paint, although it is not a required coverage. An IHA may purchase this coverage if, in the opinion of the IHA, the policy meets the IHA's requirements, the premium is reasonable, and the policy is obtained in accordance with applicable procurement standards of this subpart B. If this coverage is purchased, the premium must be paid from funds available under the Performance Funding System or from reserves.

3. A new § 905.585 is added to subpart H, to read as follows:

§ 905.585 Insurance coverage.

For the requirements concerning an IHA's obligation to obtain reasonable insurance coverage with respect to the hazards associated with testing for and abatement of lead-based paint, see § 905.195.

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

4. The authority citation for part 965 continues to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437d, 1437g, 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

5. A new § 965.215 is added to subpart B, to read as follows:

§ 965.215 Lead-based paint liability insurance coverage.

(a) *General.* The purpose of this section is to specify what HUD deems reasonable insurance coverage with respect to the hazards associated with testing for and abatement of lead-based paint that the PHA undertakes, in accordance with the PHA's ACC with HUD. The insurance coverage does not relieve the PHA of its responsibility for assuring that lead-based paint testing and abatement activities are conducted in a responsible manner.

(b) *Insurance coverage requirements.* When the PHA undertakes lead-based paint testing and abatement, it must assure that it has reasonable insurance coverage for itself for potential personal injury liability associated with those activities. If the work is being done by PHA employees, the PHA must obtain a liability insurance policy directly to protect the PHA. If the work is being done by a contractor, the PHA may obtain, from the insurer of the contractor performing this type of work in accordance with a contract, a certificate of insurance providing evidence of such insurance and naming the PHA as an additional insured; or it may obtain such insurance directly. Insurance must remain in effect during the entire period of testing and abatement and must comply with the following requirements:

(1) *Named insured.* If purchased by the PHA, the policy shall name the PHA as insured. If purchased by an independent contractor, the policy shall name the contractor as insured and the PHA as an additional insured, in connection with performing work under the PHA's lead-based paint testing and abatement contract. If the PHA has executed a contract with a Resident Management Corporation (RMC) to manage a building/project on behalf of the PHA, the RMC shall be an additional insured under the policy in connection with the lead-based paint testing and abatement contract. (The duties of the RMC are similar to those of a real estate management firm.)

(2) *Coverage limits.* The minimum limit of liability shall be $500,000 per occurrence written, with a combined single limit for bodily injury and property damage.

(3) *Deductible.* A deductible, if any, may not exceed $5,000 per occurrence.

(4) *Supplementary payments.* Payments for such supplementary costs as the costs of defending against a claim must be in addition to, and not as a reduction of, the limit of liability. However, it will be permissible for the policy to have a limit on the amount payable for defense costs. If a limit is applicable, it must not be less than $250,000 per claim prior to such costs being deducted from the limit of liability.

(5) *Occurrence form policy.* The form used must be an "occurrence" form, or a "claims made" form that contains an extended reporting period of at least five years. (Under an occurrence form, coverage applies to any loss regardless of when the claim is made.)

(6) *Aggregate limit.* If the policy contains an aggregate limit, the minimum acceptable limit is $1,000,000.

(7) *Cancellation.* In the event of cancellation, at least 30 days' advance notice is to be given to the insured and any additional insured.

(c) *Exception to requirements.* Insurance already purchased by the PHA or contractor and in force on the date this rule is effective which provides coverage for the hazards involved in testing for and abatement of lead-based paint, shall be considered as meeting the requirements of this rule until the expiration of the policy. This rule is not applicable to architects, engineers, or consultants who do not physically perform lead-based paint testing and abatement work.

(d) *Insurance for the existence hazard.* A PHA may also purchase special liability insurance against the existence hazard of lead-based paint, although it is not a required coverage. A PHA may purchase this coverage if, in the opinion of the PHA, the policy meets the PHA's requirements, the premium is reasonable, and the policy is obtained in accordance with applicable procurement standards. (See 24 CFR part 85 and §§ 965.205.) If this coverage is purchased, the premium must be paid from funds available under the Performance Funding System or from reserves.

6. A new § 965.705 is added to subpart H, to read as follows:

§ 965.705 Insurance coverage.

For the requirements concerning a PHA's obligation to obtain reasonable insurance coverage with respect to the hazards associated with testing for and abatement of lead-based paint, see § 965.215.

Dated: June 13, 1994.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 94–14981 Filed 6–20–94; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–94–058]

Drawbridge Operation Regulations; Apponagansett River, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard has authorized the Town of Dartmouth, Massachusetts, to temporarily deviate for ninety (90) days from the operating regulations governing the Padanaram Bridge mile 1.0 over the Apponagansett River in Dartmouth, Massachusetts. This deviation limits the number of openings during peak traffic periods of the day. This deviation will permit evaluation of the regulated opening schedule on both marine and vehicular traffic in conjunction with the operation of new automatic, in lieu of manual, traffic gates.

DATES:

(1) The deviation is effective for 90 days from June 3, 1994 through August 31, 1994.

(2) Comments on the effects of the deviation must be received on or before September 15, 1994.

ADDRESSES: Comments may be mailed to Commander (obr), First Coast Guard District, Captain John Foster Williams Federal Building, 408 Atlantic Avenue, Boston, Massachusetts 02110–3350. Comments and other materials referenced in this notice are available for inspection and copying by appointment at the above address. Normal office hours are between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to the above address.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668–7170.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The Padanaram Bridge over the Apponagansett River between Dartmouth and South Dartmouth has a vertical clearance of 9′ above mean high water (MHW) and 12′ above mean low water (MLW). The current operating regulations (33 CFR 117.587) provide that from 1 May to 31 October from 5 a.m. to 9 p.m. daily, the bridge need open on signal only on the hour and half hour. At all other times at least six hours advance notice must be given.

This deviation permits the bridge to open twice an hour, on the hour and half hour, from 5 a.m. to 9 a.m. and from 8 p.m. to 9 p.m. and once an hour on the hour from 9 a.m. to 8 p.m.

In the spring of 1993, the Town of Dartmouth requested a change from the operating regulations to permit opening once an hour rather than twice an hour. The town selectmen felt that the traffic congestion during peak summer months was a result of the bridge opening every 30 minutes and was causing village commerce to suffer. The selectmen also considered the 30 minute opening schedule a serious risk to public safety because emergency vehicles could not travel to and from South Dartmouth during the traffic delays caused by the bridge opening every half hour. The Town of Dartmouth requested that the bridge be required to open only once an hour for a test period of 60 days to evaluate the effects on vehicular and marine traffic. This request was approved and the first deviation from the permanent regulations was effective from July 1, 1993, through August 29, 1993. See (58 FR 38056; July 15, 1993). It provided an opportunity to evaluate the effects of the deviation on marine and vehicular traffic. The Coast Guard implemented a second deviation for thirty-two days (32) to the regulations to evaluate alternative opening time periods for the Padanaram Bridge. See (58 FR 47067; Sep. 7, 1993). There were 29 comment letters received for these deviation periods. Twenty were in favor of the hourly openings and nine were opposed to the change. Most of the letters in opposition indicated that the lack of facilities to tie up vessels while waiting for openings was the main concern. The Town of Dartmouth has installed traffic signals, automatic traffic gates, navigational lights, clearance gauges and regulation signs since the last deviation period of 32 days was implemented.

Additionally, a detailed engineering study has been prepared for major repairs to the bridge. The town has requested state funds for the proposed repairs and expects approval in the fall of 1994. The Coast Guard is authorizing a third deviation for a period of 90 days to evaluate the effects of the recent improvements to the bridge. This third temporary deviation retains the requirement for the bridge to open on signal as soon as possible for vessels of the United States, state and local vessels used for public safety and vessels in distress.

Request for Comments

The Coast Guard encourages interested persons to participate in evaluation of possible changes to the regulations governing the Padanaram Bridge over the Apponagansett River by submitting written data, or arguments for or against the deviation. Persons submitting comments should include their name and address and identify this Rulemaking (CGD01–94–058) and the specific section of this deviation to which each comment applies, and give reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period. If it appears appropriate to propose a permanent change to the regulations, the Coast Guard will publish a notice of proposed Rulemaking and request additional comments as part of the Rulemaking process. All comments received from this and the previous deviations will be considered in the Rulemaking process. Persons may submit comments by writing to the Commander (obr), First Coast Guard District listed under **ADDRESSES.**

Notice

Notice is hereby given that:

(1) The Coast Guard has granted the Town of Dartmouth, Massachusetts, a temporary deviation from the operating requirements listed in 33 CFR 117.587 paragraph (b) governing the Padanaram Bridge over the Apponagansett River.

(2) This deviation from normal operating regulations is authorized in accordance with the provisions of 33 CFR 117.43 for the purpose of evaluating possible changes to the permanent regulations.

(3) The period of deviation is effective June 3, 1994 to August 31, 1994.

(4) During the deviation period the Padanaram Bridge shall operate as follows:

(i) From 5 a.m. to 9 a.m. and from 8 p.m. to 9 p.m. the bridge shall open on signal, twice an hour, on the hour and the half hour.

(ii) From 9 a.m. to 8 p.m. the bridge shall open on signal once an hour, on the hour.

(iii) From 9 p.m. to 5 a.m. the bridge shall open on signal if at least 6 hours advance notice is given.

Dated: May 31, 1994.

K.W. Thompson,

Captain, U.S. Coast Guard Acting Commander, First Coast Guard.

[FR Doc. 94–14449 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP Southeast Alaska 94–002]

RIN 2115–AA97

Safety Zone; Crescent Harbor, Sitka, AK

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone in Crescent Harbor. The safety zone will protect life, limb and property during the annual Independence Day fireworks display. The fireworks are launched from a barge or waterfront facility, creating a safety hazard. Annual notice of these regulations will be published in the Local Notices to Mariners.

EFFECTIVE DATE: This rule is effective on July 3, 1994.

FOR FURTHER INFORMATION CONTACT: LTJG Andrew Tucci, Project Manager, United States Coast Guard Marine Safety Office Juneau, (907) 463–2465.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are LTJG Andrew Tucci, Project Manager, and LT Brian McTague, Project Attorney, Seventeenth Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was published at 59 FR 10773 on March 8, 1994. Interested persons were requested to submit comments and no comments were received.

Background and Purpose

The community of Sitka, Alaska holds a fireworks display on or about the 4th of July of each year to celebrate Independence Day. The fireworks are launched from a barge or waterfront facility in Crescent Harbor. There is a well established need for safety zones around vessels and facilities holding fireworks displays. Such displays draw large numbers of spectators on vessels. Both persons and vessels could be endangered by coming too close to the source of the displays. In addition to improving safety, this regulation will reduce the administrative burden associated with the creation of temporary safety zones each year. Good cause exists for the rule to become effective in fewer than 30 days from the date of Federal Register publication because the fireworks display will occur in less than 30 days and public safety must be provided. In addition, this rule will not unreasonably burden the public or commerce since it will be in effect only a short time each year.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone will not affect commerce and will be in effect for only a few hours each year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A new § 165.1707 is added to read as follows:

§ 165.1707 Crescent Harbor, Sitka, Alaska-Safety Zone.

(a) *Location.* The following area is a safety zone: the waters in Crescent Harbor within a 100 yard radius of the vessel or waterfront facility located at 57°02′54″ N, 135°19′32″ W used to conduct fireworks displays.

(b) *Effective date.* The safety zone becomes effective on July 3 each year at 10 a.m. ADT. It terminates at the conclusion of the fireworks display at approximately 2:30 a.m. ADT on July 5 each year, unless sooner terminated by the Captain of the Port. If the fireworks display is postponed because of inclement weather, the date and duration of the safety zone will be announced in the Local Notices to Mariners.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Southeast Alaska.

Dated: June 1, 1994.

G. D. Powers,

Commander, U.S. Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 94–15057 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Southeast Alaska 94–003]

RIN 2115–AA97

Safety Zone; Tongass Narrows, Ketchikan, AK

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone in Tongass Narrows, Ketchikan, Alaska. The safety zone will protect life, limb and property during Independence Day fireworks displays. The fireworks are launched from a barge at the

northernmost tip of Pennock Island, creating a safety hazard. Annual notice of these regulations will be published in the Local Notices to Mariners.

EFFECTIVE DATE: This rule is effective on July 3, 1994.

FOR FURTHER INFORMATION CONTACT: LTJG Andrew Tucci, Project Manager, United States Coast Guard Marine Safety Office Juneau, (907) 463–2465.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are LTJG Andrew Tucci, Project Manager, and LT Brian McTague, Project Attorney, Seventeenth Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was published at 59 FR 10777 on March 8, 1994. Interested persons were requested to submit comments and no comments were received.

Background and Purpose

The community of Ketchikan, Alaska holds a fireworks display on or about the 4th of July of each year to celebrate Independence Day. The fireworks are launched from a vessel at the northernmost point of Pennock Island. There is a well established need for safety zones around vessels and facilities holding fireworks displays. Such displays draw large numbers of spectators on vessels. Both persons and vessels could be endangered by coming too close to the source of the displays. In addition to improving safety, this regulation will reduce the administrative burden associated with the creation of temporary safety zones each year. Good cause exists for the rule to become effective in fewer than 30 days from the date of **Federal Register** publication because the fireworks display will occur in less than 30 days and public safety must be provided. In addition, this rule will not unreasonably burden the public or commerce since it will be in effect only a short time each year.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone will not affect commerce and will be in effect for only a few hours each year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Final Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

Part 165—[AMENDED]

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

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

2. A new § 165.1708 is added to read as follows:

§ 165.1708 Tongass Narrows, Ketchikan, Alaska—Safety Zone

(a) *Location.* The following area is a safety zone: the waters in Tongass Narrows within a 100 yard radius of the barge located at 55°20′20″ N, 131°39′36″ W used to conduct fireworks displays.

(b) *Effective date.* The safety zone becomes effective on July 3 each year at 10 p.m. ADT. It terminates at the conclusion of the fireworks display at approximately 2:30 a.m. ADT on July 5 each year, unless sooner terminated by the Captain of the Port. If the fireworks display is postponed because of inclement weather, the date and duration of the safety zone will be announced in the Local Notices to Mariners.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Southeast Alaska.

Dated: June 1, 1994.

G.D. Powers,

Commander, U.S. Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 94–15058 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Prince William Sound 94–001]

RIN 2115–AA97

Safety Zone; Gastineau Channel, Juneau, AK

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone in Juneau Harbor. The safety zone will protect life, limb and property during the annual Independence Day fireworks display. The fireworks are launched from a barge or waterfront facility, creating a safety hazard. Annual notice of these regulations will be published in the Local Notices to Mariners.

EFFECTIVE DATE: This rule is effective on July 3, 1994.

FOR FURTHER INFORMATION CONTACT: LTJG Andrew Tucci, Project Manager, United States Coast Guard Marine Safety Office Juneau, (907) 463–2465.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of these regulations are LTJG Andrew Tucci, Project Manager, and LT Brian McTague, Project

Attorney, Seventeenth Coast Guard District Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was published at 59 FR 10774 on March 8, 1994. Interested persons were requested to submit comments and no comments were received.

Background and Purpose

The City and Borough of Juneau, Alaska holds a fireworks display on or about the 4th of July of each year to celebrate Independence Day. The fireworks are launched from a barge or waterfront facility in Juneau Harbor. There is a well established need for safety zones around vessels and facilities holding fireworks displays. Such displays draw large numbers of spectators on vessels. Both persons and vessels could be endangered by coming too close to the source of the displays. In addition to improving safety, this regulation will reduce the administrative burden associated with the creation of temporary safety zones each year. Good cause exists for the rule to become effective in fewer than 30 days from the date of **Federal Register** publication because the fireworks display will occur in less than 30 days and public safety must be provided. In addition, this rule will not unreasonably burden the public or commerce since it will be in effect only a short time each year.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone will not affect commerce and will be in effect for only a few hours each year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation will have a significant impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under section 2.B.2.c. of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Regulations

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A new § 165.1706 is added to read as follows:

§ 165.1706 Gastineau Channel, Juneau, Alaska—Safety Zone.

(a) *Location.* The following area is a safety zone: the waters in Juneau Harbor within a 100 yard radius of the vessel or waterfront facility located at 58° 17′ 41″ N, 134° 24′ 22″ W used to conduct fireworks displays.

(b) *Effective date.* The safety zone becomes effective on July 3 each year at 10 p.m. ADT. It terminates at the conclusion of the fireworks display at approximately 2:30 a.m. ADT on July 5 each year, unless sooner terminated by the Captain of the Port. If the fireworks display is postponed because of inclement weather, the date and duration of the safety zone will be announced in the Local Notices to Mariners.

(c) *Regulation.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Southeast Alaska.

Dated: June 1, 1994.

G.D. Powers,

Commander, U.S. Coast Guard, Captain of the Port, Southeast Alaska.

[FR Doc. 94–15059 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 13–94–009]

Safety Zone Regulations; Fireworks Display; Elliott Bay, Seattle, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day fireworks display to be held on July 4 from 9:30 p.m. (PDT) until 11 p.m. (PDT). The fireworks display barge will be positioned near the shoreside of Elliott Bay, Seattle, Washington in the area of Myrtle Edwards Park. This safety zone is necessary to control spectator craft and to provide for the safety of life and property on and in the vicinity of navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on July 4, 1994 at 9:30 p.m. (PDT) and terminate on July 4, 1994 at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT S. Workman, Assistant Operations Officer, Coast Guard Group Seattle, Washington, (202) 217–6009.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was just recently received leaving insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this temporary final rule are LT Andrew W. Connor, project officer, and LT Laticia J. Argenti, project

attorney, Coast Guard District Thirteen Legal Office.

Discussion of Regulations

The Elliott Bay Fireworks Display is being held as part of the celebration for the Fourth of July Independence Day in Seattle, Washington. This event is sponsored by Ivar's Restaurants. The fireworks display is conducted from a barge located on the waters of Elliott Bay, Seattle, Washington. This one-day event attracts a large number of spectators gathered on the waters near the fireworks display. To promote the safety of both the spectators and participants, this safety zone is required to keep spectators away from the explosive fireworks barge during the fireworks display. The exclusionary area is designed to keep all spectators away from the fireworks barge.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Federalism Assessment

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

Environmental Assessment

This temporary rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.C. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T13–006 is added to read as follows:

§ 165.T13–006 Safety Zone: Elliott Bay, Seattle, WA

(a) *Location.* The following area is a safety zone: The waters of Elliott Bay, Seattle, Washington, in the area of Myrtle Edwards Park. The safety zone will be comprised of a portion of water around the fireworks barge bounded by the following coordinates: Latitude 47° 37′22″ N, Longitude 122 degrees 22′06″ W, Latitude 47° 37′06″ N, longitude 122° 21′45″ W, Latitude 47° 36′54″ W, Latitude 47 degrees 37′09″ N, Longitude 122 degrees, 22′25″ W.

(b) *Definitions.*

Designated representative of the District Commander is any Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander, Thirteenth Coast Guard District, to act on his behalf.

Official patrol consists of any Coast Guard vessel, state or local law enforcement, and/or sponsor-provided vessels assigned and/or approved by Commander, Thirteenth Coast Guard District to patrol each event. All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the District Commander or his designated representative. When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given, failure to do so may result in a citation.

(2) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander or his designated representative may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(d) *Effective date.* This section becomes effective on July 4, 1994 at 9:30 p.m. (PDT) and terminates on July 4, 1994 at 11 p.m. (PDT) unless sooner terminated by the District Commander.

Dated: June 3, 1994.

John A. Pierson,

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

[FR Doc. 94–15055 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 13–94–012]

Safety Zone Regulations; Airshow, Commencement Bay, Tacoma, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day Airshow to be held on July 4, 1994 from 3 p.m. (PDT) until 6 p.m. (PDT). The airshow will occur over Commencement Bay, Tacoma, Washington. This safety zone is necessary to control spectator craft and to provide for the safety of life and property on and in the vicinity of navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on July 4, 1994 at 3 p.m. (PDT) and terminate on July 4, 1994 at 6 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT S. Workman, Assistant Operations Officer, Coast Guard Group, Seattle, Washington, (206) 217–6009.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was just recently received leaving insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this temporary final rule are LT Andrew W. Connor, project officer, and LT Laticia J. Argenti, project attorney, Coast Guard District Thirteen Legal Office.

Discussion of Regulations

The Tacoma Airshow is being held as part of the celebration for the Fourth of July Independence Day in Tacoma, Washington. This event is sponsored by the Fourth of July Extravaganza Commission. The airshow is conducted over the waters of Commencement Bay, Tacoma, Washington. This one day event attracts a large number of spectators gathered on the waters below the airshow. To promote the safety of both the spectators and participants, this safety zone is required to keep spectators away from the waters below the airshow.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Federalism Assessment

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

Environmental Assessment

This temporary rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.C. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T13–009 is added to read as follows:

§ 165.T13–009 Safety Zone: Commencement Bay, Tacoma, WA

(a) *Location.* The following area is a safety zone: The waters of Commencement Bay, Tacoma, Washington. The safety zone will be comprised of a portion of water bounded by the following coordinates: Latitude 47°17′48″ N, Longitude 122°28′40″ W, Latitude 47°17′02″ N, Longitude 122°26′47″ W, Latitude 47°16′26″ N, Longitude 122°27′20″ W, Latitude 47°16′12.5″ W, Longitude 122°29′13″ W.

(b) *Definitions.*

Designated representative of the District Commander is any Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander, Thirteenth Coast Guard District, to act on his behalf.

Official patrol consists of any Coast Guard vessel, state or local law enforcement, and/or sponsor-provided vessels assigned and/or approved by Commander, Thirteenth Coast Guard District to patrol each event. All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the District Commander or his designated representative. When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given, failure to do so may result in a citation.

(2) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander or his designated representative may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(d) *Effective date* This section becomes effective on July 4, 1994 at 3 p.m. (PDT) and terminates on July 4, 1994 at 6 p.m. (PDT) unless sooner terminated by the District Commander.

Dated: June 3, 1994.

John A. Pierson,

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

[FR Doc. 94–15056 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 13–94–010]

Safety Zone Regulations; Fireworks Display, Bellingham Bay, Bellingham, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day Fireworks display to be held on July 4, from 9:30 p.m. (PDT) until 11 p.m. (PDT). The fireworks display barge will be positioned in Bellingham Bay, Bellingham, Washington. This safety zone is necessary to control spectator craft and to provide for the safety of life and property on and in the vicinity of navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on July 4, 1994 at 9:30 p.m. (PDT) and terminate on July 4, 1994 at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT S. Workman, Assistant Operations Officer, Coast Guard Group Seattle, Washington, (206) 217–6009.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was just recently received leaving insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this temporary final rule are LT Andrew W. Connor, project officer, and LT Laticia J. Argenti, project attorney, Coast Guard District Thirteen Legal Office.

Discussion of Regulations

The Bellingham Fireworks Display is being held as part of the celebration for

the Fourth of July Independence Day in Bellingham, Washington. This event is sponsored by Whatcom County Chamber of Commerce. The fireworks display is conducted from a barge located on the waters of Bellingham Bay, Bellingham, Washington. This one day event attracts a large number of spectators gathered on the waters near the fireworks display. To promote the safety of both the spectators and participants, this safety zone is required to keep spectators away from the explosive fireworks barge during the fireworks display. The exclusionary area is designed to keep all spectators away from the fireworks barge.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Federalism Assessment

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

Environmental Assessment

This temporary rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.C. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

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

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

2. A temporary § 165.T13–007 is added to read as follows:

§ 165.T13–007 Safety Zone: Bellingham, Bay, Bellingham, WA

(a) *Location.* The following area is a safety zone: The waters of Bellingham Bay, Bellingham, Washington. The safety zone will be comprised of a portion of water around the fireworks barge bounded by the following coordinates: Latitude 48° 44′09″ N, Longitude 122° 30′07″ W, Latitude 48° 44′09″ N, Longitude 122° 29′57″ W, Latitude 48° 44′02″ N, Longitude 122° 30′07″ W, Latitude 48° 44′02″ N, Longitude 122° 29′57″ W.

(b) *Definitions.*

Designated representative of the District Commander is any Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander, Thirteenth Coast Guard District, to act on his behalf.

Official patrol—consists of any Coast Guard vessel, state or local law enforcement, and/or sponsor-provided vessels assigned and/or approved by Commander, Thirteenth Coast Guard District to patrol each event.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part , entry into this safety zone is prohibited unless authorized by the District Commander or his designated representative. When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given, failure to do so may result in a citation.

(2) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander or his designated representative may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(d) *Effective date.* This section becomes effective on July 4, 1994 at 9:30 p.m. (PDT) and terminates on July 4, 1994 at 11 p.m. (PDT) unless sooner terminated by the District Commander.

Dated: June 3, 1994.

John A. Pierson,

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

[FR Doc. 94–15060 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[CGD 13–94–011]

Safety Zone Regulations; Fireworks Display, Commencement Bay, Tacoma, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the Independence Day Fireworks display to be held on July 4, 1994 from 9:30 p.m. (PDT) until 11 p.m. (PDT). The fireworks display barge will be positioned in Commencement Bay, Tacoma, Washington. This safety zone is necessary to control spectator craft and to provide for the safety of life and property on and in the vicinity of navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on July 4, 1994 at 9:30 p.m. (PDT) and terminate on July 4, 1994 at 11 p.m. (PDT).

FOR FURTHER INFORMATION CONTACT: LT S. Workman, Assistant Operations Officer, Coast Guard Group Seattle, Washington, (206) 217–6009.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was just recently received leaving insufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this temporary final rule are LT Andrew W. Conner, project officer, and LT Laticia J. Argenti, project attorney, Coast Guard District Thirteen Legal Office.

Discussion of Regulations

The Tacoma Fireworks Display is being held as part of the celebration for the Fourth of July Independence Day in Tacoma, Washington. This event is sponsored by the Fourth of July

Extravaganza Commission. The fireworks display is conducted from a barge located on the waters of Commencement Bay, Tacoma, Washington, near old town dock. This one day event attracts a large number of spectators gathered on the waters near the fireworks display. To promote the safety of both the spectators and participants, this safety zone is required to keep spectators away from the explosive fireworks barge during the fireworks display. The exclusionary area is designed to keep all spectators away from the fireworks barge.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Federalism Assessment

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

Environmental Assessment

This temporary rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.C. of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

PART 165—AMENDED

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

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

2. A temporary section 165.T13–008 is added to read as follows:

§ 165.T13–008 Safety Zone: Commencement Bay, Tacoma, WA

(a) *Location.* The following area is a safety zone: The waters of Commencement Bay, Tacoma, Washington. The safety zone will be comprised of a portion of water bounded by the following coordinates: Latitude 47° 17′48″ N, Longitude 122° 28′40″ W, Latitude 47°17′02″ N, longitude 122° 26′47″ W, Latitude 47° 16′26″ N, Longitude 122° 27′20″ W, Latitude 47° 16′12.5″ W, Longitude 122° 29′13″ W.

(b) *Definitions.*

Designated representative of the District Commander is any Coast Guard commissioned, warrant or petty officer who has been authorized by the District Commander, Thirteenth Coast Guard District, to act on his behalf.

Official patrol consists of any Coast Guard vessel, state or local law enforcement, and/or sponsor-provided vessels assigned and/or approved by Commander, Thirteenth Coast Guard District to patrol each event. All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the District Commander or his designated representative. When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given, failure to do so may result in a citation.

(2) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander or his designated representative may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(d) *Effective date.* This Section becomes effective on July 4, 1994 at 9:30 p.m. (PDT) and terminates on July 4, 1994 at 11 p.m. (PDT) unless sooner terminated by the District Commander.

Dated: June 3, 1994.

John A. Pierson,

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

[FR Doc. 94–15061 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 940366–4165; I.D. 021494E]

RIN 0648–AF39

American Lobster Fishery

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures in Amendment 5 to the Fishery Management Plan for the American Lobster Fishery (FMP). Amendment 5 is intended to eliminate overfishing of American lobsters in the exclusive economic zone (EEZ), with anticipated complementary management action in state waters. A final rule published on May 20, 1994 (59 FR 26454), implemented one of the measures approved under Amendment 5—maintenance of the current 3¼-inch (8.26–cm) minimum carapace length. This rule implements the remaining measures approved under Amendment 5: Limits on the issuance of new Federal vessel permits for a 5-year period, change in escape vent width, dealer permits, operator permits, a framework process to develop a stock rebuilding program, and a revised definition of overfishing.

EFFECTIVE DATE: July 20, 1994.

ADDRESSES: Copies of Amendment 5, its regulatory impact review (RIR), initial regulatory flexibility analysis (IRFA), and the final supplemental environmental impact statement (FSEIS) are available from Douglas Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097. Copies of the Finance Handbook may be obtained from Mr. Joseph Giza, Chief, Fiscal Policy and Quality Assurance Branch, NOAA Financial Management Division, Caller Service No. 8025, 20020 Century Boulevard, Germantown, Maryland 20874, telephone: 301–443–8795.

Comments regarding the burden-hour estimates, or any other aspect of the

collection-of-information requirements contained in this final rule, should be sent to the Regional Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, and the Office of Management and Budget (OMB) (Attention NOAA Desk Officer), Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, NMFS, Fishery Policy Analyst, 508–281–9273.

SUPPLEMENTARY INFORMATION:

Background

Amendment 5, with some exceptions, was approved by NMFS on May 11, 1994. Background to the amendment was discussed in the proposed rule (59 FR 11029, March 9, 1994), and is not repeated here.

Approved Management Measures

NMFS is implementing the approved measures of Amendment 5 through two separate final rules. The first was published on May 20, 1994 (59 FR 26454). That final rule maintained the minimum carapace length for lobsters at 3¼ inches (8.26 cm), thereby rescinding the scheduled increases in the minimum size. This rule implements the remaining approved provisions of Amendment 5: (1) A 5-year moratorium on the issuance of new Federal vessel permits, (2) dealer and vessel operator permit requirements, (3) a decrease in the minimum width of the lobster trap escape vent from 6 inches (152.4 mm) to 5–3/4 inches (146.1 mm), and (4) a framework process that requires the development of a stock rebuilding program in four management areas in the EEZ (Gulf of Maine Near-shore, Southern New England Near-shore, Middle Atlantic Near-shore, and Offshore) by the end of the first year of implementation of Amendment 5. The framework process calls for the establishment of Effort Management Teams (EMTs) for each management area to develop area-specific management measures.

Amendment 5 also revises the overfishing definition for American lobster to read:

> The resource is recruitment overfished when, throughout its range, the fishing mortality rate (F), given the regulations in place at that time under the suite of regional management measures, results in a reduction in estimated egg production per recruit to 10 percent or less of a non-fished population ($F_{10\%}$)

With respect to the definition, the Amendment also specifies that the development of the status of the stock report and the evaluation of fishery-induced effects will consider information based upon one or more indices, including but not limited to: (1) Larval abundance index in surface waters, (2) larval settlement index, (3) pre-recruit indices by year class, (4) landings, (5) size composition of the landings, (6) spawning stock biomass, (7) numbers of egg-bearing females, (8) effort levels and catch per unit of effort, and (9) possible relationships of biological parameters to water temperatures or other environmental parameters. Although much of this information is currently unavailable, it is NMFS' intent to incorporate this information, as appropriate, into the determination of whether the fishery is being overfished when such information can be developed into valid, quantifiable indices of overfishing.

Based on the definition, the lobster resource is overfished. To achieve reductions in fishing mortality, Amendment 5 includes a framework process requiring the New England Fishery Management Council (Council) to develop a stock rebuilding program during the first year of implementation. The management measures may include any of the framework measures specified under § 649.44(d). These measures may be applied to all segments of the harvesting sector within each management area.

To determine which of these measures will be implemented in each of the management areas, Amendment 5 establishes an EMT for each management area. Each EMT is charged with recommending to the Council a stock rebuilding program for its area no later than January 20, 1995. Based on the EMT recommendations, the Council is required to submit framework management measures to the Director, Northeast Region NMFS (Regional Director). This development timeframe is designed to provide industry members within each area with the opportunity to reach a consensus by July 20, 1995 as to which options listed in § 649.44(d) should apply in their respective management area. NMFS has informed the Council, in a letter from the Regional Director dated May 11, 1994, that if the EMTs are unable to make their deadline, then NMFS will begin the process of withdrawing the FMP.

The Council recommended to NMFS that the initial specification of a seaward boundary line of the Southern New England Near-shore area, which is contiguous with part of the Offshore area, be as set forth in § 649.42 (see Figure 3 of part 649). The Council will determine the final location of a boundary line after the EMTs for these areas jointly consider the issue and make a recommendation to the Council. Long Island Sound, under the jurisdiction of the coastal states and not part of the EEZ, is not specifically part of the Southern New England Near-shore area.

Amendment 5 includes new permitting requirements for vessel operators and dealers, and limits the requirements for limited access vessel permits for a period of 5 years. During the third year of the new permit requirements, the Council will conduct a formal review to determine whether the limitation on permits is necessary to the stock rebuilding program. The Council may choose to extend the limitation on new permits for a specified period or terminate it if it determines that such action is consistent with the stock rebuilding program.

Amendment 5 specifies the lobster fishery control date as March 25, 1991, rather than January 9, 1991, as published in the **Federal Register** on March 25, 1991 (56 FR 12366). Shortly after publication of the control date of January 9, 1991, the Council agreed to adjust that date to the date of publication of the control date notice—March 25, 1991. The EMTs will consider the following control date guidelines during development of the stock rebuilding program: (1) In the event that a system of assigning fishing rights is developed as part of the FMP, such assignments shall be based on historical levels of participation in the fishery prior to March 25, 1991, with consideration for recent investments that have not yet been reflected in measures of participation; (2) new or re-rigged vessels will be given consideration in the assignment of fishing rights if (a) the vessel was under construction or re-rigging for directed lobster fishing as of March 25, 1991, as evidenced by written construction contracts, work orders, equipment purchases, or other evidence of substantial investment and intent to participate in the lobster fishery; and (b) the vessel possessed an American lobster permit and landed lobster prior to March 25, 1992; (3) historical participation will transfer with a vessel for a transfer made after March 25, 1991, unless such transfer is accompanied by a written document indicating the agreement of both the buyer and the seller that any future fishing rights applicable to that vessel are not being transferred with the vessel; and (4) any system of assigning fishing rights will take into consideration the following concerns relative to individuals or corporations that have sold a vessel within the time that may be chosen to

determine historical fishing rights: (a) The degree of economic dependence upon the lobster fishery, including, but not limited to the percentage of income derived from the lobster fishery; (b) the extent of past participation in the lobster fishery; and (c) the demonstration of intent prior to March 25, 1991, to re-enter the lobster fishery with another vessel.

Delayed and Disapproved Measures and the Reasons for Disapproval

The limited access permit requirements and the vessel operator permit requirements will be implemented in 1995, so that they can be included as part of the 1995 permitting process. The annual permit renewal begins in August-September of each year, and limited access lobster vessel permits and vessel operator permits will be required on January 1, 1995. This implementation schedule will ensure that NMFS can administer the requirement with the minimum burden upon applicants.

Three measures proposed in Amendment 5 were disapproved. Two measures were disapproved because they were inconsistent with national standard 4 of the Magnuson Fishery Conservation and Management Act (Magnuson Act), which requires that any allocation of fishing privileges be fair and equitable. These measures would have established three vessel permit categories and would have set a quota for vessels issued a permit and using gear other than lobster pots. The proposed permit categories and quota would have unfairly impacted, without adequate justification, one segment of the fishery while allowing unrestrained increases in other sectors of the fishery.

Also disapproved were the Council's proposed mandatory reporting requirements for dealers and vessels. The Council has not demonstrated that the benefits of the mandatory reporting requirements justify the costs, as required by E.O. 12866, particularly in light of the fact that the majority of lobsters are harvested from state waters. NMFS will pursue a cooperative approach with the states to share the costs of such a data collection.

Comments and Responses

NMFS received comments on the proposed rule from one U.S. Senator, the U.S. Coast Guard, the Council, four Maine state representatives, five fishing industry associations, and nine individuals. All of the comments were carefully considered during the formulation of this final rule. Specific comments are discussed and responded to below.

The Council submitted comments requesting several clarifications and changes to the regulatory text. Most of these changes are noted in the Changes from the Proposed Rule section of this preamble. In addition to these changes, the Council requested that a provision restricting party, charter, and dive boats to six or fewer lobsters per person on board be expanded to include any fishing vessel. NMFS is not implementing this provision because it was not included as part of Amendment 5 and, as such, has not received adequate public notice and comment. The Council also requested that vessel owners not be in violation of the prohibition against selling or transferring fish to unpermitted dealers unless the sale or transfer were done knowingly. NMFS has not adopted this change because it would make enforcement of this prohibition almost impossible and because it would be inconsistent with similar prohibitions in other fishery management plans. In any event, NMFS will exercise discretion in enforcing this prohibition in cases where vessel owners could not reasonably be expected to know whether a dealer was validly permitted.

Comment: A U.S. Senator, the Coast Guard, four industry associations, and six individuals stated that the amendment should be approved.

Response: The comments have been noted and the amendment was partially approved, as explained above.

Comment: One individual objected to the specific eligibility criteria for a limited access vessel permit that require a vessel or vessel owner to have been issued a Federal American lobster permit, or a federally endorsed state American lobster permit, and to have landed American lobsters prior to March 25, 1991.

Response: This provision complies with the Magnuson Act requirements for establishing a system for limited access to a fishery. If a system for limiting access to a fishery is included in a fishery management plan, the Magnuson Act requires the Council and NMFS to take into account such factors as present participation in the fishery, historical fishing practices and dependence on the fishery, and capability of vessels to be used in other fisheries. The Council and NMFS considered all of these factors in establishing criteria required to qualify for full participation in the American lobster fishery. A control date was announced on March 25, 1991 (56 FR 12366), which gave notice to participants and potential participants that future participation in the fishery may be limited for vessels that entered the fishery after the control date. The purpose of the control date was to discourage increases in fishing effort and speculative entry into the fishery while development of Amendment 5 progressed.

Amendment 5 also establishes an exemption to the limited access fishery for party, charter and dive boats in possession of six or fewer lobsters per person, or for recreational vessels and vessels that fish exclusively in state waters for lobsters. Therefore, Amendment 5 provides the opportunity for recreational operators and other types of operators who fish exclusively in state waters to participate in the fishery while discouraging further increases in fishing mortality by limiting the number of participants in the fishery.

Comment: Two individuals requested that the boundary line between Management Areas 2 and 3 be omitted. Another requested that Management Area 4 be split into two zones.

Response: The Council decided, and NMFS agrees, that a boundary line between the Southern New England Near-shore area and the Offshore area is needed to define the areas in the final rule so that appropriate area specific management measures can be developed. The Council has stated that future boundary lines for the areas will be considered jointly by the EMTs for these areas and that the EMTs will make recommendation on changes to the Council.

Comment: Two individuals requested that the boundary line for the Management Areas be specified by Loran C coordinates, rather than by latitude and longitude.

Response: All boundary lines listed in Federal fishery regulations are specified by latitude and longitude, because such coordinates are more precise and accurate for enforcement purposes.

Comment: Three individuals stated that the amendment should be disapproved because it violates national standards. One industry association stated specifically that Amendment 5 violates: (1) National standard 1, because it does nothing to prevent overfishing; (2) national standard 2, because it does not use the best scientific information available; (3) national standard 3, because the Amendment establishes management zones that do not manage the lobster stock throughout the range of the stock; (4) national standard 4, because the Amendment discriminates against the mobile gear sector; (5) national standard 5, because there are severe restrictions placed on the mobile gear sector and absolutely none on the trap sector; (6) national standard 6, because the

Amendment ignores the fact that mobile gear is a variation within the lobster fishery; (7) national standard 7, because, by establishing EMTs, the Amendment does not minimize costs.

Response: With the exception of the disapproved portions of Amendment 5 noted above, NMFS has determined that the measures included in Amendment 5 are consistent with all of the national standards. Specific responses to the comments follows.

Amendment 5 is consistent with national standard 1 because it mandates a timetable to implement measures to address overfishing based on a specific definition of overfishing, and creates a framework system to change management measures proposed by the Council. The process is designed to develop an industry consensus, through the EMTs and the Council, concerning the most effective management measures to achieve the objectives of the FMP to reduce fishing mortality in each of the four management areas. Thus, Amendment 5, as implemented, specifies the process, the timetable, and the specific biological objectives that will achieve the objectives of the FMP in addressing overfishing. If the Council fails to submit management measures sufficient to meet the FMP objectives, the regulations require the Secretary to determine whether preparation of an amendment to the FMP is necessary. In addition, NMFS stated in a letter notifying the Council of partial disapproval Amendment 5 that it will begin the process to withdraw the American lobster FMP if the EMTs have not submitted recommendations to the Council concerning management measures within 6 months after the effective date of the regulations implementing Amendment 5.

Amendment 5 is consistent with national standard 2 because the Council determined, and NMFS agrees, that the NMFS weighout database is the best scientific information available in determining the conservation and management measures. Further, any new available data will be considered in reviewing specific management measures submitted to NMFS under the first-year framework process.

National standard 3 states that "to the extent practicable," an individual stock of fish shall be managed as a unit throughout the range. The overall objective of the FMP is to support and promote the development and implementation, on a continuing basis, of a unified, regional management program for lobster. The American lobster FMP and Amendment 5, as implemented by this rule, establishes a system to manage the lobster stock as a unit throughout the range. The provision for management areas recognizes that individual measures to achieve the overall FMP objectives may need to vary because of regional and state differences in how the lobster fishery is conducted. This is consistent with national standard 3, which provides that FMPs need not be identical for each geographic area within the management unit, if the FMP justifies the differences. Since more than 80 percent of the lobster fishery occurs in state waters, this approach is needed to insure consistent, comparable management measures among the various states engaged in the fishery.

The measures that create different categories based on gear were disapproved because national standard 4 requires that any allocation of fishing privileges be fair and equitable. The permit categories and quota, although intended only to cap effort and prevent re-direction of effort from other fisheries, impact, without adequate justification, only one segment of the fishery and continue to allow unrestrained increases in other sectors (with the exception of the permit moratorium which affects all sectors equally).

Pertaining to national standard 5, the measures that place restrictions on the mobile gear sector have been disapproved for the reasons stated above.

Pertaining to national standard 6, for the reasons stated above, gear categories were disapproved.

National standard 7 states that, "where practicable," management measures shall minimize costs. This amendment creates EMTs for each of the four management areas to address concerns of geographic differences in the lobster fishery as permitted under national standard 3, as discussed above. Since more than 80 percent of the lobster fishery occurs in state waters, NMFS has determined that this approach is a practicable, cost-efficient way to insure consistent, comparable management measures among the various states bordering the four management areas established by Amendment 5. In particular, this approach is necessary to be consistent with the agency's guidelines on national standard 7, which state that a factor in deciding whether a fishery needs management through regulations implementing an FMP is the need to resolve competing interests and conflicts among user groups and whether a measure can further that resolution.

Comment: One individual opposed the requirement for mandatory vessel logbooks.

Response: This requirement was disapproved.

Comment: Two individuals requested that representation on the EMTs include draggers and divers.

Response: Members of each EMT will be appointed by the Council, in consultation with appropriate states and NMFS. This final rule does not restrict or require participation on the EMTs by any specific group or groups.

Comment: One individual requested that the definition of recreational fishing vessel be changed to include dive vessels.

Response: The definition for recreational fishing vessels includes dive vessels, provided that lobster harvested by dive vessels are not intended to be, nor are they, bartered, traded, or sold.

Comment: A U.S. Senator and two industry associations expressed concern with the 100 lobster possession restrictions and the target quota for non-lobster pot vessels.

Response: These provisions have been disapproved.

Comment: One industry association asked if the wording of the overfishing definition as defined in Amendment 5 will mandate a change in the way future overfishing will be determined.

Response: The overfishing definition in the Amendment will be the objective measurement of the status of the lobster stock and complies with the 50 CFR part 602 guidelines.

Comment: Four Maine state legislators expressed concern over conflicting state and Federal American lobster regulations.

Response: The overall objective of the FMP is to support and promote the development and implementation, on a continuing basis, of a unified, regional management program for lobster. The final rule published on May 20, 1994 (59 FR 26454) is consistent with this objective by maintaining the minimum size at 3¼ inches (8.26 cm).

Comment: Four Maine state representatives expressed concern that the Maine Legislature's Joint Standing Committee on Maine Resources was not contacted to discuss any perceived or actual concerns about the lobster resource.

Response: The Coastal Zone Management Act requires that the coastal zone agency of each state affected by Amendment 5 be contacted and asked whether they agree that the amendment is consistent, to the maximum extent practicable, with their federally approved coastal zone

management program. On February 7, 1994, the Council sent a letter to the Coastal Program Manager for the State of Maine, and on February 11, 1994, the Council received a reply from the State of Maine that determined the amendment was consistent with the enforceable policies of the Maine Coastal Program. In addition, the Commissioner of the Maine Department of Marine Resources serves on the Council.

Comment: One industry association expressed concern that the wording under § 649.9(d)(1) does not exempt recreational vessels.

Response: NMFS has modified § 649.4(a) and § 649.9(d)(1) to clarify that recreational vessels are exempt from the permit requirements.

Comment: One industry association pointed out that recreational fishing vessels, as defined in the proposed rule, were not limited to six or fewer American lobsters per person aboard the vessel at any time.

Response: It was not the intent of Amendment 5 to restrict the recreational fishery for American lobsters. However, by definition, recreational vessels are prohibited from bartering, trading, or selling lobster.

Comment: One individual objected to the requirement for an operator permit and stated that it should be the responsibility of the vessel owner to make sure that the vessel operator is fully aware of, and follows, all regulations.

Response: The intent of this measure is to improve regulatory compliance by those who are most directly able to control the actions of the vessel and crew. The number of operators having their permit suspended or revoked is expected to be relatively small. Penalties would be assessed against a vessel operator only if the vessel operator is determined to have been involved in a major violation or is a significant repeat offender of Federal fishing regulations. The language gives notice to the vessel operator that his/her right and privilege to operate and serve on a federally permitted fishing vessel is subject to the condition that right may be suspended or revoked in certain circumstances. Without the possibility of suspending or revoking an operator's right to serve in any capacity on a federally permitted vessel, the purpose of requiring operator's permits would be meaningless. The language also puts the operator on notice that he/she will be responsible for his/her actions and will not be able to move to another vessel should a suspension occur. It is consistent with a vessel permit suspension, which takes the vessel out of the fishery during the time of suspension.

Changes from the Proposed Rule

Changes were made to several sections of the proposed rule to clarify the measures and to ensure consistency with other fishery regulations. In addition, substantive changes are made to the following sections:

In § 649.1, the narrative within the first paragraph is modified to add the phrase "This part implements the Fishery Management Plan for the American Lobster Fishery (FMP), as amended by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission (ASMFC), and approved by the Assistant Administrator for Fisheries" to clarify further the purpose and scope of the FMP.

In § 649.2, the definition of an "Effort Monitoring Team" is modified to add the phrase "a group of American lobster industry representatives (appointed by the Council)" to clarify who the appointing authority is for the EMT.

In § 649.2, the definition of a "ghost panel" is modified to add the phrase "after a period of time if the" to clarify the meaning of a ghost panel.

In § 649.2, the definition of "Lobster Plan Development Team" is not used in these regulations and is deleted from this final rule.

In § 649.2, the definition of a "lobster pot trawl" is added.

In § 649.2, the definitions of "reporting month and reporting week" are deleted from this final rule. The vessel and dealer reporting requirement measures were disapproved by NMFS; therefore, these definitions are no longer necessary.

In § 649.2, the definition of "sixth tail segment" is not used in these regulations and is deleted from this final rule.

In § 649.2, the definition of a "whole American lobster" is modified to add the phrase "A cull whole American lobster is an American lobster with one or both claws missing," to clarify the meaning of a whole American lobster.

In § 649.4 paragraphs (a)(1), (2), and (3) are added to clarify NMFS' intent to allow 1994 permits to remain effective until December 31, 1994, and the remaining paragraphs of the section are redesignated accordingly.

In § 649.4(b), the narrative in the introductory text is modified to add the phrase "From January 1, 1995, through December 31, 1999," to clarify NMFS' intent to start issuing limited access American lobster permits in 1995 and that this permit requirement will expire at the end of 1999. In the same paragraph, the phrase "not intended for or resulting in trade, barter or sale" is added to clarify which vessels do not require a limited access American lobster permit.

In § 649.4(b)(1)(B), the phrase "or federally endorsed state American lobster permit," is added to clarify that a vessel issued a federally endorsed state American lobster permit can also qualify for a limited access permit.

In § 649.4(b)(2), the phrase "for the years after 1996 - 1999" is added to clarify the intent of Amendment 5 to limit the issuance of limited access vessel permits for a period of 5 years.

In § 649.4, paragraph (b)(2)(ii) is added to clarify the intent of Amendment 5 to limit the issuance of limited access vessel permits for a period of 5 years.

In § 649.4(e), the word "overall" is added to clarify what vessel length information is needed.

In § 649.4(h), the phrase "A Federal American lobster permit will expire upon the renewal date specified in the permit" is added to correct a statement in the proposed rule.

In § 649.5(a), the phrase "Beginning on January 1, 1995," is added to clarify NMFS' intent to require operator permits beginning in 1995, the phrase "not intended for or resulting in trade, barter or sale" is added to clarify further who does not require a vessel operator permit, and text is added to clarify further the requirement for an operator permit.

In § 649.5, paragraph (g) was revised to correct an error in the proposed rule.

In § 649.6(b), the sentence, "For 1994, a copy of an applicant's completed application will serve as a temporary permit until the applicant has received a permanent permit." is added. Since dealers are required to have Federal permits upon the effective date of this final rule, there is not sufficient time for applicants to comply with the requirement to have their permit application submitted 30 days prior to the date they desire the permit to be effective. This will alleviate that problem.

In § 649.6(e), the phrase "and the applicant has submitted all applicable reports specified in § 649.7(a)" is deleted. The vessel and dealer reporting requirement measures were disapproved by NMFS; therefore, this phrase is no longer necessary.

In § 649.6, paragraph (f) is revised to correct a statement in the proposed rule.

In § 649.8(a)(6), the phrase "unless such gear has been rendered unfishable" is added to allow for the retrieval of lost

gear or the unintentional catching of lost lobster pots by trawl vessels and subsequent repairing or destroying of the gear on shore.

In § 649.8(b), the phrase "or unless the vessel is a recreational vessels or vessel fishing for American lobsters exclusively in state waters" is added to clarify exemptions to this prohibition.

In § 649.8(c)(5), the phrase "Beginning on January 1, 1995," is added to clarify that the operator permit requirement is not effective until 1995.

In § 649.8, paragraph (c)(10) is added to codify the statutory requirements under section 307(1)(J) of the Magnuson Act.

In § 649.8(c)(1)(iii) is modified to add the phrase "per person on board the vessel and the" was added to clarify further the intent of the prohibition.

In § 649.20, the section heading is revised to clarify the meaning of the section, and paragraphs (b)(3), (d)(3), and (e)(3) were added to codify the statutory requirements under section 307(1)(J) of the Magnuson Act.

In § 649.23, the prohibition on transferring fish from one vessel to another while at sea is deleted because the landing and quota requirements proposed by the Council have been disapproved and this measure is no longer necessary.

In § 649.42, point I is added to the table in paragraph (b)(2) because it was inadvertently omitted in the proposed rule, and the heading of paragraph (b)(4) is modified to add the word "EEZ" to clarify that the near-shore waters referred to in the table are in Federal waters.

In § 649.43, paragraph (b)(11) is redesignated paragraph (b)(12), a new paragraph (b)(11) is added to clarify the Council's intent that the control date guidelines be retained for consideration by the EMTs, and paragraph (b)(12) is revised to clarify the Council's intent on recommending adjustments or additions to management measures.

In § 649.43, paragraph (e) is redesignated paragraph (f), and a new paragraph (e) is added to clarify that the Council is not precluded from taking necessary management actions in year 1 by the other requirements of § 649.43.

In § 649.44(c), the references to Plan Development Teams (PDTs) are deleted to clarify that frameworks, as described in Amendment 5 are tied to EMTs, specifically. PDTs may, at the discretion of the Council, develop independent findings and recommendations. Also, the phrase "shall provide the appropriate rationale and economic and biological analysis for its recommendation, utilizing the most current catch, effort, and other relevant data from the fishery" is removed from paragraph (c) of this section, and placed in § 649.44(d) to clarify further the Council's intent on who should prepare the required analysis.

In § 649.44, paragraph (d)(11) is redesignated to (d)(12), and a new paragraph (b)(11) is added to clarify the Council's intent that the control date guidelines be retained. Redesignated paragraph (d)(12) is revised to clarify the Council's intent on recommending adjustments or additions to management measures.

Since all recordkeeping and reporting requirements contained in § 649.7 were disapproved, sections 649.8 (Vessel identification), 649.9 (prohibitions), 649.10 (Facilitation and enforcement), and 649.11 (penalties) in the proposed rule are redesignated as §§ 649.7, 649.8, 649.9, and 649.10, respectively, in this final rule.

Since the contents of § 649.22 (possession restrictions and target quota), 649.23 (transfer at sea), and 649.24 (restrictions on trawl gear while in the trap fishery) in the proposed rule were disapproved, § 649.25 (experimental fishing exemption) of the proposed rule is redesignated as § 649.22 in this final rule.

Republication of Part of 50 CFR Part 649

A revised version of § 649.20(b)(1) and (2) was published in the first final rule (59 FR 26454, May 20, 1994) for Amendment 5, effective May 17, 1994. Those paragraphs are republished here for the convenience of the reader so as to have the entire 50 CFR part 649 published together.

Classification

The General Counsel of the Department of Commerce certified to the Small Business Administration when this rule was proposed that if adopted, it would not have a significant impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis was not prepared.

This rule contains two new collection-of-information requirements and two revisions to existing requirements previously approved by OMB. These collection-of-information requirements have been approved by OMB. Nevertheless, public comments are invited on the burden-hour estimates for the collection of information requirements as listed below.

The new reporting requirements are:

1. Dealer permits, OMB Control No. 0648–0202, (5 min./response);

2. Operator permits, OMB Control No. 0648–0202, (1 hour/response).

Revisions to the existing requirements are:

1. Vessel permits, OMB Control No. 0648–0202, (1 hour/response);

2. Vessel permits, appeal of denied vessel permit, OMB Control No. 0648–0202, (3 hours/response);

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

List of Subjects in 50 CFR Part 649

Fisheries.

Dated: June 14, 1994.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 649 is revised to read as follows:

PART 649—AMERICAN LOBSTER FISHERY

Subpart A—General Provisions

Subpart B—Management Measures

Subpart C—Stock Rebuilding Program and Framework Adjustments to Management Measures

Figures—Part 649

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 649.1 Purpose and scope.

This part implements the Fishery Management Plan for the American Lobster Fishery (FMP), as amended by

the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission (ASMFC), and approved by the Assistant Administrator for Fisheries, NOAA. Red crab fishing gear, which is fished deeper than 200 fathoms (365.8 m), is gear not capable of taking lobsters, and is not subject to the provisions of this part.

§ 649.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

American lobster or *lobster* means the species *Homarus americanus.*

Berried female means a female American lobster bearing eggs attached to the abdominal appendages.

Carapace length is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster.

Council means the New England Fishery Management Council.

Dealer means any person who receives American lobsters for a commercial purpose from the owner or operator of a vessel issued a valid Federal vessel permit under this part, other than exclusively for transport on land.

Dive vessel means any vessel carrying divers for a per capita fee or a charter fee.

Effort Monitoring Team (EMT) means a group of technical experts made up of representatives from the Council, NMFS, the appropriate states, and a group of American lobster industry representatives (appointed by the Council), per management area, to each EMT.

Escape vent means an opening in a lobster trap designed to allow lobster smaller than the legal minimum size to escape from the trap.

Fishery Management Plan (FMP) means the Fishery Management Plan for American Lobsters, as amended.

Ghost panel means a panel, or other mechanism, designed to allow for the escapement of lobster after a period of time if the trap has been abandoned or lost.

Gross registered tonnage means the gross registered tonnage specified on the U.S. Coast Guard documentation for a vessel.

Land means to enter port with fish on board, to begin offloading fish, or to offload fish.

Lobster pot trawl means a number of lobster traps, all attached to a single groundline.

Net tonnage means the net tonnage specified on the U.S. Coast Guard documentation for a vessel.

Offload means to begin to remove, to remove, to pass over the rail, or otherwise take away fish from any vessel.

Operator means the master or captain of the vessel, or other individual on board the vessel, who is in charge of that vessel's operations.

Party/charter boat means any vessel carrying fishing persons or parties for a per capita fee or for a charter fee.

Postmark means independently verifiable evidence of date of mailing, such as U.S. Postal Service postmark, United Parcel Service (U.P.S.) or other private carrier postmark, certified mail receipt, overnight mail receipt, or receipt received upon hand delivery to an authorized representative of NMFS.

Recreational fishing means fishing that is not intended to, nor results in the barter, trade, or sale of fish.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Charter and party boats and dive boats are not considered recreational fishing vessels.

Regional Director means the Director, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298, or a designee.

Re-rig or *re-rigged* means physical alteration of the vessel or its gear in order to transform the vessel into one capable of fishing commercially for American lobsters.

Scrubbing is the forcible removal of eggs from a berried female American lobster.

Under agreement for construction means that the keel has been laid and that there is a written agreement to construct a fishing vessel.

V-notched American lobster means any female American lobster bearing a V-shaped notch in the flipper next to and to the right of the center flipper as viewed from the rear of the lobster (underside of the lobster down and tail toward the viewer).

V-shaped notch means a straight-sided triangular cut, without setal hairs, as least 1/4 inch (0.64 cm) in depth and tapering to a point.

Whole American lobster means a lobster with an intact and measurable body (tail and carapace). A cull whole American lobster is an American lobster with one or both claws missing.

§ 649.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter.

(b) Nothing in these regulations shall supersede more restrictive state management measures for American lobsters.

§ 649.4 Vessel permits.

(a) *1994 vessel permits.* (1) Through December 31, 1994, any vessel of the United States fishing for American lobster in the EEZ must have been issued and carry on board a valid permit required by or issued under this part. The Regional Director may, by agreement with State agencies, recognize permits or licenses issued by those agencies endorsed for fishing for lobster in the EEZ, providing that such permitting programs accurately identify persons who fish in the EEZ, and that the Regional Director can either individually, or in concert with the state agency, act to suspend the permit or license for EEZ fishing for any violation under this part.

(2) Alternate State EEZ permitting programs will be established through a letter of agreement between the Regional Director and the director of the State marine fisheries agency concerned. The letter of agreement will specify the information to be collected by the alternate EEZ permitting program and the mode and frequency of provision of that information to the Regional Director. The Regional Director will, in cooperation with the State director, arrange for notification of the existence and terms of any such agreements to the affected persons. Persons intending to fish in the EEZ should determine whether an alternate EEZ permitting program is in force for their state before applying for a Federal permit under paragraph (d) of this section.

(3) Vessel owners or operators who apply for a fishing vessel permit under this section, or for a State permit endorsed for EEZ fishing under paragraph (a)(2) of this section, must agree, as a condition of the permit, that all the vessel's lobster fishing, catch, and gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such lobster, lobster meats, or parts, or gear are possessed, taken or landed) will be subject to all the requirements of this part. All such fishing, catch, and gear will remain subject to any applicable state or local requirements. If a requirement of this part and a conservation measure required by state or local law differ, any vessel owner or operator permitted to

fish in the EEZ must comply with the more restrictive requirement.

(b) *Limited access American lobster permits.* From January 1, 1995, through December 31, 1999, any vessel of the United States that fishes for, possesses, or lands American lobster, in or harvested from the EEZ, must have been issued and carry on board a valid Federal limited access American lobster permit. This requirement does not apply to party, charter and dive boats that possess six or fewer American lobsters, not intended for or resulting in trade, barter or sale, per person aboard the vessel at any time, or to recreational vessels, and vessels that fish exclusively in state waters for American lobsters.

(1) *Eligibility in 1995.* (i) To be eligible to obtain a limited access American lobster permit for 1995, a vessel must meet one of the following criteria:

(A) The vessel or vessel owner had been issued a Federal American lobster permit, or a federally endorsed state American lobster permit, and landed American lobsters prior to March 25, 1991; or

(B) The vessel was under written agreement for construction or for re-rigging for directed American lobster fishing as of March 25, 1991, and the vessel was issued a Federal American lobster permit, or federally endorsed state American lobster permit, and landed American lobster prior to March 25, 1992; or

(C) The vessel is replacing a vessel that meets any of the criteria set forth in paragraphs (b)(1)(i)(A) or (B) of this section.

(ii) No more than one vessel may qualify, at any one time, for a limited access American lobster permit based on that or another vessel's fishing and permit history. If more than one vessel owner claims eligibility for a limited access American lobster permit, based on one vessel's fishing and permit history, the Regional Director shall determine who is entitled to qualify for the limited access American lobster permit.

(iii) A limited access American lobster permit for 1995 will not be issued unless an application for such permit is received by the Regional Director on or before December 31, 1995.

(2) *Eligibility in 1996 and thereafter.* (i) To be eligible to renew or apply for a limited access American lobster permit for the years 1996–1999, a vessel must have been issued a limited access American lobster permit for the preceding year, or the vessel must be replacing a vessel that had been issued a limited access American lobster permit for the preceding year. If more than one vessel owner claims eligibility to apply for a limited access American lobster permit based on one vessel's fishing and permit history, the Regional Director shall determine who is entitled to qualify for the limited access American lobster permit.

(ii) Beginning January 1, 2000, any vessel of the United States that fishes for, possesses, or lands American lobster, in or harvested from the EEZ, must have been issued and carry on board a valid Federal American lobster permit. This requirement does not apply to party, charter and dive boats that possess six or fewer American lobsters, not intended for or resulting in trade, barter, or sale, per person aboard the vessel at any time, or to recreational vessels and vessels that fish exclusively in state waters for American lobsters. The eligibility requirements for limited access permits for the years 1996 - 1999 are not applicable for obtaining an American lobster permit for the year 2000 and thereafter.

(3) *Change in ownership.* The fishing and permit history of a vessel is presumed to transfer with the vessel whenever it is bought, sold, or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel fishing and permit history for purposes of replacing the vessel.

(4) *Notification of eligibility for a limited access permit.* (i) NMFS will attempt to notify all owners of vessels for which NMFS has credible evidence that they meet the criteria in paragraph (b)(1) of this section.

(ii) If a vessel owner has not been notified that the vessel is eligible to be issued a limited access American lobster permit, and the vessel owner believes that there is credible evidence that the vessel does qualify under the pertinent criteria, the vessel owner may apply for a limited access American lobster permit by submitting the information described in paragraphs (d) through (e) of this section. In the event the application is denied, the applicant may appeal as specified in paragraph (b)(5) of this section. If, through either of these procedures, the Regional Director determines that the vessel meets the eligibility criteria, a limited access American lobster permit will be issued to the vessel.

(5) *Appeal of denial of limited access American lobster permit or of permit category assignment.* (i) Any applicant denied a limited access American lobster permit may appeal the denial to the Regional Director within 30 days of the notice of denial. Any such appeal must be based on one or more of the following grounds, must be in writing, and must state the grounds for the appeal:

(A) The information used by the Regional Director was based on mistaken or incorrect data;

(B) The applicant was prevented by circumstances beyond his/her control from meeting relevant criteria; or

(C) The applicant has new or additional information.

(ii) The Regional Director will appoint a designee who will make the initial decision on the appeal.

(iii) The appellant may request a review of the initial decision by the Regional Director by so requesting, in writing, within 30 days of the notice of initial decision. If the appellant does not request a review of the initial decision within 30 days, the initial decision shall become the final administrative action of the Department of Commerce.

(iv) *Recommendations to the Regional Director by a hearing officer.* A hearing officer shall be appointed by the Regional Director to review the initial decision. The hearing officer shall make findings and a recommendation to the Regional Director, which shall be advisory only.

(v) Upon receiving the findings and a recommendation, the Regional Director will issue a final decision on the appeal. The Regional Director's decision is the final administrative action of the Department of Commerce.

(c) *Condition.* Vessel owners who apply for a permit under this section must agree, as a condition of the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(d) *Vessel permit application.* Applicants for a permit under this section must submit a completed application on an appropriate form obtained from the Regional Director. The application must be signed by the owner of the vessel, or the owner's authorized representative, and be submitted to the Regional Director at least 30 days before the date on which the applicant desires to have the permit made effective. The Regional Director

will notify the applicant of any deficiency in the application pursuant to this section. Applicants for 1995 limited access American lobster permits who have not been notified of eligibility by the Regional Director shall provide information with the application sufficient for the Regional Director to determine whether the vessel meets the eligibility requirements specified under paragraph (b)(1) of this section. Acceptable forms of proof include, but are not limited to, state weigh-out records, packout forms, and settlement sheets.

(e) *Information requirements.* In addition to applicable information required to be provided by paragraph (d) of this section, an application for a Federal American lobster permit must contain at least the following information, and any other information required by the Regional Director: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a copy of the vessel's U.S. Coast Guard documentation or, if undocumented, state registration number and a copy of the state registration; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish-hold capacity; type of fishing gear used by the vessel; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having more than a 25 percent interest; and name and signature of the owner or the owner's authorized representative.

(f) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (g)(1) of this section.

(g) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904 and under paragraph (b)(5) of this section, the Regional Director shall issue a Federal American lobster vessel permit within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a completed application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received; or

(ii) The application was not received by the Regional Director by the deadlines set forth in paragraph (b)(1)(iii) of this section; or

(iii) The applicant and applicant's vessel failed to meet all eligibility requirements described in paragraphs (b)(1) and (2) of this section; or

(iv) The applicant has failed to meet any other application requirements stated in this part.

(2) Upon receipt of an incomplete or improperly executed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(h) *Expiration.* A Federal American lobster permit will expire upon the renewal date specified in the permit.

(i) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or until it otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Director as specified in paragraph (l) of this section.

(j) *Replacement.* Replacement permits, for an otherwise valid permit, may be issued by the Regional Director when requested in writing by the owner or authorized representative, stating the need for replacement, the name of the vessel, and the Federal Fisheries Permit number assigned. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged for issuance of the replacement permit.

(k) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the vessel and owner to whom it is issued.

(l) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written notice of the change must be submitted to the Regional Director. If the written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(m) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(n) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(o) *Sanctions.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(p) *Limited access American lobster permit renewal.* To renew or apply for a limited access American lobster permit in 1995 and thereafter, a completed application must be received by the Regional Director by December 31 of the year before the permit is needed. Failure to renew a limited access American lobster permit in any year bars the renewal of the permit in subsequent years.

(q) *Abandonment or voluntary relinquishment of limited access American lobster permits.* If a vessel's limited access American lobster permit is voluntarily relinquished to the Regional Director, or abandoned through failure to renew or otherwise, no limited access American lobster permit may be re-issued or renewed based on that vessel's history, or to any vessel relying on that vessel's history.

§ 649.5 Operator permits.

(a) *General.* Beginning on January 1, 1995, any operator of a vessel issued a Federal limited access American lobster permit under § 649.4(b), or any operator of a vessel of the United States that fishes for, possesses, or lands American lobsters, in or harvested from the EEZ must have been issued and carry on board a valid operator's permit issued under this section. This requirement does not apply to party, charter, and dive boats that possess six or fewer American lobsters, not intended for or resulting in trade, barter or sale, per person aboard the vessel at any time, or to recreational vessels, and vessels that fish exclusively in state waters for American lobsters.

(b) *Operator application.* Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application, pursuant to this section.

(c) *Condition.* Vessel operators who apply for an operator's permit under this section must agree, as a condition of this permit, that the operator and vessel's fishing, catch, crew size, and pertinent gear (without regard to

whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part while fishing in the EEZ or on board a vessel permitted under § 649.4(b). The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree, as a condition of this permit, that if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be on board any fishing vessel issued a Federal Fisheries Permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in offloading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement.

(d) *Information requirements.* An applicant must provide at least all the following information and any other information required by the Regional Director: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. The applicant must also provide two color passport-size photographs.

(e) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Financial Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of this section.

(f) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Director shall issue an operator's permit within 30 days of receipt of a completed application, if the criteria specified in this section are met. Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(g) *Expiration.* A Federal operator permit will expire upon the renewal date specified in the permit.

(h) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Director as specified in paragraph (k) of this section.

(i) *Replacement.* Replacement permits, for otherwise valid permits, may be issued by the Regional Director when requested in writing by the applicant, stating the need for replacement and the Federal operator permit number assigned. An applicant for a replacement permit must also provide two color passport-size photos of the applicant. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged.

(j) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(k) *Change in application information.* Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Director within 15 days of the change in information. If written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(n) *Sanctions.* Vessel operators with suspended or revoked permits may not be on board a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in offloading. Procedures governing enforcement related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(o) *Vessel owner responsibility.* Vessel owners are responsible for ensuring that their vessels are operated by an individual with a valid operator's permit issued under this section.

§ 649.6 Dealer permits.

(a) All dealers must have been issued, and have in their possession, a valid permit issued under this section.

(b) *Dealer application.* Applicants for a permit under this section must submit a completed application on an appropriate form provided by the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. For 1994, a copy of an applicant's completed application will serve as a temporary permit until the applicant has received a permanent permit. The Regional Director will notify the applicant of any deficiency in the application, pursuant to this section.

(c) *Information requirements.* Applications must contain at least the following information and any other information required by the Regional Director: Company name, place(s) of business, mailing address(es) and telephone number(s); owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners must be included with the application.

(d) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section.

(e) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit at any time during the fishing year to an applicant, unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received. Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration.* A Federal dealer permit will expire upon the renewal date specified in the permit.

(g) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit

application to the Regional Director as required by paragraph (j) of this section.

(h) *Replacement.* Replacement permits, for otherwise valid permits, may be issued by the Regional Director when requested in writing by the applicant, stating the need for replacement and the Federal dealer permit number assigned. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged.

(i) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person, or other business entity, to which it is issued.

(j) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written report of the change must be submitted to, and received by, the Regional Director. If written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(k) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(l) *Display.* Any permit, or a valid duplicate thereof, issued under this section must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(m) *Federal versus state requirements.* If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit must comply with the more restrictive requirement.

(n) *Sanctions.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

§ 649.7 Vessel identification.

(a) *Vessel name.* Each fishing vessel subject to this part that is over 25 ft (7.6 m) in length must display its name on the port and starboard sides of its bow and, if possible, on its stern.

(b) *Official number.* Each fishing vessel subject to this part that is over 25 ft (7.6 m) in length must display its official number on the port and starboard sides of its deckhouse or hull, and on an appropriate weather deck, so as to be visible from above by enforcement vessels and aircraft. The official number is the U.S. Coast Guard documentation number or the vessel's state registration number for vessels not required to be documented under chapter 123 of title 46 U.S.C.

(c) *Numerals.* The official number must be permanently affixed in contrasting block Arabic numerals at least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m), and at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length.

(d) *Duties of owner and operator.* The owner and operator of each vessel subject to this part must:

(1) Keep the vessel name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from an enforcement vessel or aircraft.

§ 649.8 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal American lobster permit under § 649.4 to do any of the following:

(1) Retain on board, land, or possess at or after landing, American lobsters that fail to meet the carapace length standard specified in § 649.20(b). All American lobsters will be subject to inspection and enforcement, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(2) Retain on board, land, or possess any American lobster or parts thereof in violation of the mutilation standards specified in § 649.20(c).

(3) Retain on board, possess, or land any berried female American lobster specified in § 649.20(d).

(4) Remove eggs from any berried female American lobster, land, or possess any such lobster from which eggs have been removed.

(5) Retain on board, land, or possess any V-notched female American lobsters throughout the range of the stock.

(6) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any gear not identified, marked, vented, and panelled in accordance with the requirements specified in § 649.21, unless such gear has been rendered unfishable.

(7) Fish for, land, or possess American lobsters after December 31, 1994, unless the operator of the vessel has been issued an operator's permit under § 649.5, and the permit is on board the vessel and is valid.

(8) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application as required under § 649.4(l) or § 649.5(k).

(9) Make any false statement in connection with an application under § 649.4 or § 649.5.

(10) Fail to affix and maintain permanent markings, as required by § 649.7.

(11) Sell, transfer, or barter or attempt to sell, transfer, or barter to a dealer any American lobsters, unless the dealer has a valid Federal Dealer's Permit issued under § 649.6.

(b) In addition to the prohibitions specified in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel that has not been issued a limited access American lobster permit as described under § 649.4(b), to possess on board a vessel or land American lobsters unless the vessel is a party, charter, or dive boat and there are six or fewer American lobsters per person on such boats, and the lobsters are not sold, traded or bartered, or unless the vessel is a recreational vessel or a vessel fishing for American lobsters exclusively in state waters.

(c) In addition to the general prohibitions specified in § 620.7 of this chapter and the prohibitions specified in paragraphs (a) and (b) of this section, it is unlawful for any person to do any of the following:

(1) Possess on board a vessel or land American lobsters unless:

(i) The American lobsters were harvested by a vessel that has been issued and carries on board a valid Federal American lobster permit under § 649.4(a); or a valid limited access American lobster permit under § 649.4(b); or

(ii) The American lobsters were harvested by a vessel without a Federal American lobster permit and that fishes for American lobsters exclusively in state waters; or

(iii) The American lobsters were harvested by a party, charter, or dive vessel that possesses six or fewer American lobsters per person on board the vessel and the lobsters are not intended to be or are not traded, bartered, or sold; or

(iv) The American lobsters were harvested by a recreational fishing vessel.

(2) Sell, barter, or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer, for a commercial purpose, any American lobsters from a vessel, unless the vessel has been issued a valid Federal American lobster permit under § 649.4, or the American lobsters were harvested by a vessel without a Federal American lobster permit that fishes for American lobsters exclusively in state waters;

(3) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, as, or in the capacity of, a dealer, American lobsters taken from or harvested by a fishing vessel issued a Federal American lobster

permit, unless in possession of a valid dealer's permit issued under § 649.6;

(4) Purchase, possess, or receive for commercial purposes, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a valid Federal American lobster permit under § 649.4, unless the American lobsters were harvested by a vessel without a Federal American lobster permit and that fishes for American lobsters exclusively in state waters;

(5) Beginning January 1, 1995, to be, or act as, an operator of a vessel fishing for or possessing American lobsters in or from the EEZ, or issued a Federal American lobster permit under § 649.4 (b), without having been issued and possessing a valid operator's permit issued under § 649.5.

(6) Assault, resist, oppose, impede, harass, intimidate, or interfere with either a NMFS-approved observer aboard a vessel, or an authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part;

(7) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any American lobsters;

(8) Violate any provision of this part, the Magnuson Act, or any regulation, permit, or notification issued under the Magnuson Act or these regulations;

(9) Possess or land any American lobsters harvested in or from the EEZ in violation of § 649.20; or

(10) Ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster in violation of § 649.20.

(d) Any person possessing, or landing American lobsters at or prior to the time when those American lobsters are landed, or are received or possessed by a dealer, is subject to all of the prohibitions specified in paragraphs (a), (b) and (c) of this section, unless the American lobsters were harvested by a vessel without a Federal American lobster permit and that fishes for American lobsters exclusively in state waters; or are from a party, charter, or dive vessel that possesses or possessed six or fewer American lobsters per person aboard the vessel at any time and the lobsters are not intended for sale, trade, or barter; or are from a recreational vessel.

(e) *Presumption.* American lobsters that are possessed, or landed at or prior to the time when the American lobsters are received by a dealer, or American lobsters that are possessed by a dealer, are presumed to be harvested from the EEZ or by a vessel with a Federal lobster permit. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel without a Federal American lobster permit and fishing exclusively for American lobsters in state waters will be sufficient to rebut the presumption.

(f) The possession of egg-bearing female American lobsters, V-notched female American lobsters, or American lobsters that are smaller than the minimum size set forth in § 649.20(b), will be *prima facie* evidence that such American lobsters were taken or imported in violation of these regulations. Evidence that such American lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

§ 649.9 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 649.10 Penalties.

See § 620.9 of this chapter.

Subpart B—Management Measures

§ 649.20 Harvesting and landing requirements.

(a) *Condition.* By being issued a Federal limited access American lobster permit, the vessel owner is subject to all measures in this subpart, regardless of where American lobsters were harvested.

(b) *Carapace length.* (1) The minimum carapace length for all American lobsters harvested in or from the EEZ is 3¼ inches (8.26 cm).

(2) The minimum carapace length for all American lobsters landed, harvested, or possessed at or after landing by vessels issued a Federal American lobster permit, is 3¼ inches (8.26 cm).

(3) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in this paragraph (b).

(c) *Mutilation.* (1) No person may remove meat or any body appendage from any American lobster harvested in or from the EEZ before landing, or to have in possession on board any American lobster part other than whole lobsters.

(2) No owner, operator or person aboard a vessel issued a Federal American lobster permit may remove meat or any body appendage from any American lobster before landing, or to have in possession on board any American lobster part other than whole lobsters.

(d) *Berried females.* (1) Any berried female American lobster harvested in or from the EEZ must be returned to the sea immediately.

(2) Any berried female American lobster harvested or possessed by a vessel issued a Federal American lobster permit must be returned to the sea immediately.

(3) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female American lobster as specified in this paragraph (d).

(e) *Scrubbing.* (1) No person may remove extruded eggs attached to the abdominal appendages from any female American lobster harvested on or from the EEZ.

(2) No owner, operator or person aboard a vessel issued a Federal American lobster permit may remove extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the forcible removal of extruded eggs from its abdominal appendages as specified in this paragraph (e).

§ 649.21 Gear identification and marking, escape vent, and ghost panel requirements.

(a) *Identification.* All lobster gear deployed in the EEZ or possessed by a person whose vessel is permitted for fishing in the EEZ, and not permanently attached to the vessel, must be legibly and indelibly marked with one of the following codes of identification:

(1) A number assigned by the Regional Director; and/or

(2) Whatever positive identification marking is required by the vessel's home-port state.

(b) *Marking.* In the areas of the EEZ described in paragraph (b)(4) of this section, lobster pot trawls are to be marked as follows:

(1) Lobster pot trawls of three or fewer pots must be marked with a single buoy.

(2) Lobster pot trawls consisting of more than three pots must have a radar reflector and a single flag or pennant on the westernmost end (marking the half compass circle from magnetic south through west, to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east, to and including south) of an American lobster pot trawl must be marked with a radar reflector only. Standard tetrahedral corner radar reflectors (see Figure 1 of this part) of at least 8 inches (20.32 cm)(both in height

and width, and made from metal) must be employed.

(3) No American lobster pot trawl shall exceed 1.5 nautical miles (2.78 km) in length, as measured from buoy to buoy.

(4) Gear marking requirements apply in the following areas:

(i) *Gulf of Maine gear area.* All waters of the EEZ north of 42°20′ N. lat. seaward of a line drawn 12 nautical miles (22.2 km) from the baseline of the territorial sea;

(ii) *Georges Bank gear Area.* All waters of the EEZ south of 42°20′ N. lat. and east of 70°00′ W. long. or the outer boundary of the territorial sea, whichever lies farther east;

(iii) *Southern New England gear Area.* All waters of the EEZ west of 70°00′ W. long., east of 71°30′ W. long. at a depth greater than 25 fathoms (45.72 m); and

(iv) *Mid-Atlantic gear Area.* All waters of the EEZ, west of 71°30′ W. long. and north of 36°33′ N. lat. at a depth greater than 40 fathoms (73.15 m).

(c) *Escape vents.* All American lobster traps deployed in the EEZ or possessed by a person whose vessel is permitted for fishing in the EEZ, as specified under § 649.4, must be constructed to include one of the following escape vents in the parlor section of the trap. The vent must be located in such a manner that it would not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use.

(1) The specifications for escape vents are as follows:

(i) A rectangular portal with an unobstructed opening not less than 1⅞ inches (4.76 cm) by 5¾ inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2⅜ inches (6.03 cm) in diameter.

(2) The Regional Director may, at the request of, or after consultation with, the Lobster Oversight Committee of the Council, approve, and publish in the **Federal Register** any other type of acceptable escape vent that the Regional Director finds to be consistent with paragraphs (c)(1)(i) and (ii) of this section.

(d) *Ghost panel.* Lobster traps not constructed entirely of wood must contain a ghost panel.

(1) The specifications of this requirement are as follows:

(i) The opening to be covered by the ghost panel must be rectangular and shall not be less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(ii) The panel must be constructed of, or fastened to the trap with, one of the following untreated materials: Wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or non-stainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter.

(iii) The door of the trap may serve as the ghost panel, if fastened with a material specified in paragraph (d)(1)(ii) of this section.

(iv) The ghost panel must be located in the outer parlor(s) of the trap and not the bottom of the trap.

(2) The Regional Director may, at the request of, or after consultation with, the Lobster Oversight Committee of the Council, approve, and publish in the **Federal Register**, any other design, mechanism, material, or specification not described in the regulations in this part that serves to create an escape portal not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(e) *Enforcement action.* Unidentified, unmarked, unvented, or improperly vented American lobster traps will be seized and disposed of in accordance with the provisions of part 219 of this title.

§ 649.22 Experimental fishing exemption.

(a) The Regional Director may exempt any person or vessel from the requirements of this part for the conduct of experimental fishing beneficial to the management of the American lobster resource or fishery.

(b) The Regional Director may not grant such exemption unless it is determined that the purpose, design, and administration of the exemption is consistent with the objectives of the FMP, the provisions of the Magnuson Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster resource and fishery; or

(2) Create significant enforcement problems.

(c) Each vessel participating in any exempted experimental fishing activity is subject to all provisions of this part, except those necessarily relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Director to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption.

Subpart C—Stock Rebuilding Program and Framework Adjustments to Management Measures

§ 649.41 Purpose and scope.

The purpose of this subpart is to specify the requirements and framework procedures for implementing the Stock Rebuilding Program, intended to eliminate overfishing in any resource areas.

§ 649.42 Stock rebuilding program requirements and time frame.

(a) *General.* (1) The Council has until July 20, 1995 to submit to NMFS management measures to achieve the objectives of the FMP. The measures must be designed to achieve the FMP objectives for reducing fishing mortality within 5 years for the stock in the Gulf of Maine segment of the fishery and 10 years for the Southern New England segment of the stock. Such measures may be submitted through the Magnuson Act amendment process or through the first-year area management framework specifications in § 649.43.

(2) In developing such management measures, the Council shall submit management measures to reduce fishing mortality in each of four management areas specified in paragraph (b) of this section. These management measures shall be implemented according to the first-year area management framework specifications in § 649.43.

(3) If the Council has not submitted management measures sufficient to achieve the objectives of the FMP on or before July 20, 1995, the Secretary shall determine, according to provisions of 16 U.S.C. 1854(c), whether to prepare an amendment to the FMP.

(b) *Management areas.* The Stock Rebuilding Program to be submitted by the Council shall be developed based on the status of stock of American lobsters and management considerations for each of the areas described and defined in this paragraph (b) (see Figure 2 of this part).

(1) *Area 1. Near-shore EEZ Waters of the Gulf of Maine.* This area is defined by the area bounded by straight lines (rhumb lines) connecting the following points, in the order stated, and the territorial sea:

Point	Latitude	Longitude
A	44°04′ N.	67°19′ W. and northward along the irregular U.S. - Canada Maritime Boundary to the territorial sea.
B	43°03′ N.	70°00′ W.
C	42°14′ N.	70°00′ W.
D	42°08′ N.	69°55′ W.
E	42°06′ N.	70°04′ W.

(2) *Area 2. Near-shore EEZ Waters of Southern New England.* This area is defined by the area bounded by straight lines (rhumb lines) connecting the following points in the order stated and the territorial sea:

Point	Latitude	Longitude
E	42°06′ N.	70°04′ W.
D	42°08′ N.	69°55′ W.
F	41°10′ N.	69°06′ W.
G	40°46′ N.	71°34′ W.
H	41°06′ N.	71°43′ W.
I	41°05′ N.	71°49′ W.

(3) *Area 3. EEZ Offshore Waters.* This area is defined by the area bounded by straight lines (rhumb lines) connecting the following points, in the order stated, and westerly of the U.S. - Canada Maritime Boundary:

Point		Longitude
A	44°04′ N.	67°19′ W. and northward along the irregular U.S. - Canada Maritime Boundary to the territorial sea.
B	43°03′ N.	70°00′ W.
C	42°14′ N.	70°00′ W.
D	42°08′ N.	69°55′ W.
F	41°10′ N.	69°06′ W.
G	40°46′ N.	71°34′ W.
J	40°13′ N.	72°44′ W.
K	38°39′ N.	73°24′ W.
L	38°12′ N.	73°55′ W.
M	37°12′ N.	74°44′ W.
N	35°41′ N.	75°10′ W.
O	35°15′ N.	75°28′ W.

(4) *Area 4. Near-shore EEZ Waters of the Middle Atlantic.* This area is defined by the area bounded by straight lines (rhumb lines) connecting the following points, in the order stated, and the territorial sea:

Point	Latitude	Longitude
I	41°05′ N.	71°49′ W.
H	41°06′ N.	71°43′ W.
G	40°46′ N.	71°34′ W.
J	40°13′ N.	72°44′ W.
K	38°39′ N.	73°24′ W.
L	38°12′ N.	73°55′ W.
M	37°12′ N.	74°44′ W.
N	35°41′ N.	75°10′ W.
O	35°15′ N.	75°28′ W.

(c) *Effort Management Teams (EMT).* (1) The Council shall establish EMTs for each area specified in paragraph (b) of this section, for the purpose of making recommendations to the Council on management measures to achieve the objectives of the FMP.

(2) Members of each EMT shall be appointed by the Council, in consultation with appropriate states and NMFS. Members of the EMT shall consist of a group of technical representatives that serve on each EMT and a group of representatives from the lobster industry, based on their geographical affiliation with an EMT. The Council may decide the number of representatives and operating procedures of the EMTs.

(3) No later than January 20, 1995, each EMT shall report its recommendations for management measures for the stock rebuilding program for the area it represents to the Council.

§ 649.43 First year framework specifications.

(a) On or before January 20, 1995, each EMT shall submit its recommendations for management measures for the area it represents to the Council. In developing these recommendations, the EMTs may consider and recommend additional restrictions or limitations on vessels participating in the lobster fishery according to the categories and guidelines contained in paragraph (b) of this section.

(b) After receiving the recommendations of the EMTs, the Council shall determine what management measures are necessary for each management area, in order to achieve the objectives of stock rebuilding specified in the FMP. For the management measures the Council determines are necessary to meet FMP objectives, the Council shall provide appropriate rationale and economic and biological analysis of the determinations. The Council shall make these determinations over the span of at least two Council meetings and provide the public with advance notice of, and opportunity to comment on, the determinations and the analyses before making final recommendations to be submitted to NMFS. The Council's recommendation on necessary management measures may come from one or more of the following categories:

(1) Minimum-size changes;

(2) A maximum-size limit;

(3) Trap limits;

(4) Seasonal closures of one or more management areas;

(5) Closed areas or zones within a management area;

(6) Restrictions on allowable fishing time;

(7) Restrictions on allowable catches;

(8) Permitting restrictions;

(9) Additional restrictions on gear;

(10) Overfishing definition;

(11) Limitations on participation in the fishery in accordance with the control date guidelines listed below. These guidelines will apply until a stock rebuilding program is established.

(i) It is the intent of the Council that in the event that a system of assigning fishing rights is developed as part of the FMP, such assignments shall be based upon historical levels of participation in the fishery prior to March 25, 1991, with consideration for recent investments that have not yet been reflected in measures of participation.

(ii) New or re-rigged vessels will be given consideration in the assignment of fishing rights if:

(A) They were under construction or re-rigging for directed lobster fishing as of March 25, 1991, as evidenced by written construction contracts, work orders, equipment purchases, or other evidence of substantial investment and intent to participate in the lobster fishery; and

(B) They possessed an American lobster permit and landed lobster prior to March 25, 1992.

(iii) The public is further notified that it is the intent of the Council that historical participation will transfer with a vessel, for transfers made after March 25, 1991, unless such transfer is accompanied by a written document indication the agreement of both buyer and seller that any future fishing rights applicable to that vessel are not being transferred with the vessel.

(iv) The Council further intends that any system of assigning fishing rights will take into consideration the following concerns relative to individuals or corporations that have sold a vessel within the time that may be chosen to determine historical fishing rights:

(A) The degree of economic dependence upon the lobster fishery including, but not limited to, the percentage of income derived from the lobster fishery;

(B) Extent of past participation in the lobster fishery; and

(C) Demonstration of intent prior to March 25, 1991, to re-enter the lobster fishery with a different vessel.

(12) Any other restrictions that the Council may designate for the purpose of reducing or controlling fishing mortality rates, except that an Individual Transferable Quota (ITQ) system would require a full FMP amendment.

(c) After developing necessary management measures and receiving public testimony, the Council shall make a recommendation to the Regional Director on or before July 20, 1995. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Director on whether to publish the management measures as a final rule. If the Council recommends that the management measures should be published as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

(1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures;

(3) Whether there is an immediate need to protect the resource; and

(4) Whether there will be a continuing evaluation of management measures adopted, following their promulgation as a final rule.

(d) If the Council's recommendation includes adjustments or additions to management measures, after reviewing the Council's recommendation and supporting information:

(1) If the Regional Director concurs with the Council's recommended management measures and determines that the recommended management measures may be published as a final rule, based on the factors specified in paragraph (c) of this section, the action will be published in the **Federal Register** as a final rule; or

(2) If the Regional Director concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the action will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Director concurs with the Council recommendation, the action will be published as a final rule in the **Federal Register**; or

(3) If the Regional Director does not concur, the Council will be notified, in writing, of the reasons for the non-concurrence.

(e) At any time, the Council may make other adjustments to management measures implemented under this part pursuant to the provisions in § 649.44.

(f) Nothing in this section is meant to diminish the authority of the Secretary to take emergency action under section 305(c) of the Magnuson Act.

§ 649.44 Framework specifications after the first year of implementation.

(a) Annually, upon request from the Council, the Regional Director will provide the Council with information of the status of the American lobster resource, based on the most recent stock assessment report.

(b) The Council and Atlantic States Fisheries Commission, through consultation with the ASMFC Lobster Scientific Committee within the stock assessment process and with the EMTs, shall continue to monitor the effectiveness of the Stock Rebuilding Program and to ensure, to the extent possible, that regional measures (within a Management Area) do not shift costs from one Management Area to another.

(c) In addition, the EMTs, on at least an annual basis, shall determine the extent to which the objectives of the FMP are being achieved and shall make recommendations to the Council for further management actions, if required.

(d) After receiving the EMT recommendations, the Council shall determine whether adjustments to, or additional management measures are necessary to meet the goals and objectives of the FMP. After considering the EMT's recommendations, or at any other time, if the Council determines that adjustments to, or additional management measures are necessary, it shall develop and analyze appropriate management actions over the span of at least two Council meetings. The Council shall provide the appropriate rationale and economic and biological analysis for its recommendation, utilizing the most current catch, effort, and other relevant data from the fishery. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses, and opportunity to comment on them prior to, and at, the second Council meeting. The Council's recommendation on adjustments or additions to management measures may come from one or more of the following categories:

(1) Minimum-size changes;

(2) A maximum-size limit;

(3) Trap limits;

(4) Seasonal closures of one or more management areas;

(5) Closed areas or zones within a management area;

(6) Restrictions on allowable fishing time;

(7) Restrictions on allowable catches;

(8) Permitting restrictions;

(9) Additional restrictions on gear;

(10) Overfishing definition;

(11) Limitations on participation in the fishery in accordance with the control date guidelines contained in § 649.44(b)(11). These guidelines will apply until a stock rebuilding program is established.

(12) Any other restrictions which the Council may designate for the purpose of reducing or controlling fishing mortality rates, except that an Individual Transferable Quota (ITQ) system would require a full FMP amendment.

(e) After developing management actions and receiving public testimony, the Council shall make a recommendation to the Regional Director. The Council's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts, and a recommendation to the Regional Director on whether to publish the management measures as a final rule. If the Council recommends that the management measures should be published as a final rule, the Council must consider at least the following factors and provide support and analysis for each factor considered:

(1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season;

(2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures;

(3) Whether there is an immediate need to protect the resource; and

(4) Whether there will be a continuing evaluation of management measures adopted, following their promulgation as a final rule.

(f) If the Council's recommendation includes adjustments or additions to management measures, after reviewing the Council's recommendation and supporting information:

(1) If the Regional Director concurs with the Council's recommended management measures and determines that the recommended management measures may be published as a final rule, based on the factors specified in paragraph (d) of this section, the action will be published in the **Federal Register** as a final rule; or

(2) If the Regional Director concurs with the Council's recommendation and determines that the recommended management measures should be published first as a proposed rule, the action will be published as a proposed rule in the **Federal Register**. After additional public comment, if the Regional Director concurs with the Council recommendation, the action will be published as a final rule in the **Federal Register**; or

(3) If the Regional Director does not concur, the Council will be notified, in writing, of the reasons for the non-concurrence.

(g) Nothing in this section shall impair the authority of the Secretary to take emergency action under section 305(c) of the Magnuson Act.

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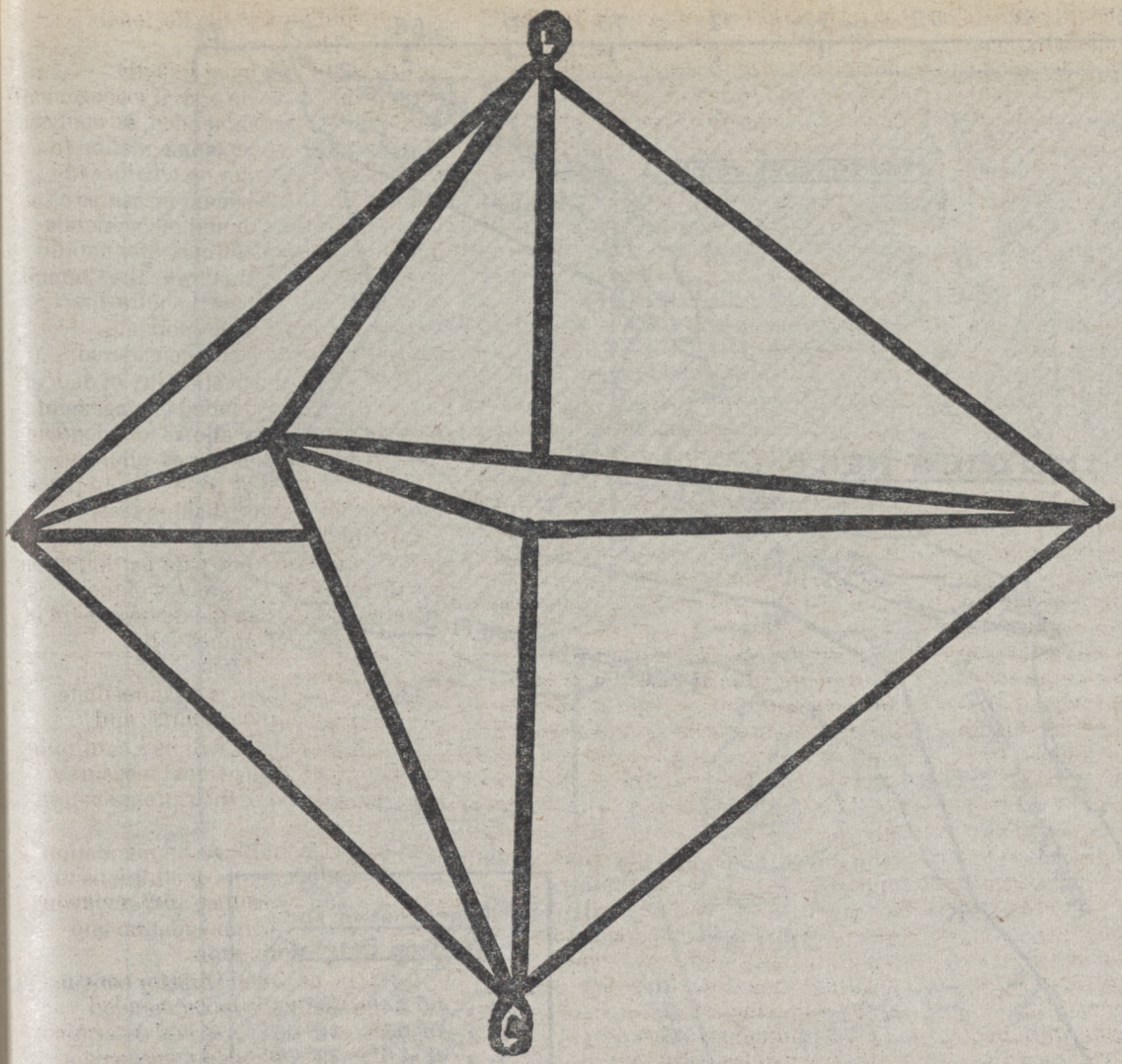

Figure 1 to Part 649. - Standard Tetrahedral Corner Radar Reflector

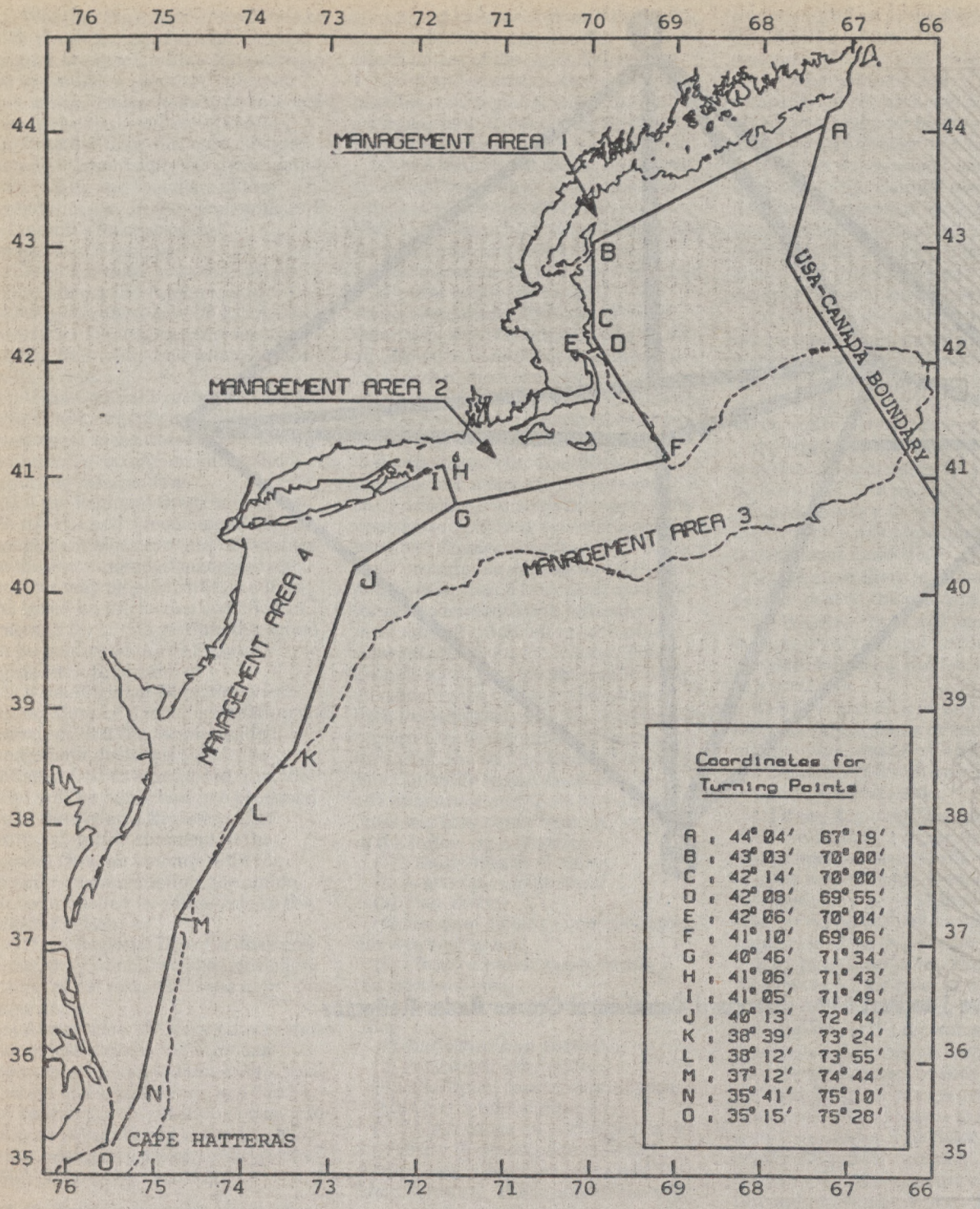

Figure 2 . American lobster Management Areas established for the purposes of regional lobster management.

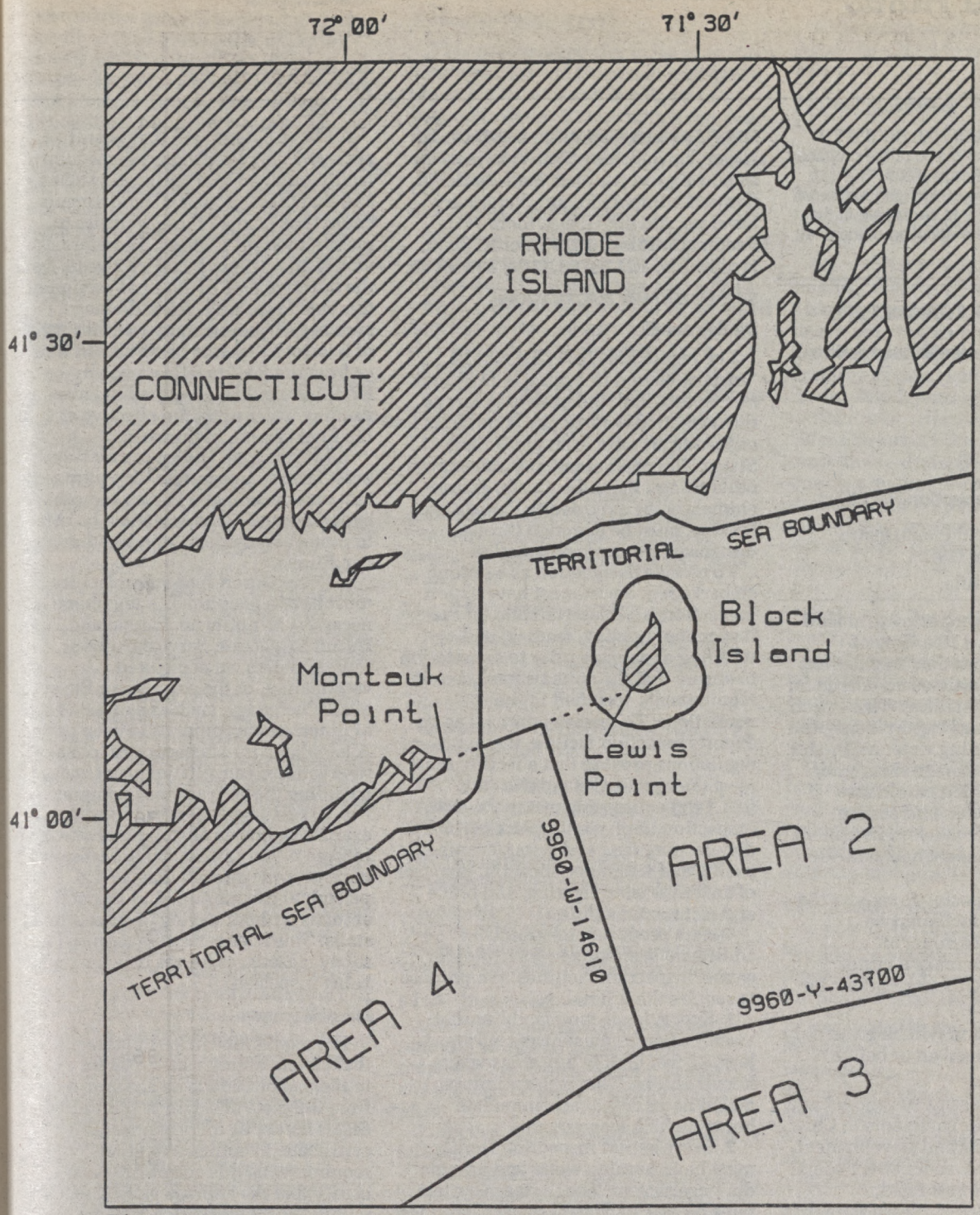

Figure 3. Seaward boundary lines of the Southern New England Nearshore Area (Area 2) and the Offshore Area (Area 3).

[FR Doc. 94–14989 Filed 6–20–94; 8:45 am]
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Proposed Rules

Federal Register
Vol. 59, No. 118
Tuesday, June 21, 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

Animal and Plant Health Inspection Service

9 CFR Part 91

[Docket No. 93–122–1]

Animal Export Inspection Facilities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the "Inspection and Handling of Livestock for Exportation" regulations by establishing additional standards for export inspection facilities. This action would ensure that all export inspection facilities have running water and water drainage systems, storage areas, and telephone. This action would also require facilities where horses are inspected to have walkways in front of stalls and ceiling height adequate for horses.

We are also proposing to require that animals intended for export be inspected within 24 hours of embarkation and to make a minor language change to the regulations for the sake of clarity.

DATES: Consideration will be given only to comments received on or before August 22, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–122–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Najam Faizi, Senior Staff Veterinarian, Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 762, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8383.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 91, "Inspection and Handling of Livestock for Exportation" (referred to below as the regulations), prescribe conditions for exporting animals from the United States. The regulations state, among other things, that all animals, except animals being exported to Canada or Mexico, must be exported through designated ports of embarkation.

To receive designation as a port of embarkation, a port must have export inspection facilities available for the inspection, holding, feeding, and watering of animals prior to exportation to ensure that the animals meet certain requirements specified in the regulations. To receive approval as an export inspection facility, the regulations provide that a facility must meet the specified standards in § 91.14(c) concerning materials, size, inspection implements, cleaning and disinfection, feed and water, access, testing and treatment, location, disposal of animal wastes, lighting, and office and rest room facilities.

We are proposing to establish additional standards in § 91.14(c) for export inspection facilities. We propose to require the following:

1. Export inspection facilities that examine horses must have ceilings at least 12 feet high in any areas where horses will be. This is the minimum height necessary to accommodate horses, which may rear up.

2. Every export inspection facility must have running water and a water drainage system. The drainage system must be able to control surface drainage into or from the facility in a manner that prevents any significant risk of livestock diseases being spread into or from the facility. While current regulations in § 91.14(c)(5) require that facilities have only "an ample supply of potable water," we believe that running water and a drainage system are necessary to adequately water the animals, to clean and disinfect the facility, and to prevent the spread of disease.

We have determined that not all currently approved export inspection facilities have water drainage systems and that these proposed requirements could thus compel these facilities to make structural changes. Therefore, we would allow these facilities 2 years from the effective date of the final version of this rule to install a water drainage system that prevents any significant risk of livestock diseases being spread into or from the facility. However, all facilities would be required to have running water upon the effective date of the final version of this rule.

3. Every export inspection facility must have a storage area for equipment that may accompany horses and other export animals. The area must be able to protect equipment from weather conditions.

4. Every export inspection facility must have a telephone. A telephone is necessary to notify an Animal and Plant Health Inspection Service (APHIS) representative, an accredited veterinarian, or the exporter in the event of an emergency, such as sudden onset of illness among animals to be exported. A telephone is also necessary to make reservations, cancellations, or changes regarding the arrival time of animals.

5. Export inspection facilities for examining horses must have walkways in front of the animal stalls. Walkways must be wide enough that APHIS personnel can monitor and inspect animals without having to enter animal stalls. This requirement is essential for safety reasons, as horses may kick while being inspected.

Miscellaneous

The regulations in § 91.3(a) require that certain animals intended for export to Mexico or Canada be accompanied from the State of origin to the United States border by an origin health certificate. In addition to other requirements, this certificate must certify that the animals were inspected within the 30 days prior to their movement for export and that they "were found to be sound, healthy, and free from evidence of communicable disease and exposure thereto." We are proposing to remove the word "sound" from this section, as it is too vague to be enforceable.

We are also proposing to amend the regulations in § 91.15(a). The regulations in 91.15(a) require that animals be inspected by an APHIS

veterinarian prior to export, but do not specify a time frame prior to export during which animals must be inspected. We are proposing to require that all animals intended for export be inspected by an APHIS veterinarian within 24 hours of embarkation. Because animals may become ill shortly before embarkation, and because we do not want sick or diseased animals to be exported from the United States, we believe it is imperative that animals be inspected by an APHIS veterinarian within 24 hours of embarkation.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule, if adopted, would establish additional standards for animal export inspection facilities by requiring all facilities to have adequate running water and water drainage systems, storage areas, and a telephone. This action would also require facilities where horses are inspected to have walkways in front of stalls and ceiling height adequate for horses.

Though a small number of facilities do not have water drainage systems, all of the facilities currently approved for export inspection already meet all of the other additional standards proposed here. We are proposing, therefore, only to codify existing industry practices. We anticipate that this proposal will have an economic impact on the few existing export inspection facilities without drainage systems.

Information was not available to us for determining the economic impact of requiring that water drainage systems be installed in facilities not already so equipped. However, we have tried to minimize any economic impact by proposing to allow these facilities 2 years from the effective date of the final version of this rule to install water drainage systems. Allowing these facilities 2 years to install the water drainage systems would ease the economic impact of this new standard, as affected facilities would have additional time to shop for different drainage system options and would be able to spread out the costs of installation.

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

Executive Order 12372

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

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 91

Animal diseases, Animal welfare, Exports, Livestock, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 91 would be amended as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for part 91 would be revised to read as follows:

Authority: 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 136, 136a, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

§ 91.3 [Amended]

2. In § 91.3, paragraph (a), the third sentence would be amended by removing the phrase "sound, healthy," and adding the word "healthy" in its place.

3. Section 91.14 would be amended as follows:

a. Paragraph (c)(2) would be amended by adding a new sentence at the end of the paragraph to read as set forth below.

b. Paragraph (c)(4) would be amended by adding two new sentences at the end of the paragraph to read as set forth below.

c. Paragraph (c)(5) would be amended by adding the word "running," immediately following the phrase "An ample supply of" in the first sentence.

d. Paragraph (c)(11) would be amended by adding a new sentence at the end of the paragraph to read as set forth below.

e. New paragraphs (c)(12) and (c)(13) would be added to read as set forth below.

§ 91.14 [Amended]

* * * * *

(c) * * *

(2) * * * Facilities that inspect horses must have ceilings at least 12 feet high in any areas where horses will be kept.

* * * * *

(4) * * * All facilities must have running water available to wash and disinfect the facilities. On and after [Insert effective date of final rule], facilities to be approved must have a drainage system; and, on and after [Insert date 2 years after effective date of final rule], every facility approved before [Insert effective date of final rule] must have a drainage system. The drainage system must control surface drainage into or from the facility in a manner that prevents any significant risk of livestock diseases being spread into or from the facility.

* * * * *

(11) * * * The facility must have a working telephone.

(12) *Storage areas.* Facilities must have storage areas adequate to store any equipment accompanying the animals and to protect equipment from weather conditions.

(13) *Walkways.* Facilities where horses are inspected must have walkways in front of horse stalls wide enough to allow APHIS personnel to monitor and inspect horses without entering individual stalls.

§ 91.15 [Amended]

8. In § 91.15, paragraph (a), the phrase "within 24 hours of embarkation" would be added immediately following the phrase "shall be inspected".

Done in Washington, DC, this 15th day of June 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–15037 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–34–P

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9 CFR Part 94

[Docket No. 93–061–1]

Certificate for Importation of Milk and Milk Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of milk and milk products

to require that any milk or milk product imported into the United States from countries declared free of rinderpest and foot-and-mouth disease be accompanied by a certificate stating that the milk was produced and processed in a country declared free of rinderpest and foot-and-mouth disease, or that the milk product was processed in a country declared free of rinderpest and foot-and-mouth disease from milk produced in a country declared free of rinderpest and foot-and-mouth disease. The certificate would have to name the country in which the milk was produced and the country in which the milk or milk product was processed. Also, the certificate would state that, except for certain movements under seal, the milk or milk product has never been in any country in which rinderpest or foot-and-mouth disease exists. Requiring a certificate would help ensure that milk or milk products imported into the United States do not introduce rinderpest or foot-and-mouth disease into the United States.

DATES: Consideration will be given only to comments received on or before August 22, 1994.

ADDRESSES: Please send an original and three copies of your comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 93–061–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. John Gray, Senior Staff Veterinarian, Import-Export Products Staff, National Center for Import-Export, Veterinary Services, APHIS, USDA, room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as "the regulations") govern the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases, including rinderpest and foot-and-mouth disease (FMD). These are dangerous and destructive communicable diseases of ruminants and swine.

The regulations in § 94.1(a)(2) list countries that are declared free of rinderpest and FMD. Milk and milk products have the potential to spread rinderpest and FMD if they are produced or processed in or have transited a country where these diseases exist. Therefore, under § 94.16, milk and milk products are restricted entry into the United States unless they are imported from countries listed in § 94.1(a)(2). As trade barriers are being lifted between many countries (such as among members of the European Union), it has become increasingly difficult to ensure that milk or milk products imported from countries listed in § 94.1(a)(2) were produced and processed in a country free of rinderpest and FMD and were never in a country where rinderpest or FMD exists.

For example, some milk produced in France was recently imported into the United States from Great Britain. At that time, France was designated in the regulations as a country where rinderpest or FMD exists. If APHIS had known that the milk imported from Great Britain had been produced in France, we would not have permitted its importation into the United States.

To help prevent similar incidents, we are proposing to amend § 94.16 to require that milk or milk products imported into the United States from a country listed in § 94.1(a)(2) as free of rinderpest and FMD must be accompanied by a certificate endorsed by a full-time, salaried veterinarian employed by the country of export. The certificate would have to state that the milk was produced and processed in a country listed in § 94.1(a)(2), or that the milk product was processed in a country listed in § 94.1(a)(2) from milk produced in a country listed in § 94.1(a)(2). The certificate would have to name the country in which the milk was produced and the country in which the milk or milk product was processed. Further, the certificate would state that, except for movement under seal as described in § 94.16(c), the milk or milk product has never been in any country in which rinderpest or FMD exists. (Section 94.16(c) allows milk or milk products imported into the United States from countries listed in § 94.1(a)(2) as free of rinderpest and FMD to transit a country infected with rinderpest or FMD en route to the United States, provided the milk or milk products are, among other things, transported under serially numbered official seals to ensure that the milk or milk product is not removed from its container during transit.)

This certification would help ensure that milk or milk products imported into the United States do not introduce rinderpest or FMD into the United States.

However, we do not propose to require that milk or milk products imported from Canada be accompanied by the proposed certificate, even though Canada is listed in § 94.1(a)(2) as free of rinderpest and FMD. Canada has a common land border with only the United States, and Canada imports milk and milk products from other countries under conditions as restrictive as would be acceptable for importation into the United States. Therefore, we do not believe the certificate would be necessary.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would require that, except for milk and milk products imported from Canada, milk and milk products imported into the United States from countries declared free of rinderpest and FMD be accompanied by a certificate stating that the milk was produced and processed in a country declared free of rinderpest and FMD, or that the milk product was processed in a country declared free of rinderpest and FMD from milk produced in a country declared free of rinderpest and FMD. The certificate would have to name the country in which the milk was produced and the country in which the milk or milk product was processed. The certificate would also have to state that the milk or milk product has never been in any country in which rinderpest or FMD exists.

We do not expect that requiring a certificate would have any significant economic impact for U.S. importers of milk or milk products. The exporter of the milk or milk products would have to obtain the required certification through the national government of the country of export prior to shipping the milk or milk products to the United States. We do not know how many of those governments would charge a fee for providing the certificate, but it is unlikely that any fee would be high enough to significantly raise the cost of the milk or milk product should the exporter choose to pass the cost of the certificate on to the importer in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule will be submitted for approval to the Office of Management and Budget. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please send a copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would be revised to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 94.16, a new paragraph (d) would be added to read as follows:

§ 94.16 Milk and milk products.

* * * * *

(d) Except for milk and milk products imported from Canada, milk or milk products imported from a country listed in § 94.1(a)(2) as free of rinderpest and foot-and-mouth disease must be accompanied by a certificate endorsed by a full-time, salaried veterinarian employed by the country of export. The certificate must state that the milk was produced and processed in a country listed in § 94.1(a)(2), or that the milk product was processed in a country listed in § 94.1(a)(2) from milk produced in a country listed in § 94.1(a)(2). The certificate must name the country in which the milk was produced and the country in which the milk or milk product was processed. Further, the certificate must state that, except for movement under seal as described in § 94.16(c), the milk or milk product has never been in any country in which rinderpest or foot-and-mouth disease exists.

Done in Washington, DC, this 15th day of June 1994.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 94–15034 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

[CGD 94–003]

RIN 2115–AE76

Ballast Water Management for Vessels Entering the Hudson River

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes regulations to implement an amendment to the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (the Act). The proposed regulations, if adopted, would require Ballast Water Management practices for each vessel entering the Hudson River, north of the George Washington Bridge, after operating on waters beyond the Exclusive Economic Zone.

These rules would help to prevent the additional introduction of nonindigenous aquatic nuisance species into the Great Lakes through the ballast water of vessels operating on the Hudson River.

DATES: Comments must be received on or before August 22, 1994.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–003), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jonathan C. Burton, Project Manager, Marine Environmental Protection Division (G–MEP–1), (202) 267–6714.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 94–003) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "ADDRESSES." The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The principal persons involved in drafting this document are Lieutenant Jonathan C. Burton, Project Manager, Marine Environmental Protection Division, and Ms. Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

Historical records suggest that over 100 non-native species have been introduced into the Great Lakes and its tributaries. The primary medium for their introduction is believed to be ballast water from vessels. Many vessels take on water in foreign harbors or in the near shore waters which are often rich in living organisms. When these vessels arrive to take on cargo, they discharge ballast water and any organisms contained in the water enter the local ecosystem. While many of these species do not survive in this new environment, those that do quickly adapt, and in some instances thrive, particularly where there are no natural predators.

The Zebra Mussel provides a good example of the harmful effects of a newly introduced species. In 1988, this small bivalve mollusk native to the Black, Azov, and Caspian Seas in the Ukraine and southern Russia, was discovered in the Western Basin of Lake Erie. Scientists believe that it was introduced in 1986 by the discharge of freshwater ballast of a vessel from Northern Europe. Hundreds of millions of Zebra Mussels can now be found on and in pipes, screens, conduits, boat bottoms, floats, buoys, rocks, submerged objects, and native animals and plants. As a filter feeding organism, it removes vast quantities of microscopic organisms from the water, the same organisms that fish larvae and young fish rely upon for their food supply. It also completely covers rocks and other substances normally used by native fish for laying eggs. Since its introduction into the Great lakes the Zebra Mussel has reproduced and spread throughout the Great Lakes and its tributaries and has been found as far south as New Orleans.

The Coast Guard issued ballast water control regulations on April 8, 1993, for vessels entering the Great Lakes after operating beyond the exclusive economic zone (EEZ). Such vessels are required to exchange their ballast water beyond the EEZ. While the regulations are viewed as an excellent start toward addressing the nonindigenous aquatic nuisance species introduction problem, Congress now realizes that it is necessary to implement ballast water controls for vessels entering the Hudson River after operating beyond the EEZ. The Hudson River is connected to the Great Lakes through the New York State Barge Canal System which allows for the movement of commercial and recreational vessels throughout waterways of New York State and provides direct access to the Great Lakes. As a result of this connection, species released from vessel's ballast water into the Hudson River can migrate, or can be transferred by vessels navigating the canal system into the Great Lakes.

Solutions

Congress has noted that high seas ballast exchange is "not a panacea" for prevention of unintentional introductions of nonindigenous aquatic species. Other means of infestation such as attachment to anchor chains and vessel hulls contribute to infiltration. Moreover, the effects of ballast water exchange on high seas and coastal ecosystems are not yet completely known. Nevertheless, ballast water exchange currently appears to be the most cost and labor effective means of reducing the probability of new infestations. Alternative approaches may be warranted in some situations, or may replace ballast exchange entirely, depending upon knowledge obtained through a Task Force set up by the Act.

International Recognition

The need for control of the introduction of nonindigenous species has also been recognized by the international maritime community. The ballast water control regulations for vessels entering the Great Lakes that were issued by the Coast Guard on April 8, 1993, in large part, were based on ballast water control guidelines adopted by The Marine Environment Protection Committee of the International Maritime Organization at its 31st session in July 1991. The resolution (MEPC 50(31)) which accompanied the issuance of the guidelines recommends that member countries issue guidelines for the control of nonindigenous species into their ports.

United States Legislation

On November 4, 1993, Congress amended (Pub. L. 102–587) the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (the Act) (16 U.S.C. 4711(b)). This amendment extends the Act's applicability to vessels entering the Hudson River, north of the George Washington Bridge, after operating beyond the EEZ. The Act, as amended, attempts to prevent the spread of injurious nonindigenous species into the Great Lakes through the ballast water of these vessels. The Act mandates that the Coast Guard, in consultation with the Task Force created by the Act, issue regulations to prevent the introduction and spread of aquatic nuisance species in the Great Lakes through the ballast water of vessels entering a U.S. port, north of the George Washington Bridge, on the Hudson River, after operating beyond the EEZ.

The current regulations contained in 33 CFR part 151, subpart C, issued under the Act, cover vessels entering the Great Lakes after operating beyond the EEZ and require the retention of ballast water or the exchange of ballast water beyond the EEZ, by vessels subject to the Act. Further, as authorized under the Act, those regulations permit the use of environmentally sound alternative ballast water management methods that the Coast Guard determines are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species, thereby providing the needed flexibility to approve additional ballast water management methods that, in the future, may prove to be even more effective than ballast water exchange. These requirements, as well as the other requirements contained in subpart C of part 151, would satisfy the requirements of the amendments to the Act if applied to vessels navigating on the Hudson River, north of the George Washington Bridge, after operating beyond the EEZ. Therefore, few changes to the regulations issued by the Coast Guard on April 8, 1993, covering vessels entering a U.S. port on the Great Lakes after operating beyond the EEZ, are required to implement the requirements of the amendments to the Act.

The Act provides for civil and criminal penalties (16 U.S.C. 4711(c) and (d)). Any person who violates the regulations shall be liable for a civil penalty not to exceed $25,000. Each day of a continuing violation would constitute a separate violation. A vessel operated in violation of the regulations would be liable in rem for any civil penatly assessed for that violation. Any person who knowingly violates the regulations would be guilty of a class C felony. A class C felony is punishable by imprisonment of not more than 12 years (18 U.S.C. 3581(b)(3)) and a fine of not more than $250,000 for an individual or not more than $500,000 for an organization (18 U.S.C. 3571(c)(3)).

In accordance with the Act, the Coast Guard proposes the regulations discussed below.

Discussion of Proposed Rules

This proposal, if adopted, would propose changes to subpart C of 33 CFR part 151 to extend the applicability of the ballast water management requirements to vessels operating on the Hudson River, north of the George Washington Bridge, after operating on the waters beyond the EEZ.

Proposed changes to § 151.1504 would add "the Captain of the Port, New York," to the definition of "Captain of the Port (COTP)" and add the "Hudson River, north of the George Washington Bridge," to the definition of "Voyage".

A proposed change to § 151.1510(a)(1) would require that an exchange of ballast water be carried out on the waters beyond the EEZ, in a depth exceeding 2000 meters, prior to a vessel traveling on the Hudson River, north of the George Washington Bridge.

A proposed change to § 151.1510(a)(2) would authorize the COTP to seal the tanks of vessels subject to the Act, in which ballast water is retained, for the duration of the voyage within the Hudson River, north of the George Washington Bridge.

By proposing to apply subpart C of part 151 to the vessels subject to the amendments to the Act, the Coast Guard is proposing that each of the requirements of subpart C, including collection-of-information requirements which will be discussed below, apply to vessels navigating on the Hudson River, north of the George Washington Bridge, after operating beyond the EEZ.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT has been prepared and is available in the docket for inspection or copying where indicated under "ADDRESSES." The Evaluation is summarized as follows.

In 1992, 112 visits were made by vessels to the Hudson River, north of the George Washington Bridge, after operating beyond the EEZ. The most recent data available from the U.S. Army Corps of Engineers concerning Hudson River vessel traffic reveals that vessels operating on the Hudson River after operating beyond the EEZ are primarily foreign importer vessels. Vessels carrying cargo, such as vessels engaged in importing, are generally not carrying ballast water. Accordingly, the Coast Guard has identified no vessels that have actually discharged ballast into the Hudson River. Vessels that do not discharge ballast, do not have to exchange ballast water and would incur no costs due to the proposed regulations. Therefore, the only aspect of the proposed regulations that these vessels would be subject to is the recordkeeping requirements of 33 CFR 151.1516. It is estimated that it takes one half hour to complete. At the cost of $35.00 per half hour and assuming 120 visits by vessels subject to these regulations, the annual cost will be $4,200.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

Owners of vessels that would be engaging in ballast water management in the affected area are large corporations. No small entities have been identified as being affected. The economic affect on all entities will be minimal. No U.S. vessels have been identified as being subject to the proposed regulations. The total cost per vessel has been determined to be $35 per visit for each vessel with a total annual cost in 1995 to $4,200 for all vessels. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposal will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposal will economically affect it.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection-of-information requirements in the following sections: § 151.1516. The following particulars apply:

DOT No: 2115.
OMB Control No.: 2115–0598.
Administration: U.S. Coast Guard.
Title: Ballast Water Management for Vessels Entering the Hudson River
Need for Information: No other method exists for the Coast Guard to determine compliance with the regulations. Recording of ballast water management will allow for review of this compliance and aid in establishing the sources of species introduced through ballast water.
Proposed Use of Information: This information will be used to determine compliance with the regulations and for development of a statistical base for determining the possible sources of nonindigenous aquatic nuisance invasions.
Frequency of Response: Upon each entry into the Hudson River, north of the George Washington Bridge, after operating beyond the EEZ, certain information must be available to provide to the COTP.
Burden Estimate: 60 hours annually.
Respondents: Approximately 120 visits by foreign vessels will be subject to this requirement.
Form(s): No specific form is required by the proposed regulations.
Average Burden Hours per Respondent: .5 hour.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under **ADDRESSES.**

Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The authority to issue regulations requiring ballast water management practices for vessels navigating the Hudson River, north of the George Washington Bridge, after operating beyond the EEZ, has been committed to the Coast Guard by the Act. Standardizing the minimum requirements for these vessels is necessary to effectively prevent further introductions of nonindigenous species. Therefore, if the rule becomes final, the Coast Guard intends it to preempt state and local regulations that are inconsistent with the requirements of this proposed rule. These regulations were developed in consultation with the Task Force which is charged with

coordinating among, and providing technical assistance to, regional, State, and local entities regarding environmentally sound approaches to prevention and control of aquatic nuisance species.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a draft Finding of No Significant Impact are available in the docket for inspection or copying where indicated under ADDRESSES. The exchange of ballast water in open ocean would benefit the Hudson River environment and the Great Lakes environment by helping to prevent potential infestations of nonindigenous species through ballast water emptied into the Hudson River north of the George Washington Bridge and transferred through the Hudson River and into the Great Lakes. Introduction of nonindigenous nuisance species through the ballast water of vessels has caused millions of dollars of damage to date in the Great Lakes area.

Initial study has concluded that the amount of vessels' seawater-ballast to be discharged into the Hudson River would constitute such a small volume that no change in the salinity or temperature levels would occur. Species contained in water collected from the open ocean are unlikely to survive a fresh water environment. Any nuisance species contained in the ballast water would not therefore, create a new infestation.

While these regulations will help to prevent potential infestation of species introduced through the ballast water of vessels, data from the Army Corps of Engineers shows that no vessel traveled north of the George Washington Bridge in a light cargo load condition after operating beyond the EEZ. This indicates that these vessels carried no ballast water. Therefore, it is anticipated that few vessels will actually be discharging water into the Hudson River. Therefore, the Coast Guard has concluded that the proposed regulations would have no negative impact on the environment. The Coast Guard solicits comments on the potential environmental impact of the proposed regulations.

List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 151, subpart C as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

* * * * *

Subpart C—Ballast Water Management for Control of Nonindigenous Species

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

Authority: 16 U.S.C. 4711, as amended; 49 CFR 1.46.

2. Section 151.1502 is revised to read as follows:

§ 151.1502 Applicability.

This subpart applies to each vessel that carries ballast water and that after operating on the waters beyond the Exclusive Economic Zone during any part of its voyage enters the Snell Lock at Massena, New York, or navigates north of the George Washington Bridge on the Hudson River, regardless of other port calls in the United States or Canada during that voyage.

3. In § 151.1504, the definitions of *Captain of the Port (COTP)* and *Voyage* are revised to read as follows:

§ 151.1504 Definitions.

* * * * *

Captain of the Port (COTP) means the Coast Guard officer designated as COTP of either the Buffalo, NY, Marine Inspection Zone and Captain of the Port Zone or the New York, NY, Captain of the Port Zone described in part 3 of this chapter or an official designated by the COTP.

* * * * *

Voyage means any transit by a vessel destined for the Great Lakes or the Hudson River, north of the George Washington Bridge, from a port or place outside of the EEZ, including intermediate stops at a port or place within the EEZ.

4. Section 151.1506 is revised to read as follows:

§ 151.1506 Restriction of operation.

No vessel subject to the requirements of this subpart may be operated in the Great Lakes or the Hudson River, north of the George Washington Bridge, unless the master of the vessel has certified, in accordance with § 151.1516, that the requirements of this subpart have been met.

5. In § 151.1510, paragraphs (a)(1) and (a)(2) are revised to read as follows:

§ 151.1510 Ballast water management.

(a) * * *

(1) Carry out an exchange of ballast water on waters beyond the EEZ, in a depth exceeding 2000 meters, prior to entry into the Snell Lock, at Massena, New York, or prior to navigating on the Hudson River, north of the George Washington Bridge, such that, at the conclusion of the exchange, any tank from which ballast water will be discharged into the Great Lakes contains water with a minimum salinity level of 30 parts per thousand.

(2) Retain the vessel's ballast water on board the vessel. If this method of ballast water management is employed, the COTP may seal any tank or hold containing ballast water on board the vessel for the duration of the voyage within the waters of the Great Lakes or the Hudson River, north of the George Washington Bridge.

* * * * *

Dated: June 13, 1994.

Joseph J. Angelo,

Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc 94–15062 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD18–1–5993; FRL–4999–3]

Approval and Promulgation of Air Quality Implementation Plans; State of Maryland–Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOCs) and/or nitrogen oxides (NOx) at or above specified actual emission threshold levels. This program applies throughout the State of Maryland. The SIP revision was submitted by the State to satisfy the Clean Air Act's requirements for an emission statement program as part of the ozone SIP for the State of Maryland.

DATES: Comments on this proposed action must be received in writing by July 21, 1994.

ADDRESSES: Comments must be mailed to Thomas J. Maslany, Director, Air, Radiation, and Toxics Division, U.S.

Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania, 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Environmental Protection Agency, Region III, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107; Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Enid A. Gerena, Environmental Protection Agency, Air, Radiation, and Toxics Division, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597–8239.

SUPPLEMENTARY INFORMATION: On November 13, 1992, the State of Maryland's Department of the Environment (MDE) submitted a revision to Maryland's SIP which requires owners of stationary sources that emit VOCs and/or NOx, above specified actual emission applicability thresholds, to submit annual statements certifying emissions.

I. Background

The air quality planning and State Implementation Plan (SIP) requirements for ozone nonattainment and transport areas are set out in subparts I and II of part D of title I of the Clean Air Act, as amended by the Clean Air Act Amendments of 1990, (CAAor "the Act"). EPA published a "General Preamble" describing its preliminary views on how it intends to review SIP's and SIP revisions submitted under title I of the CAA, including those State submittals for ozone transport areas within the States (see 57 FR 13498 (April 16, 1992) ("SIP: General Preamble for the Implementation of title I of the Clean Air Act Amendments of 1990"), 57 FR 18070 (April 28, 1992) ("Appendices to the General Preamble"), and 57 FR 55620 (November 25, 1992) ("SIP: NOx Supplement to the General Preamble")).

EPA also issued a draft guidance document describing the requirements for the emission statement programs discussed in this document, entitled "Guidance on the Implementation of an Emission Statement Program" (July, 1992). The Agency is also conducting a rulemaking process to modify 40 CFR part 51 to reflect the requirements of the emission statement program.

Section 182 of the Act sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal nonattainment areas, which are also made applicable by section 182 (b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the State each year emission statements certifying their actual emissions of VOCs and NOx. This section of the Act provides that the States are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOC or NOx at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

The States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NOx or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP–42) or other methods acceptable to EPA.

At minimum the emission statement data should include:

- Certification of data accuracy;
- Source identification information;
- Operating schedule;
- Emissions information (to include annual and typical ozone season day emissions);
- Control equipment information; and
- Process data.

EPA developed emission statements data elements to be consistent with other source and State reporting requirements. This consistency is essential to assist States with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. Description of the State Submittal

A. Procedural Background

The State of Maryland held public hearings on September 21 (Frederick), September 22 (Columbia), and September 23, 1992 (Centreville) for the purpose of soliciting public comment on proposed regulatory revisions concerning emission statements for stationary sources. Following the public hearings, the regulatory revisions were adopted by the Secretary of the Environment on November 13, 1992, submitted to EPA on November 13, 1992 as a revision to the SIP, and became effective in the State of Maryland on December 7, 1992.

B. Components of Maryland's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, the State must submit a revision to its SIP which consists of an emission statement program which meets the minimum requirements for reporting by the sources and the State. For the emission statement program to be approvable, the state's SIP must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Maryland's revision consists of amendments to COMAR 26.11.01 General Administrative Procedures. These amendments, revise COMAR 26.11.01.01, Definitions, and add 26.11.01.05–1, Emission Statements.

Section .01, Definitions, has been revised by amending or adding the definitions of the following terms: Actual emissions; Capture efficiency; Certifying individual; Control efficiency; Oxides of nitrogen; Percent seasonal throughput; Standard Industrial Classification; and Typical ozone season day.

Section .05–1, Emission Statements, requires that a person who owns or operates any installation, source, or premises located in areas designated by the CAA as marginal, moderate, serious, severe or extreme ozone nonattainment area to report the levels of emissions from the sources emitting 25 tons per year (TPY) or more of VOCs and NOx, in order to track emission reductions and attain the ozone National Ambient Air Quality Standards (NAAQS). Because the entire State of Maryland is in the Northeast Ozone Transport Region, emission statement reporting provisions also apply to sources in all remaining areas of the State which emit 100 TPY of NOx or 50 TPY of VOC. Section .05–1, Emission Statements, requires that a certifying official for each facility provide the State with a statement reporting emissions by April 1 of each year, beginning with April 1, 1993, for the emissions discharged during the previous calendar year. Section .05–1, Emission Statements, delineates specific requirements for the content of these annual emission statements, including the use of the reporting form developed by the MDE.

C. Enforceability

The State of Maryland has provisions in its SIP (MD. Env. Code Ann. Section 2–609, 2–609.1, 2–610, 2–610.1) which ensure that the emission statement requirements of section 182(a)(3)(B) and

sections 184(b)(2) and 182(f) of the CAA as required by COMAR 26.11.01, sections .01 and .05–1 are adequately enforced. Once EPA completes the rulemaking process approving the Maryland's Emission Statement program as part of the SIP, it will be federally enforceable.

EPA has determined that the submittal made by the State of Maryland satisfies the relevant requirements of the CAA and EPA's guidance document, "Guidance on the Implementation of an Emission Statement Program" (July 1992). EPA's detailed review of Maryland's Emission Statement Program is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the Addresses section of this document.

III. Proposed Action

EPA is proposing to approve revisions to the Maryland SIP to include an Emission Statement Program consisting of revisions to regulation COMAR 26.11.01., General Administrative Provisions, to amend section .01, Definitions, and add section .05–1, Emission Statements. This revision was submitted to EPA by the State of Maryland on November 13, 1992. The EPA is requesting public comments on all aspects of the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the Addresses section of this document.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action to propose approval of Maryland's SIP Emission Statements Program has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. A future document will inform the general public of these tables. On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and Table 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The OMB has agreed to continue the waiver until such time as it rules on EPA's request. This request continues in effect under Executive Order 12866, which superseded Executive Order 12291 on September 30, 1993.

The Administrator's decision to approve or disapprove Maryland's SIP Emission Statements revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(K), and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 52.

List of Subjects in 40 CFR Part 52

Environmental Protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q

Dated: April 15, 1994.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 94–14537 Filed 6–20–94; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 266

[FRL–5002–3]

Proposed Technical Clarification Pertaining to Regulations for Boilers and Industrial Furnaces

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Technical Amendment.

SUMMARY: EPA is proposing a minor amendment to the rules for Boilers and Industrial Furnaces (BIFs). EPA believes that this amounts only to a technical amendment (because it reflects the Agency's intent as expressed either in the BIF rule or preamble), but is soliciting comment to assure opportunity for public participation. The amendment would add certain mercury-bearing wastes to the list of wastes that can be burned in metal-recovery furnaces pursuant to 40 CFR 266.100(c) without triggering the substantive BIF requirements.

Because the proposed amendment is minor, the comment period is limited to three weeks. After considering any public comments it receives and revising the amendment accordingly, the EPA may finalize it in the Land Disposal Restrictions Phase II Rule, scheduled for promulgation in July 1994. The Phase II LDR rule was proposed September 14, 1993 (see 58 FR 48092).

DATES: Comments must be submitted by July 12, 1994.

ADDRESSES: The public must send an original and two copies of their written comments to EPA RCRA Docket (5305), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Place the Docket Number F–94–BFTA–FFFFF on your comments. The RCRA Docket is open from 9:00 am to 4:00 pm Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327. The public may copy a maximum of 100 pages from any regulatory document at no cost. Additional copies cost $.15 per page. The mailing address is EPA RCRA Docket (5305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION: Contact Robert Holloway (5302W), Chief, Combustion Section, Waste Treatment Branch, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (703) 803–8461.

SUPPLEMENTARY INFORMATION:

Amendment of Boiler and Industrial Furnace Rules for Certain Mercury-Containing Wastes

The final BIF rule conditionally defers regulation of smelting, melting, and refining furnaces that burn hazardous waste solely for legitimate metal recovery. See § 266.100(c). The rule provides three tests for the determination of burning solely for legitimate metal recovery. The heating value of the waste cannot exceed 5000 Btu/lb (if so, the waste is considered to be burned partially for energy recovery), the concentration of appendix VIII organic constituents in the waste cannot exceed 500 ppm (if so, the waste is considered to be burned partially for destruction), and the waste must have recoverable levels of metal.

The Chlorine Institute has informed the Agency that there are certain mercury-bearing wastes that can in fact be processed for mercury recovery but would be inappropriately classified as being burned for the purpose of energy recovery because their fuel value may exceed 5000 Btu/lb. These wastes, proposed to be listed in Appendix XIII to Part 266 by today's notice, are activated carbon, decomposer graphite, wood, paper, and protective clothing from the electrolytic mercury cell process used for the production of chlorine. These wastes can contain from hundreds of parts per million to percent levels (in some cases, as high as 45%) of mercury. (See in the RCRA docket for this notice the letter dated May 13, 1994 from the Chlorine Institute, Inc. to Matthew A. Straus.) The wastes also are already subject to a LDR treatment standard that requires recovery of mercury as the method of treatment. (See Table 2 in 40 CFR 268.42, D001 High Mercury Subcategory.) Under these circumstances, the Agency believes that it would be anomalous to consider these wastes to be burned for a purpose other than metal recovery based on the Btu content.

EPA notes that these wastes can only be recovered in devices that are either: (a) subject to the mercury National Emission Standard (NESHAP) found at 40 CFR Part 61 Subpart F; (b) subject to a Best Achievable Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) standard for mercury imposed pursuant to a Prevention of Significant Deterioration (PSD) permit; or (c) subject to a state permit that establishes emission limitations (within the meaning of section 302 of the Clean Air Act) for mercury. (See Table 2 at 268.42, D001 High Mercury Subcategory, and 55 FR at 22570 (June 1, 1990).) Thus, air emissions from these devices should already be sufficiently controlled so that further RCRA regulation is unnecessary at this time. 55 FR at 22570. Consequently, this proposed amendment is consistent not only with EPA's intent in promulgating the deferral for metal recovery devices in the BIF rule, but is consistent with the Agency's determination in establishing LDR treatment standards for high mercury wastes that air emissions from mercury recovery devices were adequately controlled provided any of the three conditions set forth above (and in the rules) are satisfied.

Dated: June 15, 1994.

Elliott P. Laws,

Assistant Administrator.

For the reasons set out above, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for Part 266 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, and 3014 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, and 6934).

Subpart H—Hazardous Waste Burned in Boilers and Industrial Furnaces (Effective August 21, 1991)

2. In § 266.100(c), paragraphs (c)(3)(i) introductory text, (c)(3)(i)(A), and (c)(3)(ii) introductory text are revised to read as follows:

§ 266.100 Applicability.

* * * * *

(3) To be exempt from §§ 266.102 through 266.111, an owner or operator of a lead or nickel-chromium or mercury recovery furnace, or a metal recovery furnace that burns baghouse bags used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the Director identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this paragraph or paragraph (c)(1) of this section. The owner or operator must comply with the requirements of paragraph (c)(1) of this section for those wastes claimed to be exempt under that paragraph and must comply with the requirements below for those wastes claimed to be exempt under this paragraph.

(i) The hazardous wastes listed in appendices XI, XII, and XIII, part 266, and baghouse bags used to capture metallic dusts emitted by steel manufacturing are exempt from the requirements of paragraph (c)(1) of this section, provided that:

(A) A waste listed in appendix IX must contain recoverable levels of lead, a waste listed in appendix XII must contain recoverable levels of nickel or chromium, a waste listed in appendix XIII must contain recoverable levels of mercury, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recoverable levels of metal; and

* * * * *

(ii) The Director may decide on a case-by-case basis that the toxic organic constituents in a material listed in appendix XI, XII, or XIII of this part that contains a total concentration of more than 500 ppm toxic organic compounds listed in appendix VIII, part 261 of this chapter, may pose a hazard to human health and the environment when burned in a metal recovery furnace exempt from the requirements of this subpart. In that situation, after adequate notice and opportunity for comment, the metal recovery furnace will become subject when burning that material. In making the hazard determination, the Director will consider the following factors:

* * * * *

3. Appendix XIII is added to Part 266 to read as follows:

Appendix XIII To Part 266—Mercury-Bearing Wastes That May Be Processed By Exempt Chlorine Manufacturing Industries

Exempt Mercury-Bearing Materials When Generated or Originally Produced by Chlorine Manufacturing Industries Using the Electrolytic Mercury Cell Process.

Activated carbon

Decomposer graphite

Wood

Paper

Protective clothing

[FR Doc. 94–15068 Filed 6–20–94; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 94–45; FCC 94–110]

Revision of the Rules Regarding Marketing and Equipment Authorizations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This proposal responds to a Petition for Rule Making filed by the Consumer Electronics Group of the Electronic Industries Association (EIA/CEG) that would consolidate and harmonize the Commission's marketing rules. This proposal will permit radio frequency devices, prior to authorization or a determination of compliance with the technical standards, to be announced, advertised, displayed, and operated for compliance testing, demonstrations at trade shows, or evaluation at the manufacturer's facilities. In addition, non-consumer devices that have not been tested or authorized could be offered for conditional sale or supplied to the user for evaluation or compliance testing. On its own motion, the Commission is also proposing to amend its equipment authorizations regulations to provide clarification, to resolve inconsistencies, to remove unnecessary restrictions and obsolete regulations, and to incorporate several interpretations. These proposals would stimulate economic growth by permitting products to be developed on a cooperative basis by manufacturers and retailers, and by potential decreasing the time for a product to reach the marketplace.

DATES: Comments must be submitted on or before September 5, 1994, and reply comments on or before October 4, 1994.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 653–7313.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making in ET Docket No. 94–45, adopted May 9, 1994, and released June 9, 1994.

The complete text of this Notice of Proposed Rule Making is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Paperwork Reduction

The proposed amendments will not modify the information collection requirements contained in the current regulations.

Summary of the Notice of Proposed Rule Making

1. In the Notice of Proposed Rule Making the Commission, in response to a petition from the Consumer Electronics Group of the Electronic Industries Association, proposes to amend Part 2 of its rules regarding the marketing and operation of radio frequency (RF) devices. Marketing includes the sale or lease, offer for sale or lease, including advertising for sale or lease, and importation, shipment or distribution for the purpose of sale or lease or offering for sale or lease. Currently, the rules prohibit the marketing and operation of an RF device unless it complies with all of the standards and the equipment authorization procedures. Certain exceptions to these rules are provided for verified digital devices and non-consumer ISM products operated under Part 18 of the rules.

2. The proposal would harmonize the marketing rules by permitting RF devices, prior to authorization or a determination of compliance with the technical standards, to be announced, advertised, displayed, and, if compliant with any Commission license requirements, operated for compliance testing, demonstrated at trade shows, or evaluated at the manufacturer's facilities. In addition, non-consumer RF devices, *i.e.*, products employed at business, commercial, industrial, scientific or medical sites, prior to testing or authorization, could be offered for conditional sale or supplied to the user for evaluation or compliance testing. As under the existing rules, no products may be marketed or supplied to the general public prior to testing or authorization. Further, these products must be designed with the intent of complying with all applicable regulations.

3. On its own motion, the Commission is also proposing several additional changes to the equipment authorization rules to resolve inconsistencies, to provide clarification, to remove unnecessary restrictions and obsolete regulations, and to incorporate several interpretations. Specifically, the Commission would amend the rules to indicate, explicitly, that, as with any request for authorization, an anti-drug abuse statement is required with requests for permissive changes. In addition, the rules would state that proper labeling of a product is a condition of the grant of equipment authorization and is required prior to marketing. The Commission would also clarify that a product is considered to be "electrically identical" if no changes are made to the product or if any changes to the product could be treated as Class I permissive changes. Further, outdated regulations, *e.g.*, references to type approval which is no longer employed, would be removed, duplicative rules would be removed, and erroneous rule citations would be corrected.

4. In addition to the above changes, the Commission proposes to require that any party that modifies an authorized RF device becomes responsible for ensuring that the modified product continues to comply with the appropriate standards and must maintain whatever records are required to demonstrate such compliance. In order to facilitate identification, the Commission also proposes that a product modified by someone other than the original responsible party be labeled with the name, address and telephone number of the new responsible party along with a statement that the product has been modified.

5. Finally, the Commission would amend the regulations regarding authorization under the verification procedure to clarify the information required to be retained by the responsible party and to indicate the time period within which requests by the Commission for product samples must be submitted and the party responsible for submitting those samples.

Initial Regulatory Flexibility Analysis

6. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96–354, Stat.

1164, 5 U.S.C. Section 601 *et seq.* (1981).

Reason for Action

This Notice of Proposed Rule Making responds to the petition submitted by the Electronic Industries Association, Consumer Electronics Group, to harmonize our rules regarding the announcement, advertising, display, activation and marketing of radio frequency (RF) devices prior to compliance with the applicable standards. On our own initiative, we are also proposing amendments to the Part 2 rules to address the responsibility of parties that modify products prior to sale, and to establish a time frame within which samples or records files of verified devices must be submitted to the Commission upon request. In addition, we are proposing to amend the equipment authorization rules to clarify existing regulations, remove outdated regulations, and correct erroneous rule citations.

Objectives

The objectives of this proposal are to facilitate the marketing and display of RF devices, to identify the party ultimately responsible for ensuring that a marketed device complies with the standards, to facilitate the retrieval of test records by the Commission, to clarify existing regulations, to remove outdated regulations, and to correct existing errors in the rules.

Legal Basis

The proposed action is authorized under Sections 4(i), 302, 303(e), 303(f), and 303(r) of the Communications Act of 1934, as amended 47 U.S.C. Sections 154(i), 302, 303(e), 303(f), and 303(r).

Reporting, Recordkeeping and Other Compliance Requirements

One change to the reporting and recordkeeping requirements would be initiated by this proposal: parties that take authorized RF devices and remanufacture or otherwise modify these products prior to marketing would be designated as the parties responsible for ensuring that the products comply with the applicable rules and, thus, would have the same reporting and record keeping requirements that normally apply to an equipment manufacturer.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules

None

Description, Potential Impact and Number of Small Entities Involved

It is unknown how many small entities that may be affected. There should be no adverse impact on any party that manufacturers or markets equipment that currently complies with our standards.

Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With Stated Objectives

None.

List of Subjects in 47 CFR Part 2

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Proposed Rule Changes

Part 2, Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 2—[AMENDED]

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

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

2. Section 2.803 is revised to read as follows:

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) No person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless:

(1) In the case of a device subject to type acceptance, certification, or notification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labelled as required by § 2.925 and other relevant sections in this chapter; or

(2) In the case of a device that is not required to have a grant of equipment authorization issued by the Commission, but which must comply with the specified technical standards prior to use, such device also complies with all applicable administrative (including verification of the equipment, where required), technical, labelling and identification requirements specified in this chapter.

(b) The provisions of paragraph (a) do not forbid conditional sales contracts between manufacturers and wholesalers or retailers where delivery is contingent upon compliance with the applicable equipment authorization and technical requirements, nor do they prohibit agreements between parties to produce new products, manufactured in accordance with designated specifications.

(c)(1) Notwithstanding the provisions of paragraph (a) of this section, a radio frequency device may be advertised or displayed, *e.g.*, at a trade show or exhibition, prior to equipment authorization or, for devices not subject to the equipment authorization requirements, prior to a determination of compliance with the applicable technical requirements *provided* the advertising contains, and the display is accompanied by, a conspicuous notice worded as follows:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(2) Except as provided elsewhere in this chapter, devices displayed under the provisions of this paragraph may not be activated or operated.

(d) Notwithstanding the provisions of paragraph (a), the announcement and offer for sale solely to business, commercial, industrial, scientific or medical users (but not to the general public) of a radio frequency device that is in the conceptual, developmental, design or preproduction stage is permitted prior to equipment authorization or, for devices not subject to the equipment authorization requirements, prior to a determination of compliance with the applicable technical requirements *provided* the prospective buyer is advised in writing at the time of announcement or offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution.

(e) Nowithstanding the provisions of paragraph (a), any radio frequency device may be operated, but not marketed, prior to equipment authorization or determination of compliance with the applicable technical requirements for the following purposes:

(1) Compliance testing;

(2) Demonstration at a trade show provided the notice contained in paragraph (c) of this section is displayed in a conspicuous location on, or immediately adjacent to, the device;

(3) Evaluation of product performance and determination of customer acceptability, provided such operation

takes place at the manufacturer's facilities during developmental, design or preproduction states; or,

(4) Evaluation of product performance and determination of customer acceptability where customer acceptability of a radio frequency device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, provided the device is operated at a business, commercial, industrial, scientific, or medical user's site, but not at a residential site, during the development, design or preproduction stages. A product operated under this provision shall be labelled, in a conspicuous location, with the notice in paragraph (c) of this section.

(5) For the purpose of paragraphs (e)(3) and (e)(4) of this section, the term "manufacturer's facilities" includes the facilities of the party responsible for compliance with the regulations and the manufacturer's premises, as well as other entities working under the authorization of the responsible party in connection with the development and manufacture, but not marketing, of the equipment.

(6) The provisions of paragraphs (e)(1), (e)(2), (e)(3), and (e)(4) of this section do not eliminate any requirements for station licenses that may be specified elsewhere in this chapter.

(f) For radio frequency devices subject to verification and sold solely to business, commercial, industrial, scientific, and medical users (excluding sales to the general public), parties responsible for verification of the devices shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment.

(g) The provisions in paragraphs (b) through (f) of this section apply only to devices that are designed with the intent of compliance with all applicable requirements in this chapter. The provisions in paragraphs (b) through (f) do not apply to radio frequency devices that could not be authorized or legally operated under the current rules. Such devices shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed.

§ 2.805 [Removed]

3. Section 2.805 is removed.

§ 2.806 [Removed]

4. Section 2.806 is removed.

§ 2.807 [Amended]

5. Section 2.807 is amended by revising the phrase "§§ 2.803 and 2.805" to read "§ 2.803" in the introductory paragraph.

§ 2.809 [Removed]

6. Section 2.809 is removed.

§ 2.811 [Amended]

7. Section 2.811 is amended by revising the phrase "Sections 2.803 and 2.805" to read "Section 2.803".

§ 2.813 [Amended]

8. Section 2.813 is amended by revising the phrase "Sections 2.803 and 2.805" to read "Section 2.803".

§ 2.815 [Amended]

9. Section 2.815 is amended by revising the references in paragraphs (d) and (e) "§§ 97.75 and 97.76" to read "§§ 97.315 and 97.317".

§ 2.901 [Amended]

10. Section 2.901 is amended by removing the references to "type approval," in paragraphs (a) and (b).

§ 2.903 [Removed]

11. Section 2.903 is removed.

12. Section 2.909 is amended by adding language to the end of paragraphs (a) and (b) and by adding a new paragraph (c) to read as follows:

§ 2.909 Responsible party.

(a) * * * If radio frequency equipment is modified by any party other than the grantee and that party is not working under the authorization of the grantee pursuant to § 2.929(b) of this chapter, the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(b) * * * If radio frequency equipment is modified subsequent to original manufacture or importation, the party performing the modification is designated as the responsible party.

(c) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards, the equipment shall be labelled, following the specifications in § 2.925(d) of this chapter, with the following: "This product has been modified by [insert name, address and telephone number of the party performing the modifications]."

13. Section 2.913 is revised to read as follows:

§ 2.913 Submittal of equipment authorization application or information to the Commission.

(a) Applications and fees for equipment authorization shall be submitted to the address shown in § 1.1103 of this chapter unless otherwise directed.

(b) Any information or equipment samples requested by the Commission pursuant to the provisions of subpart J of this part shall, unless otherwise directed, he submitted to the FCC, Authorization and Evaluation Division, 7435 Oakland Mills Road, Columbia, MD 21046.

§ 2.915 [Amended]

14. Section 2.915 is amended by removing the reference to "type approval," in paragraphs (a) introducing text and (c).

§ 2.917 [Amended]

15. Section 2.917 is amended by removing paragraph (d).

16. Section 2.924 is revised to read as follows:

§ 2.924 Marketing of electrically identical equipment having multiple trade names and models or type numbers under the same FCC Identifier.

The grantee of an equipment authorization may market devices having different model/type numbers or trade names without additional authorization from the Commission provided such devices are electrically identical and the equipment bears an FCC Identifier validated by a grant of equipment authorization. A device will be considered to be electrically identical if no changes are made to the device authorized by the Commission, or the changes made to the device would be treated as Class I permissive changes within the scope of §§ 2.1001(b)(1) and 2.1043(b)(1) of this chapter. Changes to the model number or trade name by anyone other than the grantee, or under the authorization of the grantee, shall be performed following the procedures in § 2.933 of this chapter.

17. Section 2.925 is amended by removing paragraph (g), by revising the reference in paragraph (b)(4) "§ 15.69c)" to read "§ 15.101", and by revising paragraph (d) introductory text to read as follows: *§ 2.925 Identification of equipment.*

* * * * *

(d) In order to validate the grant of equipment authorization, the nameplate or label shall be permanently affixed to the equipment and shall be readily visible to the purchaser at the time of purchase.

* * * * *

§ 2.926 [Amended]

18. Section 2.926 is amended by revising the reference in paragraph (e) "§ 15.69" to read "§ 15.101".

19. Section 2.927 is amended by removing paragraph (d) and by revising paragraphs (a) and (b) to read as follows:

§ 2.927 Limitations on grants.

(a) A grant of equipment authorization is valid only when the FCC Identifier is permanently affixed on the device and remains effective until revoked or withdrawn, rescinded, surrendered, or a termination date is otherwise established by the Commission.

(b) A grant of an equipment authorization signifies that the Commission has determined that the equipment has been shown to be capable of compliance with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. The issuance of a grant of equipment authorization shall not be construed as a finding by the Commission with respect to matters not encompassed by the Commission's rules, especially with respect to compliance with 18 U.S.C. 2512.

* * * * *

20 and 21. Section 2.932 is amended by adding a new paragraph (f), to read as follows:

§ 2.932 Modification of equipment.

* * * * *

(f) All requests for permissive changes submitted to the Commission must be accompanied by the anti-drug abuse certification required under § 1.2002 of this chapter.

22. Section 2.933 is amended by revising paragraphs (a) and (c) and paragraph (b)(7) to read as follows:

§ 2.933 Change in identification of equipment.

(a) A new application for equipment authorization shall be filed whenever there is a change in the identification of the equipment with or without a change in design, circuitry or construction. However, a change in the model/type number or trade name performed in accordance with the provisions in § 2.924 of this chapter will not be considered to be a change in identification and does not require additional authorization from the Commission.

(b) * * *

(7) In the case of certified equipment, the photographs required by § 2.1033(b)(7) showing the exterior appearance of the equipment, including the operating controls available to the user and the identification label. Photographs of the construction, the component placement on the chassis, and the chassis assembly are not required to be submitted unless specifically requested by the Commission.

(c) If the change in identification also involves a change in design or circuitry which falls outside the purview of a permissive change described in §§ 2.977, 2.1001 or 2.1043, a complete application shall be filed pursuant to § 2.911.

§ 2.934 [Amended]

23. Section 2.934 is amended by revising the reference "§ 2.910(b)" to read "§ 2.913(b)".

24. Section 2.936 is revised to read as follows:

§ 2.936 FCC inspection.

Upon reasonable request, each responsible party shall submit the following to the Commission or shall make the following available for inspection:

(a) The records required by §§ 2.938 and 2.955.

(b) A sample unit of the equipment covered under an authorization.

(c) The manufacturing plant and facilities.

25. Section 2.938 is revised to read as follows:

§ 2.938 Retention of records.

(a) For each equipment subject to the Commission's standards, the responsible party shall maintain the records listed below:

(1) A record of the original design drawings and specifications and all changes that have been made that may affection compliance with the standards and the requirements of § 2.931.

(2) A record of the procedures used for production inspection and testing to ensure conformance with the standards and the requirements of § 2.931.

(3) A record of the test results that demonstrate compliance with the appropriate regulations.

(b) The provisions of paragraph (a) of this section shall also apply to a manufacturer of equipment produced under the provisions of § 2.929(b) of this chapter. The retention of the records by the manufacturer under these circumstances shall satisfy the grantee's responsibility under paragraph (a) of this section.

(c) The records listed in paragraph (a) of this section shall be retained for one year after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party (or under paragraph (b) of this section the manufacturer) is officially notified that an investigation or any other administrative proceeding involving its equipment has been instituted.

§ 2.941 [Amended]

26. Section 2.941 is amended by revising the reference in paragraph (b) "§ 0.457" to read "§§ 0.441 through 0.470".

27. Section 2.946 is amended by revising the first sentence in paragraph (a) to read as follows:

§ 2.946 Penalty for failure to provide test samples and data.

(a) Any responsible party, as defined in § 2.909 of this chapter, and any party who markets equipment subject to the provisions on this chapter shall provide a test sample(s) or data upon request by the Commission. * * *

* * * * *

28. Section 2.953 is amended by revising the title and by revising paragraph (a), (b), and (d) to read as follows:

§ 2.953 Responsibility for compliance.

(a) In verifying compliance, the responsible party, as defined in § 2.909 of this chapter, warrants that each unit of equipment marketed under the verification procedure will be identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party continue to reflect the equipment being produced under such verification within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) The importer of equipment subject to verification may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards rely on the manufacturer or independent testing agency to verify compliance. The test records required by § 2.955, however, should be in the English language and made available to the Commission upon a reasonable request, in accordance with § 2.956 of this chapter.

(c) * * *

(d) Verified equipment shall be reverified if any modification or change adversely affects the emanation characteristics of the modified equipment. The party designated in § 2.909 of this chapter bears responsibility for continued compliance of subsequently produced equipment.

29. Section 2.955 is amended by revising paragraphs (a) introductory text and (a)(3) to read as follows:

§ 2.955 Retention of records.

(a) For each equipment subject to verification, the responsible party, as

shown in § 2.909 of this chapter, shall maintain the records listed below:

* * * * *

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations. The record shall:

(i) Indicate the actual date all testing was performed.

(ii) State the name of the test laboratory, company, or individual performing the verification testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the verification tests.

(iii) Contain a description of how the device was actually tested, identifying the measurement procedure and test equipment that was used.

(iv) Contain a description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT.

(v) Identify the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number.

(vi) Indicate the types and lengths of connecting cables used and how they were arranged or moved during testing.

(vii) Contain at least two photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These photographs must be focused originals which show enough detail to confirm other information contained in the test report.

(viii) List all modifications, if any, made to the EUT by the testing company or individual to achieve compliance with the regulations.

(ix) Include all of the data required to show compliance with the appropriate regulations.

(x) Contain, on the test report, the signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in § 2.909 of this chapter.

* * * * * * *

30. Section 2.956 is revised to read as follows:

§ 2.956 FCC inspection and submission of equipment for testing.

(a) Each responsible party shall upon receipt of reasonable request:

(1) Submit to the Commission the records required by § 2.955.

(2) Subject one or more sample units for measurements at the Commission's Laboratory.

(i) Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party.

(ii) In the event the responsible party believes that shipment of the sample to the Commission's Laboratory is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, the responsible party may subunit a written explanation why such shipment is impractical and should not be required.

(b) Requests for the submission of the records in § 2.955 of this chapter or for the submission of sample units are covered under the provisions of § 2.946 of this chapter.

§ 2.957 [Removed]

31. Section 2.957 is removed.

§ 2.961 [Removed]

32. Section 2.961 is removed.

§ 2.963 [Removed]

33. Section 2.963 is removed.

§ 2.965 [Removed]

34. Section 2.965 is removed.

§ 2.967 [Removed]

35. Section 2.967 is removed.

§ 2.969 [Removed]

36. Section 2.969 is removed.

37. Section 2.975 is amended by revising the reference in paragraph (b) from "§ 2.909(c)" to "§ 2.911(c)" and by revising paragraph (g) to read as follows:

§ 2.975 Application for notification.

* * * * * * *

(g) The records of measurement data, measurement procedures, photographs, circuit diagrams, etc. for a device subject to notification shall be retained for two years after the manufacture of said equipment has been permanently discontinued, or, if the responsible party is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted prior to the expiration of such two year period, until the conclusion of that investigation or proceeding.

§ 2.979 [Removed]

38. Section 2.979 is removed.

§ 2.983 [Amended]

39. Section 2.983 is amended by revising the reference in paragraph (i) from "subpart C of part 97" to "subpart D of part 97".

§ 2.1003 [Removed]

40. Section 2.1003 is removed.

§ 2.1005 [Amended]

41. Section 2.1005 is amended by removing the reference to "§ 2.1003" in paragraphs (a) and (c)(4), by revising the reference in paragraph (c) introductory text from "§ 97.3(z)" to "§ 97.3(a)(17)", by revising the reference in paragraph (d) from "CB Rule 21" to "§ 95.411", and by revising the reference in paragraph (d) from "§ 97.77" to "§ 97.317".

§ 02.1033 [Amended]

42. Section 2.1033 is amended by revising the reference in paragraph (b)(11) from "§ 15.257(e)" to "§ 15.247(e)".

§ 2.1045 [Removed]

43. Section 2.1045 is removed.

§ 2.1300 [Amended]

44. Section 2.1300 is amended by revising the reference from "§ 2.909" to "§ 2.911".

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB73

Endangered and Threatened Wildlife and Plants; Extension of the Final Decision To List the Mobile River System Population of the Alabama Sturgeon as an Endangered Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of 6 month extension of deadline and reopening of the comment period.

SUMMARY: On June 15, 1993 the U.S. Fish and Wildlife Service (Service) proposed to determine endangered status for the Alabama sturgeon (*Scaphirhynchus suttkusi*) under the Endangered Species Act of 1973, as amended (Act). The Act requires the Service to make a final determination on such proposals within 12 months, but provides for a 6 month extension if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to that determination. The Service finds that there is such a substantial disagreement concerning whether the Alabama sturgeon continues to exist and therefore extends the deadline with respect to the decision to list the Alabama sturgeon.

DATES: The deadline for final action on the proposal is now December 15, 1994. The public comment period is reopened until September 15, 1994.

ADDRESSES: Comments and material should be sent to U.S. Fish and Wildlife

Service, Asheville Field Office, 330 Ridgefield Court, Asheville, North Carolina 28806.

FOR FURTHER INFORMATION CONTACT: Mr. Richard G. Biggins at the above Asheville address (704/665–1195, Ext. 228) or Mr. Robert S. Butler, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216 (904/232–2580).

SUPPLEMENTARY INFORMATION:

Background

This sturgeon, which is endemic to the Mobile River system in Alabama and Mississippi and was once widespread in this system, has had a significant decline in both population size and range in the Mobile River system. The fish may currently exist in only a short, free-flowing reach of the Alabama River below Claiborne Lock and Dam in Clarke and Monroe Counties, Alabama. Primary factors that have likely contributed to the sturgeon's decline include dams, altered river flows, gravel-mining operations, general habitat degradation from land use practices, and, perhaps, overfishing, particularly at the turn of the century.

The Alabama sturgeon, once called the Alabama shovelnose sturgeon, or just shovelnose sturgeon, has been recognized since 1976 as a distinct, undescribed taxon (Ramsey 1976) that is most similar to the shovelnose sturgeon (*Scaphirhynchus platorynchus*) of the Mississippi River system and the Rio Grande. The Alabama sturgeon is a relatively small sturgeon; the maximum standard length is about 72 centimeters (28 inches). It has an elongated, heavily armored, depressed body and an attenuated caudal peduncle. The caudal fin has a long filament on the upper lobe that is characteristic of the genus. Sexual dimorphism is slight. Morphological characteristics of the juvenile Alabama sturgeon are unknown. The Alabama sturgeon can generally be distinguished from the shovelnose sturgeon of the Mississippi River system. The Alabama sturgeon almost always has larger eyes, it has different plate numbers posterior to the anal fin, there is a difference in dorsal fin ray numbers, and there are three diagnostic characters associated with its head armature (Mayden and Kuhajda 1994).

The Alabama sturgeon is known only from the Mobile River system of Alabama and Mississippi. Historically, this sturgeon was found in the Mobile, Tensas, Alabama, Tombigbee, Black Warrior, Cahaba, Tallapoosa, and Coosa Rivers of the Mobile River system (Burke and Ramsey 1985). The only recent confirmed record (since about 1985) of the Alabama sturgeon is from the free-flowing portion of the Alabama River below Claiborne Lock and Dam.

The Alabama sturgeon was once common in Alabama. In a statistical report to Congress in 1898 (U.S. Commission of Fish and Fisheries 1898), the total catch of shovelnose sturgeon from Alabama was 19,500 kilograms (kg) (42,900 pounds (lb)). Of this total, 18,000 kg (39,500 lb) came from the Alabama River, 1,000 kg (2,300 lb) from the Black Warrior River, and 500 kg (1,100 lb) from the Tennessee River. The shovelnose sturgeon reported from the Alabama and Black Warrior Rivers was the Alabama sturgeon; the sturgeon from the Tennessee River was from the Mississippi River system shovelnose sturgeon population. Any anonymous article in the *Alabama Game and Fish News* in 1930 stated that the Alabama sturgeon was "not uncommon."

Records of this fish supported by preserved specimens are rare. Clemmer (1983) listed 23 specimens in museum collections. In their status survey, Burke and Ramsey (1985) captured only five Alabama sturgeons. Williams and Clemmer (1991) located another nine specimens in addition to those examined by Clemmer (1983), making a total of 32 specimens in museum, university, and private collections. Interestingly, since 1953 there has generally been a 7- to 8-year hiatus between representative collections of Alabama sturgeon in museums (Mayden and Kuhajda 1994). Verified localities have primarily been large channels of big rivers in the Mobile River system. However, a couple of Alabama sturgeon records are from oxbow lakes (Williams and Clemmer 1991).

When the proposed rule was published (June 15, 1993; 58 FR 33148–54), the most recent documented evidence of the Alabama sturgeon's continued existence consisted of the capture of five Alabama sturgeons in 1985 (Burke and Ramsey 1985); two were gravid females and one was a juvenile about 2 years old. Biologists from the Alabama Department of Conservation and Natural Resources (ADCNR), with the assistance and cooperation of the Corps, have in recent years (1990 and 1992) conducted periodic searches for the Alabama sturgeon, utilizing a variety of sampling gear, without verifying the presence of a single specimen (Tucker and Johnson 1991, 1992). Nevertheless, the gravid females and juvenile Alabama sturgeons captured by Burke and Ramsey (1985) provided sufficient evidence that reproduction was occurring during at least the mid-1980s. Coupled with a high longevity (>20 years), the likelihood of sturgeon surviving to the present appeared quite high at the time of the proposed rule.

Since the Burke and Ramsey (1985) status survey, there have been several anecdotal reports by commercial fishermen that two distant sturgeons have been taken from the Mobile River system in portions of the Alabama River upstream of Claiborne Lock and Dam. These reports presumably refer to the Alabama sturgeon and the Gulf sturgeon (*Acipenser oxyrinchus desotoi*). The Gulf sturgeon can achieve lengths up to 2 meters (m) (6.6 feet), is generally more robust, and has shorter and deeper caudal peduncles than does the Alabama sturgeon. In addition, Gulf sturgeon are anadromous, migrating as adults up rivers from the Gulf of Mexico to spawn. (The Gulf sturgeon was listed as threatened on September 30, 1991 (56 FR 49658.)

The service and the ADCNR conducted an extensive sampling program in 1993 in an effort to locate the Alabama sturgeon in the Mobile River system. On December 2, 1993, a mature male Alabama sturgeon was caught live in a gill net by staff of the Service's Panama City, Florida, Field Office. The capture site was in the free-flowing portion of the Alabama River downstream of Claiborne Lock and Dam, Clarke and Monroe Counties, Alabama. This specimen represents the only verified record of the Alabama sturgeon in nearly a decade.

From this chronology of Alabama sturgeon collections, this fish has experienced a tremendous decline in both population size and range in just 100 years.

The specific habitat needs of the Alabama sturgeon are largely unknown. Members of the genus *Scaphirhynchus* are freshwater fish (Bailey and Cross 1954) that do not make seasonal migrations to and from the sea. Shovelnose sturgeons in the Mississippi River system are most common in river channels having strong currents over sand, gravel, and rock substrates (Trautman 1981, Hurley *et al.* 1987, Curtis 1990) but may occasionally occur over softer sediments (Bailey and Cross 1954). Habitat selection also appears to be dictated by current velocities (Hurley *et al.* 1987). The shovelnose sturgeon often uses habitats associated with channel-training devices (Hurley and Nickum 1984, Hurley *et al.* 1987, Curtis 1990), which are water-diversion structures (e.g., training dikes, wing walls, and closing dams) used for directing currents to maintain channels. The association of the shovelnose

sturgeon with these habitats may be correlated with higher prey item densities and suitable current velocities (Hurley *et al.* 1987); high silt loads directly impact many invertebrates that require a relatively stable substrate. The Corps provided funds for the Service to investigate the possibility that the Alabama sturgeon also uses habitats associated with channel-training devices in the Alabama River. However, no conclusions were derived from this study as no Alabama sturgeons were captured (Corps, *in litt.*, 1993).

Based upon the limited information available, the Alabama sturgeon appears to prefer relatively stable substrates of gravel and sand in deeper portions of river channels with swift currents (Burke and Ramsey 1985). Limited data collected from a radio-collared Alabama sturgeon suggested that if frequented swift currents in water 7.5 to 12.0 m (25 to 40 feet) deep (Burke and Ramsey 1985).

Sturgeons are thought to swim upstream to spawn (Becker 1983). Shovelnose sturgeons, based on telemetry studies conducted during the spawning season, were found to migrate limited distances (Hurley *et al.* 1987). Spawning habitats for the Alabama sturgeon are generally unknown. Spawning shovelnose sturgeon in the Mississippi River system generally use hard substrates that may occur in main-channel areas or deep-water habitats associated with channel-training devices in major rivers or possibly in tributaries (Hurley and Nickum 1984). Observations by Burke and Ramsey (1985) suggest that the Alabama sturgeon prefers spawning habitat similar to the shovelnose sturgeon in the Mississippi River system.

Currents are required for the development of sturgeons' adhesive eggs, which require 5 to 8 days to hatch (Burke and Ramsey 1985). Spawning of the shovelnose sturgeon in the Mississippi River system apparently occurs from April to July (Moos 1978). The spawning period for the sturgeon probably depends upon water temperature and flows (Moos 1978), as it does for numerous other fish species. Henry and Ruelle (1992) conducted a study of shovelnose sturgeon reproduction in the Mississippi River system, concluding that they do not spawn every year and that poor body condition may result in the production of fewer eggs or infrequent spawning attempts. The reproductive biology of the Alabama sturgeon is poorly known. However, given what is known concerning the chronology of Alabama sturgeon collections and the reproductive biology of other sturgeon species, populations of Alabama sturgeon may be cyclical, with peak numbers possibly occurring every 7 to 8 years (Mayden and Kuhajda 1994).

Several studies have aged sturgeon of the genus *Scaphirhynchus* by cross-sectioning pectoral fin spines. Helms (1973) aged shovelnose sturgeon in the Mississippi River at up to 12 years. Durkee *et al.* (1979) aged shovelnose sturgeon at up to 14 years in the upper Mississippi River system. Ages ranged from 8 to 27 years for 288 shovelnose sturgeon sampled from the Missouri River (Zweiacker 1967). However, Zweiacker (1967) could not validate the marks interpreted as annuli (Moos 1978). Ruelle and Keenlyne (1993) aged three pallid sturgeons at 10, 37, and 41 years. Considering the longevity of this genus, the rarity of the Alabama sturgeon, and the several-year hiatus that occurs between major year classes, frequent Alabama sturgeon encounters should not be expected.

Burke and Ramsey (1985) conducted stomach analyses of a few Alabama sturgeon. They found that aquatic insect larvae were a major dietary component, but fish eggs, snails, mussels, and fish were also taken. Shovelnose sturgeon, based on a study conducted in the Missouri River, are opportunistic feeders (Modde and Schmulbach 1977). Various groups of aquatic insect larvae generally comprise their diet (Modde and Schmulbach 1977, Durkee *et al.* 1979).

The recent capture of a single specimen of the Alabama sturgeon afforded scientists the opportunity to obtain fresh tissue samples and compare its genetic distinctiveness with other sturgeons. The only completed, but unpublished, study comparing the genetics of these two sturgeons (Schill and Walker 1994) concluded that the Alabama sturgeon and the shovelnose and pallid sturgeons of the Mississippi River system were indistinguishable based on estimates of sequence divergence at the mitochondrial cytochrome *b* locus. This result is similar to other studies where no cytochrome *b* differentiation was found among other fish species within a genus where the species were based on well accepted morphological, behavioral, and other characteristics (Avise 1994). If the Alabama sturgeon's taxonomy is subsequently revised to subspecies or population status and is generally accepted by the scientific community, the Alabama sturgeon would still qualify for protection under the Act provided that it is not extinct.

Section 3(15) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544), specifically provides for listing species, subspecies, and distinct population segments of vertebrate species as endangered or threatened species. Although the Service finds that there is some disagreement among ichthyologists concerning the Alabama sturgeons' taxonomic status, the Service has determined that the Alabama sturgeon warrants recognition as a species as defined by the Act.

The Alabama sturgeon was included in **Federal Register** notices of review for candidate animals in 1982, 1985, 1989, and 1991. In the 1982 notice (47 FR 58454) and in the 1985 notice (50 FR 37958), this fish was listed as a category 2 (sufficient information indicates proposing to list may be appropriate, but conclusive data are not currently available to support a proposed rule). In the 1989 and 1991 notices (54 FR 554 and 56 FR 58816), the Alabama sturgeon was listed as category 1 (substantial information supports listing).

In the June 15, 1993, proposed rule (58 FR 33148) and through associated notifications, interested parties were requested to submit factual reports and information that might contribute to the development of a final rule to list the Alabama sturgeon as endangered with critical habitat. The comment period was open until October 13, 1993. Appropriate Federal and State agencies, county governments, scientific organizations, and interested parties were contacted by letter dated June 21, 1993; a copy of the proposed rule was enclosed, and their comments on the rule were solicited. A total of 34 letters were sent. Legal notices were published in the *Birmingham News*, Birmingham, Alabama, on July 25, 1993; the *Mobile Press-Register*, Mobile, Alabama, on July 25, 1993; the *Montgomery Advertiser*, Montgomery, Alabama, on July 24, 1993; and the *Clarion Ledger*, Hinds County, Mississippi, on July 23, 1993. The proposed rule also stated that a public hearing would be conducted to answer questions and gather additional information on the biology of the Alabama sturgeon and discuss issues relating to the proposed listing and critical habitat designation.

The public hearing on the Service's proposal to list the Alabama sturgeon as an endangered species with critical habitat was scheduled for August 31, 1993, in Mobile, Alabama. The comment period remained open until October 13, 1993. A notice of the hearing was published in the **Federal Register** on July 27, 1993 (58 FR 40109), and a legal notice was published in the *Birmingham News* on August 1, 1993. This public hearing was subsequently canceled at the request of some

members of the Alabama Congressional delegation. A cancellation notice was published in the **Federal Register** on August 24, 1993 (58 FR 44643), and legal notices were published in the *Birmingham News* on August 29, 1993; the *Montgomery Advertiser* on August 29, 1993; and the *Clarion Ledger* on August 27, 1993.

The public hearing on this proposal was rescheduled for October 4, 1993, at the William K. Weaver Hall Auditorium on the campus of Mobile College, Mobile, Alabama. The comment period remained open until October 13, 1993. A notice of the hearing and extension of the comment period was published in the **Federal Register** on September 13, 1993 (58 FR 47851).

Due to the tremendous interest in this issue, a large number of people who came to the October 4, 1993, hearing had to be turned away due to space constraints. Although neither the Act nor the Administrative Procedure Act (5 U.S.C. 551 et seq.) required that a second hearing be held, the Service decided that it was in the best interest of all concerned parties that they have an opportunity to comment on issues raised by the Alabama sturgeon proposed rule. Therefore, an additional public hearing was scheduled in Montgomery, Alabama, on November 15, 1993, to allow for additional comments from the interested public. A notice of the second hearing, reopening of the comment period (from October 25, 1993, to December 8, 1993), and notice of availability of a scientific panel report was published in the **Federal Register** on October 25, 1993 (58 FR 55036). Legal notices for this second hearing appeared in the *Birmingham News* on October 26, 1993; the *Mobile Press-Register* on October 24, 1993; the *Montgomery Advertiser* on October 29, 1993; and the *Clarion Ledger* on October 29, 1993. The scientific panel report was prepared by ichthyologists to specifically review three issues: (1) Examine the taxonomy of the sturgeon, (2) comment on the likely existence of the fish based on available data, and (3) make suggestions as to what information would be necessary to conclude that the taxon is likely extinct.

The November 15, 1993, hearing was canceled in response to a preliminary injunction issued on November 9, 1993. The timing of the injunction gave the Service insufficient time to publish public hearing notices of cancellation in either the **Federal Register** or area newspapers. A second public hearing notice appeared in the **Federal Register** (59 FR 289) dated January 4, 1994. The hearing was scheduled for January 13, 1994, and the comment period was extended through January 31, 1994. Legal notices for this rescheduled hearing were published in the *Birmingham News* on December 26, 1993; the *Mobile Press-Register* on December 26, 1993; the *Montgomery Advertiser* on December 27, 1993; and the *Clarion Ledger* on December 28, 1993. As outlined in the January 4, 1994, **Federal Register** notice, the preliminary injunction restrained the Service and others from: (1) Disseminating the scientific panel report to the public and (2) utilizing or relying upon the scientific panel report or any product of the experts' deliberations in connection with the decision-making process on the proposal to list the Alabama sturgeon and designate its critical habitat. The January 4, 1994, notice also referred to another court order issued December 22, providing, in most relevant part, as follows:

Federal defendants and defendant-intervener, and those acting in active concert with them, are hereby permanently enjoined from publishing, employing and relying upon the advisory Committee report . . . for any purpose whatsoever, directly or indirectly, in the process of determining whether to list the Alabama sturgeon as an endangered species.

In a notice appearing in the **Federal Register** (59 FR 997) on January 7, 1994, the January 13, 1994, public hearing was canceled and rescheduled for January 31, 1994, at South Hall #1. Montgomery Civic Center, Montgomery, Alabama. The comment period was extended to February 15, 1994. Cancellation of the second public hearing was made to provide more notice of the hearing to the public. Legal notices for the rescheduled public hearing appeared on January 19, 1994, in four area newspapers: the *Birmingham News, Mobile Press-Register, Montgomery Advertiser,* and *Clarion Ledger*. Mention was also made in this notice that, in keeping with the court restrictions issued in *Alabama-Tombigbee River Development Coalition* (Coalition) v. *Fish and Wildlife Service*, Civ. No. 93–AR–2322–S, the Service considered itself compelled to enforce the following constraints on the submission of oral and written comments while the court restrictions remained in effect: (1) Individuals or organizations could not refer to the scientific report or to any drafts or other products derived from the preparation of that report in presenting any oral statement or written comment and (2) individuals or organizations could not attempt to bolster their oral or written comments or opinions by referring to the scientific report as authority. Therefore, the Departmental hearing officer at the next hearing was authorized to terminate the opportunity to speak of any person making a statement if, in the judgment of the hearing officer, that person disregarded the instructions not to address the scientific report or its contents. Written comments or materials which contained information that violated the above restrictions would be marked and thereafter excluded from the administrative record while the court restrictions remained in effect.

The Service received several thousand written and oral comments associated with the two hearings and the extended comment period regarding the proposed listing of the Alabama sturgeon with critical habitat. Several hundred individuals and organizations supported the listing; however, the vast majority of the respondents did not support the listing. The Service agrees that little information exists on the species' life history, environmental requirements, or its historic and current population levels.

Section 4(b)(6)(a)(i) of the Act requires the Service to take one of three alternative actions within one year of a listing proposal: (1) Publish a final regulation listing the species, (2) publish a notice that the listing proposal is being withdrawn, or (3) publish a notice that the one year time period is being extended under section 4(b)(6)(a)(i). That section as implemented by 50 CFR 424.17 (a)(1)(iv), provides that the Service may extend the one year period for up to 6 months upon finding that "there is a substantial disagreement among scientists knowledgeable about the species concerned" on whether to list the species. The Service must base its decisions under these provisions on the best scientific and commercial data available. The Service believes there is substantial disagreement regarding the sufficiency of the scientific data relevant to whether the population of Alabama sturgeon in the Mobile River system continues to exist.

Since 1985 there have been two anecdotal reports and the capture of one specimen. Biologists from the Alabama Department of Conservation and Natural Resources in 1990 and 1992 as well as biologists from the U.S. Fish and Wildlife Service have intensively sampled for this fish. Sturgeons are long lived animals and additional sampling may result in additional collections. However, the fact that only a single specimen has been taken during the sampling effort, has led some experts to question the extent of any remaining population of the Alabama sturgeon.

Despite the fact that little information exists on the species life history, environmental requirements, or its historic and current population levels, the Act provides in Section 4(b)(1)(A) that a determination to list a species shall be based on the best scientific and commercial information on the species status. The Act does not require the Service to posses detailed or extensive information on these factors to make a listing determination. The Act's information standard does require that the best available information must support a conclusion that the species meet the Act's definition for threatened or endangered species status after consideration of the five factors discussed in Section 4(a)(1).

These disagreements on the sufficiency of the scientific data has been found to be substantial. The Service therefore extends until December 15, 1994 the period within which to determine whether the Alabama sturgeon is an endangered species. The Service solicits additional data on the population status of the Alabama sturgeon until September 15, 1994.

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(Proposal: Alabama sturgeon (*Scaphirhynchus suttkusi*)—endangered with critical habitat)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: June 15, 1994.

George T. Frampton, Jr.,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 94–15026 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 59, No. 118
Tuesday, June 21, 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

Agricultural Research Service

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Agriculture, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to: June Blalock, Technology Licensing Coordinator, USDA, ARS, Room 401, Bldg. 005, BARC-West, Beltsville, Maryland 20705; Phone 301–504–5989 or Fax 301–504–5060. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

8–015,260, Green Leaf Volatiles as Synergists for Insect Pheromones
8–145,546, Hypoallergenic Natural Rubber Products, from *Parthenium argentatum* and Other Non-*Hevea brasiliensis* species
8–159,168, In-Line Safety Shackle
8–192,275, Transformation System for *Pichia Stipitis*
8–192,873, Detection of Wheat That has Experienced Elevated Temperatures During the Grain Filling Period
8–196,734, Fiber Cleaning
8–200,975, Novel Cellulose Solvent System
8–204,114, Bolted Wood Connections
8–205,008, Treatment of Wood and Other Lignocellulosic Materials with Iodates
8–215,065, Low Phytic Acid Mutants and Selection Thereof
8–223,242, Method and apparatus for Immunological Diagnosis of Fungal Decay in Wood
8–231,213, A Novel Trapping System for Fruit Flies
8–242,896, Control of Foodborne Bacterial Pathogens Using Carbonyl Compounds

June Blalock,
Technology Licensing Coordinator.

[FR Doc. 94–14978 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–03–M

Forest Service

Addition of Lands to the Shawnee Purchase Unit

AGENCY: Forest Service, USDA.

ACTION: Notice of Addition of Lands to Shawnee Purchase Unit.

SUMMARY: On June 1, 1994, the Deputy Assistant Secretary, Natural Resources and Environment added lands to the Shawnee Purchase Unit. These additional lands comprise 153.30 acres, more or less, within Union County, Illinois. A copy of the Secretary's establishment document which includes the legal description of the lands within the addition appears at the end of this notice.

EFFECTIVE DATE: The effective date of this addition was June 1, 1994.

ADDRESSES: A copy of the map showing the addition is on file and available for public inspection in the Office of the Director of Lands, Forest Service, Auditor's Building, 201 14th Street, SW, Washington, DC 20090–6090.

FOR FURTHER INFORMATION CONTACT: Ralph Bauman, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 205–1248.

Dated: June 13, 1994.

Lyle Laverty,
Acting Associate Deputy Chief.

Proposed Addition to Shawnee Purchase Unit, Union County, Illinois

Pursuant to the Secretary of Agriculture's authority under Section 17, P.L. 94–588 (90 Stat. 2949), the following lands are being added to the Shawnee Purchase Unit:

T. 11 S., R. 1 W., Third Principal Meridian, Union County, Illinois
Section 28: NE¼ except that part lying north and west of the east right-of-way of County Road #1, also known as Giant City Road, as it existed February 7, 1994.

Containing 153.30 acres, more or less, and being adjacent to the Shawnee National Forest boundary.

These lands are well suited for watershed protection and meet the requirements of the Act of March 1, 1911, as amended.

Dated: June 1, 1994.

Adela Backiel,
Deputy Assistant Secretary, Natural Resources and Environment.

[FR Doc. 94–14992 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–11–M

Appalachian Power Company Transmission Line Construction-Cloverdale, Virginia, to Oceana, West Virginia. Jefferson National Forest, Appalachian National Scenic Trail, the New River, and R.D. Bailey Lake Flowage Easement Land. Virginia Counties of Botetourt, Roanoke, Craig, Montgomery, Pulaski, Bland, and Giles and the West Virginia Counties of Monroe, Summers, Mercer, and Wyoming

AGENCY: Forest Service, USDA.

ACTION: Revised Notice—Revises the publication date for the draft and final environmental impact statements; establishes the date, time and location of four public meetings; changes the telephone number and address of the USDA Forest Service, Jefferson National Forest; defines the study area the agencies are using in developing alternatives to the proposed action; and changes the responsible official for the National Park Service.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement on a proposed action to authorize the Appalachian Power Company to construct a 765,000-volt transmission line across approximately twelve miles of the Jefferson National Forest, as well as portions of the Appalachian National Scenic Trail, the New River (at Bluestone Lake) and R.D. Bailey Lake Flowage Easement Land (at Guyandotte River)

The federal agencies have identified a study area in which alternatives to the proposed action will be developed. The study area includes land located in the Virginia counties of Botetourt, Roanoke, Craig, Montgomery, Pulaski, Bland and Giles and the West Virginia counties of Monroe, Summers, Mercer and Wyoming.

The Appalachian Power Company proposal involves federal land under the administrative jurisdiction of the USDA Forest Service (Jefferson National Forest), the USDI National Park Service (Appalachian National Scenic Trail) and the U.S. Army Corps of Engineers (New River and R.D. Bailey Lake Flowage Easement Land).

The Forest Service will be the lead agency and is responsible for the preparation of the environmental impact statement. The National Park Service and the U.S. Army Corps of Engineers will be cooperating agencies in accordance with 40 CFR § 1501.6.

In initiating and conducting the analysis the federal agencies are responding to the requirements of their respective permitting processes and the need for the Appalachian Power Company to cross federal lands with the proposed transmission line.

The Forest Service additionally will assess how the proposed transmission line conforms to the direction contained in their Land and Resource Management Plan (LRMP). Changes in the LRMP could be required if the transmission line is authorized across the Jefferson National Forest.

The total length of the electric transmission line proposed by the Appalachian Power Company is approximately 115 miles.

The original notice indicated that the dates, times, and locations for public meetings would be made known to the public through the **Federal Register**. The following public meetings have been scheduled to provide the public with an update on the federal analysis and to review alternative transmission line corridors. The public meetings will begin at 7:00 pm and end at 9:00 p.m. at the following locations:

July 12, 1994, New Castle High School, Route 615, New Castle, Virginia

July 13, 1994, Narrows High School, 115 Woodland Avenue, Narrows, Virginia

July 14, 1994, Union High School, School Street, Union, West Virginia

July 15, 1994, Waiteville Community Center, Ray Siding Road, Waiteville, West Virginia

FOR FURTHER INFORMATION CONTACT: Frank Bergmann, Forest Service Project Coordinator, Jefferson National Forest. The address and telephone number are changed from 210 Franklin Road SW, Caller Service 2900, Roanoke, Virginia, 24001/(703) 982–4348 to 5162 Valleypointe Parkway, Roanoke, Virginia, 24019/(703) 265–6005.

SUPPLEMENTARY INFORMATION: The Appalachian Power Company has submitted an application to the Jefferson National Forest for authorization to construct a 765,000-volt electric transmission line across approximately twelve miles of the National Forest. Portions of the Appalachian National Scenic Trail, the New River (at Bluestone Lake), and R.D. Bailey Lake Flowage Easement Land (at Guyandotte River) would also be crossed by the proposed transmission line.

Studies conducted by the Appalachian Power Company and submitted to the Virginia State Corporation Commission, as part of its application and approval process, indicate a need to reinforce its extra high voltage transmission system by the mid-to-late 1990s in order to maintain a reliable power supply for projected demands within its service territory in central and western Virginia and southern West Virginia.

A study to evaluate potential route locations of the proposed transmission line has been prepared for Appalachian Power Company through a contract with Virginia Polytechnic Institute and State University (VPI) and West Virginia University (WVU). The information gathered by VPI and WVU, along with other information collected during the analysis process, will be utilized in the preparation of the environmental impact statement. General information about the transmission line route proposal is available from the Jefferson National Forest.

The decisions to be made following the environmental analysis are whether the Forest Service, the National Park Service, and the U.S. Army Corps of Engineers will authorize Appalachian Power Company to cross the Jefferson National Forest, the Appalachian National Scenic Trail, and the New River and R.D. Bailey Lake Flowage Easement Land, respectively, with the proposed 765,000-volt transmission line and, if so, under what conditions a crossing would be authorized.

In preparing the environmental impact statement a range of routing alternatives will be considered to meet the purpose and need for the proposed action. A no action alternative will also be analyzed. Under the no action alternative APCO would not be authorized to cross the Jefferson National Forest, the Appalachian National Scenic Trail, the New River or R.D. Bailey Lake Flowage Easement Land. The alternatives developed by VPI and WVU will also be considered.

The federal analysis will include an analysis of the effects of the proposed transmission line along the entire proposed route as well as all alternative routes which are considered in detail.

The significant issues identified for the federal analysis are listed below:

—The construction and maintenance of the 765kV transmission line and the associated access roads and right-of-way may (1) affect soil productivity by increasing soil compaction and erosion; (2) affect geologic resources (karst areas, Peters, Lewis, Potts Mountains, Arnolds Knob) and unique geologic features like caves through blasting, earthmoving or construction machinery operations; and (3) result in unstable structural conditions due to the placement of the towers.

—The construction and maintenance of the 765kV transmission line and the associated access roads and right-of-way may (1) degrade surface and ground water quality due to the application of herbicides; (2) degrade surface and ground water quality because of sedimentation resulting from soil disturbance and vegetation removal; (3) reduce the quantity of ground and spring water due to the disturbance of aquifers resulting from blasting, earthmoving or construction machinery operation; and (4) adversely affect the commercial use of ground and surface waters due to herbicide contamination and sedimentation.

—The construction and maintenance of the 765kV transmission line and the associated access roads and right-of-way may affect existing cultural resources, and historic structures and districts through the direct effects of the construction and maintenance activities and by changing the existing resource setting.

—The operation and maintenance of the 765kV transmission line and the associated access roads and right-of-way may adversely affect human health through (1) direct and indirect exposure to herbicides and (2) exposure to electromagnetic fields in induced voltage.

—The construction of the 765kV transmission line may adversely affect the safety of those operating aircraft at low altitudes or from airports located near the transmission line.

—The operation of the 765kV transmission line may (1) adversely affect communication by introducing a source of interference; (2) increase

noise levels for those in close proximity to the line.

—The construction, operation and maintenance of the 765kV transmission line and the associated access roads and right-of-way may (1) adversely affect trails (including the Appalachian Trail) and trail facilities by facilitating vehicle access through new road construction and the upgrading of existing roads; and (2) reduce hiker safety by facilitating vehicle access to remote trail locations.

—The construction, operation and maintenance of the 765kV transmission line and the associated access roads and right-of-way may affect hunting, fishing, hiking, camping, boating and birding opportunities and experiences because (1) the setting in which these pursuits take place may be altered; and (2) the noise associated with the operation of the line may detract from the backcountry or recreation experience.

—The construction and operation of the 765kV transmission line and the associated access roads and right-of-way may affect local communities by (1) reducing the value of private lands adjacent to the line; (2) decreasing tax revenues due to the reductions in land value; and (3) influencing economic growth, industry siting, and employment.

—The construction, operation and maintenance of the 765kV transmission line and the associated access roads and right-of-way may (1) conflict with management direction contained in resource management plans and designations; (2) affect the uses that presently occur on and adjacent to the proposed right-of-way; (3) affect the wild, scenic and/or recreational qualities of the New River; (4) affect sensitive land uses like schools, churches, and community facilities; (5) affect the cultural attachment residents feel toward Peters Mountain; and (6) affect the scenic and/or recreational qualities of the Appalachian National Scenic Trail (Appalachian Trail).

—The construction, operation and maintenance of the 765kV transmission line and the associated access roads and right-of-way may adversely affect the visual attributes of the area because the line, the associated right-of-way, and access roads may (1) alter the existing landscape; and (2) conflict with the standards established for scenic designations.

—The construction, operation and maintenance of the 765kV transmission line and the associated access roads and right-of-way may affect wildlife, plant and aquatic populations, habitat and livestock because (1) habitat are created, changed or eliminated; (2) herbicides are used and herbicides may be toxic; (3) the transmission line presents a flight hazard to birds; (4) electromagnetic fields and induced voltage may be injurious.

The following permits and/or licenses would be required to implement the proposed action:

—Certificate of Public Convenience and Necessity (Virginia State Corporation Commission)

—Certificate of Public Convenience and Necessity (West Virginia Public Service Commission)

—Special Use Authorization (Forest Service)

—Right-of-Way Authorization (National Park Service)

—Section 10 Permit (U.S. Army Corps of Engineers)

—Right-of-Way Easement (U.S. Army Corps of Engineers)

—Consent to Easement (U.S. Army Corps of Engineers)

Other authorizations may be required from a variety of Federal and State agencies.

Public participation will occur at several points during the federal analysis process. The first point in the analysis was the scoping process (40 CFR § 1501.7). The Forest Service has collected information, comments, and assistance from Federal, State and local agencies, the proponent of the aciton, and other individuals or organizations who are interested in or affected by the electric transmission line proposal. This input will be utilized in the preparation of the draft environmental impact statement. The scoping process included, (1) identifying potential issues, (2) identifying issues to be analyzed in depth, (3) eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis.

Public participation was solicited through contacts with known interested and/or affected groups, and individuals; news releases; direct mailings; and/or newspaper advertisements. Public meetings were also held to hear comments concerning the Appalachian Power Company proposal and to develop the significant issues to be considered in the analysis. Similar public participation opportunities will be provided throughout the federal analysis process.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by February 28, 1995. This revises the September 1, 1994 date previously announced. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**. The comment period on the draft environmental impact statement will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

Reviewers need to be aware of several court rulings related to public participation in the environmental impact statement review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S.C. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR § 1503.3 in addressing these points.)

After the comment period ends on the draft environmental impact statement, the comments will be analyzed, considered, and responded to by the three federal agencies in preparing the final environmental impact statement. The final environmental impact

statement is expected to be filed with the EPA and available for public review by August 1, 1995. This revises the February 1, 1995 date previously announced.

The responsible officials will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this document. The responsible officials will document their decisions and reasons for their decisions in a Record of Decision.

The responsible official for the Forest Service is Joy E. Berg, Forest Supervisor, Jefferson National Forest. The address is changed from 210 Franklin Road SW, Caller Service 2900, Roanoke, Virginia 24001 to 5162 Valleypointe Parkway, Roanoke, Virginia 24019. The responsible official for the National Park Service is changed from John Byrne to Don King, Acting Project Manager—Appalachian National Scenic Trail, National Park Service, Harpers Ferry Center, Harpers Ferry, West Virginia 25425. The responsible official for the U.S. Army Corps of Engineers is Colonel Earle C. Richardson, U.S. Army Corps of Engineers, Huntington District, 508 8th Street, Huntington, West Virginia 25701–2070.

Dated: June 10, 1994.

Joy E. Berg,

Forest Supervisor, Jefferson National Forest.

[FR Doc. 94–15004 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Central Iowa Power Cooperative; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to a project proposed by Central Iowa Power Cooperative (CIPCO), of Cedar Rapids, Iowa. The proposed project consists of the construction of a 345 kV and a 161 kV transmission line and associated facilities. The facilities would be located in Scott and Muscatine Counties, Iowa.

REA has concluded that the impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not necessary.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, room 1246, Agriculture South Building, Rural Electrification Administration, Washington, DC 20250–1500, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: REA, in accordance with its environmental policies and procedures, required that CIPCO prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facilities. The BER, which includes input from the Federal, State, and local agencies, has been adopted as REA's Environmental Assessment for the project in accordance with 7 CFR 1794.61. REA has concluded that the BER represents an accurate assessment of the environmental impacts of the project. The proposed project will not affect any known properties listed or eligible for listing in the National Register of Historic Places. Archaeological resource surveys for the sites of the 345 kV Walcott Switching Station and the 345/161 kV substation at the IPSCO plant and the right-of-way of the 345 kV transmission line will be conducted. In compliance with Section 106 of the National Historic Preservation Act, the survey reports will be reviewed by the Iowa State Historic Preservation Officer and REA. Clearance must be obtained from both agencies before CIPCO can commence any ground disturbing activities associated with project construction. In addition, if previously unknown resources are discovered during project construction, CIPCO will halt construction while the significance of the find and proper mitigation is determined. Given these procedures, the project will not have any significant effect on cultural resources. The project should have no impact on floodplains, water quality, federally listed or proposed for listing threatened or endangered species or their critical habitat, and no significant impact on important farmland or wetlands.

The purpose of this project is to provide electrical service to IPSCO's steel mill. This would be accomplished by the construction of a 345 kV switching station, approximately 8 miles of 345 kV transmission line, 13 miles of 161 kV transmission line, and a 345/161 kV substation at the IPSCO plant and modification of an existing 345/161 kV substation.

The 345 kV switching station, to be known as the Walcott Switching Station, would be constructed and operated by the Iowa Illinois Gas and Electric Company of Davenport, Iowa, on property to be owned by CIPCO. The 345 kV transmission line would extend from the Walcott Switching Station to the IPSCO plant site, a distance of about 8 miles and terminate at a 345 kV/161 kV substation on the IPSCO plant site. Approximately 2.4 miles of the proposed 345 kV line would be double-circuited and share ROW with an existing 69 kV line. Generally a 120-foot wide ROW would be needed to accommodate the 345 kV transmission line. The 345 kV/161 kV substation on the mill site would require a total area of about 3 acres. The CIPCO portion of the substation would require about 1.6 acres and it would include two transmission line terminations; one for the 345 kV line and one for the 161 kV line. Modifications to the existing substation would not require any additional land. The 161 kV transmission line would be constructed from an existing substation to the IPSCO plant site on an existing 69 kV transmission line ROW. The line would be rebuilt to a 161 kV specifications. However, no additional ROW would be needed for the proposed changes. The preferred structures are designed for a future second 161 kV circuit. However, building the second circuit is not a part of the proposed project.

Alternatives considered to the project as proposed were no action, onsite generation, upgrading existing facilities, various transmission system additions, alternative transmission line routes, and alternative switching station sites. REA has considered these alternatives and concluded that the project as proposed will allow CIPCO to provide adequate and reliable electric service to the IPSCO steel mill with a minimum of adverse impact.

Copies of the BER and FONSI are available for review at REA at the aforementioned address, or may be reviewed at or obtained from the offices of CIPCO, P.O. Box 2517, Cedar Rapids, Iowa 52406, telephone (319) 366–8011.

Dated: June 14, 1994.

Adam M. Golodner,

Deputy Administrator, Program Operations.

[FR Doc. 94–14980 Filed 6–20–94; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Public Hearing and Request for Comments on the International Aspects of the National Information Infrastructure

AGENCY: U.S. Department of Commerce.

ACTION: Notice of hearing and request for public comments.

SUMMARY: The International Telecommunications Working Group of the Information Infrastructure Task Force's (IITF) Telecommunications Policy Committee is developing recommendations for consideration by the IITF on international telecommunications policy issues related to the development of a National Information Infrastructure (NII) within the context of an emerging Global Information Infrastructure (GII). To ensure that the International Telecommunications Working Group's recommendations regarding these issues take into consideration all views, we invite testimony and written comments from interested parties on any of the topics outlined in the supplementary information section of this notice.

DATES:

1. July 27 and 28, 1994, 9 a.m. to 4:30 p.m.—public hearing.
2. July 22, 1994—registration to attend the hearing is requested on or before this date. (The hearing is open to the public but preregistration is strongly preferred to ensure adequate seating.)
3. July 15, 1994—requests to present oral testimony and a written copy of the testimony must be received on or before this date.
4. August 12, 1994—all other written comments must be received on or before this date.
5. August 18, 1994—Written comments will be available for public inspection on and after this date.

ADDRESSES:

1.The hearing will be held at Georgetown University Conference Center (Thomas and Dorothy Leavey Center), Grand Ballroom, 3800 Reservoir Road, N.W., Washington D.C.

2. Those wishing to attend the hearing should contact Nicole Brown or Angie Mitchell by telephone at (202) 482-4772.

3. Requests to testify and all written comments should be submitted to Randall Cook, Room 5870, Office of the General Counsel, U.S. Department of Commerce, Washington, D.C. 20230.

4. Written comments will be available for public inspection at the Department of Commerce Law Library, Room 1894, 15th and Pennsylvania Ave., N.W.

FOR FURTHER INFORMATION CONTACT: Randall Cook by telephone at (202) 482–0490, facsimile at (202) 501–4695, electronic mail via the Internet at rcook@doc.gov or by mail at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background and Topics for Discussion

The White House formed the IITF to articulate and implement its vision for the NII. The Task Force is chaired by Ronald H. Brown, the Secretary of Commerce, and consists of three committees—the Telecommunications Policy Committee, the Information Policy Committee, and the Committee on Applications and Technology. Working with the private sector, the IITF committees are seeking to develop telecommunications, information and technology policies to promote applications that best suit the needs of the United States. Within the Telecommunications Policy Committee, chaired by Larry Irving, Assistant Secretary of Commerce for the National Telecommunications and Information Administration, is the International Telecommunications Working Group, chaired by Carol C. Darr, Deputy General Counsel of the U.S. Department of Commerce.

In recognizing that the NII will be a part of a much larger Global Information Infrastructure, the Administration believes that the principles that inform our view of the NII also must guide the development of a GII. To that end, the Administration has identified five principles essential for the creation of a global information infrastructure:

- Encourage private investment;
- Promote competition;
- Create a flexible regulatory framework;
- Provide open access; and
- Ensure universal service.

The International Telecommunications Working Group recognizes that any re-examination of U.S. international telecommunications policy must take into account the international dimension of technological convergence. Measures adopted by other governments in response to this convergence are likely to affect a broad range of issues related to the interconnection of the U.S. NII with foreign networks, such as access to, and interoperability of networks, investment, foreign aid and assistance, technology transfer, and evolving international regulations.

In response to these issues, the International Working Group, through six informal subgroups, has identified six areas that should be addressed:

- U.S. participation in international and regional organizations and standard-setting bodies;
- Foreign trade barriers affecting the U.S. industry and the development of the NII and, as a related question, the role of foreign entities in the implementation of infrastructure;
- International aspects of pending telecommunications reform legislation;
- Impact of U.S. export controls;
- Electronic information exchanges between U.S. and foreign research organizations; and
- U.S. aid and assistance for funding telecommunications projects and delivering technical assistance to developing countries and countries with emerging economies.

These informal subgroups have addressed each of these issues, looking first to the need to document existing circumstances (e.g., to clarify the respective roles of international, regional and national organizations and standard-setting bodies) and thereafter to address whether the Administration's NII objectives would be served better by changing U.S. policy and/or efforts relating to each area.

In the course of its deliberations, the Working Group has concluded that traditional U.S. policy approaches toward international telecommunications have been both appropriate and constructive in achieving their objectives of obtaining greater access by U.S. firms to foreign markets, eliminating barriers caused by incompatible standards, and promoting the competitiveness of U.S. firms in providing international services. These policies should be continued. However, it also seems clear that the stimulus for changes in U.S. domestic policy—the convergence of technologies and blurring of boundaries between industries and markets—has significant bearing on the international environment, with corresponding implications for U.S. international telecommunications policy.

In March, 1994, Vice President Gore discussed the creation of a GII and emphasized that it will require the participation of all countries. Many countries have already embarked on national initiatives similar to the NII, reflecting the increasingly common objective of governments to facilitate broader access by consumers to an expanded array of information technologies and services. The European Union, Japan, Canada, and several countries in developing regions of the world, such as Latin America, Asia, and Eastern Europe, have identified telecommunications and information technologies as essential to

further economic growth and development.

We recognize that the creation of a GII will have policy and operational issues that affect the United States and other countries. The Working Group is seeking a broader understanding of the emerging policy issues associated with the international dimension of technological convergence, and requests comments on the following issues/questions that have arisen as a result of the work of the subgroups, and certain general questions with regard to the GII:

Subgroup Questions

1. Are there issues raised by technological convergence on a global scale that have not been addressed in U.S. policy? What mechanisms (governmental or private sector, bilateral or multilateral) are best suited to addressing these issues?

2. Given the manner in which the telecommunications market is emerging, are the issues in the 1993 NTIA Notice of Inquiry (58 Fed. Reg. 4846 (January 15, 1993)), which addressed the regulation of international telecommunications services provided between the United states and other countries, still primary areas of concern?

3. Given the convergence of technologies and the increase in the number of organizations developing standards, are the U.S. government/private sector preparatory processes adequate to promote U.S. interests in international standards activities? How should the U.S. government and the private sector facilitate the coordination of standards-setting bodies?

4. How should the U.S. government address compulsory licensing of intellectual property rights by international standards-setting bodies?

5. How can the process of developing international standards be enhanced to ensure the interconnectivity and interoperability of an NII, and ultimately a GII?

6. In light of the recent and significant liberalization of U.S. export controls, are further export control reforms appropriate to ensure that the United States is able to participate fully in the international marketplace?

General Questions About the GII

7. What is your vision of the GII?

8. What should be the U.S. role in developing the GII?

9. What should be the private sector's role in developing the GII?

10. Given the significant amount of financial resources that will be necessary to create a GII and the fact that the United States has limited financial ability to provide aid and assistance, what should the United States do to stimulate private investment?

11. With regard to the NII, the Administration clearly has indicated that government policies should remain technologically neutral. Should this approach also be adopted for the GII?

12. Pursuant to the NII, the Administration is pursuing a domestic review of current telecommunications laws and regulations. Should this same type of exercise be pursued with regard to U.S. laws and regulations addressing international telecommunications?

13. What technical, financial and other issues need to be addressed in achieving the goal of a global digital library defined by Vice President Gore in his speech before the International Telecommunication Union's World Telecommunication Development Conference?

II. Guidelines for Written Comments and Oral Testimony

Written comments must be provided in triplicate and include the following information:

1. Name and affiliation of the individual responding;

2. Whether the comments offered represent the views of the individual's organization or are the respondent's personal views;

3. If applicable, a description of the respondent's organization, including the size, type of organization (e.g. business, trade group, university, non-profit organization) and principal types of business.

4. A brief, one-page summary of the comments submitted is required.

Those wishing to present oral testimony must adhere to the following guidelines:

1. No one will be permitted to testify without prior approval.

2. Requests for presenting oral testimony and a written copy of the speaker's testimony must be submitted by the deadline set forth above.

3. In addition to the guidelines for written comments above, requests to testify also should include the speaker's mailing address and phone and facsimile numbers.

4. The exact time allocated per speaker will be determined after the final number of parties testifying has been determined.

5. Speakers must adhere to guidelines established for testimony, which will be provided to all speakers no later than July 25, 1994.

A schedule of approximate times for each speaker's testimony will be provided to all speakers no later than July 25, 1994. Speakers are advised that the testimony schedule is subject to change during the course of the hearing.

Dated: June 16, 1994.

Carol C. Darr,

Deputy General Counsel.

[FR Doc. 94–15172 Filed 6–20–94; 8:45 am]

BILLING CODE 3510–60–P

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 94–0003.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to James W. Smith (D.B.A. Premier International). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1993).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. Products

All products.

2. Services

All services.

3. Export Trade Facilitation Services (as they relate to the Export of Products and Services)

All export trade facilitation services including, but not limited to, consulting; foreign market research; marketing and trade promotion; financing; insurance; licensing; services related to compliance with customs

documentation and procedures; transportation and shipping; warehousing and other services to facilitate the transfer of ownership and/or distribution; and communication and processing of export orders.

Export Markets

The export markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.)

Export Trade Activities and Methods of Operation

James W. Smith (D.B.A. Premier International), acting as an Export Intermediary, may:

1. Provide and/or arrange for the provision of Export Trade Facilitation Services;
2. Engage in promotional and marketing activities as they relate to exporting Products and/or Services to the Export Markets;
3. Enter into exclusive sales agreements with Suppliers regarding sales of Products and/or Services in the Export Markets; such agreement may prohibit suppliers from exporting independently of James W. Smith (D.B.A. Premier International);
4. Enter into exclusive sales and/or territorial agreements with distributors in the Export Markets;
5. Establish the price of Products and/or Services for sale in the Export Markets;
6. Allocate export orders among his Suppliers; and,
7. Exchange information on a one-on-one basis with individual Suppliers regarding inventories and near-term production schedules for the purpose of determining the availability of Products for export and coordinating export with distributors.

Terms and Conditions of Certificate

1. In engaging in the above Export Trade Activities and Methods of Operation, James W. Smith (D.B.A. Premier International) will not intentionally disclose directly or indirectly, to any Supplier any information about any other Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, or U.S. business plans, strategies, or methods that is not already generally available to the trade or public.

2. James W. Smith (D.B.A. Premier International) will comply with requests made by the Secretary of Commerce on behalf of the Secretary of Commerce or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of Section 303(a) of the Act.

Definitions

1. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

2. "Supplier" means a person who produces, provides, or sells a Product and/or Service.

Protection Provided by the Certificate

This Certificate protects James W. Smith (D.B.A. Premier International) and his employees acting on his behalf from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified, or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits James W. Smith (D.B.A. Premier International) from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to James W. Smith (D.B.A. Premier International) by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the Secretary or by the Attorney General concerning either (a) the viability or quality of the business plans of James W. Smith (D.B.A. Premier International) or (b) the legality of such business plans of James W. Smith (D.B.A. Premier International) under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country. The application of this Certificate to conduct in export trade where the United States Government is the buyer or where the United States Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V. (D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)", 50 Fed. Reg. 1786 (January 11, 1985).

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: June 10, 1994.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 94–15063 Filed 6–20–94; 8:45 am]

BILLING CODE 3510–DR–P

National Oceanic and Atmospheric Administration

[I.D. 060994G]

Northern Anchovy Fishery

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

ACTION: Notice of availability of biomass estimate for the Northern anchovy fishery; notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Coastal Pelagics Advisory Subpanel will meet with representatives of the Coastal Pelagics Planning Team to discuss the biomass estimate for northern anchovy for the 1994 fishing season. At the meeting, the estimated spawning biomass will be presented with an overview of historical abundance, the quotas available for harvest will be announced, and public comments will be received.

All materials relating to the annual quotas will be forwarded to the Council and its Scientific and Statistical Committee and will be available for public inspection at the Office of the Regional Director. The interim final quotas will be published in the **Federal Register** on or about August 1, 1994, with an opportunity for public comment.

DATES: July 14, 1994, at 10:00 a.m.

ADDRESSES: The meeting will be held in the Southwest Regional Office of NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James J. Morgan at (310) 980–4036.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to James J. Morgan at NMFS Regional Office (see **ADDRESSES**) by July 8, 1994.

Dated: June 16, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–15054 Filed 6–20–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 061594B]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Halibut Advisory Subpanel will hold a meeting on July 11–12, 1994, at the Council office conference room, 2130 SW Fifth Avenue, Suite 224, Portland, OR. The meeting will begin on July 11 at 1:00 p.m. and run until approximately 5:00 p.m. The subpanel will reconvene on July 12 at 8:00 a.m. and continue until business is completed.

The subpanel will meet with agency halibut managers to review a preliminary analysis of alternatives for allocating Pacific halibut in Area 2A beginning in 1995. Subpanel recommendations will be submitted to the Pacific Fishery Management Council at its August 2–5, 1994 meeting in Portland, OR.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW First Avenue, Suite 420, Portland, OR 97201, until June 30, 1994; and at 2130 SW Fifth Avenue, Suite 224, Portland OR 97201, after June 30, 1994; telephone: (503) 326–6352 (telephone number will not change).

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Michelle Perry Sailer at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: June 16, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–15052 Filed 6–20–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 061594C]

New England Fishery Management Council; Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting on June 29–30, 1994, at the Kings Grant Inn, Rt. 128 and Trask Lane, Danvers, MA 01923; telephone: (508) 774–6800.

The meeting will begin at 10:00 a.m. on June 29, and at 8:30 a.m. on June 30. The meeting will conclude on June 30 at approximately 5:00 p.m.

The meeting will commence with a report on the Council Chairmen's meeting including their discussion on the reauthorization of the Magnuson Fishery Conservation and Management Act.

During the afternoon session, the Groundfish Committee chair will report on the two framework adjustments to the Northeast Multispecies Fishery Management Plan:

(a) To change the square mesh specification in the Stellwagen Bank and Jeffreys Ledge protection areas; and

(b) To require a 3–inch mesh size and 10–inch fish size for the Cultivator Shoal whiting fishery.

The Council also will review a draft public hearing document for the whiting fishery in the Northeast.

The afternoon session will conclude with a report from the Large Pelagics Committee chair reviewing recreational fishery issues, adjustments to the shark plan and overfishing definitions for Atlantic billfish.

On June 30, the Interspecies Committee chair will review their discussion on long-term management issues facing the New England fleet. This will be followed by a report from the Lobster Committee chair on issues associated with the partial approval of Amendment #5 and the formation of Effort Management Teams.

The afternoon session will include a report on an offshore Salmon Aquaculture Project proposed for the exclusive economic zone by American Norwegian Inc. The Scallop Committee will report on their discussion concerning a framework adjustment to the Scallop Plan to allow fishermen to tender federal permits and fish in state waters. This will be followed by reports from the Council Chairman, Executive Director, NMFS Regional Director, Northeast Fisheries Science Center liaison, Mid-Atlantic Council liaison, U.S. Coast Guard, and Atlantic States Marine Fisheries Commission.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone: (617) 231–0422.

SUPPLEMENTARY INFORMATION: This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Douglas G. Marshall at (617) 231–0422 at least 5 days prior to the meeting date.

Dated: June 16, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–15053 Filed 6–20–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 060994K]

Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Issuance of an experimental fishing permit.

SUMMARY: NMFS announces the issuance of an experimental fishing permit #94–1 (EFP) to Coastal Villages Fishing Cooperative (CVFC) and Golden Age Fisheries (GAF). The EFP authorizes CVFC, GAF, and the factory trawler (F/T) REBECCA IRENE to conduct a trawl survey limited to 500 metric tons (mt) of groundfish in Kuskokwim Bay, Etolin Strait, and the area north of Nunivak Island. Results of the survey will be used to assess whether sufficient amounts of marketable groundfish are located in near-shore waters to support the development of a small-boat fishery in this area. This EFP will provide information not otherwise available through research or commercial fishing operations. The intended effect of this action is to promote the purposes and

policies of the Magnuson Fishery Conservation and Management Act.

ADDRESSES: Copies of the EFP and the Environmental Assessment (EA) are available by writing to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel).

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, Fisheries Management Biologist, 907–586–7228.

SUPPLEMENTARY INFORMATION: Issuance of an EFP is authorized by the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands area and its implementing regulations at 50 CFR part 675. Regulations at § 675.6 set out the procedures for issuing EFPs to authorize fishing that would otherwise be prohibited.

NMFS announced the receipt of an application for an EFP from CVFC and GAF in the *Federal Register* on May 4, 1994

(59 FR 23054). The application requested authorization for CVFC to conduct a 1994 summer trawl survey limited to 500 mt of groundfish in Kuskokwim Bay, Etolin Strait, and an area north of Nunivak Island. The vessel that will participate in the trawl survey is the F/T REBECCA IRENE. Results of the survey will be used to ascertain the abundance of marketable fish species in near-shore waters that could be harvested from small fishing vessels in this area. CVFC consists of the Yukon-Kuskokwim Delta communities of Chefornak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kwigillingok, Mekoryuk, Newtok, Nightmute, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak. One of the goals of CVFC is to train individuals from these villages to work at all levels of the groundfish industry, including harvesting, processing, marketing, and corporate management. The North Pacific Fishery Management Council reviewed the EFP application at its April 18–24, 1994, meeting and recommended to the Director of the Alaska Region, NMFS (Regional Director), that the EFP be approved.

The Regional Director has approved the EFP application and has issued an EFP to CVFC, GAF, and the F/T REBECCA IRENE. The EFP authorizes the F/T REBECCA IRENE to harvest 500 mt of groundfish in the Yukon-Kuskokwim Delta area during the time period extending from June 15 through September 30, 1994. The objective of this allocation is to support a survey of fishery resources in this area so that CVFC, in cooperation with GAF, may assess the feasibility of a future near-shore fishery for fishing vessels in this area. This EFP will provide information not otherwise available through research or commercial fishing operations because this area is not fished during NMFS assessment surveys and it is not economically feasible for a commercial vessel to survey this area during the open access fishery. Groundfish and prohibited species amounts associated with this permit will not be deducted from total allowable catch and prohibited species catch (PSC) amounts specified for 1994. Under this EFP, all vessels must comply with existing Federal regulations at 50 CFR parts 620 and 675, except § 675.21 and 675.20(a). PSC limits established for fishing activities authorized under this EFP are as follows: 1,250 red king crab; 2.5 mt Pacific halibut; and 0.5 mt Pacific herring.

Classification

Based on the EA prepared for this EFP, the Assistant Administrator for Fisheries, NOAA, determined that no significant impact on the quality of the human environment will result from this EFP. The Regional Director determined that this experiment will not affect species listed as threatened or endangered, or areas that are critical habitat for these species under the Endangered Species Act in a way that was not already considered in previous formal and informal section 7 consultations. Additional information, including gear restrictions, scientific sampling procedures, project design, and disposition of harvested fish, is contained in the EFP.

This notice is exempt from OMB review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 13, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–14988 Filed 6–20–94; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Membership of the Commission's Performance Review Board

AGENCY: Commodity Futures Trading Commission.

ACTION: Membership Change of Performance Review Board.

SUMMARY: In accordance with the Office of Personnel Management guidance under the Civil Service Reform Act, notice is hereby given that the following employees will serve as members of the Commission's Performance Review Board.

Chairman: Donald L. Tendick, Acting Executive Director.

Members: Andrea Corcoran, Director, Division of Trading and Markets; Dennis Klejna, Director, Division of Enforcement; Pat Nicolette, Acting General Counsel; Blake Imel, Acting Director, Division of Economic Analysis.

DATES: Action effective June 21, 1994.

ADDRESSES: Commodity Futures Trading Commission, Office of Personnel, Room 202, 2033 K Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Charles W. Lang, Acting Director, Office of Personnel, Commodity Futures Trading Commission, Room 202, 2033 K Street NW., Washington, DC 20581, (202) 254–3275.

SUPPLEMENTARY INFORMATION: This action which changes the membership of the Board supersedes the previously published **Federal Register** Notice, June 29, 1993.

Issued in Washington, DC on June 15, 1994.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 94–15016 Filed 6–20–94; 8:45 am]

BILLING CODE 6351–01–P

Chicago Board of Trade Rough Rice Futures and Option Contracts and the Concurrent Transfer of Open Interest in Rough Rice Contracts From the MidAmerica Commodity Exchange to the Chicago Board of Trade

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in rough rice futures and futures option contracts. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before July 21, 1994.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CBT rough rice futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Fred Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: The terms and conditions of the proposed CBT contracts are identical to those of the MCE rough rice contracts, since the CBT contracts are intended to replace the existing MCE rough rice contracts. Under the proposal, concurrent with the listing of the CBT's proposed rough rice futures and option contracts, the MCE rough rice futures and option contracts would be delisted and all existing open interest will be transferred to the CBT from the MCE. The MCE contract designations for rough rice would remain in force.

The Commission is requesting comment on the proposed CBT contracts and on the proposal to transfer open interest to the CBT from the MCE.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on June 15, 1994.

Blake Imel,

Acting Director.

[FR Doc. 94–15017 Filed 6–20–94; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Office of the Secretary of Defense Performance Review Board

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Office of the Secretary of Defense, the Joint Staff, the U.S. Mission to NATO, the Advanced Research Projects Agency, the Defense Commissary Agency, the Defense Investigative Service, the Defense Security Assistance Agency, the Ballistic Missile Defense Organization, the Defense Field Activities, and the U.S. Court of Military Appeals. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Secretary of Defense.

EFFECTIVE DATE: July 1, 1994.

FOR FURTHER INFORMATION CONTACT: Janet E. Thompson, Assistant Director for Executive Personnel and Classification, Directorate for Personnel and Security, Washington Headquarters Services, Office of the Secretary of Defense, Department of Defense, The Pentagon, (202) 697–8304.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following executives are appointed to the Office of the Secretary of Defense PRB; specific PRB panel assignments will be made from this group. Executives listed will serve a one-year renewable term, effective July 1, 1994.

Office of the Secretary of Defense

Chairman

Vincent P. Roske, Jr.

Members

Roanld L. Adolphi
Howard G. Becker
Diana L. Blundell
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Frederick C. Smith
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Gordon K. Soper
Diana G. Tabler
Mary Tomkey
George G. Wauer
Karen M. Yannello

Alternates

Steven A. Austin
William S. Boone
Albert V. Conte
William N. Early
Thomas E. Ewald
Thomas F. Garnett, Jr.
Alfred Goldberg
William G. Lese
John L. Maddy
J. David Martin
John S. Mester
Kurt N. Molholm
Michael A. Parmentier
John Roth
Ronald P. Sanders
Wayne S. Sellman
John E. Smith
Alfred B. Stille, Jr.
Nicolai Timenes, Jr.
Charles M. Wiker
John A. Wiles
Samuel J. Worthington.

Dated: June 15, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

[FR Doc. 94–14987 Filed 6–20–94; 8:45 am]

BILLING CODE 5000–04–M

Notice of Change of Meeting of the Department of Defense (DoD) Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense.

ACTION: Amendment.

SUMMARY: The meeting of the Commission which was announced on Thursday June 9, 1994, 59 FR 29784, has been rescheduled for Monday, July 11, 1994. All other information remains the same.

For further information contact CDR Gregg Hartung, Director for Public Affairs, (703) 696–4230/50.

Dated: June 15, 1994.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 94–14986 Filed 6–20–94; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Construction and Operation of a Dredged Material Placement Facility at Holland, MI

AGENCY: U.S. Army Cops of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Detroit District, Corps of Engineers, proposes to construct and operate a dredged material placement facility at Holland, Michigan. The Federal navigation project at Holland, Michigan extends approximately six miles from Lake Michigan to Holland, Michigan. The navigation channel has an authorized depth of 21 feet in the main channel and 23 feet in the entrance channel. Channel depth has been significantly reduced by shoal buildup in certain areas of the project, resulting in impacts to shipping. The proposed dredged material placement facility is necessary to allow for continued maintenance dredging and would allow restoration of authorized project depths.

ADDRESSES: U.S. Army Engineer District, Detroit; Environmental Analysis Branch, P.O. Box 1027; Detroit, Michigan 48231–1027.

FOR FURTHER INFORMATION CONTACT: Mr. Paul H. Allerding, 313–226–7590.

SUPPLEMENTRY INFORMATION: Holland Harbor, Michigan, is on the eastern shore of Lake Michigan, about 95 miles northeast from Chicago, Illinois. The Federal navigation project extends approximately six miles eastward from Lake Michigan, through Lake Macatawa to the mouth of the Macatawa River at Holland, Michigan. Authorized project depths are 21 feet in the main navigation channel and 23 feet in the entrance channel. And 18-foot deep turning basin is located near the upstream limit of the project.

Sites previously used for dredged material placement are at capacity. In addition, the navigation project has an estimated backlog of 130,000 cubic yards of sediments, which have impacted shipping by significantly reducing channel depths in certain areas of the project. Therefore, to allow for restoration of authorized project depths and continued operation and maintenance (O&M) of the Federal project, the Corps of Engineers, Detroit District, proposes to construct a new dredged placement facility at Holland, Michigan.

The proposed facility would be designed to contain approximately 400,000 cubic yards of shoal material, which would accommodate 10 to 20 years of O&M dredging, depending on site and material management practices. This facility would be incorporated into the Long-Term Dredged Material Management Plan for Holland Harbor, which is currently being developed to accommodate at least 20 years of O&M dredging.

Alternative sites for dredged material placement include upland sites, open-water placement, and beach nourishment. The no Federal action alternative will also be considered and will serve as a baseline from which to measure the impacts of the action alternatives.

A proposed upland sit is a farm about two miles east of Lake Macatawa in Holland Township. This site, which is in an industrial zone along the north side of Macatawa River, extends south from Lakewood Boulevard between 112th and 120th Avenues (approximately the N¼ of the SW¼ of Section 22, T5N, R15W).

A preliminary design for the farm site is a facility construed with earthen dikes, up to approximately 11 feet in height, occupying approximately 30 acres. Dredged material would be transported to the facility by truck or hydraulic pipeline. The pipeline would be routed up the Macatawa River.

An alternative upland disposal site is located about two miles north of Lake Macatawa in Section 15 of Park Township (T5N, R16W), which is bounded by 160th and 168th Avenues and Riley and James Streets. This section includes scattered residential development, wooded areas, blown-out dunes, and two Superfund cleanup areas (Comprehensive Environmental Response, Compensation, and Liability Act, 1980). An earthen design would be considered.

Open-water placement could be at or near previously used open-water sites, approximately 1.5 miles west-southwest from the harbor entrance along the 60-foot depth contour of Lake Michigan. Open-water placement of material dredged from some areas of the navigation channel would require covering or capping with cleaner material.

Only harbor entry channel material is suitable for beach nourishment. Dredged material from the remainder of the project is unsuitable for beach nourishment because it is fine-grained. Beach nourishment is in use as dredged material management tool at Holland Harbor and would be considered for future disposal or suitable materials.

Significant issued to be analyzed include potential impacts on wetlands, water quality, fish and wildlife habitat, cultural resources, and farmlands. Social impacts including impacts upon recreation and aesthetics, will also be considered.

The proposed actions will be revised for compliance with the Fish and Wildlife Act of 1956; the Fish and Wildlife Coordination Act of 1958; the National Historic Preservation Act of 1989; the National Environmental Policy Act (NEPA) of 1969; the Clean Air Act of 1970; the Coastal Zone Management Act of 1972; the Endangered Species Act of 1973; the Water Resources Development Act of 1976; the Clean Water Act of 1977; the Farmland Protection Policy Act (Subtitle I of Title XV of the Agriculture and Food Act of 1981); Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 1971; Executive Order 11988, Flood Plain Management, May 1977; Executive Order 11990, Wetland Protection, May 1977; and Corps of Engineers, Department of the Army, 33 CFR part 230, Environmental Quality: Policy and Procedure for Implementing NEPA.

The proposed project will be coordinated in detail with the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service (FWS), the Michigan Department of Natural Resources, and the Michigan State Historic Preservation Office. Funds have been provided to the FWS (pursuant to the Fish and Wildlife Coordination Act of 1958) for the preparation of detailed report on potential project impacts on fish and wildlife resources.

All affected Federal, State and local agencies, Indian tribes, and other private organizations and parties are invited to participate in the proposed project review. Questions, concerns, and comments may be directed to the address given in this notice. The Macatawa Area Coordinating Council, a local planning group, has scheduled a public meeting for August 2, 1994, at Holland, Michigan. It is anticipated that the DEIS would be available for public review in February 1995.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 94–14968 Filed 6–20–94; 8:45 am]

BILLING CODE 3710–GA–M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare a Programmatic Environmental Impact Statement for Storage and Disposition of Weapons-Usable Fissile Materials

AGENCY: Department of Energy.

ACTION: Notice of Intent (NOI) to Prepare a Programmatic Environmental Impact

Statement (PEIS) for Long-Term Storage and Disposition of Weapons-Usable Fissile Materials.

SUMMARY: The changes in the aftermath of the Cold War have significant implications for the management of weapons-usable fissile materials (primarily plutonium and highly-enriched uranium). The large reductions in nuclear weapons agreed to by the United States and Russia reduces our national security requirements for fissile materials and, as a result, storage and disposition decisions for these materials will be required.

The national policy outlined by the President in September 1993 is to seek to eliminate where possible the accumulation of stockpiles of highly-enriched uranium (HEU) or plutonium, and to ensure that where these materials already exist they are subject to the highest standards of safety, security and international accountability. In addition, the President has initiated a comprehensive review of long-term options for plutonium disposition, taking into account technical, nonproliferation, environmental, budgetary and economic considerations.

The Department of Energy (DOE), which is the agency responsible for management, storage and disposition of weapons-usable fissile materials from United States nuclear weapons dismantlement and weapons production processes, proposes to prepare a Programmatic Environmental Impact Statement (PEIS) pursuant to the National Environmental Policy Act (NEPA) to evaluate alternatives for long-term storage of all weapons-usable fissile materials, and disposition of weapons-usable fissile materials declared surplus to national defense needs by the President.

The results of the environmental analysis in the PEIS, information from technical and economic studies, and national policy objectives will form the basis for decisions regarding long-term storage of all weapons-usable fissile materials and the disposition of surplus weapons-usable fissile materials. The PEIS may be followed by project-specific NEPA documents to the extent necessary to implement any decisions.

The purpose of this NOI, which is the initial step in the NEPA process, is to inform the public of the PEIS proposal, to solicit public input, and to announce that a scoping process will be conducted so that the public may express its opinions and views regarding the alternatives to be considered and the scope of the issues to be addressed in the PEIS.

Written comments on the scope of the *PEIS for Storage and Disposition of Weapons-Usable Fissile Materials* are invited from the public. To ensure consideration in preparation of the PEIS, written comments must be postmarked by October 17, 1994. Late comments will be considered to the extent practicable. Public scoping workshops to provide and discuss information, and receive oral comments on the scope of the PEIS will be held during August and September 1994, both regionally and in the vicinity of the sites which may be affected by potential decisions and their implementation. DOE will announce the location, date and time for these public scoping workshops in a subsequent Notice in the **Federal Register**, and by other appropriate means as early as practicable. The Department will endeavor to provide 30 days notice prior to any applicable workshops. Following this scoping period, the Department will issue an Implementation Plan which will describe, among other things, the scope of the PEIS, the alternatives that will be analyzed, and the schedule for completing the PEIS.

Note: A definition of terms is included at the end of this NOI.

ADDRESSES: Written comments on the scope of the PEIS, requests for copies of *Management and Disposition of Excess Weapons Plutonium*, a 1994 report prepared by the National Academy of Sciences (NAS), requests for copies of the PEIS Implementation Plan (when available), and requests for copies of the PEIS or PEIS Executive Summary (when available) should be sent to: U.S. Department of Energy, c/o Oak Ridge Institute for Science & Education, P.O. Box 117, Oak Ridge, TN 37831–0117, Attn: Robert Menard, EESD.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

National Policy Objectives

On September 27, 1993, the President outlined a major principle of U.S. nonproliferation policy:

> Our national security requires us to accord higher priority to nonproliferation, and to make it an integral element of our relations with other countries.

The policy further states that the U.S. will:

> Seek to eliminate where possible the accumulation of stockpiles of highly-enriched uranium or plutonium, and to ensure that where these materials already exist they are subject to the highest standards of safety, security and international accountability.

In addition, the President called upon the Government to:

> Initiate a comprehensive review of long-term options for plutonium disposition, taking into account technical, nonproliferation, environmental, budgetary and economic considerations.

The Department's objectives in furtherance of this policy include:

- To strengthen national and international arms control efforts by providing an exemplary model for storage of all weapons-usable fissile materials and disposition of surplus weapons-usable fissile materials;
- To ensure that storage and disposition of weapons-usable fissile materials is carried out in compliance with environmental, safety and health standards;
- To minimize the prospect that surplus United States weapons-usable fissile materials could be reintroduced into the arsenals from which they came and therefore increasing the prospect of reciprocal measures by Russia and other nuclear powers;
- To minimize the risk that surplus United States weapons-usable fissile materials could be obtained by unauthorized parties; and
- To accomplish these objectives in a timely and cost-effective manner.

Purpose of, and Need for, the PEIS

The Department of Energy (DOE), the agency responsible for management, storage and disposition of weapons-usable fissile materials from United States nuclear weapons dismantlement and weapons production processes, proposes to prepare a Programmatic Environmental Impact Statement (PEIS) to evaluate alternatives for long-term storage of all weapons-usable fissile materials, and disposition of weapons-usable fissile materials declared surplus to national defense needs by the President.

The results of the environmental analysis in the PEIS, information from technical and economic studies, and national policy objectives will form the basis for decisions regarding long-term storage of all weapons-usable fissile materials and the disposition of surplus weapons-usable fissile materials. The PEIS may be followed by project-specific NEPA documents to the extent necessary to implement any decisions.

The purpose of this NOI, which is the initial step in the NEPA process, is to

inform the public of the PEIS proposal, to solicit public input, and to announce that a scoping process will be conducted so that the public may express its opinions and views regarding the alternatives to be considered and the scope of the issues to be addressed.

Background

In early 1994, the National Academy of Sciences published a report, *Management and Disposition of Excess Weapons Plutonium*. This study, commissioned by the President's National Security Council, provides information regarding management and disposition of surplus nuclear materials, in particular plutonium. Copies of this National Academy of Sciences report are available upon request to the address stated above.

In the United States, weapons-usable fissile nuclear materials are currently stored at several DOE sites, including Pantex (Amarillo, Texas), Hanford Site (Richland, Washington), Idaho National Engineering Laboratory (Idaho Falls, Idaho), Rocky Flats Plant (Denver, Colorado), Savannah River Site (Aiken, South Carolina), Lawrence Livermore National Laboratory (Livermore, California), Los Alamos National Laboratory (Los Alamos, New Mexico), and Oak Ridge Reservation (Oak Ridge, Tennessee).

The Department is currently performing vulnerability studies to determine the environmental, safety, and health (ES&H) risks associated with the current storage of plutonium, highly enriched uranium (HEU), and other weapons-usable fissile materials. These studies will form the basis for Departmental actions to ensure safe, secure interim storage of weapons-usable fissile materials until the long-term storage or disposition actions are implemented. In addition, plans for bilateral or International Atomic Energy Agency (IAEA) inspection and verification of the surplus material in storage are being developed and may require action. If any actions required to establish these interim conditions are considered major federal actions that might have a significant impact on the environment, appropriate NEPA analysis will be prepared and documented prior to proceeding. The results of these efforts will establish the interim condition of safe, controlled, inspectable storage.

Recent nuclear arms reduction agreements and pledges, along with Presidential decisions concerning what stocks of plutonium, HEU, and other nuclear materials are to be reserved for national defense will largely determine how much and when material will be declared "surplus" and will become available for disposition. Discussions are ongoing with the Nuclear Weapons Council to determine what materials are surplus and what must be maintained as a reserve. DOE anticipates that these amounts will be identified so that the analysis planned for the PEIS can address the storage and disposition alternatives.

Several kilograms of plutonium, or several times that amount of HEU, are sufficient to make a nuclear weapon. Although both plutonium and HEU can be used to make nuclear weapons, they pose different risks and require different controls. HEU is produced by "enriching" natural uranium using one of several technologies, all of which are complex isotopic separation technologies that require commitment of significant funds and industrial resources. As stated by the National Academy of Sciences in its study, HEU can be blended down with naturally occurring, depleted or low-enriched uranium to make a low-enriched uranium (LEU) reactor fuel that poses lower proliferation risk and can return a substantial economic benefit. In fact, LEU is the fuel for most of the world's nuclear power reactors.

In contrast, blending cannot reduce the proliferation risks of plutonium because all plutonium isotopes can be used to make a nuclear weapon. Separating plutonium from other elements with which it might be mixed or from unirradiated reactor fuel containing plutonium requires only well-understood chemical processing techniques. Thus, the management of plutonium in any form is a greater challenge than the management of HEU.

HEU Long-Term Storage and Disposition Alternatives

DOE has proposed to consolidate HEU into secure interim storage at Oak Ridge in the Y–12 facility (see 59 FR 11783), and may reduce its surplus by blending down some of the HEU. The resulting LEU could then be made available for commercial sale.

The PEIS will consider the following alternatives for HEU disposition: Blending down surplus HEU with other, more abundant, naturally occurring uranium, depleted uranium or other LEU, to make LEU for reactor fuel; and any other reasonable alternatives identified in the scoping process. Additionally, the no-action alternative of maintaining surplus HEU in a storage facility indefinitely will be evaluated.

HEU can be made highly proliferation resistant by blending it down into a LEU (less than 20 percent U–235), and there may be significant economic benefits that would offset the costs associated with this alternative. Consequently, alternatives which do not exploit the economic value of the surplus HEU, such as blending it down into LEU, are likely to be considered reasonable for disposition of most of the surplus HEU. However, some HEU may have impurities that make this material unacceptable as a reactor fuel when blended down and would have to be disposed of as waste. For these materials, blending down to less than 20 percent U–235 to prevent use in nuclear weapons, followed by disposal as waste, may be the only reasonable alternative.

Plutonium Long-Term Storage and Disposition Alternatives

The Department proposes to use the report prepared by the National Academy of Sciences, *Management and Disposition of Excess Weapons Plutonium*, as the starting point for evaluating alternatives regarding the long-term storage and disposition of plutonium. The Academy concluded that the existence of surplus fissile materials worldwide constitutes a "clear and present danger to national and international security." The Academy further noted that:

> None of the options yet identified for managing this material can eliminate this danger; all they can do is to reduce the risk. Moreover, none of the options for long-term disposition of excess weapons plutonium can be expected to substantially reduce the inventories of excess plutonium from nuclear weapons for at least a decade.

As a result, the Academy recommended that:

> It is important to begin now to build consensus on a road map for decisions concerning long-term disposition of excess weapons plutonium. Because disposition options will take decades to carry out, it is critical to develop options that can muster a sustainable consensus.

Standards for Action

In its report, the Academy identified standards for managing the risks associated with surplus weapons plutonium. These standards include:

The Stored Weapons Standard

The high standards of security and accounting applied to storage of nuclear weapons should be maintained for weapons-usable fissile materials throughout the process of dismantlement, storage and disposition. The Academy concluded that storage should not be extended indefinitely because of nonproliferation risks and arms reduction objectives.

The Spent Fuel Standard

The National Academy of Sciences recommended that options for long-term disposition of plutonium should seek to meet a "spent-fuel standard" in which the plutonium is as inaccessible for weapons use as the plutonium in spent nuclear fuel from commercial power reactors.

The Department is seeking public comment on the appropriateness of these standards as well as others.

Long-term Storage Alternatives

The Department proposes to evaluate alternatives for long-term storage of plutonium, HEU and other weapons-usable fissile materials: (1) In the current interim storage facilities (the no-action alternative); (2) in facilities upgraded as necessary to comply with current ES&H and design requirements; or (3) in a new consolidated storage facility. Five candidate sites for a new consolidated long-term storage were selected from those evaluated during the Reconfiguration Program in preparation for development of the Reconfiguration PEIS, addressing the nuclear weapons complex for the post-Cold War era. They are the Idaho National Engineering Laboratory, the Savannah River Site, the Oak Ridge Reservation, the Pantex Plant, and the Nevada Test Site. In addition, ongoing evaluation of interim storage sites may result in other sites being considered reasonable alternatives for consolidated long-term storage.

Surplus Plutonium Disposition Alternatives (Including Other Surplus Nuclear Materials Except HEU)

Controlled, interim storage will be required until the materials are either placed into long-term storage or dispositioned into a more proliferation resistant form. As mentioned previously, the alternatives for disposition of plutonium and certain other surplus nuclear materials were evaluated by the Academy. In general, the Academy identified several broad alternatives for meeting the "spent fuel standard."

- *Mixed Oxide fuel alternative*, in which the surplus plutonium would be used as fuel in existing, modified, or new nuclear reactors, that would consume a fraction of the plutonium and embed the rest in highly radioactive spent fuel similar to that now produced by commercial power reactors, and which would be stored and ultimately disposed of in a geologic repository;
- *Immobilization alternative*, in which the surplus plutonium would be vitrified or embedded in a ceramic or other material, either alone or mixed with radioactive high-level wastes, to form glass or ceramic logs for ultimate disposal in a geologic repository; and
- *Geologic disposition alternative*, in which plutonium in some other acceptable form would be placed directly in suitable canisters and buried in deep boreholes drilled into the earth, or in a mined geologic repository.

Beyond the Spent Fuel Standard

Because plutonium disposition alternatives meeting the "spent fuel standard" result in a form that still entails a risk of use in weapons, and because the barriers to use diminish with time as the radioactivity decays, it will be prudent to consider further steps to reduce long-term proliferation risks. Thus, the alternatives that result in the plutonium becoming essentially inaccessible or destroyed include:

- *Accelerator based conversion*, in which a large fraction of plutonium would be fissioned in a sub-critical reactor aided by neutrons produced by an accelerator; and
- *"Deep Burn" Reactors*, in which the plutonium is fissioned so completely in reactors, without spent fuel reprocessing and recycling, that only a small amount of plutonium would remain in the spent nuclear fuel.

There may be other alternatives that are reasonable for disposition of surplus plutonium (and other surplus weapons-usable fissile materials) into a form which is substantially and inherently proliferation resistant. The PEIS will include consideration of any other reasonable alternatives identified in the scoping process.

The purpose of the PEIS is to develop information to support decision making concerning long-term storage of all plutonium, HEU, and other weapons-usable material and disposition of the surplus plutonium and other weapons-usable fissile materials so that the risk of proliferation is minimized. Some of the alternatives to accomplish disposition may require substantial research and development, and could entail subsequent NEPA analysis prior to any decision concerning implementation.

The Academy study also considered plutonium disposition alternatives that the Academy judged to be unreasonable. These alternatives were: sub-seabed disposal; ocean dilution; underground detonation; and disposal in space. Comments regarding these, and any other alternatives, are encouraged to aid DOE in establishing the reasonable PEIS alternatives for disposition of surplus plutonium (and other weapons-usable fissile materials).

The NEPA Process

This PEIS is being prepared pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 et seq.) and the Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508). The reason for this PEIS is that there might be significant environmental impacts from implementing decisions on the long-term storage and disposition of weapons-usable fissile materials. Such decisions would be a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and, therefore, requiring the preparation of an environmental impact statement (EIS).

NEPA requires review of any major Federal action which may significantly affect the quality of the human environment. The review is documented through an EIS. The NEPA process is described in the CEQ regulations implementing NEPA [40 CFR, Parts 1500–1508] and DOE NEPA regulations at 10 CFR Part 1021. The draft and final PEIS will be prepared in accordance with these requirements.

A PEIS is a broad-scope environmental analysis of a program or policy [40 CFR 1500.4(i)]. A PEIS provides an opportunity for NEPA review to coincide with meaningful points in agency planning and decisionmaking [40 CFR 1502.4(b)]. A PEIS may be used to support later NEPA documents of narrower scope (called "tiering"), such as site-specific or project-specific NEPA reviews. NEPA documents tiered from the PEIS would focus on specific actions when they are ripe for review [40 CFR 1502.20]. Following preparation of an EIS, an agency issues a Record of Decision (ROD) to document its decision [40 CFR 1505.2]. The ROD explains how the EIS analysis was balanced against other factors leading to the agency's decision. DOE has determined that potential decisions and their implementation regarding the long-term storage and disposition of weapons-usable fissile materials would be a major Federal action within the meaning of NEPA; and that the several actions which might be anticipated under this effort are connected [40 CFR 1508.25] and would constitute a broad agency program [40 CFR 1502.4]. Accordingly, DOE has decided that a PEIS is appropriate to analyze the environmental consequences associated with long-term storage and disposition of weapons-usable fissile materials and to factor environmental considerations into DOE decisions.

At this point in the NEPA process, all alternatives, especially those identified for plutonium disposition, are broadly stated. This has been done intentionally so that public input during scoping can be optimally utilized to identify which alternatives should be specifically addressed and which significant issues should be included within the scope of the PEIS. Based on comments received during the scoping process, the reasonable alternatives to be included in the PEIS, a discussion of the methodology and the issues to be addressed will be identified in a PEIS Implementation Plan.

Environmental Issues

The PEIS will identify and analyze direct, indirect, and cumulative impacts resulting from the alternatives for potential decisions and their implementation. The impact analyses will address the following resources: air, water, land, biota, human health and safety, social and economic, cultural, energy and minerals, transportation, and any other issues identified as appropriate during the scoping process. The impact analyses will be at the programmatic level for the proposed action and each alternative and will not deal with specific site environmental resource issues unless an alternative proposes a site-specific activity. Subsequent to the decisions made upon the completion of this PEIS, DOE may undertake site-specific actions based upon such decisions and may also perform separate NEPA analyses on those actions prior to any site implementation. Such analyses would include a detailed examination of the site-specific environmental impacts of those activities. DOE invites public comments specifically on the scope of the PEIS analysis.

Classified Material

DOE plans to prepare the PEIS in unclassified form; however, DOE will review classified material while preparing the PEIS. In the event any classified material is included in the completed PEIS or its associated Record of Decision (ROD), such material would be in a classified appendix which would not be available for general public review. This material would, however, be considered by DOE in reaching a decision on long-term storage and disposition of fissile nuclear materials. DOE will provide as much information as possible in unclassified form to assist public understanding and input.

Other DOE NEPA Documents

There are several other NEPA documents in preparation by DOE that have a direct bearing on this PEIS. These are:

- *The Reconfiguration PEIS* which will no longer address long-term storage of plutonium and HEU since the PEIS which is the subject of this NOI will address alternatives for long-term storage of all weapons-usable fissile material. The Reconfiguration PEIS will continue to describe the remaining missions in the nuclear weapons complex and will evaluate alternatives for tritium supply and recycle.
- *The Pantex Site-Wide Environmental Impact Statement (EIS)* will address alternatives for interim storage of plutonium pits. This interim storage of plutonium pits is part of the no-action alternative for long-term storage of all plutonium which includes other forms of plutonium, along with pits, and which will be addressed in this PEIS.
- *The Oak Ridge Interim Storage of Enriched Uranium Environmental Assessment (EA)* will address interim storage alternatives for enriched uranium. This interim storage also forms part of the no-action alternative for long-term storage of HEU which will be addressed in this PEIS.
- *The Environmental Restoration and Waste Management PEIS* will address the programmatic level decisions for treatment, storage and disposal of waste within the DOE complex. If any actions to dispose of weapons-usable fissile materials result in a waste form, these waste forms would be treated, stored and disposed of in accordance with the decisions resulting from the Environmental Restoration and Waste Management PEIS.
- *Other EIS's and EA's* involving weapons-usable fissile materials are or will be in progress for the purpose of establishing the interim conditions for some of these materials.

Definitions

As used in this Notice of Intent, the following definitions apply:

- Disposition is a process of use or disposal of materials that results in the remaining material being converted to a form that is substantially and inherently more proliferation-resistant than the original form.
- Highly Enriched Uranium (HEU) is uranium which has an isotopic content of uranium-235 of 20 percent or more.
- Interim Storage refers to the safe, controlled, inspectable storage facilities and conditions that will be established in the near term and will remain in effect until the long-term storage or disposition actions are implemented.
- Low Enriched Uranium (LEU) is uranium which has an isotopic content of uranium-235 of less than 20 percent. Most commercial reactor fuel is enriched to about 4 to 5 percent uranium-235.
- Weapons-Usable Fissile Materials is used to refer to a specific set of nuclear materials that may be utilized in making a nuclear explosive for a weapon. Weapons-usable fissile materials include uranium with uranium-235 isotopic content of 20 percent or more, plutonium of any isotopic composition, and other isotopes such as uranium-233, americium-241, and neptunium-237 which have been separated from spent nuclear fuel or irradiated targets. The term weapons-usable fissile materials does not include the fissile materials present in spent nuclear fuel or irradiated targets from reactors.

Invitation to Comment

DOE invites comments on the scope of this PEIS from all interested parties, including affected Federal, State and local agencies and Indian tribes. DOE solicits comments regarding the scope of the PEIS analysis, suggestions on significant environmental issues, alternatives to be included in the PEIS, and other matters of content.

To ensure consideration of comments in preparing the draft PEIS, written comments must be postmarked by October 17, 1994. Late comments will be considered to the extent practicable. Agencies, organizations, and the general public are invited to present oral comments pertinent to preparation of the PEIS at public scoping workshops. DOE will also accept written material at the workshops. Written and oral comments will be given equal weight in the scoping process.

Public scoping workshops to provide information and discuss and receive comments on the scope of the PEIS will be held during August and September 1994, both regionally and in the vicinity of the sites which may be affected by the proposed action. A national public scoping workshop will also be held in Washington, DC. DOE will announce the location, date and time for these public workshops in a subsequent Notice in the **Federal Register**, and by other appropriate means as early as practicable. The Department will endeavor to provide 30 days notice prior to any applicable workshops. Advance registration to provide oral comments at these workshops will be facilitated using an "800 number" that will be provided in the **Federal Register** notice. On-site registration to provide oral comments will be accommodated to the extent possible.

Signed in Washington, DC this 15th day of June 1994, for the United States Department of Energy.

Tara O'Toole,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 94–15119 Filed 6–20–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award: Clean Air Cab Company, Inc.

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy announces that pursuant to 10 CFR 600,6(a)(5), it is making a discretionary financial assistance award based on the criteria set forth at 10 CFR § 600.7(b)(2)(i)(H) to the Clean Air Cab Company, Inc., under Grant Number DE–FG01–94CE50395 to initiate a demonstration project from which operational data will be collected and emissions testing will take place of the grantee's cabs which will be modified to operate on compressed natural gas. The Department of Energy has determined that a noncompetitive award is in the public interest.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined in accordance with 10 CFR § 600.7(b)(2)(i)(H) that a noncompetitive award based on the application submitted by the Clean Air Cab Company is in the public interest. This program will be used to stimulate and support the use of alternative fueled vehicles. The proposed grant will provide funding in the estimated amount of $90,000 for the first budget period or $270,000 over a three year period. Data obtained from the grantee will be useful to the Government, industry and the public in determining the adequacy of systems used on these alternative fuel vehicles. The Department of Energy has determined it to be in the public interest to award a noncompetitive grant to the Clean Air Cab Company because the proposed project has been initiated by the applicant using his own resources. The Grantee's vehicles are all equipped with state-of-the-art cellular monitoring equipment, which makes electronic tracking of mileage, maintenance, and refueling information reliable and instantaneous. The proposed project is authorized under the Alternative Motor Fuels Act of 1988, and it will allow the Department to evaluate other types of alternative fuel vehicles in the future as they become available.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, ATTN: Rose Mason HR–531.23, 1000 Independence Ave., SW., Washington, DC 20585.

The anticipated term of the proposed grant is three years from the date of award.

Issued in Washington, DC on June 15, 1994.

Linda Strand,

Acting Director, Headquarters Operations Division "B", Office of Placement and Administration.

[FR Doc. 94–15046 Filed 6–20–94; 8:45 am]

BILLING CODE 6450–01–P

Financial Assistance Award; Energy Efficiency Export Council

AGENCY: Department of Energy.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: Pursuant to 10 CFR 600.7(b)(2)(i)(D), the U.S. Department of Energy (DOE) Region I Support Office, through the Golden Field Office, intends to award a grant to the Energy Efficiency Export Council (EEEC) to complete a series of tasks related to export promotion of U.S. energy efficiency products and services. The EEEC efforts are on behalf of and in collaboration with the Committee on Energy Efficiency Commerce and Trade (COEECT). COEECT functions as the Federal Interagency Working Subgroup on Energy Efficiency established by Section 1207 of the Energy Policy Act of 1992, H.R. 776 (EPACT).

SUPPLEMENTARY INFORMATION: The proposal, which was negotiated with the DOE, Office of Technical Assistance (OTA), establishes funding for tasks related to increasing the export of U.S. energy efficiency products and services to be completed by the Energy Efficiency Export Council (EEEC). EEEC is made up of five non-profits: the Alliance to Save Energy, the International Institute for Energy Conservation, the National Association of State Energy Officials, the National Association of Energy Service Companies and the Solar Energy Industries Association. Tasks to be completed include: (1) a series of national and regional meetings to educate the U.S. energy efficiency industry about how to export; (2) energy efficiency market assessments in developing and transitional countries i.e. Chile and also Mexico or Russia and advanced marketing of U.S. energy efficiency products and services; (3) publications to provide guidance on exporting to the energy efficiency industry; and (4) assessment of the economic feasibility of performance contracts in Russia. The completion of these tasks should result in an increase in exports of U.S. energy efficiency products and services. Total funding is $580,000.

Noncompetitive financial assistance to EEEC is in accordance with the justifying criteria presented in 10 CFR 600. The DOE/OTA has determined that EEEC has exclusive domestic capability to represent and interact with the U.S. energy efficiency products and services industry, and, is, therefore, uniquely capable to fulfill many aspects of the mission established for the COEECT by Section 1207 of EPACT.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Attn: Hugh Saussy, Jr., Region I Support Office, One Congress Street, Boston, MA 02114–2021, 617–565–9700.

John W. Meeker,

Golden Field Office.

[FR Doc. 94–15047 Filed 6–20–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award: Intent To Award a Cooperative Agreement to Florida State University

AGENCY: Department of Energy.

ACTION: Notice of Non-Competitive Financial Assistance Award.

SUMMARY: The Department of Energy announces that, pursuant to 10 CFR 600.6(a)(5), it is making a discretionary financial assistance award based on the criteria set forth at 10 CFR 600.7(b)(2)(i)(A) to Florida State University under Cooperative Agreement Number DE–FC01–94EW54106. The subject Cooperative Agreement will be for a three-year project period and a total estimated amount of $750,000. Under this Cooperative Agreement the Center for Biomedical and Toxicological Research and Hazardous Waste Management at Florida State University will initiate a comprehensive program which will involve the identification and independent evaluation of (1) innovative technologies that are either currently being utilized in environmental remediation efforts conducted by, or in development by, Federal and State agencies, and private United States organizations; and (2) innovative technologies for environmental restoration which are under development abroad.

SUPPLEMENTARY INFORMATION: The Department of Energy has determined, in accordance with 10 CFR 600.7(b)(2)(i)(A), that a noncompetitive award to Florida State University is

necessary for the satisfactory completion of, or continuation or renewal of, an activity presently being funded by the Department of Energy or another Federal agency, and for which competition for support would have a significant adverse effect on continuity or completion of the activity. Florida State University has been involved in a cooperative research and development program with the United States Environmental Protection Agency that focused on hazardous waste characterization and monitoring of RCRA hazardous waste sites. In addition, Florida State University has been under an agreement with Sandia National Laboratories to develop a prototype model for enhancing the technology transfer process, particularly with reference to environmental technology development in Central and Eastern Europe. The above studies are ongoing, with large research staffs already in place and working; any attempt to compete support for these studies would result in a significant disruption of the studies. The proposed cooperative agreement will allow these efforts to continue unimpeded, and hence realize the maximum public benefit. The Florida State Center for Biomedical and Toxicological Research and Hazardous Waste Management has the extensive experience necessary to enhance the technology transfer, both import and export, of innovative and emerging technologies dealing with site characterization, remediation, monitoring and waste management, thereby forging linkages for all affected stakeholder groups. The Department of Energy has determined in accordance with 10 CFR 600.7(b)(2)(i)(A), that the award of this non-competitive Cooperative Agreement to Florida State University is in the public interest.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Placement and Administration, Attn: Michael Whisler, HR-531.24, 1000 Independence Avenue, SW., Washington, DC 20585.

The anticipated term of the proposed cooperative agreement is 36 months from award date.

Linda Strand,

Acting Director, Headquarters Operations Division B, Office of Placement and Administration.

[FR Doc. 94-15051 Filed 6-20-94; 8:45 am]

BILLING CODE 6450-01-P

Golden Field Office; Cooperative Agreement Award to Georgia Institute of Technology

AGENCY: Department of Energy.

ACTION: Notice of Financial Award in Response to an Unsolicited Financial Assistance Application; 36-94G010019.000.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to enter into a cooperative agreement with the Georgia Institute of Technology for the design and construction of a photovoltaic power system on the Georgia Tech Aquatic Center, site of the 1996 Olympic Games.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: J.W. Meeker, Contract Specialist. The telephone number is 303-275-4748. R. L. Martin is the Program Manager and his telephone number is 303-275-4763. Dr. Paul K. Kearns is the Contracting Officer.

SUPPLEMENTARY INFORMATION: DOE has evaluated, in accordance with the DOE Federal Assistance Regulations, 10 CFR section 600.14, the unsolicited proposal entitled "The Design, Construction and Monitoring of a Photovoltaic Power System on the Georgia Tech Aquatic Center, Site of the 1996 Olympic Natation Venue" and recommends that the unsolicited proposal be accepted for support without further competition in accordance with section 600.14 of the Federal Assistance Regulations.

In preparation for the Olympic Games and other major international sporting events in Atlanta, the new construction of an open air Aquatic Center on the Georgia Institute of Technology campus presents the opportunity to construct a photovoltaic system of approximately 75,000 gross square feet over the swimming and diving facility. The design is conceived as 230 ft. long × 20 ft. wide roof sections in a barrel vault configuration on which photovoltaic cells would reside. The roof structure would be composed of steel columns and trusses with a metal deck and single ply membrane. The PV panels would be integrated to the outer roof layer in segmented panels. The PV panels would be 65 W PEAK to be installed for a total of 250 to 300 KW PEAK which would provide 20-25% of the peak power requirements of the Aquatic Center.

The proposed photovoltaic roof installation project objectives include: (1) Design and research of a PV system to support the increased energy consumption on campus and have a peak capacity of 3400 KW, (2) monitoring and evaluating performance of the system, (3) support Georgia Power's demand-side strategy, (4) support the Climate Change Action Plan, (5) support the Utility Photovoltaic Group (UPVG), (6) support the Georgia Tech Center of Excellence in Photovoltaics Research and Education, and (7) provide the largest, unparalleled facility integrated PV power system in the United States.

The project team is a group of individuals with experience in PV research, design, manufacturing and application. Inclusion of the Aquatic Center Design Team (ACDT), comprised of architects, structural engineers, estimators and planners responsible for the design and construction of the Aquatic Center and the Atlanta Committee for the Olympic Games (ACOG), in the project team enhances the integration of the PV system into the Aquatic Center construction project and into the integrated schedule.

This project represents a unique opportunity to showcase a renewable energy commercialization project with utility-side impact and support the Climate Change Plan. This proposal has been found to be meritorious. The team has the capabilities and commitment to this project which should provide a basis for the successful implementation of the proposed project.

The program cost is estimated to be $5,439,000 total, with the DOE share being $1,993,000, Georgia Power Company share being $1,848,000, and Georgia Institute of Technology's share the remaining $1,598,000.

Issued in Golden, Colorado, on June 14, 1994.

John W. Meeker,

Chief, Procurement, Golden Field Office.

[FR Doc. 94-15048 Filed 6-20-94; 8:45 am]

BILLING CODE 6450-01-M

Morgantown Energy Technology Center Grant; Financial Assistance Award To Maurer Engineering, Inc.

AGENCY: Morgantown Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of acceptance of an unsolicited financial assistance application for Grant award.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i)(B) the DOE, Morgantown Energy Technology Center gives notice of its plans to award a 24 month Grant to Maurer Engineering, Inc. with an associated budget of approximately $180K of which the Sandia National Laboratory will cost share approximately 45 percent.

FOR FURTHER INFORMATION CONTACT: Laura E. Brandt, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880; Telephone: (304) 291–4079. Procurement Request No. 21–94MC31171.000.

SUPPLEMENTARY INFORMATION: The pending award is based on an unsolicited application for the project entitled "Evaluate Russian Advanced Drilling Technology". The overall objective of this project is to evaluate Russian drilling motor and drill bit technology to eliminate unnecessary research in advanced drilling in the United States. This effort will compare Russian and United States technologies utilizing from 4–6 Russian experts. Based on their personal experiences, literature reviews, and personal interviews, the grantee will complete a document identifying areas where each country leads technically, where each technology compliments each other, and where cooperative Research and Development (R&D) would be beneficial. One of the DOE's missions is to accelerate the development of new drilling technology products that will reduce cost or improve efficiency for drilling new oil and gas wells in the U.S. This proposed effort will enable the Government to evaluate a wide variety of advance drilling technology research areas that are poorly understood in the U.S. Performance of this study has the potential to save millions of dollars in duplication of effort in performing advanced drilling technology research potentially already completed by the Russians. The development of U.S. based advanced drilling systems will permit the gas industry to have the appropriate drilling technology to develop competitive sources of natural gas in the future. The assurance of a reliable supply of natural gas over the next 2 to 3 decades will do much to ease the U.S. dependence on imported oil until substitute sources of energy can be developed. The proposed effort will provide clear benefits to the general public as regards the future of U.S. energy.

Issued in Washington, DC, June 14, 1994.

Randolph L. Kesling,

Acting Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 94–15049 Filed 6–20–94; 8:45 am]

BILLING CODE 6450–01–P

Golden Field Office; Grant Award to Tufts University

AGENCY: Department of Energy.

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The U.S. Department of Energy (DOE), pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, is announcing its intention to award a grant to Tufts University for continuing research efforts in support of the DOE Office for Building Technologies programs. Tufts' lab-scale research on electrochromic devices will help advance the goal of developing viable electrochromic windows for building applications.

ADDRESSES: Questions regarding this announcement may be addressed to the U.S. Department of Energy, Golden Field Office, 1617 Cole Blvd., Golden, Colorado 80401, Attention: Louise Urgo, Contract Specialist. The Contracting Officer is John W. Meeker.

SUPPLEMENTARY INFORMATION: The proposed basic research will contribute to the DOE mission by identifying and solving the materials and optics problems associated with developing practical electrochromic windows for electrical control of radiant energy transfer in building and vehicle windows. Successful completion of this research would advance the goal of commercialization of electrochromic window technology. Deploying this window technology will reduce energy use in buildings which, in the U.S., accounts for about 40% of annual national energy consumption. Approximately one-sixth of that energy is wasted by unwanted radiation transfer through windows.

DOE has performed a review in accordance with 10 CFR 600.7 and has determined that the activity to be funded is necessary to satisfactorily complete the current research. DOE funding for the Grant is estimated at $238,947 and the anticipated period of performance is twelve (12) months. Tufts will share in the grant in the amount of $110,785.

Dated: June 10, 1994.

John W. Meeker,

Golden Field Office.

[FR Doc. 94–15045 Filed 6–20–94; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance Award, Intent To Award Cooperative Agreement to the Council of State Governments—Eastern Office

AGENCY: Department of Energy (DOE).

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.6(a)(5), it is making a discretionary financial assistance award based on the criterion set forth at 10 CFR 600.7(b)(2)(i)(D) to the Council of State Governments, Eastern Office, under Cooperative Agreement Number DE–FC01–94RW00299. The objectives of the cooperative agreement are to provide assistance to this non-profit regional association to monitor and inform regional officials on issues related to the transportation and storage of high-level radioactive waste. This effort will have a total estimated cost of $698,264 to be provided by the DOE.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Placement and Administration, Attn: Douglas L. Baptist, HR–531.23, 1000 Independence Avenue, SW., Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Scope

The cooperative agreement will provide funding to the Council of State Governments, Eastern Office, which will: develop and/or maintain general knowledge of high-level radioactive waste transportation issues, initiatives and activities; identify, evaluate, and prioritize all regional issues regarding high-level radioactive waste transportation activities managed by the Department's Office of Transportation and Storage within the Office of Civilian Radioactive Waste Management; develop, evaluate and present regional perspectives and alternatives regarding the resolution of such issues; provide comment and direction to project staff as required in connection with all project activities; establish subcommittees as necessary to analyze specific transportation issues identified by the Task Force and the Department; and, participate in all appropriate transportation-related Departmental initiatives. In accordance with 10 CFR 600.7(b)(2)(i)(D), it has been determined that the Council possesses the unique domestic capability to successfully perform the proposed activities based on its position as the chartered board representing eastern states on energy matters pertaining to nuclear waste.

Issued in Washington, DC, on June 14, 1994.

Linda Strand,

Acting Director, Headquarters Operations Division B, Office of Placement and Administration.

[FR Doc. 94–15050 Filed 6–20–94; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP94–223–001]

Colorado Interstate Gas Co.; Compliance Filing

June 15, 1994.

Take notice that on June 10, 1994, Colorado Interstate Gas Company (CIG) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Alternate Original Sheet No. 343A pursuant to the Commission's Order dated May 26, 1994.

CIG states that the revised tariff sheet complies with the directives in the Commission's May 26, 1994, order in this proceeding regarding CIG's proposal to establish a tracker to recover stranded Account No. 858 costs (67 FERC 61,230).

CIG requests waiver of all requirements so as to allow this proposed tariff sheet be made effective on May 1, 1994.

CIG states that copies of this filing are being 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 Capital Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 22, 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. 94–15001 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–95–008]

Colorado Interstate Gas Company; Compliance Filing

June 15, 1994.

Take notice that on June 8, 1994, Colorado Interstate Gas Company (CIG), tendered for filing a semiannual compliance filing consisting of work papers detailing accrued interest payments made by CIG to its affected customers related to the unused portion of transportation credits in the instant docket.

CIG states that copies of the filing were served upon all of the parties to this proceeding and affected state commissions and affected parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before June 22, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant 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. 94–14998 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–219–001]

Columbia Gulf Transmission Company; Proposed Changes in FERC Gas Tariff

June 15, 1994.

Take notice that on June 10, 1994, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective November 1, 1994.

Substitute First Revised Sheet No. 272
Substitute First Revised Sheet No. 273

Columbia Gulf states that these tariff sheets are being filed in compliance with ordering paragraph (A) of the Commission's May 27, 1994, Order in the above-referenced docket which required Columbia Gulf to revise its tariff to eliminate from its General Terms and Conditions a proposed inflation adjustment allowance.

Columbia Gulf states that a copy of the filing is being served on all parties shown on the Commission's service list in the docket, jurisdictional customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before June 22, 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 Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15000 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–601–000]

El Paso Natural Gas Company; Request Under Blanket Authorization

June 15, 1994.

Take notice that on June 13, 1994, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP94–601–000 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 and operate a delivery point under El Paso's blanket certificate issued in Docket No. CP82–435–000 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.

El Paso proposes to construct and operate the Afton Meter Station and approximately 168.2 feet of 12-inch pipeline in Dona Ana County, New Mexico, to permit the firm transportation and delivery of natural gas to the City of Las Cruces, New Mexico, in accordance with a transportation service agreement dated August 15, 1991. El Paso states that Las Cruces seeks to receive gas delivered for its customers from a point on El Paso's existing 26-inch California Line and El Paso's 30-inch California First Loop Line, which would involve constructing dual 6-inch senior orifice-type meter runs, two 6-inch tap and valve assemblies, and appurtenances. It is stated that the service agreement provides for the firm transportation of Las Cruces' full requirements of natural gas to consumers situated within the City of Las Cruces. New Mexico, and its surrounding areas. El Paso states that the total estimated cost of the facilities is $151,600 which would be reimbursed by Las Cruces.

El Paso explains that this proposal would supersede that proposal authorized in Docket No. CP94–67–000 since the parties have determined that the new location for the Afton Meter Station would provide Las Cruces with more flexibility and less capacity constraints in the delivery of its gas. El Paso estimates that, during the third year of operation, the maximum peak day and annual requirements of the

Afton Meter Station would be 97,400 Mcf and 14,600,000 Mcf, respectively.

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. 94–14996 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–600–000]

Ozark Gas Transmission System; Application

June 15, 1994.

Take notice that on June 10, 1994, Ozark Gas Transmission Company (Ozark), 1700 Pacific Avenue, LB–10, Dallas, Texas 75201 filed in Docket No. CP94–600–000, an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(a) of the Regulations (18 CFR 157.7(a)), for a certificate of public convenience and necessity authorizing the upgrading of metering and associated measurement and control facilities in Franklin County, Arkansas to provide additional capacity into the NOARK Pipeline System (NOARK), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Ozark states that it seeks this authorization to install an eight-inch tap and a six-inch meter run and associated measurement and control equipment, capable of delivering an additional 35,000 Mcf of gas per day to NOARK, with a total delivery capability of 70,000 Mcf of gas per day. Ozark estimates that it will cost $34,000 to construct the proposed facilities, to be financed with equity funds and aid-in-construction funding from NOARK.

Ozark explains that becasue the location of the proposed delivery point expansion is in Township 9N, Range 26W in western Arkansas, it is required to obtain a Section 7(c) certificate in accordance with a Stipulation and Consent Agreement approved by the Commission in 1983, 22 FERC ¶ 61,324 at p. 61,578, instead of qualifying under Ozark's blanket construction certificate.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 1994, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regualtory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time requried herein, if the Commission on its own review of the matter finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Ozark to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 94–14995 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP94–218–001 and TA93–1–86–006]

Pacific Gas Transmission Company; Compliance Filing

June 15, 1994.

Take notice that on June 10, 1994, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Substitute Original Sheet No. 6D, and workpapers in compliance with the Commission's May 26, 1994, Order in this proceeding. PGT requests an effective date of April 29, 1994, and requests waiver of applicable notice requirements.

As required by the Commission's Order dated May 26, 1994, PGT has:

1. Separated debit and credit adjustments in its refund subaccounts as required by Section 154.305(i) of the Commission's regulations and recalculated the carrying charges.
2. Recorded the $3.7 million prior period adjustment associated with the Fontenelle Field to its refund subaccount and corrected the calculation of carrying charges on this prior period adjustment.
3. Corrected the February 1994 beginning balance in the demand refund subaccount and recalculated the carrying charges.

PGT states that the revised tariff sheet reflecting these adjustments provides for a refund of $9,003,119 to its former sales customer, Pacific Gas and Electric Company.

PGT further states that a copy of its filing is being served on the affected customer and interested state regulatory agencies as well as all parties on the service list compiled by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed on or before June 22, 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. 94–14999 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT94–51–000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

June 15, 1994.

Take notice that on June 9, 1994, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets:

First Revised Sheet No. 263
First Revised Sheet No. 334
First Revised Sheet No. 596

Panhandle proposes that these revised tariff sheets become effective July 10, 1994.

Panhandle states that this filing is necessary to update the Spot Price reference on Sheet No. 263 and to perform general housekeeping to correct typographical errors on Sheet No. 334 and Sheet No. 596.

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 Capital Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 22, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–14997 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

Richmond Power Enterprise, L.P.; Petition

[Docket No. RP94–286–000]

June 15, 1994.

Take notice that on June 10, 1994, Richmond Power Enterprise, L.P. (RPE) filed a petition for an order declaring that RPE has the right under the "regulatory out" provision of its off-peak transportation (OPI) service agreement with Columbia Gas Transmission Corporation (Columbia) to terminate its service agreement for OPI service.

RPE contends that this termination right was triggered by Commission orders regarding Columbia's Order No. 636 compliance filing. Specifically RPE asks the Commission to institute proceedings (but not evidentiary hearings), in accordance with an order of the bankruptcy judge in Columbia's bankruptcy proceeding, and to grant its motion for summary judgment regarding its termination rights under the OPI service agreement.

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 18 CFR §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before July 6, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15002 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–287–000]

Transcontinental Gas Pipe Line Corp.; Notice of Tariff Filing

June 15, 1994.

Take notice that on June 10, 1994, Transcontinental Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 167A. Such tariff sheet is proposed to be effective November 1, 1993.

TGPL states that the purpose of the filing is to revise TGPL's Rate Schedule FT tariff provisions consist with the Commission's Order No. 509 Final Rule issued October 4, 1993 in Docket No. RM93–8–000 (Final Rule). In that regard, the Final Rule, among other things, removes the regulations governing the Outer Continental Shelf Lands Act (OCSLA) capacity allocation program and the regulation which provides for abandonment authority. As a result of these changes, Section 9 of TGPL's existing FT Rate Schedule is no longer required.

TGPL states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 22, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–15003 Filed 6–20–94; 8:45 am]

BILLING CODE 6717–01–M

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability Council Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, this notice advises interested persons of the eighth meeting of the Network Reliability Council ("Council"), which will be held at the Federal Communications Commission in Washington, DC.

DATES: Wednesday, July 6, 1994, at 1:30 p.m.

ADDRESSES: Federal Communications Commission, room 856, 1919 M Street NW., Washington, DC 20554

FOR ADDITIONAL INFORMATION CONTACT: Robert Kimball at (202) 634–7150.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic and consumer organizations to explore and recommend measures that would enhance network reliability.

The agenda for the eighth meeting is as follows. Council members will discuss network reliability developments since the last Council meeting. Members will discuss possible new focus areas and organizational issues. The Council may also address other issues. After determining the next meeting date, the Council will adjourn.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. There will be no public oral participation, but the public may submit written comments to the Council's designated Federal Officer, before the meeting.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–14967 Filed 6–20–94; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

First Commercial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 15, 1994.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Commercial Corporation, Little Rock, Arkansas; to acquire at least 80 percent of the voting shares of Kilgore First Bancorp, Inc., Kilgore, Texas, and thereby indirectly acquire Kilgore First National Bank, Kilgore, Texas.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Keweenaw Financial Corporation, Hancock, Michigan; to acquire 100 percent of the voting shares of Commercial National Bank of L'Anse, L'Anse, Michigan.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Lindale Delaware Corporation, Dover, Delaware; to become a bank holding company by acquiring 100 percent of the voting shares of Lindale State Bank, Lindale, Texas.

2. Longview Delaware Corporation, Dover, Delaware; to acquire 99 percent of the voting shares of First State Bank, Van, Texas.

3. Longview Financial Corporation, Longview, Texas; to acquire 99 percent of the voting shares of First State Bank, Van, Texas.

4. Overton Delaware Corporation, Dover, Delaware; to acquire 100 percent of the voting shares of Longview Delaware Corporation, Dover, Delaware; Longview Financial Corporation, Longview, Texas; Longview Bank & Trust Company, Longview, Texas; and First State Bank, Van, Texas.

5. Overton Financial Corporation, Overton, Texas; to acquire 100 percent of the voting shares of Longview Delaware Corporation, Dover, Delaware; Lindale Delaware Corporation, Dover, Delaware; Longview Financial Corporation, Longview, Texas; Longview Bank & Trust Company, Longview, Texas; and First State Bank, Van, Texas.

Board of Governors of the Federal Reserve System, June 15, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15019 Filed 6–20–94; 8:45 am]

BILLING CODE 6210–01–F

H.P. Holding Company; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 11, 1994.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. H.P. Holding Company, Chicago, Illinois; to engage *de novo* through its subsidiary, Pullman Capital Corporation, Mishawaka, Indiana, in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 15, 1994.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 94–15018 Filed 6–20–94; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Public Buildings Service; Proposed Ronald Reagan Federal Building-United States Courthouse, City of Santa Ana, CA

Notice of Availability (NOA) for a Draft Environmental Impact Statement.

The U.S. General Services Administration (GSA) hereby gives notice that a FEIS for the Ronald Reagan Federal Building-U.S. Courthouse has been prepared and filed with the U.S. Environmental Protection Agency (EPA).

The proposed action would include the construction of a new Federal Building—U.S. Courthouse with approximately 347,498 square feet of occupiable space and 214 onsite parking spaces within the Central Business Area (CBA) of the City of Santa Ana, California. In addition to the proposed action, the FEIS examined three alternatives including the expansion of court operations into a leased facility, construction at an alternate site, and "no action" (*e.g.*, status quo).

The FEIS prepared by GSA addressing this action is on file and may be obtained from: the U.S. General Services Administration, Region 9, Attn: Ms. Mitra Nejad, Public Building Service,

Planning Staff (9PL), 525 Market Street, 35th Floor, San Francisco, CA 94105–2799, phone number (415) 744–5252. A limited number of copies of the FEIS are available to fill single copy requests. Loan copies of the FEIS are available for review at the City of Santa Ana Central Library, and the Chet Holifield Federal Building, Laguna Niguel Field Office, 24000 Avila Road, Suite 4100, Laguna Niguel, CA 92656.

Dated: June 8, 1994.

Aki K. Nakao,

Acting Regional Administrator (9A).

[FR Doc. 94–14969 Filed 6–20–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 468]

Skin Cancer Primary Prevention Education Projects; Amendment

A notice announcing the availability of fiscal year (FY) 1994 funds for cooperative agreements to develop skin cancer primary prevention education demonstration projects was published in the **Federal Register** on June 1, 1994, [59 FR 28408].

The notice is amended as follows:

On page 28410, first column, under the heading "Application Submission and Deadline," line eleven should read: on or before July 29, 1994.

All other information and requirements of the June 1, 1994, **Federal Register** notice remain the same.

Dated: June 15, 1994.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–15009 Filed 6–20–94; 8:45 am]

BILLING CODE 4163–18–P

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 219–9657. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, 5600 Fishers Lane, room 8A35, Rockville, MD 20857, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhold vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a partial list of petitions received by PHS on October 1, 1990 through January 29, 1991.

Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the Table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading For Further Information Contact), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written subission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Kathleen Ashbrook on behalf of Jacob Meyers, Salem, Oregon
   Claims Court Number 90–3826 V
2. James Paler on behalf of Alexander Paler, Hudson, Ohio
   Claims Court Number 90–3830 V
3. Julia Larew on behalf of Natalie Larew, Dublin, Ohio

Claims Court Number 90–3839 V
4. Richard and Wanda Haley on behalf of Ethel Haley, Deceased, Milwaukee, Wisconsin
Claims Court Number 90–3842 V
5. Kevin Elsperger, Aberdeen, South Dakota
Claims Court Number 90–3850 V
6. David and Patti Baker on behalf of Joshua Baker, Deceased, Marlin, Texas
Claims Court Number 90–3868 V
7. Gregg and Kimberly Biddle on behalf of Nicole Biddle, Whitehouse, Ohio
Claims Court Number 90–3893 V
8. Annette McSwain-Cooner on behalf of Lindsey McSwain, Birmingham, Alabama
Claims Court Number 90–3904 V
9. Hilda Gardner on behalf of Gerald Gardner, Syracuse, New York
Claims Court Number 90–3918 V
10. Phyliss Evitch on behalf of Pamela Evitch, Rice Lake, Wisconsin
Claims Court Number 90–3919 V
11. Kenneth Eutsey on behalf of Craig Eutsey, Mount Pleasant, Pennsylvania
Claims Court Number 90–3920 V
12. Sandra Cordero on behalf of Joseph Cordero, Tucson, Arizona
Claims Court Number 90–3921 V
13. Kathy Johnson, Arlington, Texas
Claims Court Number 90–3922 V
14. Catherine Du Vair on behalf of Christian Du Vair, Chico, California
Claims Court Number 90–3923 V
15. Frances Felton on behalf of Benjamin Boback, Wilkes Barre, Pennsylvania
Claims Court Number 90–3924 V
16. Sandra Beavers on behalf of Cynthia Beavers, Newman, Georgia
Claims Court Number 90–3925 V
17. Nancy Hartman on behalf of Madelyn Hartman, Forth Worth, Texas
Claims Court Number 90–3926 V
18. Philip Hodder on behalf of Kade Hodder, Deceased, Binghamton, New York
Claims Court Number 90–3927 V
19. Mary Kelley on behalf of Herman Meury, Syracuse, New York
Claims Court Number 90–3928 V
20. Rose Poole, Summit, New Jersey
Claims Court Number 90–3929 V
21. Nancy Nowell on behalf of Brian Humphries, Deceased, Louisville, Mississippi
Claims Court Number 90–3930 V
22. William Shaffer on behalf of Matthew Shaffer, Fort Bragg, North Carolina
Claims Court Number 90–3931 V
23. Sandra Ortensie on behalf of Brandon Ortensie, Jeffersonville, Indiana
Claims Court Number 90–3933 V
24. Amber Weems on behalf of Cody Weems, Deceased, Colorado Springs, Colorado
Claims Court Number 90–3934 V
25. Stuart and Cindy Brustuen on behalf of Ashley Brustuen, Appleton, Minnesota
Claims Court Number 90–3936 V
26. Larry Levy on behalf of Sterling Levy, Little Rock, Arkansas
Claims Court Number 90–3944 V
27. Henry Collins on behalf of Rodney Collins, Clay, New York
Claims Court Number 90–3950 V
28. Richard McKenney on behalf of Carla McKenney, Muskegon, Michigan
Claims Court Number 90–3951 V
29. Penny Cutler on behalf of Russell Cutler, Ogden, Utah
Claims Court Number 90–3955 V
30. Mark and Patti Bullock on behalf of Courtney Bullock, Forney, Texas
Claims Court Number 90–3957 V
31. Pamela Wharton on behalf of Jennifer Wharton, Greenville, Texas
Claims Court Number 90–3959 V
32. Alta Church on behalf of Arthur Church, Houston, Texas
Claims Court Number 90–3970 V
33. Donald Six and Trina Fetters on behalf of Donald Six, II, Deceased, Des Moines, Iowa
Claims Court Number 90–3971 V
34. Regina and Darwin Malone on behalf of Spencer Malone, Deceased, Hartsville, Tennessee
Claims Court Number 90–3973 V
35. Margaret Ireton, Tulsa, Oklahoma
Claims Court Number 90–3975 V
36. Ann Gazzi on behalf of Maria Gazzi, Deceased, Chicago, Illinois
Claims Court Number 90–3983 V
37. Orallee Robinson on behalf of Frances Robinson, Deceased, Marianna, Florida
Claims Court Number 90–3987 V
38. Paulette Wolff on behalf of Paul Kramer, Chicago, Illinois
Claims Court Number 90–3990 V
39. Sandra Bencik on behalf of Matthew Bencik, Chicago, Illinois
Claims Court Number 90–3997 V
40. Ira Gershenson on behalf of Adam Gershenson, Merrick, New York
Claims Court Number 90–4005 V
41. Regina Batalgia, Mountain Home, Idaho
Claims Court Number 90–4006 V
42. Jay Wolf on behalf of Steven Wolf, Lubbock, Texas
Claims Court Number 90–4014 V
43. Gregory and Sheri Foulk on behalf of Rebekah Foulk, Boise, Idaho
Claims Court Number 90–4016 V
44. Donna Brittain on behalf of Joel Brittain, West Saint Paul, Minnesota
Claims Court Number 90–4019 V
45. John Petrochko, Nanticoke, Pennsylvania
Claims Court Number 90–4023 V
46. Robert Millard, El Paso, Texas
Claims Court Number 90–4024 V
47. Eddie Strickland on behalf of Marvin Strickland, Shreveport, Louisiana
Claims Court Number 90–4026 V
48. Beth Newton on behalf of Kate Newton, Lincoln, Nebraska
Claims Court Number 90–4028 V
49. Arnold Mass on behalf of Andrew Mass, Highland Park, Illinois
Claims Court Number 90–4033 V
50. Griffin and Mary Banker on behalf of Gwendolyn and Carol Banker, Deceased, Birmingham, Alabama
Claims Court Number 90–4041 V
51. Barry Robinson on behalf of Carol Robinson, Greenville, Texas
Claims Court Number 91–0001 V
52. John Zuback on behalf of Steven Zuback, Washington, DC
Claims Court Number 91–0002 V
53. Oly Magown, Houston, Texas
Claims Court Number 91–0003 V
54. Ruth Winters on behalf of Eric Winters, Chicago, Illinois
Claims Court Number 91–0004 V
55. Jacqueline Byrd on behalf of Bennie Scott, Deceased, Chicago, Illinois
Claims Court Number 91–0005 V
56. Pamela Herzer, Gaylord, Michigan
Claims Court Number 91–0006 V
57. Gary Satterlee, Saint Maries, Idaho
Claims Court Number 91–0007 V
58. Terry Matlen on behalf of Mackenzie Matlen, Birmingham, Michigan
Claims Court Number 91–0012 V
59. Heinz Hartman on behalf of Michael Hartman, Syracuse, New York
Claims Court Number 91–0013 V
60. Robert Siteman, Salt Lake City, Utah
Claims Court Number 91–0014 V
61. Carl Sanger, Winnfield, Louisiana
Claims Court Number 91–0015 V
62. Patricia Maestas on behalf of Anita Molinari, Deceased, Whittier, California
Claims Court Number 91–0017 V
63. William McLennan, Toledo, Ohio
Claims Court Number 91–0019 V
64. Kaye Sheperd on behalf of Mark Bartels, Houston, Texas
Claims Court Number 91–0026 V
65. Rachel Verdon, Glastonbury, Connecticut
Claims Court Number 91–0027 V
66. Lucinda Gaglio on behalf of Jessica Gaglio, Coldwater, Michigan
Claims Court Number 91–0029 V
67. Edgar and Patsy Rorie on behalf of Heather Rorie, Charlotte, North Carolina
Claims Court Number 91–0036 V
68. Wayne Mazzella on behalf of Marilyn Mazzella, Staten Island, New York
Claims Court Number 91–0041 V
69. Zvi and Jacqueline Greismann on behalf of Dena Greismann, Baltimore, Maryland
Claims Court Number 91–0045 V
70. William Lewis on behalf of Misty Lewis, Cleveland, Tennessee
Claims Court Number 91–0047 V
71. Jay and Sheree Jessup on behalf of Jennifer Jessup, Deceased, San Antonio, Texas
Claims Court Number 91–0049 V
72. Brenda Fusco on behalf of Jessica Fusco, Hackensack, New Jersey
Claims Court Number 91–0052 V
73. Debra Wright on behalf of Delisha Kemp, Burlington, New Jersey
Claims Court Number 91–0053 V
74. Lucie Alexander on behalf of Robert Alexander, Mill Valley, California
Claims Court Number 91–0056 V
75. Jamie Smith on behalf of Brian Morris, Harrisville, Michigan
Claims Court Number 91–0057 V
76. Ilene Navetta on behalf of Terese Navetta, Deceased, Detroit, Michigan
Claims Court Number 91–0058 V
77. Angela Boggs, Detroit, Michigan
Claims Court Number 91–0059 V
78. Tammy Kay on behalf of Randy Kay, Mount Clemens, Michigan
Claims Court Number 91–0061 V
79. James J. Park on behalf of James A. Park, Brooklyn, New York
Claims Court Number 91–0062 V
80. Margaret Craycraft on behalf of Chad Lee, Deceased, Albia, Iowa
Claims Court Number 91–0063 V
81. Darlene Garon, Jamaica Queens, New York
Claims Court Number 91–0064 V
82. Scott Krieger, Forest Grove, Oregon

Claims Court Number 91–0065 V
83. Nan Smith on behalf of Melody Smith, Crowell, Texas
Claims Court Number 91–0067 V
84. Delores Staszak on behalf of Elroy Staszak, Wausau, Wisconsin
Claims Court Number 91–0068 V
85. Bernardine Cervenka on behalf of Craig Cervenka, Deceased, Chicago, Illinois
Claims Court Number 91–0070 V
86. Sandra Traynor, Syracuse, New York
Claims Court Number 91–0071 V
87. Dallas Bee, Grundy Center, Iowa
Claims Court Number 91–0072 V
88. Morton Arones on behalf of Carol Arones, Deceased, Richmond, Virginia
Claims Court Number 91–0073 V
89. Brian Kiddle on behalf of Edwin Kiddle, Hampton, Virginia
Claims Court Number 91–0074 V
90. John Licitra on behalf of Charles Licitra, Syracuse, New York
Claims Court Number 91–0075 V
91. Lucy Arno on behalf of Jessica DeLozier, Berlin, New Jersey
Claims Court Number 91–0076 V
92. Marion McNeill on behalf of Jennifer McNeill, Gouverneur, New York
Claims Court Number 91–0077 V
93. Danny Hewitt on behalf of Danny Hewitt, Jr., Amarillo, Texas
Claims Court Number 91–0078 V
94. Manuel Abea on behalf of Yasser Abea, Los Angeles, California
Claims Court Number 91–0080 V
95. Eileen Meneghin on behalf Kaitlyn Meneghin, Deceased, Fair Lawn, New Jersey
Claims Court Number 91–0081 V
96. Carmelo Rivas on behalf of David Rivas, San Antonio, Texas
Claims Court Number 91–0082 V
97. Betty Szilagzi on behalf of Brian Miller, Erie, Pennsylvania
Claims Court Number 91–0083 V
98. Karen McCaig-Smith, Freeport, New York
Claims Court Number 91–0084 V
99. Vickie Irwin, Mauldin, South Carolina
Claims Court Number 91–0085 V
100. Ronnie Perry on behalf of Kyle Perry, Tampa, Florida
Claims Court Number 91–0086 V
101. Peter Dancak on behalf of Tracy Dancak, Deceased, New York, New York
Claims Court Number 91–0087 V
102. Edith Marple on behalf of Dwain Marple, Deceased, Lebanon, Kentucky
Claims Court Number 91–0088 V
103. Donald and Thelma Davis on behalf of Gary Davis, Deceased, Ransom, Kansas
Claims Court Number 91–0089 V
104. Jack Riismandel on behalf of Andrew Riismandel, Deceased, Washington, DC
Claims Court Number 91–0091 V
105. Charles Murphy on behalf of Patrick Murphy, Baltimore, Maryland
Claims Court Number 91–0092 V
106. Ruth Miller on behalf of Michael Miller, Deceased, Cumberland, Maryland
Claims Court Number 91–0093 V
107. Paulette Kogge on behalf of Lauren Kogge, Kalamazoo, Michigan
Claims Court Number 91–0094 V
108. William Sanko on behalf of Gregory Sanko, Deceased, Erie, Pennsylvania
Claims Court Number 91–0095 V
109. Margaret Smith on behalf of Ginger Smith, Deceased, San Diego, California
Claims Court Number 91–0099 V
110. Andrea Williams on behalf of Keenion Sanders, Deceased, Kansas City, Missouri
Claims Court Number 91–0100 V
111. Barry Hood on behalf of Ann Hood, Deceased, Langley A.F.B., Langley, Virginia
Claims Court Number 91–0101 V
112. Howard Beets on behalf of Christopher Beets, Casa Grande, Arizona
Claims Court Number 91–0102 V
113. Kathleen Perez on behalf of Brandon Thayer, Orlando, Florida
Claims Court Number 91–0103 V
114. B.J. Chamblee on behalf of Jorjanne Chamblee, Jackson, Mississippi
Claims Court Number 91–0104 V
115. Margot and Robert Gurney on behalf of Judy Gurney, Tempe, Arizona
Claims Court Number 91–0105 V
116. Jack Hughes, Houston, Texas
Claims Court Number 91–0106 V
117. Anne Beetel, Camden, New Jersey
Claims Court Number 91–0107 V
118. Beverly Soholt on behalf of Sonya Soholt, Midland, Texas
Claims Court Number 91–0108 V
119. Vicki Milton on behalf of Joshua Milton, Sacramento, California
Claims Court Number 91–0110 V
120. Marilyn Stockton on behalf of Tommy Stockton, Hobart, Oklahoma
Claims Court Number 91–0111 V
121. William Kircher and Sheila Blunier on behalf of Ryan Kircher, Pekin, Illinois
Claims Court Number 91–0112 V
122. Richard and Julia Jordan on behalf of Kara Jordan, Deceased, Eaton, Ohio
Claims Court Number 91–0113 V
123. Queen Standokes on behalf of Ezekiel Standokes, San Antonio, Texas
Claims Court Number 91–0114 V
124. Justin Baker on behalf of Dylan Baker, Belle Fourche, South Dakota
Claims Court Number 91–0115 V
125. Edna Vadja, Cheyenne, Wyoming
Claims Court Number 91–0116 V
126. Traci Johnson, Rapid City, South Dakota
Claims Court Number 91–0117 V
127. Benny and Adela Brito on behalf of Anna Brito, Lubbock, Texas
Claims Court Number 91–0118 V
128. Marlene Phillips, Gettysburg, Pennsylvania
Claims Court Number 91–0119 V
129. John Blake on behalf of Emily Blake, Durham, North Carolina
Claims Court Number 91–0120 V
130. Elmer and Maria Naylor on behalf of Esmeralda Naylor, Westminster, California
Claims Court Number 91–0121 V
131. David Cervantes, El Paso, Texas
Claims Court Number 91–0122 V
132. Susan and William Salmond on behalf of Lisa Salmond, Westfield, New Jersey
Claims Court Number 91–0123 V
133. Andrea Schueler on behalf of Tobin Schueler, Oxford, Ohio
Claims Court Number 91–0124 V
134. Clarissa Price on behalf of Brandon Price, Deceased, Lawton, Oklahoma
Claims Court Number 91–0125 V
135. Vickie White on behalf of Michael Owens, Concord, North Carolina
Claims Court Number 91–0126 V
136. Fayne Samuels on behalf of Frank Samuels, Deceased, Los Angeles, California
Claims Court Number 91–0127 V
137. Patricia Baker on behalf of Kimberly Baker, Texas City, Texas
Claims Court Number 91–0128 V
138. Keith Kowalis on behalf of Kory Kowalis, Peoria, Illinois
Claims Court Number 91–0129 V
139. David Blankenbecker on behalf of Amanda Blankenbecker, Port Clinton, Ohio
Claims Court Number 91–0130 V
140. Richard and Barbara Bullard on behalf of Kirk Bullard, Shelbyville, Indiana
Claims Court Number 91–0131 V
141. James Duis, Buchanan, Michigan
Claims Court Number 91–0132 V
142. Franklin Parker, II, New Bern, North Carolina
Claims Court Number 91–0133 V
143. Ibrahim Lauandos on behalf of Christina Lauandos, Deceased, Yardley, Pennsylvania
Claims Court Number 91–0134 V
144. Hugh O'Kane on behalf of Hugh O'Kane, Jr., Deceased, Saint Paul, Minnesota
Claims Court Number 91–0135 V
145. Nicholas Keating on behalf of Eric Keating, Omaha, Nebraska
Claims Court Number 91–0136 V
146. Mary Kennedy on behalf of Shannon Kennedy, Deceased, Langhorne, Pennsylvania
Claims Court Number 91–0137 V
147. Linda Gimbert on behalf of Jonathan Gimbert, Norfolk, Virginia
Claims Court Number 91–0138 V
148. Michael Thompson on behalf of Sara Thompson, McGehee, Arkansas
Claims Court Number 91–0139 V
149. Christine Normoyle on behalf of Kathleen Normoyle, Port Jefferson, New York
Claims Court Number 91–0140 V
150. Elizabeth Pipkins on behalf of Daniel Pipkins, Deceased, Phoenix, Arizona
Claims Court Number 91–0141 V
151. Jana Cates on behalf of Jason Cates, Deceased, Tulsa, Oklahoma
Claims Court Number 91–0142 V
152. Joyce Jones on behalf of Katie Jones, Bangor, Maine
Claims Court Number 91–0143 V
153. Catherine Hinds on behalf of James Hinds, Deceased, Martinez, California
Claims Court Number 91–0144 V
154. Veronica Hulse on behalf of Paul Green, East Rockaway, New York
Claims Court Number 91–0145 V
155. Maria Centolella on behalf of Nicolene Centolella, Deceased, Utica, New York
Claims Court Number 91–0146 V
156. William Davies on behalf of Heather Davies, Youngstown, Ohio
Claims Court Number 91–0147 V
157. Clyde Hopson on behalf of Kevin Hopson, Kennewick, Washington
Claims Court Number 91–0148 V
158. Donald M. Lovell on behalf of Donald T. Lovell, Littlestown, Pennsylvania

Claims Court Number 91–0149 V
159. Suzanne Hughes on behalf of Nicholas Hensley, Houston, Texas
Claims Court Number 91–0150 V
160. Anice LaCroix on behalf of Charles LaCroix, Columbia, Louisiana
Claims Court Number 91–0151 V
161. Marty Bates, Anadarko, Oklahoma
Claims Court Number 91–0152 V
162. Michael Morrison, Canton, Ohio
Claims Court Number 91–0153 V
163. Keith Gapen on behalf of Derek Gapen, Birmingham, Alabama
Claims Court Number 91–0154 V
164. Christian Galvin, New Bern, North Carolina
Claims Court Number 91–0155 V
165. Phyliss Van Baugh on behalf of Abigail Van Baugh, Vallejo, California
Claims Court Number 91–0156 V
166. Jean Beard on behalf of Iona Beard, Mountain Home, Idaho
Claims Court Number 91–0157 V
167. Jean Durdin on behalf of Rebecca Moore, Miami, Florida
Claims Court Number 91–0158 V
168. Aubrey Aramaki on behalf of Karen Aramaki, Redmond, Washington
Claims Court Number 91–0159 V
169. Virginia Kirby on behalf of Kristie Kirby, Deceased, Yakima, Washington
Claims Court Number 91–0160 V
170. Teresa and Donald Cooke on behalf of Eric Cooke, Knoxville, Tennessee
Claims Court Number 91–0161 V
171. George Vomberg on behalf of Amber Vomberg, Milwaukee, Wisconsin
Claims Court Number 91–0162 V
172. Kathleen Saugstad on behalf of Christian Saugstad, Anchorage, Alaska
Claims Court Number 91–0163 V
173. Dorothy Weintraut on behalf of Cynthia Weintraut, Sewell, New Jersey
Claims Court Number 91–0164 V
174. Rosetta Flecther on behalf of Tammy Ruth Fletcher, Binghamton, New York
Claims Court Number 91–0165 V
175. Kathleen Woodward, Trenton, New Jersey
Claims Court Number 91–0166 V
176. Patrick Wysocki on behalf of Rebecca Wysocki, Apollo, Pennsylvania
Claims Court Number 91–0167 V
177. Gary and Jean Sholly on behalf of Amanda Sholly, Elmendorf A.F.B., Alaska
Claims Court Number 91–0168 V
178. Brian Gruenberg on behalf of Heidi Gruenberg, Joplin, Missouri
Claims Court Number 91–0170 V
179. William Scholl on behalf of Thomas Scholl, Tucson, Arizona
Claims Court Number 91–0171 V
180. Patricia Shifflett on behalf of Kurt Shifflett, Salt Lake City, Utah
Claims Court Number 91–0172 V
181. Virginia Russell on behalf of William Russell, Deceased, Colonie, New York
Claims Court Number 91–0173 V
182. Tanya Coe on behalf of Bradley Coe, Jonesville, North Carolina
Claims Court Number 91–0177 V
183. Aaron Gancz on behalf of Sarah Gancz, New York City, New York
Claims Court Number 91–0178 V
184. Paul and Nora Combs on behalf of Brian Combs, Jackson, Kentucky
Claims Court Number 91–0179 V
185. Leslie and Jean Hubbard on behalf of Jeffrey Hubbard, Towson, Maryland
Claims Court Number 91–0180 V
186. David and Anita Garcia on behalf of Christine Garcia, Elizabeth, New Jersey
Claims Court Number 91–0181 V
187. Dorothy Benedict on behalf of Karen Benedict, Cincinnati, Ohio
Claims Court Number 91–0182 V
188. Joyce Witt on behalf of Brandie Witt, Newark, Ohio
Claims Court Number 91–0183 V
189. Lisa, Norris, Bridgeport, Connecticut
Claims Court Number 91–0184 V
190. JoAnne Bour, Scranton, Pennsylvania
Claims Court Number 91–0185 V
191. Arthur Wilcox on behalf of Dominic Wilcox, Seattle, Washington
Claims Court Number 91–0186 V
192. Becky Rives-Jernigan on behalf of Robert Jernigan, Ponca City, Oklahoma
Claims Court Number 91–0187 V
193. Louis and Peggy Torcivia on behalf of Steven Torcivia, Columbus, Georgia
Claims Court Number 91–0188 V
194. Russell Versemann on behalf of Matthew Versemann, Cheyenne, Wyoming
Claims Court Number 91–0189 V
195. Carol and William Halloran on behalf of Stacy Halloran, Rochester, New York
Claims Court Number 91–0190 V
196. Richard Frisch, Seattle, Washington
Claims Court Number 91–0191 V
197. Yip Mark on behalf of Pomean Mark, New York City, New York
Claims Court Number 91–0192 V
198. Darrel Noble on behalf of Jeremy Noble, Deceased, Farmington, Utah
Claims Court Number 91–0193 V
199. Susan Cohen on behalf of Andrew R. Cohen, Lauderhill, Florida
Claims Court Number 91–0194 V

Dated: June 15, 1994.

Ciro V. Sumaya,

Administrator.

[FR Doc. 94–15014 Filed 6–20–94; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

Uniform Biological Material Transfer Agreement: Request for Comments

AGENCY: National Institutes of Health (NIH), Public Health Service, DHHS.

BACKGROUND: Open access to the results of federally-funded research is a cornerstone of NIH's research policy. In the case of many research projects, this includes not only access to information as can be provided in publications, but also access to biological research materials necessary to replicate or build on the initial results. Frequently, the exchange of research materials between scientists and separate institutions involves case-by-case negotiation of material transfer agreements (MTAs). In order to guide and facilitate the increasing number of such transfers, the Public Health Service (PHS) issued in 1988, a "Policy Relating to Distribution of Unique Research Resources Produced with PHS Funding" (NIH GUIDE FOR GRANTS AND CONTRACTS, Vol. 17, No. 29, September 16, 1988: pg. 1), that was followed in 1989 by adoption of a standard Material Transfer Agreement form for use by NIH scientists. Such agreements are important because they require the recipient to use care in the handling of the materials, to maintain control over the distribution of the materials, to acknowledge the provider in publications, and to follow relevant Public Health Service (PHS) guidelines relating to recombinant DNA, human subjects research, use of animals, etc. However, while most institutions have adopted some standard material transfer agreement form, they are not all consistent.

ISSUE: Several concerns have affected the sharing of research materials. These include delays in sharing of materials while conducting negotiations on individual MTAs, required grants of invention rights to improvements to the materials or to inventions made using the materials, and required approval prior to publication. Such problems have resulted in significant delays in sharing materials, undue administrative barriers to sharing, and in some cases, lack of availability of materials for further research by federal grantees. (For reports and discussion of these issues, please refer to The New Biologist, Vol. 2, No. 6, June 1990: pp. 495–497; and Science, Vol. 248, 25 May, 1990: pp. 952–957).

In addition, there is a desire to have a uniform agreement for the sharing of non-proprietary materials.

PROPOSAL: The NIH, in participation with representatives of academia and industry, has coordinated the development of a proposed uniform biological material transfer agreement (UBMTA) to address concerns about contractual obligations imposed by some MTAs and to simplify the process of sharing proprietary materials between non-profit institutions. The Association of University Technology Managers, particularly Ms. Joyce Brinton, Harvard University; Ms. Lita Nelsen, Massachusetts Institute of Technology; and Dr. Sandra Shotwell, Oregon Health Sciences University, have played leadership roles in furthering the development of common materials sharing practices. The consistent use of this agreement by grantee institutions could reduce the administrative burden

of sharing materials as investigators come to rely on common acceptance of the terms of the UBMTA by cooperating institutions.

The NIH proposes that the UBMTA be considered for general use in the exchange of materials for research purposes between non-profit institutions. While use of the UBMTA may not be appropriate for every material transfer, if used for the majority of transfers, it could set standards for materials sharing that would be of long term benefit to the research enterprise and to the public health.

As a further suggestion to simplify the process of materials sharing, it is proposed that the UBMTA be approved at the institutional level, and handled in a treaty format, so that individual transfers could be made with reference to the UBMTA, without the need for separate negotiation of an individual document to cover each transfer. As a result, transfers of biological materials would be accomplished by an implementing letter (see sample) containing a description of the material, a statement indicating that the material was being transferred in accordance with the terms of the UBMTA and signed by the Provider Scientist and the Recipient Scientist. Thus, sharing of materials between institutions, each of which had signed the UBMTA, would be significantly simplified. At the same time, any institution would retain the option to handle a specific material on a customized basis, i.e., the use of the UBMTA would not be mandatory, even for signatory institutions.

For non-proprietary materials, a Simple Letter Agreement has also been developed, which incorporates many of the same principles as the UBMTA. This Letter Agreement could be used where the institutions have not agreed to the UBMTA.

The full text of the treaty version of the UBMTA, the implementing letter, and a simple one-page letter agreement for non-proprietary material follows. The NIH welcomes public comment on the documents themselves, as well as their proposed use. Comments should be addressed to: UBMTA Project, c/o Office of Technology Transfer, Box 13, 6011 Executive Boulevard, Rockville, MD 20852–3804. Comments may also be sent by facsimile transmission to: UBMTA Project at (301) 402–0220.

DATES: Comments must be received by NIH on or before July 21, 1994.

Dated: May 26, 1994

Donald P. Christoferson,

Acting Director, Office of Technology Transfer.

Master Agreement Regarding Use of the Uniform Biological Material Transfer Agreement (UMBTA) for Exchanges of Biological Material Between Non-Profit Institutions

Upon execution of an Implementing Letter in the form attached which specifies the materials to be transferred, this institution agrees to be bound by the terms of the Non-Profit to Non-Profit UBMTA, dated _____ also attached.

Enclosures: Implementing Letter format
UBMTA
Institution:
Address:
Authorized Official:
Title:
Signature:
Date:

Sample UBMTA Implementing Letter

Definitions:

Provider: Institution providing the Original Material (Enter name and address here):

Provider's Scientist (Enter name and address here):

Recipient: Institution receiving the Original Material (Enter name and address here):

Recipient's Scientist (Enter name and address here):

Original Material (Enter description):

Provider has filed patent applications claiming the Material or uses thereof:

Yes No

If Provider has granted any rights to a third party (other than the customary rights granted to the federal government or non-profit foundations) which would affect Recipient, those rights are specified below:

Termination date for this letter (if any is to be specified):

The parties executing this Implementing Letter agree to be bound by the terms of the Non-Profit to Non-Profit UBMTA for the transfer specified above:

Agreed:
Provider
Institution:
Address:
Provider Scientist
Name:
Title:
Signature:
Date:
Recipient
Institution:
Address:
Recipient Scientist
Name:
Title:
Signature:
Date:

Certification: I hereby certify that the Recipient institution has accepted and signed an unmodified copy of the _____ version of the Uniform Biological Material Transfer Agreement (UBMTA) developed in cooperation with the National Institutes of Health.

Recipient's Institutional Certification
(Authorized signature)
(Date)

Non-Profit To Non-Profit Uniform Biological Material Transfer Agreement

(Date)—Treaty Version

Developed In Cooperation With The National Institutes Of Health

Definitions:

Provider: Institution providing the Original Material. (Name and address to be specified in an implementing letter)

Provider's Scientist: (Name and address to be specified in an implementing letter)

Recipient: Institution receiving the Original Material. (Name and address to be specified in an implementing letter)

Recipient's Scientist: (Name and address to be specified in an implementing letter)

Original Material: (Description to be specified in an implementing letter)

Material: Original Material plus Progeny and Unmodified Derivatives. The Material shall not include: (i) Modifications or (ii) other substances created by the Recipient through the use of the Material which are not Progeny or Unmodified Derivatives.

Progeny: Unmodified descendant from the Material, such as virus from virus, cell from cell, or organism from organism.

Unmodified Derivatives: Substances created by Recipient which constitute an unmodified functional sub-unit or an expression product of the Original Material. Some examples include: subclones of unmodified cell lines, purified or fractionated sub-sets of the Original Material, proteins expressed by DNA/RNA supplied by Provider, monoclonal antibodies secreted by a hybridoma cell line, sub-sets of the Original Material such as novel plasmids or vectors.

Modifications: Substances created by Recipient which contain/incorporate the Material (Original Material, Progeny or Unmodified Derivatives).

Terms and Conditions of this Agreement

1. The Material is the property of Provider and is to be used by Recipient solely for research purposes at Recipient's institution and only under

the direction of the Recipient's Scientist. The Material will not be used in human subjects or in clinical trials involving human subjects without the written permission of Provider. Patent applications claiming the Material or uses thereof to be specified in an implementing letter.

2. The Recipient's Scientist agrees not to transfer the Material to anyone who does not work under his or her direct supervision at Recipient's institution without the prior written consent of Provider. Recipient's Scientist shall refer any request for the Material to Provider. To the extent supplies are available, Provider or Provider's Scientist agrees to make the Material available under a UBMTA to other scientists (at least those at non-profit or governmental institutions) who wish to replicate Recipient's Scientist's research.

3. (a) Recipient shall have the right, without restriction to distribute substances created by Recipient through the use of the Material only if those substances are not Progeny, Unmodified Derivatives, or Modifications.

(b) Upon notice to Provider and under a UBMTA (or an agreement at least as protective of Provider's rights), Recipient may distribute Modifications to non-profit or governmental organizations for research purposes only.

(c) Upon written permission from Provider, Recipient may distribute Modifications for commercial use. It is recognized by Recipient that such commercial use may require a commercial license from Provider and Provider has no obligation to grant such a commercial license. Nothing in this paragraph, however, shall prevent Recipient from granting commercial licenses under Recipient's patent rights claiming such Modifications.

4. (a) Ownership of tangible property as between Provider and Recipient is defined in Attachment A.

(b) Recipient is free to file patent applications claiming inventions made by Recipient through the use of the Material but agrees to notify Provider upon filing a patent application claiming Modifications or uses of the Material.

5. (a) Except as expressly provided in this Agreement, no rights are provided to Recipient under any patents, patent applications, trade secrets or other proprietary rights of Provider. In particular, no rights are provided to use the Material or Modifications and any related patents of Provider for profit-making or commercial purposes, such as sale of the Material or Modifications, use in manufacturing, provision of a service to a third party in exchange for consideration (not including sponsored research activities except as provided for in 5(b).

(b) If Recipient desires to use the Material or Modifications for such profit-making or commercial purposes, Recipient agrees, in advance of such use, to negotiate in good faith with Provider to establish the terms of a commercial license. It is understood by Recipient that Provider shall have no obligation to grant such a license to Recipient, and may grant exclusive or non-exclusive commercial licenses to others.

6. The provision of the Material to Recipient shall not alter any pre-existing right to the Material. If Provider has granted any rights to a third party (other than the customary rights granted to the Federal Government or non-profit foundations) which would affect Recipient, those rights will be identified by Provider in an implementing letter.

7. Any Material delivered pursuant to this Agreement is understood to be experimental in nature and may have hazardous properties. Provider makes no representations and extends no warranties of any kind, either expressed or implied. There are no express or implied warranties of merchantability or fitness for a particular purpose, or that the use of the material will not infringe any patent, copyright, trademark, or other proprietary rights.

8. Except to the extent prohibited by law, Recipient assumes all liability for damages which may arise from its use, storage or disposal of the Material. Provider will not be liable to Recipient for any loss, claim or demand made by Recipient, or made against Recipient by any other party, due to or arising from the use of the Material by Recipient, except to the extent permitted by law when caused by the gross negligence or willful misconduct of Provider.

9. This agreement shall not be interpreted to prevent or delay publication of research findings resulting from the use of the Material or Modifications. Recipient's Scientist agrees to provide appropriate acknowledgement of the source of the Material in all publications.

10. Recipient agrees to use the Material in compliance with all applicable statutes and regulations, including Public Health Service and NIH regulations and guidelines such as, for example, those relating to research involving the use of animals or recombinant DNA.

11. (a) This Agreement will terminate on the earliest of the following dates: (1) when the Material becomes generally available from third parties, for example, through reagent catalogs or public depositories, or (2) on completion of Recipient's current research with the Material, or (3) on thirty (30) days written notice by either party to the other, or (4) on the date specified in an implementing letter. Paragraphs 7 and 8 shall survive termination.

(b) If termination should occur under 11(a)(1), Recipient shall be bound to the Provider by the least restrictive terms applicable to Material obtained from the then-available sources.

(c) Except as provided in 11.(d) below, on termination of this Agreement under 11.(a)(2), (3), or (4) above, Recipient will discontinue its use of the Material and will, upon direction of Provider, return or destroy any remaining Material. Recipient will also either destroy Modifications or remain bound by the terms of paragraphs 4 and 5 as they apply to Modifications.

(d) In the event Provider terminates this Agreement under 11.(a)(3) other than for breach of this Agreement or with cause such as an imminent health risk or patent infringement, Provider will defer the effective date of termination for a period of up to one year, upon request from Recipient, to permit completion of research in progress.

12. The Material is provided free or with a fee solely to reimburse Provider for its distribution costs. If a fee is requested, it will be enumerated in an implementing letter.

Attachment A

Belonging to Provider

Material
Original Material
Progeny
Unmodified Derivatives

Belonging to Recipient

Modifications (however, Provider retains ownership rights to any form of the Material included therein)

Those substances created through the use of the Material or Modifications, but which are not Progeny, Unmodified Derivatives or Modifications (e.g., do not contain the Original Material or Unmodified Derivatives).

*If resulting from the collaborative efforts of Provider and Recipient, joint ownership may be negotiated.

Simple Letter Agreement for Transfer of Non-Proprietary Biological Material From Non-Profit to Non-Profit

(Recipient)
TO:
Address:
(Provider)
FROM:

Address:

Re: Biological Material Identified as:

In response to Recipient's request for the above-identified Biological Material, Provider's institution asks that Recipient and Recipient's Scientist agree to the following before Recipient receives the Biological Material:

1. The above Biological Material is the property of Provider and is made available as a service to the research community.

2. The Biological Material will be used for research purposes only.

3. The Biological Material will not be further distributed to others without Provider's written permission; except such permission is not required where Recipient agrees, upon request, to provide the Biological Material (subject to its availability) or enabling information to appropriate investigators solely for the purpose of replicating or verifying Recipient's research.

4. Recipient agrees to acknowledge the source of the Biological Material in any publications reporting use of it.

5. The Biological Material is experimental in nature and it is provided without any warranties, express or implied, including any warranty of merchantability or fitness for a particular purpose. Recipient and Recipient's Scientist agree to assume all liability for damages which arise from use, storage or disposal of the Biological Material.

6. Recipient agrees to use Biological Material in compliance with all applicable statutes and regulations, including, for example, those relating to research involving the use of human and animal subjects or recombinant DNA.

Recipient and Recipient's Scientist should sign both copies of this letter and return one signed copy to Provider. Provider will then forward the Biological Materials.

Provider

(signature) (date)

Recipient's Scientist

(signature) (date)

Recipient Institutional Approval

(authorized signature)

(date)

Name:

Title:

Address:

[FR Doc. 94–14991 Filed 6–20–94; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–4210–05; N–58742]

Notice of Realty Action: Lease/Purchase for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose lease/purchase.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/purchase for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The West Oakey Baptist Church proposes to use the land for a church facility

Mount Diablo Meridian, Nevada

T. 21 S., R. 60 E.,

Sec. 3: Lots 88, 89, 90:

Containing 16.050 acres, more or less.

The land is not required for any federal purpose. The lease/purchase is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement in favor of the City of Las Vegas for roads, public utilities and flood control purposes as follows: 30 feet wide on the south boundaries of Lots 88, 89, and 90, 30 feet wide along the east boundary of Lot 90 together with 15 foot radius corners at the NE and SE corners of Lot 90.

2. Those rights for roadway purposes which have been granted to the City of Las Vegas by Permit No. N–51520 under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for a well site which have been granted to the Las Vegas Valley Water District by Permit No. N–53360 under the Act of October 21, 1976 (43 U.S.C. 1761).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/purchase under the Recreation and Public Purposes Act, leasing under the mineral leasing laws and disposals under the mineral disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/purchase until after the classification becomes effective.

Dated: June 8, 1994.

Colin P. Christensen,

Acting District Manager, Las Vegas, NV.

[FR Doc. 94–14935 Filed 6–20—94; 8:45 am]

BILLING CODE 4310–HC–M

[SC–150–9420–10–24–1A]

Transportation Planning Process

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice, availability of transportation planning document.

SUMMARY: This notice is to inform interested parties of proposed changes in the transportation planning process of the Bureau of Land Management. A document which describes the proposed changes is available for public review and comment.

DATES: Comments should be submitted by August 5, 1994. Comments will also be taken at the annual meeting of the Western Association of State Highway and Transportation Officials (WASHTO) on July 18, 1994 at Vail, Colorado.

ADDRESSES: Send comments to: Larry Hoovestol, Service Center (SC–150), Bureau of Land Management, Building 50, Denver Federal Center, Denver, Colorado 80225.

Copies of the Bureau of Land Management's transportation planning process are available at the address above.

FOR FURTHER INFORMATION CONTACT: Larry Hoovestol, Bureau of Land Management, 303–969–5665; or Curt Page, Federal Highway Administration, 202–366–9489.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management (BLM) is

revising its Transportation Planning Process. The revised process will more effectively link the transportation access needs identified in BLM resource management plans with the respective State's Department of Transportation (SDOT) Statewide Transportation Plan. The purpose is better coordination in fulfilling the intent and requirements of Section 135, 23 U.S.C., as amended by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

Further, the BLM will coordinate with State, county, Tribal, and local governments to identify and designate a Land Management Highway System (LMHS). The LMHS will consist of those public roads that provide major public access to BLM-administered public lands, resources, and facilities.

Denise Meridith,

Deputy Director.

[FR Doc. 94–15064 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–84–M

[WY–930–4210–06; WYW 130396]

Notice of Open House Concerning Proposed Withdrawal; Porcupine and Bucking Mule Creeks; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and agenda for an open house concerning a pending Forest Service withdrawal application. The open house will provide a forum to answer questions and allow public comment concerning the proposed withdrawal of National Forest System land to protect potential Wild and Scenic River values within Porcupine and Bucking Mule Creeks near Lovell, Wyoming. The Bureau of Land Management (BLM) and Forest Service will jointly host the open house, and invite the public to participate. All comments will be considered when a final determination is made on whether this land should be withdrawn.

DATES: July 21, 1994, 5:00–9:00 p.m.

ADDRESSES: The open house will be held at the National Guard Armory located at 360 East Fifth in Lovell, Wyoming.

FOR FURTHER INFORMATION CONTACT: Dennis Eckardt, District Ranger, Medicine Wheel Ranger District, U.S. Forest Service, P.O. Box 367, Lovell, Wyoming 82431. (307–548–6541)

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for Porcupine and Bucking Mule Creeks was published in the **Federal Register** on February 1, 1994, (Vol. 59, No. 21, page 4722), and involves withdrawing 4,800 acres of National Forest land in Big Horn County, Wyoming, from location and entry under the United States mining laws, subject to valid existing rights.

Interested parties may provide written statements within 30 days after the open house to the State Director, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003.

Dated: June 16, 1994.

F. William Einkenberry,

Associate State Director.

[FR Doc. 94–15115 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–22–P

[WY–930–4210–06; WYW 130940]

Notice of Open House Concerning Proposed Withdrawal; Notice of Intent To Conduct a Planning Review; Devil Canyon Area; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Worland District, Cody Resource Area, of the Bureau of Land Management (BLM) will host an open house to provide a forum to answer questions and allow public comment concerning the proposed withdrawal of public land from settlement, location, or entry under the general land laws, including the mining laws, to protect scenic, recreational, and cultural resource values in the Devil Canyon area near Lovell, Wyoming. The public is invited to participate. All comments will be considered when a final determination is made on whether this land should be withdrawn. In addition, the open house will provide the public an opportunity to identify concerns to be addressed in a planning review of existing management prescriptions associated with management of the resource values in Devil Canyon.

DATES: July 21, 1994, 5:00–9:00 p.m.

ADDRESSES: The open house will be held at the National Guard Armory located at 360 East Fifth in Lovell, Wyoming.

FOR FURTHER INFORMATION CONTACT: Dave Atkins, District Outdoor Recreation Planner at the Bureau of Land Management, Worland District Office, P.O. Box 119, Worland, Wyoming 82401–0119, 307–347–9871.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for the Devil Canyon area was published in the **Federal Register** on February 1, 1994 (Vol. 59, No. 21, page 4721), and involves 7,202 acres of public land and Federal minerals, and 320 acres of Federal minerals underlying private lands in Big Horn County, Wyoming. This area includes portions of Porcupine Creek, Oasis Spring, Trout Creek, and Deer Creek drainages, near Lovell, Wyoming. The open house will also provide the public an opportunity to evaluate the implications, needs, and issues associated with management of the unique scenic, recreational, and cultural values located in the Devil Canyon area.

The resource values involved were instrumental in identifying much of the BLM administered public lands in the area under review for special management emphasis and designation as an area of critical environmental concern (ACEC), and in the BLM lands along the mentioned waterways being found to meet the Wild and Scenic Rivers suitability factors.

The planning review will identify any need for additional management prescriptions or actions, as appropriate. Management actions to consider include closure of the area to settlement, location, or entry under the general land laws, including the mining laws. If the final determinations of the planning review result in withdrawing the lands as proposed or in changing any other existing management direction or adding new management direction for the BLM administered public lands involved, the Cody Resource Management Plan (RMP) would be amended, accordingly, in the process.

The open house will be held jointly with the Forest Service, since the upper portion of Porcupine Creek has also been proposed for withdrawal by the Forest Service. Interested parties may provide written statements within 30 days after the open house to the State Director, Bureau of Land Management, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003.

Dated: June 16, 1994.

F. William Einkenberry,

Associate State Director.

[FR Doc. 94–15114 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–22–P

U.S. Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for a Permit To Allow Incidental Take of the Endangered Blunt-Nosed Leopard Lizard and Threatened San Joaquin Kit Fox by the City of Bakersfield in Kern County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the City of Bakersfield (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The application has been assigned permit number PRT–786634. The requested permit would authorize the incidental take of the endangered blunt-nosed leopard lizard (*Gambelia silus*) and the threatened San Joaquin kit fox (*Vulpes macrotis mutica*) in the city of Bakersfield, Kern County, California. The proposed incidental take would occur as a result of construction activities for a sewer trunkline in blunt-nose leopard lizard and San Joaquin kit fox habitat.

The Service also announces the availability of an Environmental Assessment (EA) for the proposed issuance of the incidental take permit. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR § 1506.6).

DATES: Written comments on the permit application and EA should be received on or before July 21, 1994.

ADDRESSES: Comments regarding the application or adequacy of the EA should be addressed to Mr. Joel Medlin, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Rooms E–1803 and 1823, Sacramento, California 95825. Please refer to permit No. PRT–786634 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Cross, U.S. Fish and Wildlife Service, Sacramento Field Office, 2800 Cottage Way, Rooms E–1803 and 1823, Sacramento, California 95825 (916–978–4866). Individuals wishing copies of the application or EA for review should immediately contact the above individual.

SUPPLEMENTARY INFORMATION:

Background

Under section 9 of the Act, "taking" of endangered blunt-nosed leopard lizards and threatened San Joaquin kit fox is prohibited. However, the Service, under limited circumstances, may issue permits to take endangered or threatened wildlife species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered and threatened species are in 50 CFR §§ 17.22 and 17.32, respectively.

The applicant proposes to implement a Habitat Conservation Plan (HCP) for the blunt-nose leopard lizard and San Joaquin kit fox that will allow construction of a sewer trunkline in the city of Bakersfield, Kern County, California. The permit would authorize the disturbance of up to 88.2 acres. The permit would be in effect for 2 years. The application includes an HCP and Implementation Agreement.

The applicant proposes to construct a 12 to 30-inch diameter underground line within a construction corridor ranging between 35 and 75 feet in width. Construction is proposed to begin after permit issuance and to take about 8 to 9 months. A total of 88.2 acres will be subject to temporary disturbance as a result of sewer trunkline construction activities. Approximately 73 acres of the total disturbed area is considered suitable habitat for the two listed species. The area that will be subject to temporary disturbance includes urban, actively cultivated, and nonnative grasslands.

The applicant proposes to undertake a series of on-site and off-site mitigation measures to offset the incidental take of a small number of San Joaquin kit foxes and blunt-nosed leopard lizards, and the temporary impacts to their habitats associated with this project. These measures would include: (1) Offsite acquisition of 80.2 acres of native habitat; (2) transfer to the California Department of Fish and Game, or the designated trustee, funds to manage and improve these offsite lands; and (3) measures to reduce the potential of take of both species to the maximum extent possible during construction of the sewer trunkline.

The EA considers the environmental consequences of four alternatives. The alternatives include the proposed action (permit issuance), no-action (permit denial), incorporation into the Regional Section 10(a) permit for the Metropolitan Bakersfield Area, and modifying current sewer trunkline alignments.

Dated: June 15, 1994.

H. Dale Hall,

Regional Director, Region 1 U.S. Fish and Wildlife Service.

[FR Doc. 94–15008 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Final Environmental Impact Statement, General Management Plan, Development Concept Plan, Bent's Old Fort National Historic Site, Colorado

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of final environmental impact statement/general management plan/development concept plan for Bent's Old Fort National Historic Site.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of a Final Environmental Impact Statement/General Management Plan/Development Concept Plan (FEIS/GMP/DCP) for Bent's Old Fort National Historic Site, Colorado.

DATES: A 30-day no-action period will follow the Environmental Protection Agency's notice of availability of the FEIS/GMP/DCP.

ADDRESSES: Public reading copies of the FEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Bent's Old Fort National Historic Site, Telephone: 719–384–2596

Division of Planning, Design and Construction, Rocky Mountain Regional Office, National Park Service, 12795 W. Alameda Parkway, Lakewood, CO 80225, Telephone: (303) 969–2828

Office of Public Affairs, National Park Service, Department of Interior, 18th and C Streets NW., Washington, DC 20240, Telephone: (202) 208–6843.

SUPPLEMENTARY INFORMATION: In December 1993, the National Park Service released, for a 60-day public review, a Draft Environmental Impact Statement/General Management Plan/Development Concept Plan (DEIS/GMP/DCP) that evaluated three alternatives. The alternatives provided for the preservation of historic and natural resources while providing for visitor use. Under the no-action alternative, existing management activities would continue. Alternative One would expand the scope of the interpretive program, creating a self-service, self-interpretation oriented visitor experience. It would maintain the historic character of the site and improve overall operational and administrative working environments, while limiting physical development of small additions of space and renovation of existing spaces. The proposal would expand the scope of the interpretive program, create an interactive interpretive atmosphere through

implementation of a visitor center, maintain the historic character of the site, and improve overall operational and administrative working environments by adding appropriate facilities.

The DEIS/GMP/DCP in particular evaluated the environmental consequences of the proposed action and the other alternatives on geology/soils, vegetation, prime and unique farmlands, wildlife, threatened and endangered species, water resources/quality, floodplains and wetlands, air quality, noise quality, cultural resources, visitor use, and socioeconomic resources/surrounding land uses. The environmental consequences of the proposed action and alternatives considered are fully disclosed in the DEIS/GMP/DCP. The Final Environmental Impact Statement/General Management Plan/Development Concept Plan states that the proposal, as described in the DEIS/GMP/DCP is the final plan. Also included are the results of the public involvement and consultation and coordination for this project.

FOR FURTHER INFORMATION: Contact Superintendent, Bent's Old Fort National Historic Site, at the above address and telephone number.

Dated: May 31, 1994.

W. Wayne Gardner,

Regional Director, Rocky Mountain Region, National Park Service.

[FR Doc. 94–14976 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–70–P

Record of Decision Black-footed Ferret Reintroduction Conata Basin/Badlands, SD

Introduction

Pursuant to regulations of the Council on Environmental Quality (40 CFR § 1505.2) and the implementing procedures of the National Park Service for the National Environmental Policy Act of 1969 (40 U.S.C. § 1501 *et seq.*), the Department of the Interior has prepared this draft record of decision on the *Final Environmental Impact Statement, Black-footed Ferret Reintroduction, Conata Basin/Badlands, South Dakota, March, 1994.*

This record of decision is a concise statement of decisions that were made, alternatives that were considered, and mitigating measures that were developed to avoid or minimize environmental impacts.

Decision

The National Park Service will accept as approved for implementation, Alternative C, Reintroduce Black-footed Ferrets into the Badlands National Park and the Buffalo Gap National Grassland with Initial Releases in the Badlands National Park, as described in the above-referenced Final Environmental Impact Statement. Working with its cooperators to achieve this alternative, the National Park Service will implement a cooperative management plan and reintroduction protocol for restoration of black-footed ferrets into the Conata Basin/Badlands Area of South Dakota. The National Park Service considered and evaluated the alternatives for the reintroduction of a non-essential experimental population of black-footed ferrets into the Conata Basin/Badlands area of South Dakota as presented in the FEIS, including a no action alternative, and thoroughly reviewed and considered public and agency comments in formulating this determination.

The Selected Plan

The selected plan reintroduces black-footed ferrets into a black-tailed prairie dog colony complex on the Badlands National Park (BNP) and the Buffalo Gap National Grassland (BGNG). A non-essential experimental population area of approximately 1,182,200 acres is delineated within which the legal status of the black-footed ferret is changed from endangered to non-essential experimental to allow for greater management flexibility. A reintroduction area of approximately 42,000 acres which currently contains about 8,000 acres of prairie dog colonies on federally managed land becomes the focus of releases and black-footed ferret management activities. Initial releases occur in the BNP, and habitat for black-footed ferret movement and dispersal is identified. Short-term constraints on a few activities may be implemented at specific release sites and in the reintroduction area to increase the chances for survival of released animals.

The immediate purpose of the proposed action is to use experimental techniques to reintroduce and establish a free ranging, cooperatively managed wild population of black-footed ferrets (*Mustela nigripes*) in the Conata Basin/Badlands experimental population area near Wall, South Dakota, as part of the national recovery effort. The reintroduced black-footed ferrets and their progeny will be classified a nonessential experimental population under federal rulemaking procedures.

Alternatives Considered

Five alternatives, including the selected plan, were analyzed in the final environmental impact statement:

Alternative A—No Action: Black-footed ferrets would not be reintroduced into the BNP or the BGNG.

Alternative B—Reintroduce black-footed ferrets only in the BNP on approximately 3,200 acres of prairie dog colonies within a reintroduction area of approximately 25,000 acres, with approximately 3,175 acres of prairie dog colonies.

Alternative C (Selected Plan)—Reintroduce black-footed ferrets in the BNP and the BGNG on approximately 8,000 acres of prairie dog colonies within a reintroduction area of approximately 42,000 acres, with initial releases in the BNP.

Alternative D—Reintroduce black-footed ferrets in the BNP and the BGNG on approximately 8,000 acres of prairie dog colonies within a reintroduction area of approximately 42,000 acres, with initial releases on the BGNG.

Alternative E—Reintroduce black-footed ferrets in the BNP and the BGNG on approximately 8,000 acres of prairie dog colonies within a reintroduction area of approximately 172,000 acres, with initial releases occurring in the most biologically suitable habitat within the reintroduction area. Although prairie dog management remains unchanged under all alternatives, management options to further protect black-footed ferrets could occur within a larger reintroduction area in situations where conflict with other land uses arise.

Environmentally Preferable Alternative

The environmentally preferred alternative is Alternative E. Although prairie dog management and levels of prairie dog habitat would not increase under this alternative, some additional protection of black-footed ferrets could occur if management options favoring black-footed ferrets were exercised across a larger reintroduction area, reducing the risks to black-footed ferrets from competing activities and/or uses. Within a socioeconomic context, however, the public perception that protecting each individual black-footed ferret with overly restrictive measures in an expanded reintroduction area outweighed any environmental benefit to black-footed ferret population recovery efforts. Alternative C was chosen to reintroduce and establish a population of black-footed ferrets in the Conata Basin/Badlands area of South Dakota within the context of existing recreational and agricultural land uses.

Mitigation

Potential project impacts, public concerns, and methods to be used to mitigate those impacts and concerns are

addressed in the FEIS. The National Park Service considers that Alternative C, reintroduction of black-footed ferrets in BNP and BGNG with initial releases in BNP, provides the best means to establish and perpetuate a free-ranging population of black-footed ferrets into the Conata Basin/Badlands area of South Dakota with the fewest environmental effects. All practical solutions to avoid or minimize environmental harm from selecting this action alternative have been identified and considered acceptable.

Conclusion

After careful evaluation of each alternative and considering black-footed ferret biology, management objectives, environmental effects, costs, socioeconomics, legislative intent, National Park Service policies, and public response, the National Park Service believes that Alternative C provides the best balanced course of action to establish and manage a population of black-footed ferrets into a portion of its historical range within southwestern South Dakota.

Dated: June 14, 1994.

R. Everhart,

Acting Regional Director, Rocky Mountain Region.

[FR Doc. 94–14975 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–70–P

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 11, 1994. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 6, 1994.

Beth Boland,

Acting Chief of Registration, National Register.

ALABAMA

Hale County

Battersea

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), Co. Rd. 8, E of jct. with AL 69, Gallion vicinity, 94000698

Bermuda Hill

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), AL 69 N of jct. with Co. Rd. 2, Prairieville vicinity, 94000692

Borden Oaks

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), N of Co. Rd. 28, E of jct. with AL 14, Greensboro vicinity, 94000685

Hawthorne

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), Co. Rd. 8 just N of jct. with AL 69, Gallion vicinity, 94000694

Kerby House

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), Co. Rd. 8 SE of jct. with AL 69, Prairieville vicinity, 94000697

Payne House

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), US 61 SE of Greensboro, Greensboro vicinity, 94000690

Sledge, Augusta, House

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), Co. Rd. 12 between AL 25 and AL 61, SW of Newbern, Newbern vicinity, 94000686

Waldwic

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), AL 69 W side, S of Gallion, Gallion vicinity, 94000684

Marengo County

Allen Grove

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), Co. Rd. 1, S of Old Spring Hill, Old Spring Hill vicinity, 94000689

Poole, William, House

(Plantation Houses of the Alabama Canebrake and their associated outbuildings MPS), Jct. of AL 25 and Palmetto Rd., Dayton vicinity, 94000687

LOUISIANA

De Soto Parish

Williams House, 407 Texas St., Mansfield, 94000682

East Baton Rouge Parish

Scott Street School, 900 N. 19th St., Baton Rouge, 94000681

Pointe Coupee Parish

Satterfield Motor Company Building, 108 E. Main St., New Roads, 94000700

MASSACHUSETTS

Hampshire County

Belchertown State School (Massachusetts State Hospitals MPS), 30 State St., Belchertown, 94000688

Northampton State Hospital (Massachusetts State Hospitals MPS), 1 Prince St., Northampton, 94000696

Norfolk County

Foxborough State Hospital (Massachusetts State Hospitals MPS), Jct. of Chestnut and Main Sts., Foxborough, 94000695

Worcester County

Grafton State Hospital (Massachusetts State Hospitals MPS), Jct. of Westborough Rd. and Green St., Grafton, 94000691

Lyman School for Boys (Massachusetts State Hospitals MPS), Jct. of Oak and South Sts., Westborough, 94000693

MISSOURI

Carroll County

Farmers Bank Building, 114 S. Pine St., Norborne, 94000702

Johnson County

Adams, John A., Farmstead Historic District, 431 SE Y Hwy., Warrensburg vicinity, 94000701

Laclede County

Burley, Ralph E., House, 389 S. Adams Ave., Lebanon, 94000704

Macon County

Morrow, Johnson, House, Second St. W of jct. with Pine St., Callao, 94000703

TEXAS

Harris County

Bute, James, Company Warehouse, 711 William St., Houston, 94000677

Travis County

Lamar Boulevard Bridge, Lamar Blvd. over the Colorado R., Austin, 94000678

VERMONT

Orleans County

Crystal Lake Falls Historic District, Roughly, Water St. from Church St. to Main St., Main from water to Duck Pond Rd. and West St. from Cemetery Rd. to Main, Barton, 94000699

VIRGINIA

Fredericksburg Independent City

Fredericksburg Town Hall and Market Square, 907 Princess Anne St., Fredericksburg, 94000683

WASHINGTON

King County

Norman Bridge

(Bridges and Tunnels of Washington State MPS), Old 428th Ave. SE, across the N. Fork, Snoqualmie R., North Bend vicinity, 94000676

Spokane County

Ninth Avenue Historic District, Roughly bounded by 7th Ave., Monroe St., 12th Ave. and the Burlington Northern RR tracks, Spokane, 94000679

WYOMING

Weston County

Wyoming Army National Guard Cavalry Stable, 401 Delaware St., Newcastle, 94000680

[FR Doc. 94–15065 Filed 6–20–94; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation 332–347]

Global Competitiveness of U.S. Environmental Technology Industries: Municipal & Industrial Water and Wastewater

AGENCY: United States International Trade Commission.

ACTION: Cancellation of public hearing.

SUMMARY: On June 14, 1994, the Commission received notice that the only scheduled witness for the hearing scheduled for June 21, 1994, in this matter was withdrawing their request to appear. Therefore, the public hearing in connection with this investigation, scheduled to be held beginning at 9:30 am on June 21, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, is cancelled. Notice of institution of this investigation and the scheduling of the hearing was published in the **Federal Register** of November 24, 1993 (58 FR 62137) and notice of rescheduling of the hearing was published in the **Federal Register** of March 30, 1994 (59 FR 14874).

EFFECTIVE DATE: June 15, 1994.

FOR FURTHER INFORMATION CONTACT: Industry-specific information may be obtained from Mr. David Ingersoll (202–205–2218) of the Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation contact Mr. William Gearhart of the Office of the General Counsel (202–205–3091). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

LIST OF SUBJECTS: Environmental protection, environmental technology, water supply, wastewater treatment, export promotion, air pollution.

Issued: June 16, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–15094 Filed 6–17–94; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities that have submitted attestations (Form ETA 9029 and explanatory statements) to one of four Regional Offices of DOL (Boston, Chicago, Dallas and Seattle) for the purpose of employing nonimmigrant alien nurses. A decision has been made on the these organizations' attestations and they are on file with DOL.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process:

Chief, Division of Foreign Labor Certifications, U.S. Employment Service. Telephone: 202–219–5263 (this is not a toll-free number).

Regarding the Complaint Process:

Questions regarding the complaint process for the H–1A nurse attestation program will be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Parts 655, Subpart D, and 29 CFR Part 504, (January 6, 1994). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing and those which have been rejected.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staff. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities chief executive officer also are listed to aid public inquiries. In addition, attestations and explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under the attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 8 day of June 1994.

John M. Robinson,

Deputy Assistant Secretary, Employment and Training Administration.

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA–9029

Ceo-Name/Facility Name/Address	State	Action date
ETA REGION 1 05/02/94 TO 05/08/94		
David J. Ianacone, St. Camillus Health Center, 494 Elm Street, Stamford, CT 06902, 203–325–0200 ETA CONTROL NUMBER—1/211169 ACTION—ACCEPTED	CT	05/02/94
Richard P. Blinn, Hillhaven/Ledgewood Nursing Care, 87 Herrick Street, Beverly, MA 01915–2797, 508–921–1392 ETA CONTROL NUMBER—1/211447 ACTION—ACCEPTED	MA	05/04/94
Joseph Amon, Global Medical Relocators, 11 Whiting Lane, Middle Township, NJ 08210, 609–465–2290 ETA CONTROL NUMBER—1/211451 ACTION—ACCEPTED	NJ	05/04/94
Rosenda Villanueva, Aspen Services Corp., 30 Church Street, Suite 2A, New Rochelle, NY 10801, 914–637–8226 ETA CONTROL NUMBER—1/211449 ACTION—ACCEPTED	NY	05/04/94
Alan Kopman, Westchester Square Medical Center, 2475 St. Raymond Avenue, Bronx, NY 10461, 718–430–7300 ETA CONTROL NUMBER—1/211408 ACTION—ACCEPTED	NY	05/03/94
ETA REGION 1 05/09/94 TO 05/15/94		
Ida R. Campomanes, Health Beat Nursing Recruit. & Reg., 176 Bay 34th Street, Brooklyn, NY 11214, 718–266–4859 ETA CONTROL NUMBER—1/211556 ACTION—ACCEPTED	NY	05/13/94
Adele Wasser, Lifecare Dialysis Center, 221 West 61st Street, New York, NY 10023, 212–977–6100 ETA CONTROL NUMBER—1/211555 ACTION—ACCEPTED	NY	05/13/94
John E. Nuse, Metropolitan Jewish Geriatric, 4915 10th Avenue, Brooklyn, NY 11219, 718–851–3700 ETA CONTROL NUMBER—1/211584 ACTION—ACCEPTED	NY	05/10/94
Mr. John E. Nuse, Shore Front Jewish Geriatric Ctr., 3015 West 29th Street, Brooklyn, NY 11214, 718–851–3700 ETA CONTROL NUMBER—1/211251 ACTION—ACCEPTED	NY	05/10/94
ETA REGION 1 05/16/94 TO 05/22/94		
Neal M. Elliott, Greenery Extended Care Center, 50 Hazel Drive, Cheshire, CT 06410, 203–272–7204 ETA CONTROL NUMBER—1/211670 ACTION—ACCEPTED	CT	05/16/94
Neal M. Elliott, Greenery Rehabilitation, 177 Whitewood Road, Waterbury, CT 06708, 203–757–9491 ETA CONTROL NUMBER—1/211682 ACTION—ACCEPTED	CT	05/16/94
Neal M. Elliott, New Fairview Health Care Facility, 181 Clifton Street, New Haven, CT 06513, 203–467–1666 ETA CONTROL NUMBER—1/211681 ACTION—ACCEPTED	CT	05/16/94
Lawrence Gelfand, Daughters of Israel Geriatric Ctr., 1155 Pleasant Valley Way, West Orange, NJ 07052, 201–731–5100. ETA CONTROL NUMBER—1/211674 ACTION—ACCEPTED	NJ	05/16/94
Evangeline P. Acosta, Lakewood Manor Care Center, 1962 Lakewood Road, Toms River, NJ 08775, 908–220–8109 ETA CONTROL NUMBER—1/211671 ACTION—ACCEPTED	NJ	05/16/94
Marilyn Lichtman, DeWitt Nursing Home, 211 East 79th Street, New York, NY 10021, 212–879–1600 ETA CONTROL NUMBER—1/211751 ACTION—ACCEPTED	NY	05/17/94
ETA REGION 1 05/23/94 TO 05/29/94		
Bourdilon Enabosi, Mc Ellis, Inc., 300 Main Street, Suite 3–A, East Orange, NJ 07050, 201–676–4980 ETA CONTROL NUMBER—1/212044 ACTION—ACCEPTED	NJ	05/27/94
Mila Sy, Mother of Perpetual Help Rehab Ctr, 26 Journal Square, Suite 1002 Jersey City, NJ 07306, 201–963–0357 ETA CONTROL NUMBER—1/211911 ACTION—ACCEPTED	NJ	05/24/94
Steven A. Chomsky, Newark Mini-Surji-Site, Inc., 145 Roseville Avenue, Newark, NJ 07107, 201–485–3300 ETA CONTROL NUMBER—1/211912 ACTION—ACCEPTED	NJ	05/24/94
Miguel Fuentes, Jr., Bronx Lebanon Hospital Center, 1276 Fulton Avenue, Bronx, NY 10456, 718–590–1800 ETA CONTROL NUMBER—1/211773 ACTION—ACCEPTED	NY	05/23/94
Martin Liebman, Grand Manor Health Related Facilit, 700 White Plains Road, Bronx, NY 473, 718–518–8892 ETA CONTROL NUMBER—1/211913 ACTION—ACCEPTED	NY	05/24/94
Florida Fuentecilla, Health & Professionals Network, 95–20 63 Road, Suite 12, Rego Park, NY 11374, 718–997–1080 ETA CONTROL NUMBER—1/211951 ACTION—ACCEPTED	NY	05/27/94
ETA REGION 1 05/02/94 TO 05/08/94		
S. Reejsingbani, Health Insurance Plan of Greater NY, 125–06 101st Avenue, Richmond Hill, NY 11419, 718–849–2900. ETA CONTROL NUMBER—1/211852 ACTION—ACCEPTED	NY	05/23/94
Michael H. Ford, Manhattan Psychiatric Center, Ward's Island, New York, NY 10035, 212–369–0500 ETA CONTROL NUMBER—1/211850 ACTION—ACCEPTED	NY	05/23/94
Spencer Foreman, Montefiore Medical Center, 111 E. 21th Street, Bronx, NY 10457, 212–920–5555 ETA CONTROL NUMBER—1/211950 ACTION—ACCEPTED	NY	05/27/94
Thomas N. Whipple III, Elmwood Health Center, 225 Elmwood Avenue, Providence, RI 02907, 401–272–0600	RI	05/23/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA-9029—Continued

Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—1/211771 ACTION—ACCEPTED		
ETA REGION 10 05/02/94 TO 05/08/94		
Richard Matros, Care West North Valley, 1645 The Esplanade, Chico, CA 95926, 714-544-4443	CA	05/03/94
ETA CONTROL NUMBER—10/204225 ACTION—ACCEPTED		
Neal M. Elliott, Greenery Rehab Center at Pacifica, 385 Esplanade Pacifica, CA 94044, 415-993-5576	CA	05/06/94
ETA CONTROL NUMBER—10/204251 ACTION—ACCEPTED		
Neal M. Elliott, Boulder City Care Center, 601 Adams, Boulder City, NV 89005, 702-293-5151	NV	05/06/94
ETA CONTROL NUMBER—10/204261 ACTION—ACCEPTED		
Neal M. Elliott, Carson Convalescent Center, 2898 Highway 50 E, Carson City, NV 89701, 702-882-3301	NV	05/06/94
ETA CONTROL NUMBER—10/204260 ACTION—ACCEPTED Neal M. Elliott, Desert Lane Care Center, 660 Desert Lane, Las Vegas, NV 89106, 702-382-5580	NV	05/06/94
ETA CONTROL NUMBER—10/204259 ACTION—ACCEPTED		
Neal M. Elliott, Fallon Convalescent Center, 365 West A Street, Fallon, NV 89406, 702-423-6551	NV	05/06/94
ETA CONTROL NUMBER—10/204258 ACTION—ACCEPTED Neal M. Elliott, Hearthstone, 1950 Baring Boulevard, Sparks, NV 89431, 702-626-2224	NV	05/06/94
ETA CONTROL NUMBER—10/204257 ACTION—ACCEPTED Neal M. Elliott, Horizon Specialty Hospital, 640 Desert Lane, Las Vegas, NV 89106, 702-382-3155	NV	05/06/94
ETA CONTROL NUMBER—10/204262 ACTION—ACCEPTED		
Neal M. Elliott, North Las Vegas Care Center, 3215 East Cheyenne Avenue, Las Vegas, NV 89030, 702-649-7800	NV	05/06/94
ETA CONTROL NUMBER—10/204256 ACTION—ACCEPTED		
Neal M. Elliott, Physician's Hosp for Extended Care, 2045 Silverado Boulevard, Reno, NV 89512, 702-359-3161	NV	05/06/94
ETA CONTROL NUMBER—10/204255 ACTION—ACCEPTED		
Neal M. Elliott, Sierra Convalescent, 210 Koontz Lane, Carson City, NV 89701, 702-883-3622	NV	05/06/94
ETA CONTROL NUMBER—10/204254 ACTION—ACCEPTED		
Neal M. Elliott, Vegas Valley Convalescent Center, 2945 Casa Vegas, Las Vegas, NV 89109, 702-735-7179	NV	05/06/94
ETA CONTROL NUMBER—10/204253 ACTION—ACCEPTED		
Neal M. Elliott, Washoe Care Center 1375 Baring Boulevard, Sparks, NV 89431, 702-356-2707	NV	05/06/94
ETA CONTROL NUMBER—10/204252 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/15/94		
Helen George, Beverly Hospital, 309 W. Beverly Blvd., Montebello, CA 90640, 213-889-2417	CA	05/13/94
ETA CONTROL NUMBER—10/204335 ACTION—ACCEPTED		
Myrna Stone, Eisenhower Medical Center, 39000 Bob Hope Drive, Rancho Mirage, CA 92270, 619-340-3911	CA	05/12/94
ETA CONTROL NUMBER—10/204288 ACTION—ACCEPTED		
Rose Wilkinson, Oncology Associates of Oregon, PC, 1200 Hilyard Street, Suite S450, Eugene, OR 97401, 503-683-5001.	OR	05/12/94
ETA CONTROL NUMBER—10/204429 ACTION—ACCEPTED		
ETA REGION 10 05/16/94 TO 05/22/94		
Leah Babula, Bellflower Home Health, Inc., 10929 South Street, # 214B, Cerritos, CA 90701, 310-924-2444	CA	05/19/94
ETA CONTROL NUMBER—10/204336 ACTION—ACCEPTED		
David Friedman, Northridge Care Center, 7836 Reseda Blvd., Reseda, CA 91335, 818-881-7414	CA	05/19/94
ETA CONTROL NUMBER—10/204351 ACTION—ACCEPTED		
ETA REGION 10 05/23/94 TO 05/29/94		
Solomon Soldner Millbrae Nursing Homes, Inc., dba: Sheltering Pine Convl Hosp, 33 Mateo Avenue, Millbrae, CA 94030, 415-583-8937.	CA	05/25/94
ETA CONTROL NUMBER—10/204443 ACTION—ACCEPTED		
Sister Ruth Marie Nickerson, C.S.C., Saint Agnes Medical Center, 1303 East Herndon Avenue, Fresno, CA 93720, 209-449-3000.	CA	05/25/94
ETA CONTROL NUMBER—10/204632 ACTION—ACCEPTED		
Sharon Bailey, Bailey International, Inc., Suite 1166 2533 N. Carson St., Carson City, NV 89706, 702-883-5209	NV	05/27/94
ETA CONTROL NUMBER—10/204428 ACTION—ACCEPTED		
Daniel Kearnes, Integrated Health Svcs—Las Vegas, 2170 East Harmon Avenue, Las Vegas, NV 89119, 702-794-0110.	NV	05/27/94
ETA CONTROL NUMBER—10/204352 ACTION—ACCEPTED		
ETA REGION 5 05/02/94 TO 05/08/94		
Brenda Holder, Brightview Care Center, Inc., 4538 N. Beacon Street, Chicago, IL 60640, 312-275-7200	IL	05/04/94
ETA CONTROL NUMBER—5/223680 ACTION—ACCEPTED		
Leonard Koenig, Community Care Center, Inc., 4314 S. Wabash, Chicago, IL 60653, 312-538-8300	IL	05/03/94
ETA CONTROL NUMBER—5/223593 ACTION—ACCEPTED		
Leonard Koenig, Evergreen Nursing & Convalesc Cntr, 1115 N. Wenthe, Effingham, IL 62401, 217-347-7121	IL	05/03/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA-9029—Continued

Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—5/223595 ACTION—ACCEPTED		
Leonard Koenig, Jacksonville Terrace, LTD., P.O. Box 3047, Jacksonville, IL 62651, 217-243-6405	IL	05/04/94
ETA CONTROL NUMBER—5/223669 ACTION—ACCEPTED		
Marilyn Ferbend, Joliet Terrace, 2230 McDonough, Joliet, IL 60436, 815-729-3801	IL	05/04/94
ETA CONTROL NUMBER—5/223682 ACTION—ACCEPTED		
Chester A. Plodzien, Lee Manor Health Care Residence, 1301 Lee Street, Des Plaines, IL 60018, 708-635-4000	IL	05/05/94
ETA CONTROL NUMBER—5/223741 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/08/94		
Leonard Koenig, Morgan View Terrace, LTD., 1024 W. Walnut, Jacksonville, IL 62650, 217-245-5175	IL	05/04/94
ETA CONTROL NUMBER—5/223674 ACTION—ACCEPTED		
Ronald Campbell, Saint Bernard Hospital, 64th & Dan Ryan Expressway, Chicago, IL 60621, 312-962-4100	IL	05/05/94
ETA CONTROL NUMBER—5/223745 ACTION—ACCEPTED		
Bernard Henry, Saint Mary of Nazareth Hosp. Cntr., 2233 West Division Street, Chicago, IL 60622, 312-770-2000	IL	05/05/94
ETA CONTROL NUMBER—5/223743 ACTION—ACCEPTED		
Leonard Koenig, Springfield Terrace, LTD., 525 S. Martin Luther King Drive, Springfield, IL 62703, 217-789-1680	IL	05/04/94
ETA CONTROL NUMBER—5/223675 ACTION—ACCEPTED		
Leonard Koenig, Yorkdale Healthcare Centre, LTD., 2313 N. Rockton Avenue, Rockford, IL 61103, 815-964-4611	IL	05/04/94
ETA CONTROL NUMBER—5/223676 ACTION—ACCEPTED		
Norma Bada or Henrietta McElhone, Home Health Support Systems, Inc., 29777 Telegraph, Suite 1560, Southfield, MI 48034, 810-350-0778.	MI	05/05/94
ETA CONTROL NUMBER—5/223744 ACTION—ACCEPTED		
Gary W. Pulsipher, Breech Medical Center, 325 Harwood, Lebanon, MO 65536 417-532-2136	MO	05/05/94
ETA CONTROL NUMBER—5/223683 ACTION—ACCEPTED		
Felix Savon, STF, Inc., dba Ron Joy Nursing Home, 830 Boardman Canfield Road, Youngstown, OH 44512, 216-758-8106.	OH	05/04/94
ETA CONTROL NUMBER—5/223681 ACTION—ACCEPTED		
ETA REGION 5 05/09/94 TO 05/15/94		
Rob Underwood, Fairview Baptist Home, 250 Village Drive, Downers Grove, IL 60516, 708-769-6000	IL	05/12/94
ETA CONTROL NUMBER—5/224094 ACTION—ACCEPTED		
Edward S. Thomas, Detroit Receiving Hospital and University Health Center, 4201 St. Antoine, Detroit, MI 48201, 313-745-3400.	MI	05/12/94
ETA CONTROL NUMBER—5/224095 ACTION—ACCEPTED		
Carole Glorioso, Broadview Nursing Home, Inc., 5520 Broadview Road, Parma, OH 44134, 216-749-4010	OH	05/12/94
ETA CONTROL NUMBER—5/224091 ACTION—ACCEPTED		
ETA REGION 5 05/16/94 TO 05/22/94		
Peggy Urton Cave, Elms Haven Care Center, 12080 Bellaire Way, Thornton, CO 80241-3600, 303-450-2700	CO	05/19/94
ETA CONTROL NUMBER—5/224417 ACTION—ACCEPTED		
Diane E. Kramer, Aurora Manor Nursing Center, 1601 N. Farnsworth, Aurora, IL 60505, 708-898-1180	IL	05/19/94
ETA CONTROL NUMBER—5/224354 ACTION—ACCEPTED		
Harvey Singer, Buckingham Pavilion, Inc., 2625 W. Touhy Avenue, Chicago, IL 60645, 312-973-5333	IL	05/17/94
ETA CONTROL NUMBER—5/224283 ACTION—ACCEPTED		
Zachary Caulkins, Creastwood Terrace, 1330 South Central, Crestwood, IL 60445, 708-597-5251	IL	05/19/94
ETA CONTROL NUMBER—5/224375 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/08/94		
Leo Feigenbaum, Fairhaven of Chicago Ridge, Inc., 10602 Southwest Highway, Chicago Ridge, IL 60415, 708-448-1540.	IL	05/17/94
ETA CONTROL NUMBER—5/224280 ACTION—ACCEPTED		
Larthel Johnson, Grasmere Residential Home, Inc., 4621 N. Sheridan Road, Chicago, IL 60640, 312-334-6601	IL	05/17/94
ETA CONTROL NUMBER—5/224276 ACTION—ACCEPTED		
Bill Lowe, Methodist Home, 1415 W. Foster Avenue, Chicago, IL 60640, 312-769-5500	IL	05/19/94
ETA CONTROL NUMBER—5/224372 ACTION—ACCEPTED		
Dawn Spaulding, Montgomery Place, 5550 South Shore Drive, Chicago, IL 60637, 312-753-4100	IL	05/17/94
ETA CONTROL NUMBER—5/224273 ACTION—ACCEPTED,		
Lucy Morales, South Shore Surgi-Center ENTS, Inc., 8300 S. Crandon, Chicago, IL 60617, 312-721-6000	IL	05/17/94
ETA CONTROL NUMBER—5/224274 ACTION—ACCEPTED		
Richard Manson, St. Joseph's Home for the Aged, 659 E. Jefferson Street, Freeport, IL 61032, 815-232-6181	IL	05/19/94
ETA CONTROL NUMBER—5/224373 ACTION—ACCEPTED		
Rhonda Anderson, Swedish Covenant Hospital, 5145 N. California, Chicago, IL 60625, 312-878-8200	IL	05/19/94
ETA CONTROL NUMBER—5/224352 ACTION—ACCEPTED		
Grace Swanson, USA HealthPro, Inc., 5174 Cypress Court, Lisle, IL 60532, 708-964-1758	IL	05/17/94
ETA CONTROL NUMBER—5/224275 ACTION—ACCEPTED		
Robert Burnson, Northwest Family Hospital, 501 Family Plaza, Gary, IN 46402, 219-882-9411	IN	05/17/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA-9029—Continued

Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—5/224271 ACTION—ACCEPTED		
Peggy Urton Cave, Cherry Creek Village Nursing Cntr., 8100 East Pawnee, Wichita, KS 67207, 316-684-1313	KS	05/19/94
ETA CONTROL NUMBER—5/224429 ACTION—ACCEPTED		
Peggy Urton Cave, Cherry Creek Village Retirement, 8200 East Pawnee, Wichita, KS 67207, 316-684-0905	KS	05/19/94
ETA CONTROL NUMBER—5/224428 ACTION—ACCEPTED		
Peggy Urton Cave, Golden Plains Health Care Center, 1202 East 23rd Street, Hutchinson, KS 67502, 316-669-9393	KS	05/19/94
ETA CONTROL NUMBER—5/224427 ACTION—ACCEPTED		
Peggy Urton Cave, Horizon Specialty Hospital, 8080 East Pawnee, Wichita, KS 67207, 316-682-0004	KS	05/19/94
ETA CONTROL NUMBER—5/224424 ACTION—ACCEPTED		
Peggy Urton Cave, Horizon Specialty Hospital, 6509 West 103rd, Overland Park, KS 66212, 913-649-3701	KS	05/19/94
ETA CONTROL NUMBER—5/224419 ACTION—ACCEPTED		
Peggy Urton Cave, Indian Creek Nursing Center, 6515 West 103rd Street, Overland Park, KS 66212, 913-642-5545	KS	05/19/94
ETA CONTROL NUMBER—5/224426 ACTION—ACCEPTED		
Peggy Urton Cave, Indian Meadows Nursing Center, 6505 West 103rd street, Overland Park, KS 66212, 913-649-5110.	KS	05/19/94
ETA CONTROL NUMBER—5/224425 ACTION—ACCEPTED		
Peggy Urton Cave, Greenery Extnded Care Cntr at Balt, 1300 South Ellwood Avenue, Baltimore, MD 21224, 410-342-6644.	MD	05/19/94
ETA CONTROL NUMBER—5/224408 ACTION—ACCEPTED		
Peggy Urton Cave, Birchwood Care Center, 15140 16th Avenue, Marne, MI 49435, 616-677-1215	MI	05/20/94
ETA CONTROL NUMBER—5/224477 ACTION—ACCEPTED		
Aniceta A. Vista, Global Home Care, Inc., 5779 Lochmoor Ct., Rochester, MI 48306, 810-652-4440	MI	05/16/94
ETA CONTROL NUMBER—5/224172 ACTION—ACCEPTED		
Peggy Urton Cave, Greenery—Clarkston, 4800 Clintonville Road, Clarkston, MI 48346, 313-674-0903	MI	05/20/94
ETA CONTROL NUMBER—5/224480 ACTION—ACCEPTED		
Peggy Urton Cave, Greenery—Farmington, 34225 Grand River Avenue, Farmington, MI 49335, 313-477-7373	MI	05/20/94
ETA CONTROL NUMBER—5/224479 ACTION—ACCEPTED		
Peggy Urton Cave, Greenery—Howell, 3003 West Grand River Avenue, Howell, MI 48843, 517-546-4210	MI	05/20/94
ETA CONTROL NUMBER—5/224478 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/08/94		
Christine B. McLellan, Lee Memorial Hospital, 420 West High Street, Dowagiac, MI 49047, 616-783-8681	MI	05/16/94
ETA CONTROL NUMBER—5/224212 ACTION—ACCEPTED		
Peggy Urton Cave, Lynwood Manor, 730 Kimole Lane, Adrian, MI 49221, 517-263-6771	MI	05/20/94
ETA CONTROL NUMBER—5/224483 ACTION—ACCEPTED		
Peggy Urton Cave, Willowbrook Manor, 4436 Beecher Road, Flint, MI 48532, 313-733-0290	MI	05/20/94
ETA CONTROL NUMBER—5/224482 ACTION—ACCEPTED		
Michael Kaplan, Liberty Nursing Center, 1200 West College, Liberty, MO 64068, 816-781-3020	MO	05/17/94
ETA CONTROL NUMBER—5/224286 ACTION—ACCEPTED		
Peggy Urton Cave, Butte Convalescent Center, 2400 Continental Drive, Butte, MT 59701, 406-723-6556	MT	05/19/94
ETA CONTROL NUMBER—5/224412 ACTION—ACCEPTED		
Peggy Urton Cave, Butte Park Royal, 3251 Nettie Street, Butte, MT 59701, 406-823-3225	MT	05/19/94
ETA CONTROL NUMBER—5/224410 ACTION—ACCEPTED		
Peggy Urton Cave, Deer Lodge—Colonial Manor, 1100 Texas Avenue, Deer Lodge, MT 59722, 406-846-1655	MT	05/19/94
ETA CONTROL NUMBER—5/224409 ACTION—ACCEPTED		
Peggy Urton Cave, Missouri River Manor, 1130 17th Avenue South, Great Falls, MT 59405, 406-761-6467	MT	05/19/94
ETA CONTROL NUMBER—5/224415 ACTION—ACCEPTED		
Peggy Urton Cave, Whitefish—Colonial Manor, 1305 East 7th Street, Whitefish, MT 59937, 406-862-3557	MT	05/19/94
ETA CONTROL NUMBER—5/224413 ACTION—ACCEPTED		
Peggy Urton Cave, Auburn Manor, 375 Glenn Avenue, Washington Court, OH 43160, 614-335-9270	OH	05/20/94
ETA CONTROL NUMBER—5/224475 ACTION—ACCEPTED		
Peggy Urton Cave, Autumnwood of Sylvania, 4111 Holland-Sylvania Road, Toledo, OH 43623, 419-882-2087	OH	05/20/94
ETA CONTROL NUMBER—5/224474 ACTION—ACCEPTED		
Peggy Urton Cave, Baltic Country Manor, 130 Buena Vista Street, Baltic, OH 43804, 216-897-4311	OH	05/20/94
ETA CONTROL NUMBER—5/224473 ACTION—ACCEPTED		
Peggy Urton Cave, Boardman Community Care, 5665 South Avenue, Youngstown, OH 44512, 216-782-1173	OH	05/20/94
ETA CONTROL NUMBER—5/224472 ACTION—ACCEPTED		
Amy C. Handscom, Bridgepark Cntr for Rehabilitation, 145 Olive Street, Akron, OH 216-762-09, 216-762-0901	OH	05/19/94
ETA CONTROL NUMBER—5/224367 ACTION—ACCEPTED		
Peggy Urton Cave, Brookhaven Convalescent Center, 2051 Collingwood Blvd., Toledo, OH 43620, 419-243-5191	OH	05/20/94
ETA CONTROL NUMBER—5/224467 ACTION—ACCEPTED		
Peggy Urton Cave, Canterbury Villa of Alliance , 1785 South Freshley Avenue, Alliance, OH 44601, 216-821-4000	OH	05/20/94
ETA CONTROL NUMBER—5/224466 ACTION—ACCEPTED		
Peggy Urton Cave, Colonial Manor , 196 Colonial Drive, Youngstown, OH 44505, 216-759-3790	OH	05/20/94
ETA CONTROL NUMBER—5/224465 ACTION—ACCEPTED		
Peggy Urton Cave, Crestwood Care Center , 225 West Main Street, Shelvy, OH 44875, 419-347-1266	OH	05/20/94
ETA CONTROL NUMBER—5/224464 ACTION—ACCEPTED		
Peggy Urton Cave, Edison Health Care Center, P.O. Box 1650, 185 South Main St., Milan, OH 44846, 419-499-3576	OH	05/20/94
ETA CONTROL NUMBER—5/224463 ACTION—ACCEPTED		
Peggy Urton Cave, Glanzmar -Colonial Nursing Center, 3121 Glanzman Road, Toledo, OH 43614, 419-385-6616	OH	05/20/94

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Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—5/224462 ACTION—ACCEPTED		
Peggy Urton Cave, Heritage Care Center, 100 Rogers Lane, Shelby, OH 44875, 419–347–1313	OH	05/20/94
ETA CONTROL NUMBER—5/224461 ACTION—ACCEPTED		
Peggy Urton Cave, Horizon Village Nursing & Rehab, 2473 North Road NE, Warren, OH 44483, 216–372–2251	OH	05/20/94
ETA CONTROL NUMBER—5/224460 ACTION—ACCEPTED		
Peggy Urton Cave, Hudson Elms Nursing Home, 597 East Streetsboro Road, Hudson, OH 44236, 216–650–0436	OH	05/20/94
ETA CONTROL NUMBER—5/224459 ACTION—ACCEPTED		
Peggy Urton Cave, Imperial Skilled Care Center, 4121 Tod Avenue, Warren, OH 44485, 216–898–3702	OH	05/20/94
ETA CONTROL NUMBER—5/224458 ACTION—ACCEPTED		
Peggy Urton Cave, Lodge (The), 2124 Park Avenue West, Mansfield, OH 44906, 419–529–6447	OH	05/20/94
ETA CONTROL NUMBER—5/224448 ACTION—ACCEPTED		
Peggy Urton Cave, Meadowview Care Center, 76 High Street, Seville, OH 44273, 216–769–2015	OH	05/20/94
ETA CONTROL NUMBER—5/224447 ACTION—ACCEPTED		
Peggy Urton Cave, Ridgecrest Care Center, 1926 Ridge Avenue, Warren, OH 44484, 216–369–4672	OH	05/20/94
ETA CONTROL NUMBER—5/224445 ACTION—ACCEPTED		
Peggy Urton Cave, Ro-Ker Nursing Home, 1495 Freshley Road, Alliance, OH 44601, 216–823–1097	OH	05/20/94
ETA CONTROL NUMBER—5/224443 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/08/94		
Peggy Urton Cave, Rosewood Manor, 935 Rosewood Drive, Galion, OH 44833, 419–468–7544	OH	05/20/94
ETA CONTROL NUMBER—5/224442 ACTION—ACCEPTED		
Peggy Urton Cave, Village Care Center, 925 Wagner Avenue, Galion, OH 44833, 419–468–1090	OH	05/20/94
ETA CONTROL NUMBER—5/224441 ACTION—ACCEPTED		
Peggy Urton Cave, Village Square, 7787 Staley Road, Orwell, OH 44076, 216–437–6611	OH	05/20/94
ETA CONTROL NUMBER—5/224440 ACTION—ACCEPTED		
Peggy Urton Cave, Washington Square Nursing Center, 202 Washington Street NW, Warren, OH 44483, 216–399–8997.	OH	05/20/94
ETA CONTROL NUMBER—5/224438 ACTION—ACCEPTED		
Peggy Urton Cave, Wyant Woods Care Center, 200 Wyant Road, Akron, OH 44313, 216–836–7953	OH	05/20/94
ETA CONTROL NUMBER—5/224437 ACTION—ACCEPTED		
Mary Guttendorf, Chateau Nursing & Rehab. Center, 956 Railroad Avenue, Bryn Mawr, PA 19010, 215–525–8412	PA	05/17/94
ETA CONTROL NUMBER—5/224269 ACTION—ACCEPTED		
Peggy Urton Cave, Greenery Rehab & Skilled Nsg Cntr, RD #1, Box 146, Route 519 South, Canonsburg, PA 15317, 412–745–8000.	PA	05/20/94
ETA CONTROL NUMBER—5/224484 ACTION—ACCEPTED		
Peggy Urton Cave, Hartford Care Center, 1202 East Sumner Street, Hartford, WI 53027, 414–673–2220	WI	05/19/94
ETA CONTROL NUMBER—5/224434 ACTION—ACCEPTED		
Peggy Urton Cave, Janesville Healthcare Center, 119 South Parker Drive, Janesville, WI 53545, 608–756–0374	WI	05/19/94
ETA CONTROL NUMBER—5/224430 ACTION—ACCEPTED		
Leonard Koenig, Widmar, Inc.—dba Caravilla, Post Office Box 75, Beloit, WI 63512–0075, 608–365–8877	WI	05/16/94
ETA CONTROL NUMBER—5/224119 ACTION—ACCEPTED		
Lowell Beck, Jeffersonian Manor, #1 Jeffersonian Manor, Charles Town, WV 24514, 304–725–6575	WV	05/16/94
ETA CONTROL NUMBER—5/224162 ACTION—ACCEPTED		
ETA REGION 6 05/02/94 TO 05/08/94		
Mr. Richard White, Reliance H/C of Pickens, Inc., 512 Second Avenue, NW P.O. Box 400, Reform, AL 35481, 205–375–6379.	AL	05/03/94
ETA CONTROL NUMBER—6/215993 ACTION—ACCEPTED		
Mr. Hal W. Leftwich, Brooksville Regional Hospital, 55 Ponce De Leon Boulevard P.O., Box 37, Brooksville, FL 34605, 904–544–6155.	FL	05/05/94
ETA CONTROL NUMBER—6/216276 ACTION—ACCEPTED		
Mr. Joseph A. Boshart, CCHP, Inc., 1515 S. Federal Highway Suite 210, Boca Raton, FL 33432, 800–347–2264	FL	05/05/94
ETA CONTROL NUMBER—6/216198 ACTION—ACCEPTED		
Mr. Rolando E. Lazaro, Nurses's Helping Hands, Inc., 945 7th Street N.W., Largo, FL 34640, 813–586–4423	FL	05/05/94
ETA CONTROL NUMBER—6/216275 ACTION—ACCEPTED		
Mr. Charles Simonel, Perry Health Facility, 207 Forest Drive, Perry, FL 32347, 904–584–6334	FL	05/04/94
ETA CONTROL NUMBER—6/216110 ACTION—ACCEPTED		
Mr. Richard White, Reliance H/C of Starke, Inc., 808 South Colley Road, Starke, FL 32091, 904–964–6220	FL	05/03/94
ETA CONTROL NUMBER—6/215991 ACTION—ACCEPTED		
Ms. Donita Tannenbaum, Suwannee Health Care Center, 1620 Helvenston Street, Live Oak, FL 32060, 904–362–7860.	FL	05/04/94
ETA CONTROL NUMBER—6/216106 ACTION—ACCEPTED		
Mr. Neal M. Elliott, The Fountains Nursing/Retire. Ctr., 1350 South Nova Road, Daytona Beach, FL 32114, 904–258–5544.	FL	05/04/94
ETA CONTROL NUMBER—6/216062 ACTION—ACCEPTED		
Mr. John Gregg, University Medical Center, Inc., 655 West 8th Street, Jacksonville, FL 32209, 904–350–6694	FL	05/04/94
ETA CONTROL NUMBER—6/216108 ACTION—ACCEPTED		
Ms. Dorothy N. Key, Greene Point Health Care, 1321 Washington Highway P.O. Box, 312, Union Point, GA 30669, 706–486–2167.	GA	05/03/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA-9029—Continued

Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—6/215988 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/08/94		
Mr. Richard White, Reliance H/C of Augusta, Inc., 2021 Scott Road, Augusta, GA 30906, 706-793-1057 ETA CONTROL NUMBER—6/215990 ACTION—ACCEPTED	GA	05/03/94
Mr. Neal M. Elliott, Neurologic Rehab Ctr of Gulf Coast, 1400 Lindberg Drive, Slidell, LA 70458, 504-641-4985 ETA CONTROL NUMBER—6/216105 ACTION—ACCEPTED	LA	05/04/94
Mr. B. Frank Comfort, Jr., Quitman County Hosp. & Nursing Hm., 340 Getwell Drive, Marks, MS 38646. 601-326-8031. ETA CONTROL NUMBER—6/215986 ACTION—ACCEPTED	MS	05/03/94
Ms. Paula Phillips, Charlotte Health Care Center, 1735 Toddville Road, Charlotte, NC 28214, 704-394-4001 ETA CONTROL NUMBER—6/215984 ACTION—ACCEPTED	NC	05/03/94
Mr. Neal M. Elliott, Greenery Rehab. Hospital at Durham, 3100 Erwin Road, Durham, NC 27705, 919-383-1546 ETA CONTROL NUMBER—6/216061 ACTION—ACCEPTED	NC	05/04/94
Mr. Wayne Cole, Silver Point Health Care, 308 West Meadowview Road, Greensboro, NC 27406, 910-230-0534 ETA CONTROL NUMBER—6/216195 ACTION—ACCEPTED	NC	05/04/94
Mr. Neal M. Elliott, Casa Arena Blanca, 205 Moonglow, P.O. Box 1906, Alamogordo, NM 88310, 505-434-4510 ETA CONTROL NUMBER—6/216104 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Casa del Sol Senior Care Center, 2905 East Missouri, Las Cruces, NM 88001, 505-522-0404 ETA CONTROL NUMBER—6/216103 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Casa Maria, 1601 South Main, Roswell, NM 88201, 505-623-6008 ETA CONTROL NUMBER—6/216101 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Casa Real, 1650 Galisteo Street, Santa Fe, NM 87501, 505-948-8313 ETA CONTROL NUMBER—6/216100 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Hobbs Health Care Center, 5715 Lovington Highway, Hobbs, NM 88240, 505-392-6845 ETA CONTROL NUMBER—6/216099 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Horizon Healthcare Nursing Center, 635 Harkle Road, Santa Fe, NM 87501, 505-982-2574 ETA CONTROL NUMBER—6/216098 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Horizon Healthcare Nursing Center, 236 High Street NE, Albuquerque, NM 87102, 505-242-4116 ETA CONTROL NUMBER—6/216097 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, La Siesta Retirement Center, 2101 Bensing Road, Hobbs, NM 88240, 505-397-1113 ETA CONTROL NUMBER—6/216096 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Las Cruces Nursing Center, 2029 Sagecrest Court, Las Cruces, NM 88001, 505-522-7000 ETA CONTROL NUMBER—6/216095 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, McKinley Manor, 224 Nizhoni Boulevard, Gallup, NM 87301, 505-863-9551 ETA CONTROL NUMBER—6/216094 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Pecos Valley Care Center, 519 North 10th, P.O. Drawer L, Fort Sumner, NM 88119. 505-355-2439. ETA CONTROL NUMBER—6/216093 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Red Rocks Care Center, 3720 Churchrock, Road P.O. Box 1778, Galluo, NM 87301. 505-722-2261. ETA CONTROL NUMBER—6/216092 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Ruidoso Care Center, 5th and D Street, Box 2214, Ruidoso, NM 88345. 505-257-9071 ETA CONTROL NUMBER—6/216091 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, San Juan Manor, 806 West Maple, Farmington, NM 87401, 505-325-2910 ETA CONTROL NUMBER—6/216090 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Southwest Senior Care Center, 2301 Collins Drive, Las Vegas, NM 87701, 505-425-9362 ETA CONTROL NUMBER—6/216089 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Sunset Villa Nursing Home, 1515 South Sunset, Roswell, NM 88201, 505-623-7097 ETA CONTROL NUMBER—6/216085 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Valle Norte Caring Center, 501 Alameda Boulevard NE, Albuquerque, NM 87113, 505-857-0531 ETA CONTROL NUMBER—6/216084 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Van Ark Care Center, 1005 South Monroe, P.O. Box 1028, Tucumcari, NM 88401, 505-461-2570 ETA CONTROL NUMBER—6/216083 ACTION—ACCEPTED	NM	05/04/94
Mr. Neal M. Elliott, Bryant Nursing Center, 1100 East 9th, Edmond, OK 73034, 405-341-5617 ETA CONTROL NUMBER—6/216081 ACTION—ACCEPTED	OK	05/04/94
Mr. Randy L. Curry, Commanche County Hospital, 3401 West Gore Blvd., Lawton, OK 73505, 405-355-8620 ETA CONTROL NUMBER—6/216107 ACTION—REJECTED	OK	05/05/94
Mr. Neal M. Elliott, East Moore Nursing Center, 320 North Eastern, Moore, OK 73160, 405-794-0224 ETA CONTROL NUMBER—6/216080 ACTION—ACCEPTED	OK	05/04/94
Mr. Neal M. Elliott, Horizon Specialty Hospital, 1100 East 9th, Edmond, OK 73034, 405-341-8150 ETA CONTROL NUMBER—6/216082 ACTION—ACCEPTED	OK	05/04/94
Mr. Neal M. Elliott, Westlake Nursing Home, 13500 Brandon Place, Oklahoma City, OK 73142, 405-720-0010 ETA CONTROL NUMBER—6/216079 ACTION—ACCEPTED	OK	05/04/94
Mr. Louis Milite, Life Care Center of Columbia, 2514 Faraway Drive, Columbia, SC 29206, 803-782-3149 ETA CONTROL NUMBER—6/216022 ACTION—ACCEPTED	SC	05/04/94
Mr. Richard White, Reliance H/C of McMinnville, Inc., 415 Pace Street, McMinnville, TN 37110-1244, 615-668-2011 ETA CONTROL NUMBER—6/215992 ACTION—ACCEPTED	TN	05/03/94
Mr. Richard White, Reliance H/C of Mountain City, Inc., 919 Medical Park Drive, Mountain City, TN 37683, 615-727-7800.	TN	05/03/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA–9029—Continued

Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—6/215989 ACTION—ACCEPTED		
ETA REGION 1 05/02/94 TO 05/08/94		
Ms. Linda Karling, The Windsor House, 3425 Knight Drive, Whites Creek, TN 37189, 615–876–2754 ETA CONTROL NUMBER—6/215987 ACTION—ACCEPTED	TN	05/03/94
Mr. Robert Collette, AMI Brownsville Medical Center, 1040 West Jefferson St., Brownsville, TX 78520, 210–544–1428 ETA CONTROL NUMBER—6/216109 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Greenery Rehab. Hospital at Dallas, 7850 Brookhollow Road, Dallas, TX 75235, 214–637–0000 ETA CONTROL NUMBER—6/216077 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Harbor View Care Center, 1314 Third Street, Corpus Christi, TX 78401, 512–888–5511 ETA CONTROL NUMBER—6/216073 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Horizon Spec. Hosp.—San Antonio, 7310 Oak Manor Drive, San Antonio, TX 78229, 210–308–0261. ETA CONTROL NUMBER—6/216064 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Horizon Specialty Hospital, 1314 Third Street, Corpus Christi, TX 78404, 512–888–4323 ETA CONTROL NUMBER—6/216074 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Horizon Specialty Hospital, 2301 N. Oregon Street, El Paso, TX 79902, 915–545–1823 ETA CONTROL NUMBER—6/216075 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Medical Center Nursing Facility, 7301 Oak Manor Drive, San Antonio, TX 78229, 210–344–8537 ETA CONTROL NUMBER—6/216065 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, Mountain View Place, 1600 Murchison Road, El Paso, TX 79902, 915–544–2002 ETA CONTROL NUMBER—6/216072 ACTION—ACCEPTED	TX	05/04/94
Mr. Neal M. Elliott, San Jacinto Manor, 206 West Avenue P, Deer Park, TX 77536, 713–479–8471 ETA CONTROL NUMBER—6/216067 ACTION—ACCEPTED	TX	05/04/94
Ms. Alida S. Chapa, Valley Home Health Care, Inc., 1605 East Expressway 83, Mission, TX 78572, 210–580–4565 ETA CONTROL NUMBER—6/216197 ACTION—ACCEPTED	TX	05/05/94
ETA REGION 6 05/09/94 TO 05/15/94		
Mr. Louis Manzo, Bayshore Convalescent Center, 16650 West Dixie Highway, N. Miami Beach, FL 33160, 305–945–7447. ETA CONTROL NUMBER—6/216374 ACTION—ACCEPTED	FL	05/10/94
Mr. Troy A. Athon, Lynn Haven Nursing Home, Route 1, Box 185, Gray, GA 31032, 912–986–3196 ETA CONTROL NUMBER—6/216376 ACTION—ACCEPTED	GA	05/10/94
Mr. Irai Alipour, Meadowbrook Manor of Athens, 180 Epps Bridge Road, Athens, GA 30606, 706–549–5382 ETA CONTROL NUMBER—6/216375 ACTION—ACCEPTED	GA	05/10/94
Mr. Troy A. Athon, Starcrest of McDonough, 198 Hampton, P.O. Box 796, McDonough, GA 30253, 404–957–9081 ETA CONTROL NUMBER—6/216377 ACTION—ACCEPTED	GA	05/10/94
Ms. Debra Finnerman, Meadows Health Systems East, Inc., 2529 Six Mile Lane, Louisville, KY 40220, 502–491–5560 ETA CONTROL NUMBER—6/216330 ACTION—ACCEPTED	KY	05/10/94
Ms. Peggy R. Moore, Meadowbrook Manor, 5935 Mt. Sinah Road, Durham, NC 27705–9603, 919–489–2361 ETA CONTROL NUMBER—6/216404 ACTION—ACCEPTED	NC	05/10/94
Mr. Johnny L. Wall, Meadowbrook Manor of Rockingham, 804 Long Drive, P.O. Box 1237, Rockingham, NC 28379, 910–997–4493. ETA CONTROL NUMBER—6/216405 ACTION—ACCEPTED	NC	05/10/94
Mr. David Collins, Abilene Regional Medical Center, 6250 Highway 83/84 at Antilley Rd., Abilene, TX 79606, 915–691–2430. ETA CONTROL NUMBER—6/216402 ACTION—ACCEPTED	TX	05/10/94
Mr. F. W. Hall, Jr., Sid Peterson Memorial, 710 Water Street, Kerrville, TX 78028, 210–257–0531 ETA CONTROL NUMBER—6/216365 ACTION—ACCEPTED	TX	05/10/94
ETA REGION 6 05/16/94 TO 05/22/94		
Mr. Gary Keach, Bay Pointe Nursing Pavillion, 4201 31st St. S., St. Petersburg, FL 33712–4051, 813–867–1104 ETA CONTROL NUMBER—6/216626 ACTION—ACCEPTED	FL	05/20/94
Mr. Serge Prizant, Medical Career Search Int'l, Inc., 961 Tullis Rd., Lawrenceville, GA 30245, 404–682–8610 ETA CONTROL NUMBER—6/216921 ACTION—ACCEPTED	GA	05/16/94
Ms. Sherry H. Danello, Saint Joseph's Hospital, Inc., 11705 Mercy Boulevard, Savannah, GA 31419, 912–925–4100 ETA CONTROL NUMBER—6/216461 ACTION—ACCEPTED	GA	05/18/94
Mr. Gerry Woods, River Park Health Care, 1432 N. Waco, Wichita, KS 67203, 316–262–8481 ETA CONTROL NUMBER—6/216629 ACTION—ACCEPTED	KS	05/20/94
Mr. Byron Todd Robertson, Harvest Manor Nursing Home, 9171 Cockerham Road, Denham Springs, LA 70785, 504–665–8946. ETA CONTROL NUMBER—6/216624 ACTION—ACCEPTED	LA	05/20/94
Ms. Judy Meyer, Lake Charles Memorial Hospital, 1701 Oak Park Blvd., Lake Charles, LA 70601, 318–494–3000 ETA CONTROL NUMBER—6/216460 ACTION—ACCEPTED CEO-NAME/ ACTION	LA	05/20/94
Ms. Joyce Hein, Lakewood Hospital, 1125 Marguerite Street, Morgan City, LA 70380, 504–380–2200 ETA CONTROL NUMBER—6/216591 ACTION—ACCEPTED	LA	05/20/94
Ms. Rene Goux, St. Frances Cabrini Hospital, 3330 Masonic Drive, Alexandria, LA 71301, 318–487–1122	LA	05/20/94

DIVISION OF FOREIGN LABOR CERTIFICATIONS, HEALTH CARE FACILITY ATTESTATIONS, FORM ETA–9029—Continued

Ceo-Name/Facility Name/Address	State	Action date
ETA CONTROL NUMBER—6/216463 ACTION—ACCEPTED		
Mr. Tom Ford, Brian Center Health & Retirement, 3000 Holston Lane, Raleigh, NC 27610, 919–231–6045 ETA CONTROL NUMBER—6/216462 ACTION—ACCEPTED	NC	05/18/94
Mr. Glenn Potter, Britthaven of Madison, 1721 Bald Hill Loop, Madison, NC 27025, 910–548–9658 ETA CONTROL NUMBER—6/216464 ACTION—ACCEPTED	NC	05/18/94
Mr. Doug Matney, Columbia Medical Center-East, 10301 Gateway West, El Paso, TX 79925, 915–595–9565 ETA CONTROL NUMBER—6/216589 ACTION—ACCEPTED	TX	05/18/94
Mr. Tom Alexander, Shannon Medical Center, 120 East Harris, P.O. Box 1879, San Angelo, TX 76902, 915–657–5243 ETA CONTROL NUMBER—6/216588 ACTION—ACCEPTED	TX	05/18/94
ETA REGION 6 05/23/94 TO 05/29/94		
Ms. Carolina Calderin, Pan American Hospital, 5959 NW 7th Street, Miami, FL 33126, 305–264–1000 ETA CONTROL NUMBER—6/216687 ACTION—ACCEPTED	FL	05/25/94
Mr. Michael Covert, Sarasota Memorial Hospital, 1700 South Tamiami Trail, Sarasota, FL 34239, 813–955–1111 ETA CONTROL NUMBER—6/216797 ACTION—ACCEPTED	FL	05/26/94
Ms. Gilda Baldwin, Westchester General Hospital, 2500 S.W. 75 Avenue, Miami, FL 33155, 305–264–5252 ETA CONTROL NUMBER—6/216751 ACTION—ACCEPTED	FL	05/25/94
Mr. Glenn Potter, Britthaven of Louisville, 9600 Lamborne Blvd., Louisville, KY 40272, 502–935–0935 ETA CONTROL NUMBER—6/216755 ACTION—ACCEPTED	KY	05/25/94
Mr. Keith LeBlanc, Lakeland Medical Center, 6000 Bullard Avenue, New Orleans, LA 70189, 504–214–6335 ETA CONTROL NUMBER—6/216686 ACTION—ACCEPTED	LA	05/25/94
Mr. Glenn Potter, Britthaven of Piedmont, 33426 Old Salisbury Rd., P.O. Box, 1250 Albemarle, NC 28002, 704–983–1195. ETA CONTROL NUMBER—6/216753 ACTION—ACCEPTED	NC	05/25/94
Mr. Glenn Potter, Britthaven of Snowhill, 1304 S.E. 2nd Street, Snowhill, NC 28580, 919–747–8126 ETA CONTROL NUMBER—6/216754 ACTION—ACCEPTED	NC	05/25/94
Ms. Ronnette Cox, Convalescent Center of Lee County, 714 Westover Drive, Sanford, NC 27330, 919–775–5404 ETA CONTROL NUMBER—6/216829 ACTION—ACCEPTED	NC	05/26/94
Ms. Linda James-Junior, Hillhaven LaSalle Nursing Center, 411 S. LaSalle Street, Durham, NC 27705–2899, 919–383–5521. ETA CONTROL NUMBER—6/216750 ACTION—ACCEPTED	NC	05/25/94
Mr. Melvin Stepp, Meadow Haven, 261 S. Herlong Avenue, Rock Hill, SC 29732, 803–366–7133 ETA CONTROL NUMBER—6/216690 ACTION—ACCEPTED	SC	05/25/94
Mr. Glen Marshall, Doctors Hospital Ltd. 1984, 5815 Airline Drive, Houston, TX 77076, 713–695–6041 ETA CONTROL NUMBER—6/216752 ACTION—ACCEPTED	TX	05/25/94
Mr. Leon Belila, Edinburg Hospital, 333 W. Freddy Gonzalez, Edinburg, TX 78540, 210–380–5914 ETA CONTROL NUMBER—6/216685 ACTION—ACCEPTED	TX	05/25/94
Mr. Craig B. Watson, Gulf Coast Medical Center, 1400 Hwy 59, P.O. Box 3004, Wharton, TX 77488, 409–532–2500 ETA CONTROL NUMBER—6/216688 ACTION—ACCEPTED	TX	05/25/94
Mr. Eddie Kuntz, Retama Manor, 400 S. Pete Diaz, Jr. Ave., Rio Grande, TX 78582, 210–487–2513 ETA CONTROL NUMBER—6/216756 ACTION—ACCEPTED	TX	05/25/94
Mr. Larry F. Parsons, Wilbarger General Hospital, 920 Hillcrest Drive, Vernon, TX 76384, 817–552–9351 ETA CONTROL NUMBER—6/216828 ACTION—ACCEPTED	TX	05/26/94

[FR Doc. 94–15044 Filed 6–20–94; 8:45 am]
BILLING CODE 4510–30–P

Occupational Safety and Health Administration

Notice of Appointment of Members; National Advisory Committee on Occupational Safety and Health (NACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: This notice announces the appointment of 12 new members to the National Advisory Committee on Occupational Safety and Health.

SUMMARY: The 12-member advisory committee has been chosen on the basis of the knowledge and experience in occupational safety and health of the members designate. Four of the members are selected by the National Institute of Occupational Safety and Health of the Department of Health and Human Services (two representing the public and two representing the occupational health profession).

SUPPLEMENTARY INFORMATION: Notice is hereby given that 12 appointments have been made to the National Advisory Committee on Occupational Safety and Health. The new Committee members and the categories they represent are as follows:

Labor

Margaret M. Seminario, Director, Department of Occupational Safety and Health, AFL–CIO, Washington, DC (2 years)

Michael J. Wright, Director of Health, Safety and Environment, United Steelworkers of America, Pittsburg, PA (1 year)

Management

Henry B. Lick, PhD, Manager, Corporate Industrial Hygiene Department, Ford Motor Company, Dearborn, MI (1 year)

Frederick M. Toca, PhD, Director, Occupational Health, Hoechst Celanese Corporation, Somerville, NJ (2 years)

Public

Nancy Burkheimer, Assistant Secretary, Maryland Department of Licensing and Regulation, Baltimore, MD (1 year)

Ellen Schall, JD, Martin Cherkasky Professor of Health Policy and Management, Robert F. Wagner

Graduate School of Public Health, New York University (2 years)
James A. Merchant, MD, Professor, Department of Preventive and Internal Medicine; Director, Institute of Agricultural Medicine and Occupational Health, University of Iowa, Iowa City (1 year)
Ruy N. Delgado Zayas, JD, Legal Advisor for the Commission on Labor and Human Resources, Senate of Puerto Rico, Río Piedras, PR (2 years)

Safety

Harold G. Culler, Vice President, Insurance Services, Continental Insurance Company, Cranbury, NJ (1 year)
Frederic D. Rine, Assistant Vice President for Safety and Health, National Safety Council, Chicago, IL (2 years)

Health

Shirley A. Conibear, MD, President and Senior Scientist, Carnow, Conibear & Associates, Ltd., Chicago, IL (1 year)
Andrea K. Taylor, DrPH, Occupational and Health Policy Consultant/ Industrial Hygienist, International Union, UAW, Detroit, MI (2 years)

The terms of the new committee members began June 1 and will run one or two years so all the appointments do not expire at the same time. Subsequent terms will be for two years. Nancy Burkheimer will chair the committee.

The National Advisory Committee on Occupational Safety and Health was established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

FOR FURTHER INFORMATION CONTACT: Holly Nelson or Camille Johnston, Office of the Assistant Secretary, Occupational Safety and Health Administration, Room S–2316, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 219–6027.

Signed in Washington, DC., this 14th day of June 1994.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 94–14966 Filed 6–20–94; 8:45 am]

BILLING CODE 4510–26–M

Pension and Welfare Benefits Administration

[Application No. D–9613]

Proposed Exemptions; Abbott Pension Plan et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) the name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Abbott Pension Plan (the Plan), located in Lynn, MA.

[Application No. D–9613].

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed transfer by the Plan, of certain limited partnership interests (the Interests) to Abbott House Nursing Home, Inc. (Abbott); Winthrop Nursing Home, Inc. (which does business as the Bay View Nursing Home and is referred to herein as Winthrop/Bay View); Devereux House Nursing Home, Inc. (Devereux); and the Greenview House Nursing Home, Inc. (Greenview), in satisfaction of certain cash advances made to the Plan by these entities. (Abbott, Winthrop/Bay View, Devereux and Greenview, which are parties in interest with respect to the Plan, are collectively referred to herein as the Nursing Facilities.)

This proposed exemption is conditioned upon the following requirements: (1) The transfer represents a one-time transaction and satisfies certain cash advances made by the Nursing Facilities to the Plan; (2) the Interests are transferred for the greater of

their historical cost to the Plan, their fair market value or the total amount of cash advanced to the Plan; (3) for purposes of the transfer, the fair market value of the Interests has been established by a qualified, independent appraiser; and (4) the Plan does not pay any fees or commissions in connection with the transfer.

Summary of Facts and Representations

1. The Plan is a defined benefit plan that has been adopted by four Massachusetts-based nursing facilities which are members of a controlled group of corporations. The Nursing Facilities that sponsor the Plan for the benefit of their employees are Abbott, Winthrop/Bay View, Devereux and Greenview. As of December 31, 1992, the Plan had total net assets of $2,060,920. This amount was allocated among the Nursing Facility sub-Plan accounts as follows:

Nursing facility sub-plan accounts	Net assets
Abbott	$471,149
Winthrop/Bay View	385,383
Greenview	872,004
Devereux	332,384
Total	2,060,920

2. As of December 23, 1993, the Plan had two remaining participants, Richard C. Bane and his brother, Robert Bane, both of whom participate in the Abbott sub-Plan account. Richard Bane is the Plan trustee and the decisionmaker with respect to the Plan's investments. Both Richard and Robert Bane are 50 percent shareholders of Abbott and Devereux. Their father, George H. Bane, and Gerald Gouchberg, an outside investor who is not related to members of the Bane Family, each own 50 percent of the outstanding stock of Winthrop/Bay View and Greenview.

3. The Plan is in the process of terminating and upon termination, will be replaced with a deferred compensation plan. On April 12, 1993, the Plan received approval from the Internal Revenue Service to terminate as of December 31, 1992 and it made cash distributions to 126 employees of the Nursing Facilities with the exception of the Banes. To provide partial funding for the participant distributions and to provide liquidity while assets were being sold, the Nursing Facilities made cash advances[1] to the Plan during the second and third quarters of 1993 in the following amounts:

Nursing facility	Cash advance
Winthrop/Bay View	$27,808
Greenview	31,650
Devereux	41,296
Total	100,754

In addition to the cash advances, each Nursing Facility made cash contributions during 1992 and 1993 to their respective sub-Plan account in order to satisfy the Plan's liabilities. Such contributions were in excess of $273,000.

4. At present, the Plan holds certain assets that are not readily marketable and have limited liquidity. These assets consist of interests in New England Pension Properties V (NEPP V) and New England Pension Properties VI (NEPP VI). NEPP V and NEPP VI are real estate investment trusts/limited partnerships. The Plan has paid no servicing fees in connection with the holding of the Interests in NEPP V and NEPP VI nor have any restrictions been placed upon their sale or transfer.

The Plan acquired the Interests in NEPP V and NEPP VI on June 22, 1987 and July 13, 1988, respectively, from Copley Partnerships, an unrelated party. The Plan made a cash investment of $50,000 in NEPP V and $40,000 in NEPP VI. At the time of acquisition, the per unit value of the Interests in NEPP V and NEPP VI was $1,000. Thus, the Plan received 50 limited partnership units in NEPP V and 40 limited partnership units in NEPP VI. Both NEPP V and NEPP VI have a maturity date of December 31, 2036.

On July 31, 1990, the Plan received $1,926 from Copley Partnerships with respect to the Interest in NEPP VI. This amount represented a return of capital. In addition, the Plan received income payments of $14,082 for NEPP V and $11,165 for NEPP VI or a total income payment of $25,247.

The Interests have been appraised by Fredric Daub, President of Capital Insurance Agency, Inc., an independent investment broker from Maynard, MA. In an appraisal report dated February 25, 1994, Mr. Daub has verified that during the fourth quarter of 1993, he obtained firm bids for NEPP V of $232 per unit and $324 per unit for NEPP VI in the secondary market. Thus, the fair market values of the Plan's Interests in NEPP V and NEPP VI would be $11,600 and $12,960, respectively, or a total fair market value of $24,560. Mr. Daub represents that these values reflect gross proceeds before the application of a one-time fee of $250 and a re-registration fee of an unspecified amount. Mr. Daub also notes that these values reflect a commitment as of the day of the offering and that the secondary market for investments such as NEPP V and NEPP VI is extremely limited.

5. To facilitate the liquidation and termination of the Plan and reimburse the Nursing Facilities for the cash advances they have made to the Plan, the Nursing Facilities propose to have the Interests transferred to them. Accordingly, an administrative exemption is requested from the Department.

The Interests will be transferred to the Nursing Facilities for the greater of their historical cost to the Plan, their fair market value, or $100,754 representing the total outstanding loans advanced previously by the Nursing Facilities to the Plan. According to the applicant, these loans would have been repaid in cash had the Plan not been in the process of terminating. As a result of the transfer, the Nursing Facilities will cancel the outstanding indebtedness. The Plan will not be required to pay any fees or commissions in connection therewith.

6. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) the transfer will be a one-time transaction to satisfy certain cash advances made by the Nursing Facilities to the Plan; (b) the Interests will be transferred to the Nursing Facilities for the greater of their historical cost to the Plan, their fair market value or the total amount of cash advanced to the Plan; (c) for purposes of the transfer, the fair market value of the Interests has been established by a qualified, independent appraiser; and (d) the Plan will not pay any fees or commissions in connection with the transfer.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department at (202) 219–8881. (This is not a toll-free number.)

AT&T Management Pension Plan and AT&T Pension Plan (the AT&T Plans), and BellSouth Management Pension Plan and BellSouth Pension Plan (the BellSouth Plans; collectively, the Plans). Located in Morristown, New Jersey. [Application Nos. D–9607, D–9608, D–9609, D–9610].

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act

[1] 11 The applicant represents that the loans were interest-free, unsecured and used for the payment of benefits to participants. As such, the applicant is of the view that such loans are in compliance with Prohibited Transaction Exemption 80–26 (45 FR 28545, April 29, 1980). However, the Department expresses no opinion herein on whether the cash advances have satisfied the terms and conditions of PTE 80–26.

and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective June 3, 1993, to the past and proposed lease (the Lease) by the Plans, through the Telephone Real Estate Equity Trust (TREET), of office space in Southpark C, a commercial office building in Austin, Texas, to American Telephone and Telegraph Co. (AT&T), one of the sponsors of the Plans; provided that the following conditions are satisfied:

(A) The interests of TREET for all purposes under the Lease are represented by Hill Partners, which is independent of and unrelated to AT&T, serving as a fiduciary under the Act;

(B) At all times under the Lease, AT&T pays TREET rent of no less than the fair market rental value of the Property; and

(C) All terms and conditions of the Lease are at least as favorable to TREET as those which TREET could obtain in arm's-length transactions with unrelated parties;

EFFECTIVE DATE: This exemption, if granted, will be effective as of June 3, 1993.

Summary of Facts and Representations

1. The AT&T Plans are defined benefit pension plans sponsored by the American Telephone & Telegraph Company (AT&T), a New York public corporation engaged in a wide variety of nationwide and international telecommunications services, including the design, manufacture, marketing and servicing of transmission and switching equipment, silicon chip products, electronic components, computers and software, and products and services for the U.S. Department of Defense and related agencies. The BellSouth Plans are defined benefit pension plans sponsored by BellSouth, a Georgia public corporation created by the reorganization of AT&T in 1984. BellSouth is engaged in the furnishing of exchange telecommunications and exchange access service within specific geographic areas of the southern United States, directory advertising and publishing, marketing of customer premises telecommunications equipment, the provision of advanced mobile communications services using cellular technology, and other miscellaneous business activities.

2. TREET is a group trust which is utilized for the investment on an undivided basis of certain real estate assets of the Plans, resulting from the reorganization of AT&T and its subsidiaries pursuant to the Plan of Reorganization (the Reorganization) approved by the U.S. District Court for the District of Columbia in the matter of *U.S.* v. *Western Electric Co., Inc., et.al* (Civil Action No. 82–1092). The assets of the Plans' predecessor plans had been held in trusts established for the Bell System Pension Plan (the BSPP) and the Bell System Management Pension Plan (the BSMPP). On January 1, 1984, the trusts for the BSPP and the BSMPP were merged into the Bell System Trust (the BST). Substantially all of the non-real estate assets in the BST were transferred to a new AT&T trust. The real estate assets were retained in the BST, which was amended and restated as TREET. The original participants in TREET were employee benefit plans maintained by various separate companies resulting from the Reorganization (the New Companies' Plans), each of which agreed that interests in TREET would be bought and sold only among the participating plans.

Buying and selling of interests in TREET has occurred among the Bell Companies' Plans in such manner that the AT&T Plans and the BellSouth Plans are the only New Companies' Plans which continue to own participating interests in TREET. As of December 31, 1992, TREET had net assets of approximately $2,637,276,588. Currently, the only participants in TREET are the AT&T Master Pension Trust, which holds the assets of the AT&T Plans, and the BellSouth Master Pension Trust, which holds the assets of the BellSouth Plans. On January 1, 1993, the assets of seventeen defined benefit plans sponsored by the NCR Corporation (NCR) were added to the AT&T Master Pension Trust, as a result of AT&T's acquisition of NCR.

3. As named fiduciary of TREET, AT&T has utilized more than a hundred independent trustees and investment managers to manage TREET assets, including Karsten Realty Advisors (Karsten). Karsten is a California corporation operating as an investment adviser registered under the Investment Advisors Act of 1940, as amended. With its headquarters in Los Angeles, Karsten engages in rendering advice with respect to the acquisition, management, financing and disposition of real properties in many locations on behalf of approximately 18 pension funds and other clients. As of December 31, 1993, Karsten had approximately $600 million in assets under its management, including approximately $500 million in tax-exempt assets. Karsten's services to TREET include the supervision of property managers and leasing agents and the provision of recommendations regarding sales or other dispositions of properties. On February 1, 1994, the assets of Karsten were acquired by Koll Realty Advisors (Koll), which assumed Karsten's obligations with respect to TREET. Koll is a California corporation functioning as an investment adviser registered under the Investment Advisors Act of 1940, as amended. AT&T represents that it is unaffiliated with Karsten and Koll, and that Karsten and Koll are each "qualified professional asset managers" within the meaning of Prohibited Transaction Class Exemption 84–14 (PTE 84–14, 49 FR 9494, March 13, 1984).

Among TREET's assets which have been under Karsten's management is Southpark, a commercial office development in which AT&T was a lessee at the time TREET acquired it. AT&T is requesting an exemption for its past and proposed lease of space in Southpark from TREET under the terms and conditions described herein.

4. During 1981, the Mercantile Real Estate Fund for Employee Benefit Plans (the Mercantile Fund) extended a line of credit in the amount of $5,641,000 (the Loan) to real estate developer Crowe-Simmons-Gottesman (Crowe) to finance the development of several commercial buildings which included Southpark, an office complex located in the Crowe Industrial Park South in Austin, Texas. The Loan was secured by a non-recourse promissory note (the Note) and by a deed of trust granting the Mercantile Fund a security interest in the three office buildings of Southpark, designated as Southpark A, B and C (the Deed of Trust). The Loan was also secured by an assignment of building rents from Southpark A, B and C. AT&T represents that the parties to the Loan are independent of an unrelated to TREET and AT&T.

Prior to 1986, TREET acquired the Note and the Deed of Trust from the Mercantile Fund. Commencing in 1986, that portion of TREET's assets which included the Note and Deed of Trust was managed by Goldman Sachs & Company (Goldman) pursuant to an agreement with AT&T under which Goldman managed debt investments of TREET.

Effective December 1, 1990, AT&T commenced leasing from Crowe approximately 13,997 square feet in Southpark C pursuant to a written lease (the AT&T Lease) providing for monthly rental of $6858.75 for a term of 36 months, through November 30, 1993.

AT&T represents that at the time the AT&T Lease commenced, neither Karsten nor any other representative of TREET had any authority or control over the leasing of space in Southpark, and TREET's sole interest in Southpark at that time was as the holder of a security interest arising from TREET's ownership of the Note and the Deed of Trust.

5. AT&T represents that during the mid-1980's Crowe began to experience increasing difficulty in meeting its Loan payment obligations, due to depressed real estate conditions in the Austin market, and Crowe and TREET negotiated modified Loan payment terms in 1989, 1990 and 1991. These modifications related Crowe's Loan payment obligation to the level of cash flow generated by the Southpark buildings, and the parties agreed that unpaid accrued interest would be added to the Loan principal. As a result, however, the principal amount of the Loan became so large in relation to the value of the Southpark buildings that it appeared unlikely that Crowe would be able to receive any return on its equity after paying off the Loan. After it was evident that Crowe would eventually default on the Loan and that TREET would acquire Southpark by foreclosure, Goldman took steps to enable TREET to acquire title to Southpark prior to foreclosure, in order to exercise control over the buildings and to directly collect the rents. Crowe transferred title to Southpark to TREET through a deed in lieu of foreclosure (the Transfer Deed) executed on June 3, 1993. At that time, AT&T remained a tenant in Southpark under the AT&T Lease, occupying approximately 18 percent of the rentable space in Southpark. The term of the AT&T Lease expired on November 30, 1993, but the lease continues on a month-to-month holdover basis (the Holdover Lease). AT&T hopes to negotiate a new lease of office space in Southpark (the New Lease), under which it would occupy substantially less space in Southpark, constituting less than ten percent of the Southpark's leasable square footage.

6. At all times before TREET acquired Southpark, its interests in the Loan had been managed and advised by Goldman, whose responsibilities with respect to Trust assets were limited to the management of debt investments. Upon acquisition of title to Southpark through the Transfer Deed, TREET thereby acquired equity interests, which were not within the scope of Goldman's authority to manage under the terms of its appointment. Accordingly, Karsten, which was already providing investment management services with respect to other assets of TREET, was appointed by AT&T to assume investment management responsibility on TREET's behalf for the Southpark buildings. With the addition of Southpark to TREET assets under its management, Karsten commenced to hold management responsibility with respect to more than twenty percent of the assets of TREET.

7. In order to secure representation of TREET's interests under the AT&T Lease by a fiduciary which is sufficiently independent of AT&T, Hill Partners, Inc. (Hill Partners) has been appointed to act as an independent fiduciary on behalf of TREET, effective December 1, 1993, with respect to AT&T's lease of space in Southpark. Hill Partners is a Texas corporation engaged in commercial real estate development and management services, with its corporate headquarters in Austin, Texas. Hill Partners represents that it is unrelated to AT&T and TREET, except for the provision of services as leasing agent for Southpark C, which it represents constitutes less than five percent of Hill Partners' total revenues for the past fiscal year. Hill Partners serves as a fiduciary under the Act, to represent TREET's interests for all purposes with respect to AT&T's lease of Southpark space pursuant to the Holdover Lease and any New Lease or extension, renewal or renegotiation of the AT&T Lease. Hill Partners is required to monitor AT&T's performance of all obligations under any such lease, and to pursue appropriate remedies in the event of any default in performance of such obligations. Hill Partners' obligations include representing the interests of TREET in the negotiations with AT&T over the New Lease, and in the oversight and enforcement of AT&T's obligations under any New Lease which is consummated, including any renewal or extension thereof.

Hill Partners' role also includes certain determinations with respect to the period commencing June 3, 1993, to December 1, 1993 (the Interim Period), the date of Hill Partners' assumption of duties as independent fiduciary on behalf of TREET. Specifically, Hill Partners is obligated to assess and evaluate AT&T's performance of its obligations under the AT&T Lease during the Interim Period, and Karsten's representation of TREET's interests during the Interim Period with respect to the AT&T Lease. Hill Partners represents that it has determined that during the Interim Period, AT&T was in complete compliance with all terms and conditions of the AT&T Lease. Hill Partners also represents that, based upon its review, it has determined that Karsten's representation of TREET's interests under the AT&T Lease during the Interim Period was appropriate and adequately protective of the interests of TREET.

8. With respect to the proposed New Lease, the negotiation of which has been conducted between AT&T and Hill Partners, AT&T proposes to lease 7,600 square feet in Southpark C for a term of three years, effective April 1, 1994. The proposed annual base rent per square foot is $6.00 for the first year, $6.60 for the second year, and $6.96 for the third year, and AT&T is responsible for its pro rata share of expenses. The New Lease's three-year term may be extended for no more than one three-year renewal term at rent of no less than the prevailing market rental rate, by written notice to Hill Partners 180 days prior to expiration of the initial term, subject to Hill Partners' determination that such extension is in the best interests of the plans participating in TREET. Hill Partners confirms that it has represented TREET's interests in negotiating the proposed New Lease, that it approves of all the terms and conditions of the proposed New Lease, and that it would be in the best interests of TREET to execute the New Lease with AT&T. Hill Partners states that it has determined that the rent required under the New Lease is not less than the fair market rent. Hill Partners states that in executing the New Lease, TREET will be retaining a substantial corporate tenant which has an excellent performance record and which constitutes a very high quality tenant. Hill Partners represents that all the terms of the proposed New Lease are at least as favorable to TREET as TREET could obtain in an arm's-length transaction with an unrelated party.

9. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The interests of TREET with respect to TREET's lease of space in Southpark to AT&T under the Holdover Lease and the proposed New Lease have been and will be represented by Hill Partners, serving as an independent fiduciary on behalf of TREET; (2) Hill Partners has determined that during the Interim Period, after TREET acquired Southpark and before Hill Partners' appointment as independent fiduciary, the interests of TREET were adequately protected and appropriately represented by Karsten; (3) Hill Partners approves of all terms of the proposed New Lease and AT&T's continued tenancy in Southpark, and has determined that the rent required

under the New Lease is not less than the fair market rent; (4) Under the proposed New Lease, AT&T will reduce the amount of space it leases in Southpark to less than ten percent of Southpark's total leasable space; and (5) Any renewal of the New Lease will require the approval of Hill Partners and will require rent of no less than the fair market rent.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 16th day of June, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department Of Labor.

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[Prohibited Transaction Exemption 94–47; Exemption Application No. D–9516]

Grant of individual exemptions; Bank of America National Trust and Savings Association

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Bank of America National Trust and Savings Association (Bank of America), Located in San Francisco, California

[Prohibited Transaction Exemption 94–47; Exemption Application No. D–9516].

Exemption

Part I—Exemption for Cross-Trading Between Certain Funds

The restrictions of sections 406(a)(1)(A) and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) of the Code, shall not apply to (1) the purchase and sale of stock (including the stock of BankAmerica Corporation (BAC)) between Index Funds and/or Model Driven funds (collectively, the Funds); and (2) the purchase and sale of stocks (including the common stock of BAC) between Index or Model-Driven Funds and various large pension plans (the Large Plans) pursuant to portfolio restructuring programs of the Large Plans; provided that the following conditions and the General Conditions of Part III are met:

(a) The Index or Model-Driven Fund is based on an index which represents the investment performance of a specific segment of the public market for equity securities in the United States and/or foreign countries. The organization creating and maintaining the index must be (1) engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients, (2) a publisher of financial news or information, or (3) a public stock exchange or association of securities dealers. The index must be created and maintained by an organization independent of Bank of America and its affiliates. The index must be a generally

accepted standardized index of securities which is not specifically tailored for the use of Bank of America or its affiliates.

(b) The price for the stock is set at the closing price for that stock on the day of trading; unless the stock was added to or deleted from an index underlying a Fund (or Funds) after the close of trading, in which case the price will be the opening price for that stock on the next business day after the announcement of the addition or deletion.

(c) The transaction takes place within three business days of the "triggering event" giving rise to the cross-trade opportunity. A triggering event is defined as:

(1) A change in the composition or weighting of the index and/or model underlying a Fund;

(2) A change in the overall level of investment in a Fund as a result of investments and withdrawals made on the Fund's regularly-scheduled opening date; or

(3) A declaration by Bank of America (recorded on Bank of America's records) that a "triggering event" has occurred, which will be made upon an accumulation of cash in a Fund attributable to dividends and/or tender offers for portfolio securities equal to not less than .05 percent and not more than .5 percent of the Fund's total value;

(d) In the event that a number of shares of a particular stock which all of the Funds or Large Plans propose to sell on a given day is less than the number of shares of such stock which all of the Funds or the Large Plans propose to buy, or vice versa, the direct cross-trade opportunity must be allocated among potential buyers or sellers on a pro rata basis.

(e) With respect to transactions involving a Large Plan:

(1) It has assets in excess of $50 million;

(2) Fiduciaries of the Large Plan who are independent of Bank of America are, prior to any cross-trade transactions, fully informed of the cross-trade technique and provide advance written approval of such transactions. Within 45 days of the completion of the Large Plan's portfolio restructuring program, such fiduciaries shall be fully appraised in writing of the transaction results. However, if such program takes longer than three months to complete, interim reports of the transaction results will be made within 30 days of the end of each three month period.

(3) Such Large Plan transactions occur only in situations where Bank of America has been authorized to restructure all or a portion of the Large Plan's portfolio into an Index or Model-Driven Fund (including a separate account based on an index or computer model) or to act as a "trading adviser" in carrying out a Large Plan-initiated liquidation or restructuring of its equity portfolio; and

(f) Bank of America receives no additional direct or indirect compensation as a result of the cross-trade transaction.

(g) Prior to any proposed cross-trading by a Fund, Bank of America provides to each employee benefit plan which invests in a Fund information which describes the existence of the cross-trading program, the "triggering events" which will create cross-trade opportunities, the pricing mechanism that will be utilized for stocks purchased or sold by the Funds, and the allocation methods and other procedures which will be implemented by Bank of America for its cross-trading practices. Any such employee benefit plan which subsequently invests in a Fund shall be provided the same information prior to or immediately after the plan's initial investment in a Fund.

Part II—Exemption for the Acquisition, Holding and Disposition of BAC Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the acquisition, holding or disposition of the common stock of BAC by Index or Model-Driven Funds, if the following conditions and the General Conditions of Part III are met:

(a) The acquisition or disposition of the BAC stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based;

(b) All acquisitions and dispositions, other than through cross-trade transactions meeting the conditions of Part I, will comply with Rule 10b–18 of the Securities and Exchange Commission, including the limitations regarding the price paid or received for such stock;

(c) Aggregate daily purchases of BAC stock, other than cross-trade purchases meeting the conditions of Part I, will constitute no more than the greater of: (1) 10 percent of the stock's average daily trading volume for the previous five days; or (2) 10 percent of the stock's trading volume on the date of the transaction;

(d) If the necessary number of shares of BAC stock cannot be acquired within 10 business days from the date of the event which causes the particular Index or Model-Driven Fund(s) to require BAC stock, Bank of America will appoint a fiduciary which is independent of Bank of America and its affiliates to design acquisition procedures and monitor Bank of America's compliance with such procedures;

(e) All purchases and sales of BAC stock, other than cross-trades meeting the conditions of Part I, will be executed on the national exchange on which BAC stock is primarily traded;

(f) No transactions will involve purchases from, or sales to, Bank of America or any affiliate, officer, director or employee of Bank of America or any party in interest with respect to a plan which has invested in an Index or Model-Driven Fund. This requirement does not preclude purchases and sales of BAC stock in cross-trade transactions meeting the conditions of Part I;

(g) No more than five (5) percent of the total amount of BAC stock issued and outstanding at any time shall be held in the aggregate by the Index and Model-Driven Funds;

(h) BAC stock shall constitute no more than two percent of the value of any independent third-party index on which the investments of an Index or Model-Driven Fund are based;

(i) A plan fiduciary independent of Bank of America authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds BAC stock; and

(j) A fiduciary independent of Bank of America and its affiliates will direct the voting of the BAC stock held by an Index or Model-Driven Fund on any matter in which shareholders of BAC stock are required or permitted to vote.

Part III—General Conditions

(a) Bank of America maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Part to determine whether the conditions of the exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Bank of America or its affiliates, the records are lost or destroyed prior to the end of the six-year period.

(b)(1) Except as provided in paragraph (2) of this subsection (b) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in

subsection (a) of this Part are available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department of Labor or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer with respect to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this subsection (b) shall be authorized to examine trade secrets of Bank of America, any of its affiliates, or commercial or financial information which is privileged or confidential.

Part IV—Definitions

(1) Index Fund—Any investment fund, account or portfolio sponsored, maintained and/or trusteed by Bank of America, or an affiliate of Bank of America, in which one or more investors invest which is designed to replicate the capitalization-weighted composition of a stock index which satisfies the conditions of Part I(a) and Part II(h).

(2) Model-Driven Fund—Any investment fund, account or portfolio sponsored, maintained and/or trusteed by Bank of America, or an affiliate of the Bank of America, in which one or more investors invest which is based on computer models using prescribed objective criteria to transform an independent third-party stock index which satisfies the conditions of Part I(a) and Part II(h).

(3) Opening date—The regularly-scheduled date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(4) Trading adviser—A person whose role is limited to arranging a Large Plan-initiated liquidation or equity restructuring within a stated time so as to minimize transaction costs.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 22, 1994 at 59 FR 19255.

WRITTEN COMMENTS: The Department received one written comment and no requests for a hearing. The written comment was submitted on behalf of the Bank of America National Trust and Savings Association (the Applicant), and it addresses two points which are summarized as follows:

1. Section 6 in the summary of facts and representations in the notice of proposed exemption (the Summary) commences with the following statement: "The Bank proposes to take advantage of opportunities to direct the cross-trading of securities directly between the Funds, or directly with other client accounts for which the Bank is the investment manager, or with mutual funds or institutional accounts for which the Bank is the investment advisor." However, the Applicant points out that the proposed exemption does not provide exemptive relief as broad as that reflected in the statement.

The Department notes that the appearance of the aforementioned statement in the Summary is an error. The Applicant did not request, and the Department did not propose, exemptive relief for the Funds' cross-trade transactions with "other client accounts for which the Bank is the investment manager, or with mutual funds or institutional accounts for which the Bank is the investment advisor." Despite the erroneous appearance of the aforementioned statement in the Summary, the Department notes that the operative language of the proposed exemption included only transactions between Index Funds and/or Model Driven Funds (the Funds), and between the Funds and Large Plans (as defined in Part I, Section (e) of the proposed exemption), including the purchase and sale of common stock of BAC. Like the proposed exemption, the final exemption is restricted to those transactions defined and identified in Parts I through IV of the exemption, which do not include transactions with "other client accounts for which the Bank is the investment manager, or with mutual funds or institutional accounts for which the Bank is the investment advisor."

2. The Applicant notes a typographical error in Section 9 of the Summary: The reference to rule 10b–189, in the second paragraph, line 10, should read as a reference to SEC Rule 10b–18.

ADDITIONS: In this final exemption the Department has included a new condition (g) in Part I—Exemption for Cross-Trading Between Certain Funds, which was inadvertently omitted from the notice of proposed exemption. Condition (g) requires the Bank of America to provide certain information regarding its cross-trading program to employee benefit plans which invest in the Funds.

After consideration of the entire record, including the Applicant's comment, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 16th day of June, 1994.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–15005 Filed 6–20–94; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 94–4S; Application Nos. D–9337 and D–9415]

Smith Barney, Inc. (SBI), Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration.

ACTION: Grant of individual exemption to modify and replace prohibited transaction exemption (PTE) 92–77 involving Shearson Lehman Brothers, Inc. (Shearson Lehman).

SUMMARY: This document contains an individual exemption which supersedes PTE 92–77 (57 FR 45833, October 5, 1992).[1] This exemption permits the replacement of Shearson Lehman with an entity known as "Smith Barney Inc."[2] It also allows SBI to adopt a daily-traded collective investment fund (the GIC Fund) for Plans investing in the Consulting Group Capital Markets Funds (the Trust). The exemption provides conditional relief that is identical to that provided by PTE 92–77 and it will affect participants and beneficiaries of, and fiduciaries with respect to, Plans participating in the Trust.

EFFECTIVE DATE: This exemption is effective July 31, 1993 for transactions that are covered by PTE 92–77. With respect to transactions involving the GIC Fund, the exemption is effective March 29, 1994.

[1] PTE 92–77 provides exemptive relief from section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, with respect to the purchase or redemption of shares in the Trust for TRAK Investments (which has been redesignated as the "Consulting Group Capital Markets Funds" and is referred to herein as the Trust) by Plans investing therein. In addition, PTE 92–77 provides exemptive relief from the restrictions of section 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(E) of the Code, with respect to the provision, by the Consulting Group of Shearson Lehman, of investment advisory services to an Independent Plan Fiduciary of a Plan participating in the TRAK Personalized Investment Advisory Service (the TRAK Program) which may result in such fiduciary's selection of a Portfolio in the TRAK Program for the investment of Plan assets.

[2] Effective June 1, 1994, Smith Barney Shearson, Inc. (SBS) was renamed "Smith Barney Inc." Hereinafter, SBS is referred to in this grant notice as either "Smith Barney Inc." or "SBI."

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 29, 1994, the Department of Labor (the Department) published a notice of proposed exemption (the Notice) in the **Federal Register** (59 FR 14680) that would replace PTE 92–77. PTE 92–77 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code. The proposed exemption was requested in an application filed by SBI pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures (the Procedures) set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Accordingly, this replacement exemption is being issued solely by the Department.

The Notice gave interested persons an opportunity to comment on the proposed exemption and to request a public hearing. The only written comments submitted to the Department during the comment period were made by SBI. These comments expressed SBI's substantive concerns about the Notice and offered suggestions for clarifying certain language of the Notice. Discussed below are SBI's comments and the Department's responses thereto. Also discussed is a comment made by the Department.

SBI's Comments

SBI notes that there is an ambiguity regarding the effective date of the GIC Fund. SBI represents that the Notice provides in the last paragraph under the heading "Supplementary Information," that with respect to transactions involving the GIC Fund, the exemption "would become effective as of the date of the grant of the notice of pendency." However, under the captions **EFFECTIVE DATES** and **DATES**, SBI explains that the Notice states that the exemption will be effective "upon its grant," or "as of the date the grant notice is published." Because it was the intention of the parties that the effective date for transactions involving the GIC Fund would be March 29, 1994, the date of publication of the Notice in the **Federal Register**, SBI requests that the Department make the exemption retroactive to this date for the GIC Fund.

The Department has considered SBI's comment and has made the requested modification.

SBI wishes to modify the exemption in order that it may offer the GIC Fund to both fiduciary-directed Plans as well as Plans providing for participant-directed investments (the Section 404(c) Plans). The Department believes this comment has merit and that it would be potentially beneficial to participants and beneficiaries since it provides different types of Plans participating in the TRAK Program with the opportunity to invest in the GIC Fund.

SBI explains that in the preamble to the Notice there is a statement to the effect that it will "describe the GIC Fund in a prospectus (the Prospectus) and promotional materials that will be furnished to Section 404(c) Plan participants." SBI represents that interests in the GIC Fund are not subject to the registration and Prospectus delivery requirements of the Securities Act of 1933. Also, SBI points out that the conditions of PTE 92–77 require it to deliver copies of the Trust Prospectus only to the Plan administrator and not to the individual participants. Because it has no practical means of delivering Prospectuses or other disclosures to participants, SBI indicates that the responsibility for providing these materials to participants rests with the Plan administrator. In this regard, SBI represents that the disclosure information it will make available to all Plans proposing to invest in the GIC Fund will include copies of the Trust Prospectus and a separate description of the GIC Fund's investment objectives, policies and processes. SBI explains that its description of the GIC Fund will be designed to provide a participant with sufficient information in order that the participant can make an informed investment decision.

The Department concurs with these comments.

In addition to principal comments discussed above, SBI has made certain technical clarifications and updates to the Notice in the following areas:

(1) *General.*

a. *Redesignations.* SBI explains that effective December 31, 1993, Primerica Corporation changed its name to "The Travelers Inc." and that effective May 9, 1994, the "Trust for TRAK Investments" was renamed "Consulting Group Capital

Markets Funds." Also effective June 1, 1994, "Smith Barney Shearson Inc." was renamed "Smith Barney Inc."

(2) *Supplementary Information.*

a. *Asset Sale Transaction.* SBI explains that the transaction by which Smith Barney Harris Upham & Company, Inc. (Smith Barney) acquired Shearson Lehman and its Asset Management Divisions was an asset sale and not a merger. Accordingly, SBI suggests that the fourth sentence of the third paragraph under the heading "Supplementary Information," read as follows: "As a result of the transaction, most of the assets and business of the Shearson divisions were transferred to Smith Barney, which was renamed 'Smith Barney Shearson Inc.'"

b. *Fees Paid to Transfer Agent.* SBI represents that in the seventh paragraph under the heading "Supplementary Information," the Notice states that The Shareholder Services Group (TSSG), as transfer agent, will charge a fee of $8.50 to $9.50 per plan for its transfer agency services. While these are the current expected fee levels, SBI notes that such fees may increase or decrease in the future. Because TSSG is no longer an affiliate, SBI requests that the paragraph be amended to provide that TSSG as transfer agent will receive a reasonable fee for its services rather than specifying a precise dollar amount.

(3) *General Conditions.*

a. *Written Disclosures.* Section II(k)(1)(F) of the General Conditions of the Notice states that SBI will provide copies of PTE 92–77 and documents pertaining to the proposed replacement exemption to each Plan participating in the TRAK Program. SBI wishes to clarify that the "documents pertaining to the proposed replacement exemption" refer to copies of the Notice and, when issued, the final exemption.

The Department concurs with the above supplemental clarifications to the Notice that have been made by SBI and hereby incorporates these changes, as well as the substantive changes also described above, by reference into the Notice and, where applicable, into this final exemption.

Department's Comment

Section III of the Notice, which is captioned "Definitions," provides several meanings of the term "Independent Plan Fiduciary" in subparagraph (b). For purposes of the exemption, the term "Independent Plan Fiduciary" may include a Plan administrator, a participant in a Keogh Plan, an individual covered under a self-directed IRA or a trustee of a Title I Plan that does not permit participant-directed investments as contemplated under section 404(c) of the Act. However, due to an oversight, the definition does not extend to a participant in a Section 404(c) Plan. Because the TRAK Program is being marketed as an investment alternative to Section 404(c) Plans and the individual participant of such Plan makes the decision on whether to invest therein, the Department has amended the definition of the term "Independent Plan Fiduciary" by providing a new subparagraph (b)(5) which includes a Section 404(c) Plan participant.

Accordingly, after consideration of the entire exemption record, including the written comments, the Department has determined to grant the replacement exemption as modified herein.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, the Department has found that the exemption is administratively feasible, in the interest of the Plans and their participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plans; and

(3) The exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) In addition to transactions involving the GIC Fund, the exemption is applicable to the transactions previously described in PTE 92–77 only if the conditions specified therein are met.

Exemption

Under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the Procedures cited above, the Department hereby replaces PTE 92–77 as follows:

Section I. Covered Transactions

(a) The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the purchase or redemption of shares by Plans in the SBI-established Trust in connection with such Plans' participation in the TRAK Personalized Investment Advisory Service.

(b) The restrictions of section 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (E) and (F) of the Code, shall not apply to the provision, by the Consulting Group, of investment advisory services to an Independent Plan Fiduciary of a participating Plan which may result in such fiduciary's selection of a Portfolio in the TRAK Program for the investment of Plan assets.

The exemption is subject to the following conditions that are set forth in Section II.

Section II. General Conditions

(a) The participation of Plans in the TRAK Program will be approved by an Independent Plan Fiduciary. For purposes of this requirement, an employee, officer or director of SBI and/or its affiliates covered by an IRA not subject to Title I of the Act will be considered an Independent Plan Fiduciary with respect to such IRA.

(b) The total fees paid to the Consulting Group and its affiliates will constitute no more than reasonable compensation.

(c) No Plan will pay a fee or commission by reason of the acquisition or redemption of shares in the Trust.

(d) The terms of each purchase or redemption of Trust shares shall remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(e) The Consulting Group will provide written documentation to an Independent Plan Fiduciary of its recommendations or evaluations based upon objective criteria.

(f) Any recommendation or evaluation made by the Consulting Group to an Independent Plan Fiduciary will be implemented only at the express direction of such independent fiduciary.

(g) The Consulting Group will generally give investment advice in writing to an Independent Plan Fiduciary with respect to all available Portfolios. However, in the case of a Section 404(c) Plan, the Consulting Group will provide investment advice that is limited to the Portfolios made available under the Plan.

(h) Any Sub-Adviser that acts for the Trust to exercise investment discretion over a Portfolio will be independent of SBI and its affiliates.

(i) Immediately following the acquisition by a Portfolio of any securities that are issued by SBI and/or its affiliates, the percentage of that Portfolio's net assets invested in such securities will not exceed one percent.

(j) The quarterly investment advisory fee that is paid by a Plan to the Consulting Group for investment advisory services rendered to such Plan will be offset by such amount as is necessary to assure that the Consulting Group retains no more than 20 basis points from any Portfolio (with the exception of the Government Money Investments Portfolio and the CIC Fund Portfolio for which the Consulting Group and SBI Trust will retain no investment management fee) which contains investments attributable to the Plan investor.

(k) With respect to its participation in the TRAK Program prior to purchasing Trust shares,

(1) Each Plan will receive the following written or oral disclosures from the Consulting Group:

(A) A copy of the Prospectus for the Trust discussing the investment objectives of the Portfolios comprising the Trust, the policies employed to achieve these objectives, the corporate affiliation existing between the Consulting Group, SBI and its subsidiaries and the compensation paid to such entities.[3]

(B) Upon written or oral request to SBI, a Statement of Additional Information supplementing the Prospectus which describes the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies.

(C) A copy of the investment advisory agreement between the Consulting Group and such Plan relating to participation in the TRAK Program.

(D) Upon written request of SBI, a copy of the respective investment advisory agreement between the Consulting Group and the Sub-Advisers.

(E) In the case of a Section 404(c) Plan, if required by the arrangement negotiated between the Consulting Group and the Plan, an explanation by an SBI Financial Consultant (the Financial Consultant) to eligible participants in such Plan, of the services offered under the TRAK Program and the operation and objectives of the Portfolios.

(F) Copies of PTE 92–77 and documents pertaining to the replacement exemption.

(2) If accepted as an investor in the TRAK Program, an Independent Plan Fiduciary of an IRA or Keogh Plan, is required to acknowledge, in writing, prior to purchasing Trust shares that such fiduciary has received copies of the documents described above in subparagraph (k)(1) of this Section.

(3) With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents will be provided by the Independent Plan Fiduciary (i.e., the Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares). Such Independent Plan Fiduciary will be required to represent in writing to SBI that such fiduciary is (a) independent of SBI and its affiliates and (b) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(4) With respect to a Plan that is covered under Title I of the Act, where investment decisions are made by a trustee, investment manager or a named fiduciary, such Independent Plan Fiduciary is required to acknowledge, in writing, receipt of such documents and represent to SBI that such fiduciary is (a) independent of SBI and its affiliates, (b) capable of making an independent decision regarding the investment of Plan assets and (c) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(l) Subsequent to its participation in the TRAK Program, each Plan receives the following written or oral disclosures with respect to its ongoing participation in the TRAK Program:

(1) The Trust's semi-annual and annual report which will include financial statement for the Trust and investment management fees paid by each Portfolio.

(2) A written quarterly monitoring statement containing an analysis and an evaluation of a Plan investor's account to ascertain whether the Plan's investment objectives have been met and recommending, if required, changes in Portfolio allocations.

(3) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly, detailed investment performance monitoring report, in writing, provided to an Independent Plan Fiduciary of such Plan showing, Plan level asset allocations, Plan cash flow analysis and annualized risk adjusted rates of return for Plan investments. In addition, if required by such arrangement, Financial Consultants will meet periodically with Independent Plan Fiduciaries of Section 404(c) Plans to discuss the report as well as with eligible participants to review their accounts' performance.

(4) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly participant performance monitoring report provided to a Plan participant which accompanies the participant's benefit statement and describes the investment performance of the Portfolios, the investment performance of the participant's individual investment in the TRAK Program, and gives market commentary and toll-free numbers that will enable the participant to obtain more information about the TRAK Program or to amend his or her investment allocations.

(5) On a quarterly and annual basis, written disclosures to all Plans of the (a) percentage of each Portfolio's brokerage commissions that are paid to SBI and its affiliates and (b) the average brokerage commission per share paid by each Portfolio to SBI and its affiliates, as compared to the average brokerage commission per share paid by the Trust to brokers other than SBI and its affiliates, both expressed as cents per share.

(m) SBI shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (n) of this Section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of SBI and/or its affiliates, the records are lost or destroyed prior to the end of the six year period, and (2) no party in interest other than SBI shall be subject

[3] The fact that certain transactions and fee arrangements are the subject of an administrative exemption does not relieve the Independent Plan Fiduciary from the general fiduciary responsibility provisions of section 404 of the Act. In this regard, the Department expects the Independent Plan Fiduciary to consider carefully the totality of fees and expenses to be paid by the Plan including the fees paid directly to SBI or to other third parties and/or indirectly through the Trust to SBI.

to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (n) below.

(n)(1) Except as provided in section (2) of this paragraph and notwithstanding any provisions of subsections (a) (2) and (b) of section 504 of the Act, the records referred to in paragraph (m) of this Section shall be unconditionally available at their customary location during normal business hours by:

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(B) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(C) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(D) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described above in subparagraphs (B)–(D) of this paragraph (n) shall be authorized to examine the trade secrets of SBI or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption:

(a) An "affiliate" of SBI includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with SBI. (For purposes of this subsection, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(2) Any officer, director or partner in such person, and

(3) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(b) An "Independent Plan Fiduciary" is a Plan fiduciary which is independent of SBI and its affiliates and is either

(1) A Plan administrator, sponsor, trustee or named fiduciary, as the recordholder of Trust shares of a Section 404(c) Plan,

(2) A participant in a Keogh Plan,

(3) An individual covered under a self-directed IRA which invests in Trust shares,

(4) A trustee, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act, or

(5) A participant in a Section 404(c) Plan.

Section IV. Effective Dates

This exemption will be effective as of July 31, 1993, except for transactions involving the GIC Fund. The exemption will be effective March 29, 1994 with respect to the inclusion of the GIC Fund in the TRAK Program.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the applications for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 92–77, refer to the proposed exemption and grant notice which are cited above.

Signed at Washington, DC, this 16th day of June 1994.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 94–15006 Filed 6–20–94; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CIVILIAN COMMUNITY CORPS

Agency Information Collection Activities Under OMB Review

AGENCY: National Civilian Community Corps (NCCC).

ACTION: Information Collection Request Submitted to the Federal Office of Management and Budget (FOMB) for Review.

SUMMARY: This notice provides information about an information collection proposal by NCCC, currently under review by the Office of Management and Budget (OMB).

DATES: OMB and NCCC will consider comments on the proposed collection of information and recordkeeping requirements received within 30 days from the date of publication. Copies of the proposed forms and supporting documents may be obtained by contacting NCCC.

ADDRESSES: Send comments to both—

Donald L. Scott, Director, NCCC, 1100 Vermont Ave., NW., Washington, DC 20525

Steve Semenuk, Desk Officer for CNS, Office of Management and Budget, 3002 New Executive Office Bldg., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Sarah Whitman (202) 606–5000 ext. 104 or David Silverberg ext. 120.

SUPPLEMENTARY INFORMATION:

Office of the Corporation for National Service Issuing

Proposal: NCCC.

Title of Forms: NCCC Project Form.

Need and Use: NCCC is requesting information to meet requirements of federal law. This information is used for program management, planning and required recordkeeping.

Type of Request: Submission of a new collection.

Respondent's Obligation to Reply: Required to receive benefits.

Frequency of Collection: On occasion.

Estimated Number of Responses: 800.

Average Burden Hours per Response: 16 hours (reporting and recordkeeping).

Estimated Annual Reporting or Disclosure Burden: 12,800.

Regulatory Authority: Subtitle E of Public Law 103–82.

Dated: June 13, 1994.

Louis R. Heffner,

Deputy Director.

[FR Doc. 94–15039 Filed 6–20–94; 8:45 am]

BILLING CODE 6050–28–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Boston Edison Co.; Pilgrim Nuclear Power Station; Issuance of Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–35, issued to the Boston Edison Company (BECo, or the licensee), for operation of the Pilgrim Nuclear Power Station, located in Plymouth, Massachusetts.

Identification of Proposed Action

The amendment would consist of changes to the Technical Specifications (TSs) and would authorize an increase of the storage capacity of the spent fuel pool (SFP) from 2320 fuel assemblies to 3859 fuel assemblies.

The NRC staff has prepared an Environmental Assessment of the Proposed Action.

Summary of Environmental Assessment

The "Final Generic Environmental Impact Statement (FGEIS) on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG–0575), Volumes 1–3, concluded that the environmental impact of interim storage of spent fuel was negligible and the cost of the various alternatives reflects the advantage of continued generation of nuclear power with the accompanying spent fuel storage. Because of the differences in design, the FGEIS recommended evaluating SFP expansions on a case-by-case basis.

For Pilgrim, the expansion of the storage capacity of the SFP will not create any significant additional radiological effects or nonradiological environmental impacts.

The additional whole body dose that might be received by an individual at the site boundary and the estimated dose to the population within an 80 kilometer radius is believed to be too small to have any significance when compared to the fluctuations in the annual dose this population receives from exposure to background radiation. The occupational radiation dose for the proposed operation of the expanded SFP is estimated to be extremely small compared to the total annual occupational radiation exposure for this facility.

The only nonradiological impact affected by the SFP expansion is the waste heat rejected. The total increase in heat load rejected to the environment will be small in comparison to the amount of total heat currently being released. There is no significant environmental impact attributed to the waste heat from the plant due to this very small increase.

Finding of no Significant Impact

The staff has reviewed the proposed SFP expansion to the facility relative to the requirements set forth in 10 CFR Part 51. Based on this assessment, the NRC staff concludes that there are no significant radiological or nonradiological impacts associated with the proposed action and that the issuance of the proposed amendment to the license will have no significant impact on the quality of the human environment. Therefore, pursuant to 10 CFR 51.31, no environmental impact statement needs to be prepared for this action.

For further details with respect to this action, see (1) the application for amendment to the TSs dated February 11, 1993, (2) the FGEIS on Handling and Storage of Spent Light Water Power Reactor Fuel (NUREG–0575), (3) the Final Environmental Statement for the Pilgrim Nuclear Power Station, dated May 1972, and (4) the Environmental Assessment dated June 15, 1994.

These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Dated at Rockville, Maryland, this 15th day of June 1994.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Director, Project Directorate I–3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15024 Filed 6–20–94; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Planning and Procedures; Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on Wednesday, July 6, 1994, Room P–422, 7920 Norfolk Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and matters the release of which would represent a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, July 6, 1994—2:00 p.m. until the conclusion of business.

The Subcommittee will discuss proposed ACRS activities and related matters. Also, it will discuss qualifications of candidates nominated for appointment to the ACRS. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, 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 contacting the cognizant ACRS staff person, Dr. John T. Larkins (telephone: 301/492–4516) between 7:30 a.m. and 4:15 p.m. (EST). 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: June 15, 1994.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 94–15020 Filed 6–20–94; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Containment Systems; Meeting

The ACRS Subcommittee on Containment Systems will hold a meeting on July 6, 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:

Wednesday, July 6, 1994—8:30 a.m. until the conclusion of business.

The Subcommittee will review proposed changes to Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors". The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. 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 Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, 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 Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, nuclear industry, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, 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 contacting the cognizant ACRS staff engineer, Mr. M. Dean Houston, (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. (EST). 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: June 14, 1994.

Sam Duraiswamy,

Chief Nuclear Reactors Branch.

[FR Doc. 94–15021 Filed 6–20–94; 8:45 am]

BILLING CODE 7590–01–M

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

[Docket Nos. 50–369 and 50–370]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License No. NPF–9 and Facility Operating License No. NPF–17 issued to Duke Power Company (the licensee) for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenberg County, North Carolina.

The proposed amendments would change the Technical Specifications to increase Main Steam and Pressurizer Code Safety Valve Setpoint Tolerances.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendment will not result in a significant increase in the probability or consequences of any previously analyzed accident. The valve lift setting is challenged only after a transient has been initiated and is not a contributor to the probability of any transient or accident. The transients which involve pressure increases which would potentially challenge the safety valves have been analyzed to determine the consequences of delayed or premature valve actuation at the extremes of the new setpoint tolerances. These analyses show that all applicable acceptance criteria are met using the wider tolerances.

The proposed amendment will not result in the creation of any new accident not previously evaluated. As noted above, the setpoint tolerance only affects the time at which the safety valve opens following or during a transient, and is not a contributor to the probability of an accident.

The proposed amendment will not result in a significant decrease in a margin of safety. The limiting transient in each accident category has been analyzed to determine the affect of the change in lift setpoint tolerance on the transient. In each case, the results of the analyses met all applicable criteria.

Bases on the above, it is conclude that no significant hazard considerations exist.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days 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 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very 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 July 21, 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 a local public document room located at Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of

the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the 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 proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment. A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to David B. Matthews petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, 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 amendments dated May 5, 1994, as supplemented June 13, 1994, which 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 Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Rockville, Maryland, this 15th day of June 1994.

For the Nuclear Regulatory Commission.

Victor Nerses,

Project Manager, Project Directorate II–3, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 94–15023 Filed 6–20–94; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

National Partnership Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The Office of Personnel Management (OPM) announces the ninth meeting of the National Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

TIME AND PLACE: The Council will meet July 13, 1994, 1 p.m., in the OPM Conference Center, room 1350, at the Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC 20415–0001. The conference center is located on the first floor.

TYPE OF MEETING: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact OPM to obtain appropriate accommodations.

POINT OF CONTACT: Douglas K. Walker, Office of Communications, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., room 5F12, Washington, DC 20415–0001, (202) 606–1800.

SUPPLEMENTARY INFORMATION: The Council will receive reports on and discuss activities contained in its work plan for calendar year 1994, Strategy To Promote Change, which was adopted at the April 12, 1994, meeting.

Public Participation

We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Douglas K. Walker at the address shown above. Comments should be received by July 8,

in order to be considered at the July 13, meeting.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 94–14922 Filed 6–20–94; 8:45 am]

BILLING CODE 6325–01–M

Policy Statement on Alternative Dispute Resolution Within OPM

The Administrative Dispute Resolution Act, Public Law 101–552, encourages Federal agencies to use alternative dispute resolution (ADR) methods whenever possible. ADR proceedings offer constructive approaches for resolving disputes, while avoiding the expense and delay of formal adversarial and judicial proceedings. ADR methods encompass a range of approaches, including mediation, minitrials, fact finding, and arbitration, among others. OPM is committed to the concepts of cooperative, interest-based problem solving, which are basic to ADR approaches.

OPM officials should examine those areas in which disputes routinely arise as a result of ongoing OPM program and administrative activities. OPM organizations should then select and tailor ADR approaches to these specific functional and program areas. The type, nature, and number of disputes will influence the selection and implementation of an ADR process suitable for that particular organizational setting. The Associate Director for Administration has been designated as the Agency Dispute Resolution (ADR) Specialist. The Agency Dispute Resolution Specialist can provide information on resources and training to assist offices to design and implement an ADR process for their particular category of disputes.

ADR approaches are not meant to supersede collective bargaining agreements or other statutory, regulatory, or contractual dispute resolution procedures. ADR processes are intended to supplement rather than replace existing formal procedures. Participation in an ADR process is voluntary for all parties to a dispute including OPM and a decision to use ADR calls for informed judgement. ADR methods are not suitable for all types of disputes and may not be appropriate in those cases where:

- A precedent-setting decision is needed,
- An important policy question is involved,
- The decision would have a significant effect on non-parties to the dispute, or
- A full public record of the proceeding is important.

Absent these conditions, it should be presumed to be in OPM's best interest to participate in an ADR process if other parties to the dispute also agree. Senior officials should review non-participation decisions to assure that appropriate reasons exist to offset the expected benefits and cost savings which accrue to the Agency through participation.

Consensual methods of dispute resolution represent a new and effective approach to conflict management. ADR approaches also promote communication and understanding between the disputants by emphasizing the common interest all parties have in a fair, speedy and cost effective solution. By avoiding the time and cost associated with formal adversarial proceedings, ADR allows OPM to redirect and focus more resources on productive activities.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 94–14923 Filed 6–20–94; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34215; File No. SR–CSE–94–04]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Concerning Chinese Wall Procedures for Designated Dealers

June 15, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 17, 1994, the Cincinnati Stock Exchange, Incorporated ("CSE or Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the CSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Cincinnati Stock Exchange, Inc. proposes to adopt Chinese Wall procedures relating to the activity of the Exchange's Designated Dealers ("specialists"). The text of the proposal follows; the proposed additions are italicized.

The Cincinnati Stock Exchange, Incorporated

Chapter V

Supervision

Rule 5.5. Chinese Wall Procedures

(a) An Exchange Designated Dealer ("specialist") must establish a functional separation ("Chinese Wall") between the specialist operation and any associated or affiliated persons as appropriate to its operation and further establish, maintain and enforce written procedures reasonably designed to prevent the misuse of material, non-public information, which includes review of employee and proprietary trading, memorialization and documentation of procedures, substantive supervision of inter-departmental communications by the Exchange specialist firm's Compliance Department and procedures concerning proprietary trading when the firm is in possession of material, non-public information. The Exchange specialist firm must obtain the prior written approval of the Exchange that it has complied with the requirements above in establishing functional separation as appropriate to the operation and that it has established proper compliance and audit procedures to ensure the maintenance of the functional separation. A copy of these Chinese Wall procedures, and any amendments thereto, must be filed with the Exchange's Surveillance Department.

(b) The following are the minimum procedural and maintenance requirements:

(1) The associate or affiliated person can have no influence on specific specialist trading decisions.

(2) Material, non-public corporate or market information obtained by the associated or affiliated person from the issuer may not be made available to the specialist.

(3) Clearing and margin financing information regarding the specialist may be routed only to employees engaged in such work and managerial employees engaged in overseeing operations of the affiliated or associated persons and specialist entities.

(c) Information that may be made available to others:

(1) A broker affiliated with an associated or affiliated person may make available to the specialist only the market information that he would make available to an unaffiliated specialist in the normal course of his trading and "market probing" activity.

(2) A specialist may make known to a broker affiliated with an affiliated or associated person only the information about market conditions in specialty stocks that he would make available in the normal course of specializing to any other broker and in the same manner as it would make such information available to any other broker.

(3) An affiliated or associated person can popularize a specialty stock provided it makes adequate disclosure about the existence of possible conflicts of interest.

(d) A specialist who becomes privy to material, non-public information must communicate that fact promptly to his firm's compliance officer or other designated official. The specialist shall seek guidance from the compliance officer or other designated official as to what procedures the specialist should follow after receipt of such information or such other action that should be taken. Appropriate records shall be maintained by the compliance officer or other designated official. The record should include a summary of the information received by the specialist and a description of the action taken by the compliance officer or other designated official.

(e) The Exchange has established the following procedures to monitor compliance with this rule:

(1) Examination of the Chinese Wall procedures established by Exchange specialist firms.

(2) Surveillance of proprietary trades effected by an affiliated or associate person and its affiliated or associated specialist ("designated dealer") firm.

Accordingly, the Exchange will conduct periodic examinations of the specialist firm's Chinese Wall procedures to ensure that a functional separation between the associated or affiliated person and the specialist has been created and thereafter maintained. The Exchange will also monitor the trading activities of affiliated or associated persons and affiliated or associated specialists in the specialist firms' specialty stocks in order to monitor the possible trading while in possession of material, non-public information through the periodic review of trade and comparison reports generated by the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CSE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of the proposed new rule is to require specialists to establish the appropriate functional separation to their operations while maintaining and enforcing written procedures reasonably designed to prevent the misuse of material, non-public information by employee, affiliated individual and proprietary accounts. The proposed rule further requires that a copy of such procedures be provided to the Exchange for review and approval, and sets forth specific guidelines for designated dealers to follow in adopting, maintaining and enforcing Chinese Wall procedures.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that it promotes just and equitable principals of trade and protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–94–04 and should be submitted by July 12, 1994.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15043 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34217; File No. SR–NASD–94–31]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The National Association of Securities Dealers, Inc. to Eliminate Access Market Maker Procedures From Schedule D to the NASD By-Laws

June 15, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on May 25, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Act, the NASD hereby files a proposed rule change to delete Part IX of Schedule D to the NASD By-Laws which contains procedures for market maker access to The Nasdaq Stock market ("Nasdaq") by certain broker-dealers that do not receive Level 3 Nasdaq Workstation service ("Level 3 service"). Below is the text of the proposed rule change; deleted language is bracketed.

[Part IX]

[Procedures for Access to the NASDAQ System by Non-NASDAQ Market Makers]

[These procedures permit a registered NASDAQ market maker, upon approval by the Corporation, to enter quotations into the NASDAQ System on behalf of another market maker who does not subscribe to Level 3 NASDAQ Service.]

[A. Definitions]

[1. An "access market maker" is a member of the Association who does not subscribe to Level 3 NASDAQ service, but is or intends to be a market maker in a security for which quotations are displayed on the NASDAQ System.]

[2. An "entering subscriber" is a registered NASDAQ market maker who has entered into an arrangement with an access market maker to enter quotations in the NASDAQ System on behalf of such access market maker.]

[B. The entering subscriber may enter quotations in the NASDAQ System on behalf of an access market maker only upon submission and approval by the Association of the following:]

[1. A fully executed copy of the access arrangement agreement which shall contain all agreements and conditions concerning the access arrangement.]

[2. An application for registration as an access market maker for each security.]

[C. Access market makers and entering subscribers shall be limited to one access arrangement in each security.]

[D. Quotations displayed by the entering subscriber on behalf of the access market maker shall be accompanied by the entering subscriber's market maker identifier and a special symbol designating that an access arrangement exists. The identity of the access market maker must be made available by the entering subscriber upon request.]

[E. All transactions resulting from the display of quotations in the NASDAQ System by the entering subscriber shall be executed by the entering subscriber and he shall be responsible for the transaction. Both the entering subscriber and the access market maker shall be subject to and be responsible for compliance with the provisions of Schedule D.]

[F. Access market makers shall pay to the Corporation an access fee of $70 per month for the first security and $52.50 per month for each additional security which is subject to an approved access arrangement.]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to eliminate an outmoded procedure by which certain NASD member firms could participate as market makers in Nasdaq without procuring the necessary computer equipment and subscribing to Level 3 service. Currently, Part IX of Schedule D permits a member firm that does not receive Level 3 service to qualify as an "access market maker" by entering into a suitable agreement with another firm that is a Level 3 subscriber ("entering subscriber"). After the NASD's approval of such an arrangement, the entering subscriber can input two-sided quotations reflecting the dealer interest of the access market maker. These quotations would be displayed with the entering subscriber's market maker identifier; a special indicator would also be displayed to inform other dealers that an access arrangement existed with respect to the quotations displayed in the subject security. In this circumstance, the entering subscriber assumed responsibility for executing trades at the displayed bid and offer. The entering subscriber and access market maker were jointly responsible for compliance with the various market maker obligations set forth in Part V of Schedule D to the NASD By-Laws.

In conjunction with defining the system requirements for Nasdaq's technology migration, the Nasdaq Stock Market, Inc. ("NSMI") staff analyzed the cost and feasibility of providing functionality for access market makers in the new environment. The staff found that changes in market making practices in recent years had dramatically reduced the use of the access market maker arrangement. The staff also found that no NASD member was currently utilizing this access feature. Given the absence of interested firms and the lack of any regulatory purpose in preserving the access market maker feature, it was determined that this feature did not warrant the expenditure of resources necessary to provide this functionality in the new environment. The NASD also believes that it is preferable to limit market maker participation to Level 3 service subscribers to ensure integrity of its audit trail file, including the ability to fix responsibility at the source for every quotation entry and reported transaction.

The NASD believes that this proposed rule is consistent with Sections 15A(b)(6) and 15A(b)(11) of the Act. Section 15A(b)(6) requires that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, and processing information with respect to, and facilitating transactions in securities. Section 15A(b)(11) authorizes the Association to adopt rules governing the form and content of quotations disseminated by member firms for the purposes of providing fair and informative quotations, preventing fictitious or misleading quotations, and promoting orderly procedures for collecting and distributing quotation information.

The NASD submits that elimination of the access market maker feature is fully consistent with the foregoing statutory provisions. Market makers in Nasdaq securities now will be required to subscribe to Level III service in order to enter quotations into the Nasdaq system. This requirements will eliminate an extra step in the quotation process by which an "entering subscriber" may act as an intermediary.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–94–31 and should be submitted by July 12, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[1]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15040 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[1] 17 CFR 200.30–3(a)(12).

[Release No. 34–34216; File No. SR–Phlx–93–41]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Philadelphia Stock Exchange, Inc. to Adopt Equity Floor Procedure Advice A–2, Stopping Orders

June 15, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. § 78s(b)(1), notice is hereby given that on November 2, 1993, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. On June 1, 1994, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change in order to narrow the scope of its original filing, to revise certain language used therein and to request approval to amend its Minor Rule Violation Enforcement and Reporting Plan ("Plan").[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt Equity Floor Procedure Advice ("Advice") A–2, Stopping Orders, which would require that any order on the book that is stopped by the specialist be displayed at its price or better if not executed immediately after being stopped. Moreover, the proposed advice would prohibit the specialist from trading for the specialist's own account with any order that specialist stopped, while the specialist is in possession of an order at that price or better. In this regard, the specialist must exercise due diligence to match the stopped order with the other order pursuant to Phlx Rules 119 and 120.

Proposed Advice A–2(E) is followed by the designator "(E)" to identify it as an equity floor advice, applicable only to the Exchange's equity floor. In this regard, the Exchange's Plan would be amended to include this Advice. Accordingly, violations of proposed Advice A–2(E) would be subject to a fine schedule, which results in a $250 fine for the first occurrence, a $500 fine for the second occurrence and a sanction discretionary with the Exchange's Business Conduct Committee for any violations thereafter.

[1] *See* letter from Gerald D. O'Connell, First Vice President, Phlx, to Sharon Lawson, Assistant Director, Division of Market Regulation, SEC, dated May 31, 1994 ("Amendment No. 1").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Phlx proposed to adopt Advice A–2(E) to govern stopping orders on the equity trading floor. The purpose of the proposal is to codify stopping policies into an advice as a ready reminder to the equity floor and also to establish that minor violations may result in the issuance of pre-established fines. The advice is also intended to contribute to the standardization of trading floor rules among the Intermarket Trading System ("ITS") participant exchanges.

With respect to stopped orders on the book, the proposed text is consistent with the specialist's requirements to engage in a course of dealings to assist in the maintenance of a fair and orderly market, pursuant to Phlx Rule 203. Specifically, the first requirement is that a stopped order on the book must be displayed at its price or better if not executed immediately after being stopped. The second requirement of this Advice prohibits a specialist from trading with a stopped order for his own account, while in possession of another order at an equal or better price. Instead, the specialist would be required to exercise due diligence to "match" the stopped order with the other order, consistent with Phlx Rule 218.

2. Statutory Basis

The proposed rule is consistent with Section 6 of the Act, in general, and, in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade and prevent fraudulent and manipulative acts and practices, by furthering the purposes of Rule 203, which in turn,

should foster a fair and orderly market in Exchange traded securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–93–41 and should be submitted by July 12, 1994.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15041 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–34210; File No. SR–SCCP–94–01]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Adding a Residual Credit Transfer Feature to the Automated Customer Account Transfer Service

June 14, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 5, 1994, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–SCCP–94–01) as described in Items I, II, and III below, which Items have been prepared primarily by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will offer SCCP clearing members the ability to transfer through the Automated Customer Account Transfer Service ("ACATS") credit positions which accrue to an account after the account has been transferred to another broker-dealer.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Residual credit processing is an enhancement to SCCP's ACATS program which allows an ACATS delivering member to initiate through ACATS the transfer of residual credit positions for both cash and securities which have accrued to an account after the account has been transferred to another broker-dealer. The current method for identifying and transferring residual credits differs from firm to firm. Some firms have systems which automatically review transferred accounts for the presence of residual positions. Other firms either review transferred accounts on a periodic basis or rely on customer inquiries or claim letters from ACATS receiving firms. Currently, no matter what method a firm uses to monitor transferred accounts, to transfer residual positions the delivering firm will issue a check or will transfer securities outside of ACATS.

Transferring residual positions outside of ACATS may result in lost or improperly routed checks and securities and increases the processing costs of transferring positions due to postage costs and other processing inefficiencies. The ACATS residual credit processing will help to eliminate lost or improperly routed checks and securities by providing an efficient and standardized automated method for the transfer of residual credits.

The procedures for transferring residual credits are the same as the procedures for transferring customer accounts through ACATS with the following exceptions: (1) Only the delivering member may transfer residual credits through ACATS, (2) the transfer request must be initiated in an automated form, and (3) the delivering member's input constitutes both the request and the details of the residual credits.

Money settlement for residual credits will be processed along with the clearing member's other ACATS money settlement obligations. In addition, to the extent that the residual securities are eligible for continuous net settlement, ACATS residual credits will be netted along with a member's other CNS obligations. However, the ACATS receiving member retains the ability to reject the residual credits or request adjustments.

The proposed rule change is consistent with Section 17A(b)(3)(F)[2] of the Act in that it promotes the prompt

[2] 15 U.S.C. 78q–1(b)(3)(F) (1988).

and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by providing an efficient and standardized automated method for the transfer of residual credits.

B. Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to Section 19(b)(3)(A)(iii)[3] of the Act and pursuant to Rule 19b–4(e)(4)[4] promulgated thereunder because the proposed rule change effects a change in an existing service that does not adversely affect the safeguarding of securities or funds in the custody or control of SCCP or for which SCCP is responsible and does not significantly affect the respective rights or obligations of SCCP or the clearing members using the service. At any time within sixty days of the filing of this proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of SCCP. All submissions should refer to File No. SR–SCCP–94–01 and should be submitted by July 12, 1994.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–15042 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78s(b)(3)(A)(iii) (1988).

[4] 17 CFR 240.19b–4(e)(4) (1993).

[5] 17 CFR 200.30–3(a)(12) (1992).

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Advanced NMR Systems, Inc., Common Stock, $0.01 Par Value) File No. 1–7694

June 14, 1994.

Advanced NMR Systems, Inc. ("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 Pacific Stock Exchange, Inc. ("PSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

According to the Exchange, the Board of Directors of the Company (the "Board"), pursuant to lawfully delegated authority, unanimously approved resolutions on January 14, 1994 to withdraw the Company's Common Stock from listing on the PSE and the Boston Stock Exchange, Inc. ("BSE") (a separate application for delisting was filed with the Commission by the BSE on February 7, 1994). The decision of the Board was based upon the belief that the listing of the Common Stock on the PSE was no longer beneficial to the Company, as the Company and its stockholders can achieve increased market visibility through registration on the NASDAQ National Market System ("NMS"). At the end of 1993, the Company met the NMS eligibility standards, and a listing thereon was approved by NASDAQ by letter dated February 2, 1993, a copy of which is attached to the application as Exhibit 1. The Board believes that the Company will achieve greater investor access through national trading of its shares, and will maintain access through the NMS to many of the same West Coast-based investor markets that it currently has as a result of its association with the PSE. It is primarily due to this potential redundancy that the Company seeks to delist its shares on the PSE.

Any interested person may, on or before July 6, 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. 94–14985 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 20355; 811–5869]

McDonald U.S. Government Money Market Fund, Inc.; Notice of Application for Deregistration

June 14, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: McDonald U.S. Government Money Market Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 7, 1994, and amended on June 8, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 11, 1994 and should be accompanied by proof of service on applicant, in the

form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicant, 144 Glenn Curtiss Boulevard, Uniondale, New York 11556–0144.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 942–0565, or C. David Messman, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS:

1. Applicant is a diversified open-end management investment company organized as a Maryland corporation. On July 31, 1989, applicant registered under section 8(a) of the Act and filed a registration statement under section 8(b) of the Act and the Securities Act of 1933. The registration statement was declared effective on October 2, 1989, and applicant commenced its initial public offering on October 3, 1989.

2. On June 21, 1993, applicant's Board of Directors approved a plan of reorganization whereby applicant agreed to transfer all or substantially all of its assets and liabilities to Gradison-McDonald U.S. Government Reserves Series (the "Acquiring Fund"), a newly-created series of Gradison Cash Reserves Trust in exchange for shares of the Acquiring Fund. In accordance with rule 17a–8 of the Act, applicant's directors determined that the sale of applicant's assets to the Acquiring Fund was in the best interest of applicant's shareholders, and that the interests of the existing shareholders would not be diluted as a result.[1]

3. The directors of applicant concluded that the reorganization would benefit applicant's shareholders because the overall fees charged to the combined fund should result in lower fees than are currently being incurred by the applicant.

4. A registration statement on Form N–14 was filed with the SEC and the proxy statement/prospectus contained therein was furnished to applicant's shareholders on or about August 15, 1993. At a special meeting held on September 13, 1993, holders of a majority of the outstanding voting shares of applicant approved the reorganization.

5. On September 24, 1993, applicant has aggregate net assets of $194,234,642 and a net asset value per share of $1.00. As of September 24, 1993, shares of the Acquiring Fund were distributed to applicant's shareholders. Each shareholder received the proportion of Acquiring Fund shares received by applicant that the number of applicant shares owned by each such shareholder bore to the number of outstanding applicant shares.

6. Applicant bore expenses of approximately $44,137 in connection with the reorganization. Such expenses were for legal and accounting fees, and the cost of printing and mailing the proxy statements.

7. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

8. Applicants intends to file all documents required to terminate its existence as a Maryland corporation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–14982 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant and the Acquiring Funds may be deemed to be affiliated persons of each other by reason of having a common investment adviser. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

[Investment Company Act Rel. No. 20356; 811–3118]

McDonald Money Market Fund, Inc.; Notice of Application for Deregistration

June 14, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: McDonald Money Market Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on April 7, 1994, and amended on June 8, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 11, 1994 and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, 144 Glenn Curtiss Boulevard, Uniondale, New York 11556–0144.

FOR FURTHER INFORMATION CONTACT: Marc Duffy, Staff Attorney, (202) 942–0565, or C. David Messman, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS:

1. Applicant is a diversified open-end management investment company organized as a Maryland corporation. On December 4, 1980, applicant registered under section 8(a) of the Act and filed a registration statement under section 8(b) of the Act and the Securities Act of 1933. The registration statement was declared effective on May 8, 1981 and applicant commenced its initial public offering on May 15, 1981.

2. On June 21, 1993, applicant's Board of Directors approved a plan of reorganization whereby applicant agreed to transfer all or substantially all of its assets and liabilities to Gradison-McDonald U.S. Government Reserves Series (the "Acquiring Fund"), a newly-created series of Gradison Cash Reserves Trust in exchange for shares of the Acquiring Fund. In accordance with rule 17a–8 of the Act, applicant's directors determined that the sale of applicant's assets to the Acquiring Fund was in the best interest of applicant's shareholders, and that the interests of

the existing shareholders would not be diluted as a result.[1]

3. The directors of applicant concluded that the reorganization would benefit applicant's shareholders because the overall fees charged to the combined fund should result in lower fees than are currently being incurred by the applicant.

4. A registration statement on Form N–14 was filed with the SEC and the proxy statement/prospectus contained therein was furnished to applicant's shareholders on or about August 15, 1993. At a special meeting held on September 13, 1993, holders of a majority of the outstanding voting shares of applicant approved the reorganization.

5. On September 24, 1993, applicant had aggregate net assets of $280,742,771 and a net asset value per share of $1.00. As of September 24, 1993, shares of the Acquiring Fund were distributed to applicant's shareholders. Each shareholder received the proportion of Acquiring Fund shares received by applicant that the number of applicant shares owned by each such shareholder bore to the number of outstanding applicant shares.

6. Applicant bore approximately $64,307 in expenses in connection with the reorganization. Such expenses were for legal and accounting fees, and the cost of printing and mailing the proxy statements.

7. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation for administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of it affairs.

8. Applicant intends to file all documents required to terminate its existence as a Maryland corporation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–14983 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

[1] Applicant and the Acquiring Fund may be deemed to be affiliated persons of each other by reason of having a common investment adviser. Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a–8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of one another solely by reason of having a common investment adviser, common directors, and/or common officers.

[Rel. No. IC–20357; File No. 812–9042]

National Home Life Assurance Company, et al.

June 14, 1994.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: National Home Life Assurance Company ("National Home"), National Home Life Assurance Company Separate Account V (the "Separate Account") and Capital Values Securities Corporation.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) for exemptions from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of the Separate Account under certain flexible premium variable annuity contracts (the "Contracts") and any materially similar contracts offered in the future by the Separate Account.

FILING DATE: The application was filed on June 9, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 11, 1994, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Applicants, c/o National Home Life Assurance Company, 20 Moores Road, Frazer, PA 19355.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Senior Attorney, at (202) 942–0682, or Wendell M. Faria, Deputy Chief, at (202) 942–0670, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

APPLICANTS' REPRESENTATIONS

1. National Home, a stock life insurance company organized under the laws of Missouri, is wholly-owned by Providian Corporation, a publicly held insurance holding company. National Home is principally engaged in offering life insurance, annuity contracts; and accident and health insurance and is admitted to do business in 40 states, the District of Columbia and Puerto Rico.

2. The Separate Account was established by National Home as a separate account under Missouri law to fund the Contracts. The Separate Account is registered as a unit investment trust under the 1940 Act. The Separate Account has eighteen subaccounts, each of which invests solely in a corresponding portfolio ("Portfolio") of one of seven open-end management investment companies ("Funds"). The Funds are registered under the 1940 Act.

3. Shares of each Portfolio are purchased by National Home for the corresponding subaccount of the Separate Account at net asset value. Shares of each Portfolio are also offered to other affiliated or unaffiliated separate accounts of insurance companies offering variable annuity contracts or variable life insurance policies.

4. The Contract is a flexible premium payment contract that is intended to be used either in connection with a retirement plan qualified under Section 401(a), 403(b), 408, and 457 of the Internal Revenue Code ("Qualified Contract") or by other purchasers ("Non-Qualified contract"). A Contract owner may allocate purchase payments and/or the accumulation value to the general account of National Home and/or the subaccounts of the Separate Account. The Contract owner may select among annuity payment options that include variable or fixed annuity options. Capital Values Securities Corporation, a wholly-owned subsidiary of Providian Corporation, is the principal underwriter of the Contracts.

5. The minimum initial purchase payment for a Non-Qualified Contract is $5,000. A Qualified Contract may be purchased with a minimum initial purchase payment of $2,000 or with $50 monthly investments pursuant to a systematic payment plan.

6. The Contract is available in two forms, A Unit Contracts and B Units Contracts.

A Unit Contracts have a maximum front-end sales load of 5.75% deducted from each purchase payment. There are no withdrawal or surrender charges for A Unit Contracts. For contracts offered

in the future that are substantially similar in all material respects to A Unit Contracts, the front-end sales load will not exceed 5.75% and there will be no surrender charges.[1]

B Unit Contracts have no front-end sales load deducted from purchase payments. Up to 10% of the Contract's accumulated value as of the Contract date or, if more recent, the last Contract anniversary, can be withdrawn once per year without a surrender charge. Additional withdrawals are subject to a contingent deferred sales load of 6%. The applicable contingent deferred sales load decreases by 1% per year until after the sixth Contract year there is no contingent deferred sales load. For contracts offered in the future that are substantially similar in all material respects to B Unit Contracts, there will be no front-end sales load and the maximum surrender charge will be 6% of the amount surrendered.[2]

7. The total contingent deferred sales loads assessed for current and future Contracts will not exceed 8.5% of the purchase payments under the Contract. Applicants are relying on Rule 6c–8 under the 1940 Act to deduct the contingent deferred sales load.[3]

8. Contract owners may make unlimited exchanges among the Portfolios, provided a minimum balance of $1,000 is maintained in each subaccount or general account option to which a Contract owner has allocated a portion of accumulated value. No fee is imposed for such exchanges; however, National Home has reserved the right to charge $15 for each exchange in excess of twelve per Contract year.

9. The Contracts are subject to an annual policy fee of $30 which will be deducted on each Contract anniversary and upon surrender, on a pro rata basis, from each subaccount.

10. An administrative charge which is guaranteed for the life of the Contracts to be an amount equal to .15% annually of the net asset value of the Separate Account is assessed daily.[4] The administrative fee is intended to cover National Home's ongoing administrative expenses, and will not exceed the cost of services to be provided over the life of the Contract in accordance with the applicable standards in Rule 26a–1 under the 1940 Act.

11. National Home makes a deduction fro the accumulated value or purchase payments from premium taxes, imposed by state law, as the taxes are incurred. Currently these taxes range up to 3.5%

12. National Home imposes a charge as compensation for bearing certain mortality and expense risks under the Contract. The annual charge is assessed daily based on the net asset value of the Separate Account. The annual mortality and expense risk charge is .65% of the net asset value of the Separate Account attributable to A Unit Contracts, and 1.25% of the net asset value of the Separate Account attributable to B Unit Contracts. For contracts offered in the future similar to either the A Unit Contracts or the B Unit Contracts, the annual mortality and expense risk charge will not exceed 1.25% of the net asset value of the Separate Account attributable to such contracts.

For A Unit Contracts, .45% is allocated to the mortality risk and .20% is allocated to the expense risk. For B Unit Contracts and future contracts, .80% is allocated to the mortality risk and .45% is allocated to the expense risk.[5]

13. Where a life annuity payment option is selected, the mortality risk borne by National Home under the two forms of the Contract arises from the obligation of National Home to make annuity payments regardless of how long an annuitant may live. The mortality risk is the risk that annuitants will live longer than National Home's actuarial projections indicate, resulting in higher than expected annuity payments. National Home also assumes mortality risk as a result of an adjusted death benefit which is to be paid to an annuitant's beneficiary if the adjusted death benefit is greater than the Contract's accumulated value.

14. The expense risk borne by National Home is the risk that the charges for administrative expenses which are guaranteed for the life of the Contract may be insufficient to cover the actual costs of issuing and administering the Contract.

15. The mortality and expense risk is higher under the B Unit Contracts than under the A Unit Contracts because B Unit Contracts are expected to be more attractive to Contract owners purchasing a Qualified Contract. While both A Unit Contracts and B Unit Contracts are offered as Qualified Contracts, historically, the Contracts offering a contingent deferred sales load (like the B Unit Contracts) have been more appealing to those seeking to purchase Qualified Contracts than contracts with a front-end sales load (like the A Unit Contracts). The more complicated regulatory structure surrounding the offering and maintenance of Qualified Contracts makes these Contracts more expensive to administer. In addition, it is anticipated that the utilization of B Unit Contracts for Qualified Contracts will increase the instances where life annuity payment options are selected by B Unit Contract owners, in comparison to A Unit Contract owners, thereby increasing the mortality risk National Home is bearing under B Unit Contracts.

16. If the charges deducted are insufficient to cover the actual cost of the mortality and expense risk, the loss will fall on National Home. If the charges prove more than sufficient, the excess will be added to National Home's surplus and will be used for any lawful purpose including any shortfalls in the costs of distributing the Contracts.

Applicants' Legal Analysis and Conditions

1. Applicants request an exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent any relief is necessary to permit the deduction from the Separate Account of the mortality and expense risk charges under the Contracts. Applicants request that the order also permit the deduction of the mortality and expense risk charges described herein from the assets of the Separate Account pursuant to other contracts offered in the future through the Separate Account, to the extent that such contracts are substantially similar to the Contracts.

2. Applicants submit that their request for an order that applies to materially similar contracts offered in the future by the Separate Account is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity contract market by eliminating the need for National Home to file redundant exemptive applications, thereby reducing its administrative expenses and maximizing the efficient use of its resources. Investors would not receive any benefit or additional protection by requiring National Home to repeatedly seek exemptive relief with respect to the same issues addressed in this Application.

3. Applicants represent that they have reviewed publicly available information regarding the aggregate level of the mortality and expense risk charges under variable annuity contracts comparable to the A Unit Contracts and

[1] Applications represent that, during the Notice Period, the application will be amended to reflect this representation.

[2] Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

[3] Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

[4] Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

[5] Applicants represent that, during the Notice Period, the application will be amended to reflect this representation.

the B Unit Contracts currently being offered in the insurance industry taking into consideration such factors as current charge level, the manner in which charges are imposed, the presence of charge level or annuity rate guarantees and the markets in which the Contracts will be offered. Based upon this review, Applicants represent that the mortality and expense risk charges under the Contracts are within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission, upon request, a memorandum outlining the methodology underlying this representation. Similarly, prior to making available any substantially similar contracts through the Separate Account, Applicants will represent that the mortality and expense risk charges under any such contracts will be within the range of industry practice for comparable contracts. Applicants will maintain and make available to the Commission, upon request, a memorandum outlining the methodology underlying such representation.

4. Applicants represent that the Separate Account will invest only in underlying funds that have undertaken to have a board of directors/trustees, a majority of whom are not interested persons of any such fund, formulate and approve any plan under Rule 12b–1 under the 1940 Act to finance distribution expenses.

5. Applicants do not believe that the front-end sales load or contingent deferred sales load imposed under the Contracts will necessarily cover the expected costs of distributing the Contract. Any shortfall will be made up from National Home's general account assets which will include amounts derived from the mortality and expense risk charges. National Home has concluded that there is a reasonable likelihood that the distribution financing arrangement being used in connection with the Contracts will benefit the Separate Account and the Contract owners. National Home will keep and make available to the Commission, upon request, a memorandum setting forth the basis for this representation.

Conclusion

Applicants assert that for the reasons and upon the facts set forth above, the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge under the Contract, or under substantially similar contracts offered in the future by the Separate Account, meets the standards in section 6(c) of the 1940 Act. Applicants assert that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–14984 Filed 6–20–94; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

[T.D. 94–53]

License Cancellations

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

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker licenses have been cancelled due to the death of the broker. These licenses were issued in various Customs Districts.

Harlan Nelson Naag—license No. 2904

Antonio Ferraioli—license No. 2194

William A. Phelps—license No. 3626

Jose R. Hernandez—license No. 10381

Bufford Struck—license No. 3232

Richard M. Van Sant—license No. 2671

Howard J. Mann—license No. 2253.

Dated: June 16, 1994.

Philip Metzger,

Director, Office of Trade Operations.

[FR Doc. 94–15038 Filed 6–20–94; 8:45 am]

BILLING CODE 4820–02–M

Fiscal Service

[Dept. Circ. 570, 1993 Rev., Supp. No. 25; 4–00236]

Surety Companies Acceptable on Federal Bonds; Mid-State Surety Corporation

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under Sections 9304 to 9308, Title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1993 Revision, on page 35804 to reflect this addition:

Mid-State Surety Corporation. Business Address: 3400 East Lafayette, Detroit, MI 48207. Phone: (313) 882–7979.

Underwriting Limitation *b/*: $296,000.

Surety Licenses *c/*: MI. Incorporated In: Michigan.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874–6850.

Dated: June 15, 1994.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 94–15010 Filed 6–20–94; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 118
Tuesday, June 21, 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).

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 20, 27, July 4, and 11, 1994.

PLACE: Commissioner's Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 20

Monday, June 20

9:30 a.m.
Discussion of Management Issues (Closed—Ex. 2 and 6)

Thursday, June 23

2:00 p.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)
(Contact: Victor McCree, 301–504–1711)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting), (Please note: These items will be affirmed immediately following the conclusion of the preceding meeting.)
a. Final Rule on "Timeliness in Decommissioning of Materials Facilities" (Tentative)
(Contact: Mary Thomas, 301–492–3886)
b. Amendments to 10 CFR Part 73 to Protect Against Malevolent Use of Vehicles at Nuclear Power Plants (Tentative)
(Contact: Phillip McKee, 301–504–2933)

Week of June 27—Tentative

There are no meetings scheduled for the Week of June 27.

Week of July 4—Tentative

Thursday, July 8

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 11—Tentative

Tuesday, July 12

2:00 p.m.
Periodic Briefing on EEO Program (Public Meeting)
(Contact: Vandy Miller, 301–492–4665)

Wednesday, July 13

10:00 a.m.
Briefing on Decommissioning Process (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
2:00 p.m.
Briefing on Investigative Matters (Closed—Ex. 5 and 7)

Thursday, July 14

2:00 p.m.
Briefing on Proposed Changes to 10 CFR 50.36—Technical Specifications (Public Meeting)
(Contact: Christopher Grimes, 301–504–1161)

Friday, July 15

10:00 a.m.
Briefing on Information Technology Strategic Plan (Public Meeting)
(Contact: Francine Goldberg, 301–415–7460)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: June 16, 1994.

William M. Hill, Jr.,
SECY Tracing Officer, Office of the Secretary.

[FR Doc. 94–15135 Filed 6–17–94; 11:16 am]

BILLING CODE 7590–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–94–21]

TIME AND DATE: June 23, 1994 at 2:00 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–653 (Final) (Sebacic Acid from China)—briefing and vote.
5. Outstanding action jacket: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary (202) 205–2000.

Issued: June 13, 1994.

Donna R. Koehnke,
Secretary.

[FR Doc. 94–15113 Filed 6–16–94; 5:12 pm]

BILLING CODE 7020–02–P

Corrections

Federal Register
Vol. 59, No. 118
Tuesday, June 21, 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

Foreign-Trade Zones Board

[Docket A932b10-2-94]

Foreign-Trade Zone 50—Long Beach, CA, Request for Export Manufacturing Authority, J.M. William & Company, Inc., (Poly/Cotton Bed Linens)

Correction

In notice document 94-13720 beginning on page 29410 in the issue of Tuesday, June 7, 1994, make the following corrections:

1. On page 29411, in the first column, in the second line, "[30 days from date of publication]" should read "July 7, 1994".

2. On the same page, in the same column, in the seventh line, "[40 days from the date of publication]" should read "July 18, 1994".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6624-009 New York]

Alfred D. Huey; Availability of Environmental Assessment

Correction

In notice document 94-14489 appearing on page 30790, in the issue of Wednesday, June 15, 1994, in the third column, the project number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP92-137-024]

Transcontinental Gas Pipe Line Corp.; Refund Report

Correction

In notice document 94-14497 beginning on page 30792, in the issue of Wednesday, June 15, 1994, in the third column, the docket number should read as set forth above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00382; FRL-4870-8]

Update of Pesticide Residue Chemistry Guidelines

Correction

In notice document 94-13789 beginning on page 29603, in the issue of Wednesday, June 8, 1994, make the following correction:

On page 29603, in the second column, under **ADDRESSES:**, in the sixth line, after the symbol "#" insert "2,".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-4210-05; N-57882]

Notice of Realty Action; Lease/Purchase for Recreation

Correction

In the correction to notice document 94-4687 appearing on page 30832 in the issue of Wednesday, June 15, 1994, in the first column, in the second line, "page 9963" should read "page 9993".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 300

RIN 3206-AG06

Time-In-Grade Rule Eliminated

Correction

In proposed rule document 94-14519 appearing on page 30717 in the issue of Wednesday, June 15, 1994, in the first column, under **DATES**, beginning in the second line, "July 15, 1994" should read "August 15, 1994".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-33991; File Nos. SR-CHX-93-23; SR-BSE-93-24; SR-PSE-94-2; SR-Phlx-94-8]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc; Boston Stock Exchange, Inc.; Pacific Stock Exchange, Inc.; and Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Changes Relating to Pilot Programs Providing Price Protection of Limit Orders Executable After the Close of Regular Trading Hours

Correction

In notice document 94-11030 beginning on page 23904 in the issue of Monday, May 9, 1994, in the first column, insert "May 2, 1994." just above "I. Introduction".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-34146; File No. SR-NASD-93-75]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Referral of Matters by Arbitrators for Disciplinary Investigation

Correction

In notice document 94-13876 beginning on page 29647 in the issue of Wednesday, June 8, 1994, in the third

column, insert "June 2, 1994." just before the first paragraph.

BILLING CODE 1505–01–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–34154; File No. SR–PTC–94–01]

Self-Regulatory Organizations; Participants Trust Company; Order Approving Proposed Rule Change Relating to the Eligibility of Certain Securities Guaranteed by the Government National Mortgage Association

Correction

In notice document 94–14094 beginning on page 30073 in the issue of Friday, June 10, 1994, make the following corrections:

1. On page 30073, in the second column, in the third full paragraph, in the third line from the bottom, "PRTC" should read "PTC".

2. On page 30074, in the first column, in the first and second paragraphs, 'FTC" or "FTC's" should read "PTC" or "PTC's" wherever they appear.

3. On the same page, in the second line, after the signature, the FR Doc. line was omitted and should read as follows:

[FR Doc. 94–14094 Filed 6–9–94; 8:45 am]

BILLING CODE 8010–01–M

BILLING CODE 1505–01–D

federal register

Tuesday
June 21, 1994

Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Program Announcement for Regional Children's Advocacy Centers; Notice

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Program Announcement for Regional Children's Advocacy Centers

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of solicitation of assistance applications for Regional Children's Advocacy Centers.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing an announcement of grants to support four Regional Children's Advocacy Centers. An OJJDP Application Kit containing a copy of the Guidelines, application form (Standard Form 424), standard and special conditions, the OJJDP Peer Review Guideline, OJJDP Competition and Peer Review Procedures and other supplemental information relevant to the application process can be obtained by calling the Juvenile Justice Clearinghouse, toll-free, 24 hours a day, (800) 638–8736.

DATES: Applications are due August 22, 1994.

ADDRESSES: Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Emily C. Martin, Director Training, Dissemination and Technical Assistance Division, (202) 307–5940.

SUPPLEMENTARY INFORMATION:

Purpose

To support four Regional Children's Advocacy Centers that will encourage and facilitate the creation of local children's advocacy centers, and strengthen those now in existence through the delivery of training and technical assistance.

Background

Section 6 of Public Law 102–586, codified at 42 U.S.C. 13001 et. *seq.*, addressing the 1992 Amendments to the Victims of Child Abuse Act (the Act), provides for the establishment of four Regional Children's Advocacy Centers for purposes of providing information, technical assistance and training to assist communities in establishing multi-disciplinary programs which respond to child abuse. National Child Abuse and Neglect Data System Working Paper 2 reports that based on 1990 revised data, States received and referred for investigation approximately 1.7 million reports on an estimated 2.6 million children who are the alleged subjects of child abuse and neglect. In 1991, States received nearly 1.8 million reports on approximately 2.7 million children. The number reported in 1991 represents an increase of approximately 2.4 percent from 1990 data.[1] Draft Working Paper 3 of the National Child Abuse and Neglect Data System reported approximately 918,263 substantiated and indicated victims of child maltreatment from 49 states in 1992. Of these, approximately 14% (129,982) were sexually abused.[2] The Carnegie Corporation of New York reported, in its publication Starting Points, that one in three victims of physical abuse is a baby less than a year old and that in 1990, more one year-olds were maltreated than in any previous year for which data are available. Additionally, Starting Points reported that "almost 90 percent of children who died of abuse and neglect in 1990 were under the age of five; and 53 percent were less than a year old."[3] Based upon its annual telephone survey of states, the National Committee for Prevention of Child Abuse reported that at least three children a day die from physical abuse inflicted by a parent or caretaker.[4]

To address this problem, in 1985, then Madison County Alabama District Attorney Robert E. (Bud) Cramer mobilized professionals in Madison County to establish a Children's Advocacy Center for victims of child abuse. The Center is a facility-based, child-focused program which coordinates the response to victims of child abuse through multi-disciplinary teams of representatives from statutorily mandated and other involved agencies. Team members include representatives from child protective services, law enforcement, the district attorney's office, and the mental health and medical fields. The elements of the Madison County model are incorporated in the 1992 Amendments to the Victims of Child Abuse Act.

A major goal of children's advocacy centers is to prevent the inadvertent revictimization of an abused child by the judicial and social service systems in their efforts to protect the child. The multi-disciplinary team provides joint interviews of child victims and makes joint decisions about appropriate actions ranging from prosecution to referral for mental health services. Child victims and non-offending family members are assigned an advocate to help them cope with the criminal justice system's processing of their case. As a consequence of a coordinated response, child victims are spared the pain and confusion of multiple interviews by prosecutors, protective service workers and social workers.

In 1990, the National Network of Children's Advocacy Centers (National Network) was incorporated in Madison County, Alabama, as a national membership organization of local children's advocacy centers. Its purposes are to support the development, growth and continuation of non-profit, facility-based programs utilizing a multi-disciplinary team approach for handling child abuse cases, and for setting standards and regulating practices of children's advocacy centers. The growth in the number of children's advocacy centers and the success of the National Network in establishing performance standards led Congress to amend the Victims of Child Abuse Act in 1992 to authorize this program.

Five hundred thousand dollars ($500,000) has been appropriated for Fiscal Year 1994 to establish four Regional Children's Advocacy Centers to provide training and technical assistance in communities throughout the United States, toward which this announcement is directed. An additional one million dollars ($1,000,000) has been appropriated to provide direct funding assistance to community organizations and agencies for development and expansion of local children's advocacy centers. The one million dollar appropriation will be awarded to the National Network of Children's Advocacy Centers by OJJDP under a cooperative agreement to be awarded in July 1994 for purposes of providing funds to assist local communities interested in developing or expanding local children's advocacy centers. It is expected that these funds will be available in the fall of 1994 through a national competitive solicitation issued by the National Network.

The Act requires coordination in the delivery of technical assistance by the Regional Children's Advocacy Centers with the activities of local children's advocacy centers that are funded under the provisions of the Act, codified at 42 U.S.C. 13002. This will be achieved by

[1] U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, National Child Abuse and Neglect Data System Working Paper 2, p.25.

[2] U.S. Department of Health and Human Services, National Center on Child Abuse and Neglect, Unpublished, Draft Working Paper 3 (1994) The National Child Abuse and Neglect Data System.

[3] Carnegie Corporation of New York, Starting Points—Meeting the Needs of Our Youngest Children, April 1994, p.4.

[4] National Committee for Prevention of Child Abuse, Current Trends in Child Abuse Reporting and Fatalities: The results of the 1991 annual fifty state survey, Chicago, Illinois 1992.

representation of the grantees selected to implement the Regional Children's Advocacy Centers on the Board of Directors of the National Network as ex officio members who will also serve on a Committee of the Board on Training and Technical Assistance.

Goal

To increase the number of facility-based multi-disciplinary children's advocacy centers for purposes of providing coordinated, non-traumatizing services to children and families who are victims of abuse and neglect.

Objectives

- To assist communities to develop a comprehensive, multi-disciplinary response to child abuse that is designed to meet the needs of child victims and their families.
- To enhance the skills of volunteers and professionals staffing multi-disciplinary, facility-based Children's Advocacy Centers.
- To provide support for non-offending family members of child victims of abuse and neglect.
- To enhance coordination among community agencies and professions involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.
- To support national coordination among children's advocacy centers for purposes of maximizing efficient and effective use of technical assistance and training resources.
- To facilitate the development and utilization of training and technical assistance materials.
- To promote the implementation of national standards of practice.

Program Strategy

OJJDP will competitively select one applicant from each of the four census regions (Northeast, Midwest, South and West), and award cooperative agreements of up to $125,000 to each. The states identified in these regions are:

Northeast: Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, and New Jersey;

South: Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Tennessee, Kentucky, Arkansas, Texas, District of Columbia, Delaware, Oklahoma, and West Virginia;

Midwest: Ohio, Indiana, Michigan, Illinois, Wisconsin, Missouri, Iowa, Minnesota, Kansas, Nebraska, South Dakota, and North Dakota;

West: Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Idaho, Oregon, Washington, Alaska, Hawaii, and California.

While each grantee will participate in national coordination of the Children's Advocacy Program through representation on the Board of Directors of the National Network of Children's Advocacy Centers, the primary focus of each will be on delivery of technical assistance and training to children's advocacy centers, and on communities interested in establishing multi-disciplinary, facility-based local advocacy centers in the census regions where they are located or are otherwise designated to serve. Pursuant to the Act, codified at 42 U.S.C. 13001b(b)(2)(A), the Regional Children's Advocacy Centers will assist communities in:

- Developing a comprehensive, multi-disciplinary response to child abuse;
- Establishing free-standing facilities for providing multi-disciplinary services to child victims and their families;
- Preventing or reducing trauma to children caused by multiple contacts with community professionals;
- Providing families with needed services;
- Maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;
- Coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;
- Supporting effective investigative, preventive, prosecutorial, and treatment efforts;
- Enhancing professional skills of professionals and volunteers who support local children's advocacy centers; and
- Enhancing community understanding of child abuse.

Eligibility Requirements

Applicants are invited from local public and private/non-profit children's advocacy agencies and organizations who can demonstrate the existence of a combination of two or more of the following:

- The successful operation of a facility-based children's advocacy center;
- Multi-disciplinary staff experienced in providing coordinated services to child victims and non-offending family members;
- Experience in providing training and technical assistance to other children's advocacy centers;
- National expertise in providing training and technical assistance to communities with respect to supporting the work of professionals and volunteers providing multi-disciplinary services to child victims and their families.

Selection Criteria

Applications will initially be screened to determine if the applicant meets the eligibility requirements. They will then be reviewed and rated as a regional group on the extent to which they meet the following criteria:

1. Conceptualization of the Problem. (15 Points) The applicant must demonstrate a clear understanding of the status and developmental needs of children's advocacy centers in the census region in which they would target their services.

2. Statement of Objectives. (10 Points) The objectives to be achieved by the project must be clearly defined with a delineation of the services which would be provided during this grant period.

3. Project Design. (15 Points) The procedures, workplan, tasks and proposed products of the project must clearly reflect how identified activities will achieve the stated objectives.

4. Project Management. (10 Points) The project's management structure and staffing must be adequate for the successful implementation and completion of the project. The management plan describes a system whereby logistic activities are handled in the most efficient and economical manner.

5. Staffing. (20 Points) The staff must demonstrate a high degree of expertise in management and delivery of multi-disciplinary investigation and intervention services to victims of child abuse and their families.

6. Organizational Capability. (20 Points) The applicant organization's ability to conduct the project successfully must be documented in the proposal. Organizational experience with facility based, multi-disciplinary responses to victims of child abuse is mandatory.

7. Budget. (10 Points) The proposed budget must be reasonable, allowable and cost effective with respect to the activities to be undertaken.

Selection Process

If no acceptable applications are submitted from one or more of the designated regions, the next highest rated application from one of the other regions may be selected if it is feasible to provide the required services to the targeted region.

Award Period

Each project will be funded for 12 months. Additional funding will depend upon future appropriations and

satisfactory performance under the assistance award.

Award Amount

Up to $125,000 will be available for each of the four projects.

Due Date

Applications must be received by mail or delivered to OJJDP by August 22, 1994, at Room 709, 633 Indiana Avenue, NW., Washington, DC 20531.

John J. Wilson

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 94–14973 Filed 6–20–94; 8:45 am]

BILLING CODE 4410–18–P

federal register

Tuesday
June 21, 1994

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Parts 25, 29, 91, et al.
Emergency Locator Transmitters; Rule and Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 29, 91, 121, 125, and 135

[Docket No. 26180; Amendments No. 25–82, 29–33, 91–242, 121–239, 125–20, and 135–49]

RIN 2120–AD19

Emergency Locator Transmitters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule requires that newly installed emergency locator transmitters (ELT's) on U.S.-registered aircraft be of an improved design that meets the requirements of a revised Technical Standard Order (TSO) or later TSO's issued for ELT's. This rule is prompted by unsatisfactory performance experienced with automatic ELT's manufactured under the original TSO. Further, it addresses certain safety recommendations made by the National Transportation Safety Board (NTSB) and the search and rescue (SAR) community. The FAA is also adopting improved standards for survival ELT's. The rule is expected to have a dramatic effect on reducing activation failures and would increase the likelihood of locating airplanes after accidents. In addition, publication of this document coincides with notice of the FAA's withdrawal of manufacturing authority for ELT's produced under TSO–C91.

EFFECTIVE DATE: This document is effective June 21, 1994.

FOR FURTHER INFORMATION CONTACT: Phil Akers, Aircraft Engineering Division (AIR–120), Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–9571.

SUPPLEMENTARY INFORMATION:

Background

In 1971, responding to a congressional mandate for rulemaking (Public Law 91–596), the FAA adopted amendments to parts 25, 29, 91, 121, and 135 of the Federal Aviation Regulations (FAR) to require the installation and use of ELT's that meet the requirements of TSO–C91. The amendments require that certain U.S.-registered civil airplanes be equipped with automatic ELT's. An automatic ELT is a crash-activated electronic signaling device used to facilitate search and rescue efforts in locating downed aircraft. The ELT's crash sensor is commonly called a G-switch (an actuation device that operates on acceleration forces measured in G's; one G denotes the acceleration of the earth's gravity). In most installations, the ELT is attached to the aircraft structure as far aft as practicable in the fuselage in such a manner that damage to the device will be minimized in the event of impact.

Certain aircraft, such as turbojet-powered aircraft and aircraft engaged in scheduled air carrier operations, are excepted from this requirement because they are more readily located after an accident because they operate within the air traffic control system and their operators have filed instrument flight plans. For example, scheduled air carriers and turbojet-powered aircraft use the air traffic control system (ATC) and air carriers use instrument flight plans. This rule is applicable to those airplanes that are most difficult to locate after an accident. An ELT is particularly helpful in locating an airplane that is operated by a pilot who does not file a flight plan or operate within the air traffic control system.

Survival ELT's are manually operated or automatically actuated upon contact with water. Survival ELT's are required ditching equipment for transport category airplanes and rotorcraft, as provided by the operating rules. They are also required emergency equipment for extended overwater operations on aircraft used in air carrier, air taxi, and commercial operations.

Since the adoption of those amendments requiring installation of ELT's, there has been unsatisfactory field experience with the automatic ELT's. Accordingly, the FAA requested RTCA, Inc. (formerly the Radio Technical Commission for Aeronautics) to develop a revised technical standard that would address false alarms and improve the failure-to-activate rate for automatic ELT's. The RTCA project produced a minimum operational performance standard that is referenced in TSO–C91a, issued in April 1985. Installation of ELT's that meet this improved standard, however, is voluntary until compliance is required as specified in this amendment.

NTSB safety recommendations A–78–5 through A–78–12, issued in 1978, also addressed ELT problems; they are now classified by the NTSB as "Closed-Acceptable Action," primarily because TSO–91a was issued. Following the issuance of the new TSO, in 1987 the NTSB issued safety recommendation A–87–104, that recommends existing ELT's be replaced with ELT's that comply with TSO–C921a by 1989. That safety recommendation also urged that ELT's be subject to specific maintenance requirements.

In October 1990, the National Aeronautics and Space Administration (NASA) and the FAA completed a report entitled, "Current Emergency Locator Transmitter (ELT) Deficiencies and Potential Improvements Utilizing TSO–C91a ELT's", hereafter referred to as the FAA/NASA report. This report consolidates and analyzes most of the known data on ELT problems and quantifies the safety problem. General aviation accident and fatality data from the NTSB form the cornerstone of the report. The most significant conclusions derived from the report show: 23 to 58 lives are lost per year due to ELT failures; 15 percent of ELT failures are attributed to poor or no ELT maintenance; and after excluding lives lost attributed to maintenance-related ELT failures, 64 percent or 13 to 31 of the lives lost each year could be saved with a complete transition to TSO–C91a ELT's.

Based on the known unsatisfactory performance of the TSO–C91 ELT's during the 1970's and 1980's, the FAA issued Notice No. 90–11 (55 FR 12316, April 2, 1990). This notice proposed that ELT's approved under TSO–C91a (or later issued TSO's for ELT's) be required for all future installations. The NPRM further proposed that the manufacture of the TSO–C91 ELT's be simultaneously terminated with issuance of a final rule. The term "future installations" applies to newly manufactured airplanes, and to the replacement of existing ELT's as they become unusable or unserviceable. Additionally, the FAA solicited comments on the need for a fleet-wide ELT replacement program and specific maintenance requirements. These issues are addressed below.

Sources of Information Referenced Below

NTSB Recommendations

1. NTSB safety recommendations A–78–5 through A–78–12, issued 1978;

2. NTSB safety recommendations A–87–104, issued 1987.

Reference Material

(1) The National Aeronautics and Space Administration (NASA) and the FAA, a report entitled, "Current Emergency Locator Transmitter (ELT) Deficiencies and Potential Improvements Utilizing TSO–C91a ELT's", (FAA/NASA report), October 1990.

(2) FAA Action Notice A 8150.3 (July 23, 1990).

Related Activity

(1) Publication of this document coincides with notice of the FAA's withdrawal of manufacturing authority for ELT's produced under TSO–C91.

(2) The Aviation Rulemaking Advisory Committee (ARAC) has been tasked to make recommendations concerning an ELT retrofit policy.

Discussion of Comments

The FAA received 51 written comments in response to Notice No. 90–11 from individuals, manufacturers, equipment users, associations, and government agencies. Twenty-two support the proposed rule or its intent while 20 express concern or nonsupport. Most of the nonsupport commenters, however, address the fleet-wide replacement of automatic ELT's rather than the proposal for new installations. Nine of the comments do not take a position for or against the proposals; however, they offer suggestions and advice.

Nineteen of the commenters supporting the rule represent major segments of the aviation search and rescue community such as government agencies and associations. These commenters also agree on the unsatisfactory performance of current TSO–C91 ELT's.

Failure to Activate—Automatic ELT's

Eleven of the commenters contributed information supporting the implementation of TSO–C91a, and stated that it would have a dramatic effect on reducing activation failures and would increase the likelihood of locating airplanes after accidents. Most commenters agreed with the conclusions identified in the FAA/NASA report explaining that failure-to-activate was caused by:

—Insufficient impact deceleration to cause the crash sensor (G-switch) to activate the ELT;
—Improper installation;
—Battery problems;
—Fire damage;
—Impact damage;
—Antenna broken/disconnected;
—Water submersion;
—Unit not armed;
—Internal failure;
—Packing device still installed;
—Remote switch in off position; and
—ELT shielded by wreckage or terrain (although not an initial failure, this was listed as another reason for the ELT not functioning).

An ELT manufacturer states that the term "failure to activate" encompasses two groups of cases that should not be treated in the same manner. Group 1 situations are those in which the ELT does not operate after a crash because it has a mechanical defect or failure. Group 2 situations are those in which the ELT does not operate because the crash forces are insufficient to activate it. This commenter states that the Group 2 cases should not be classified as ELT failures because the ELT's did what they were supposed to do when they did not activate. The commenter asserts that any "failure" associated with the Group 2 cases is a shortcoming of the current TSO–C91 standard that established the crash sensor sensitivity specifications.

FAA Response: The FAA agrees with the manufacturer's comment about two causes of failure-to-activate and notes that the FAA/NASA report addresses these two situations. The FAA/NASA report documents well the failures of ELT's approved under TSO–C91. As discussed previously, the most significant conclusions from the report are that: (1) 23 to 58 lives are lost each year due to ELT failures; (2) many of these failures are caused by poor ELT maintenance; and (3) a 64 percent failure rate reduction can be expected with a complete transition to TSO–C91a ELT's. Attachment 1 of the FAA/NASA report entitled, "Validation of NASA ELT Reasons for Failure Analysis Report," verifies the NTSB data that provides the cornerstone of the FAA/NASA report. In addition, the new ELT TSO–C91a contains revised G-switch specifications designed to provide proper activation limits and to minimize mechanical defects. This new design is expected to reduce the number of false alarms and improve the failure-to-activate rate.

False Alarms—Automatic ELT's

Twenty commenters identified ELT false alarms as contributing to poor performance. Several commenters cite the FAA/NASA report, which documents the following causes of false alarms:

—G-switch (crash sensor);
—Corrosion;
—Incorrect installation of the ELT;
—Human failures or mishandling;
—Heat, water, or radiated interference;
—Accidental operation of the controls;
—Internal failure.

In addition to identifying the causes of false alarms, members of the Search and Rescue community (SAR) note the significant, additional cost of responding to false alarms, the ability to respond to real emergencies, the cost to taxpayers, and the additional, unnecessary, physical risk to SAR personnel caused by responding to false alarms. In its comments, the NTSB stated that "in a recent SAR mission the cost incurred, excluding a significant contribution by volunteers, was $13 million."

FAA Response: The FAA agrees with the comments regarding false alarms. The primary beneficiary of reducing the number of false alarms would be the SAR community. A reduction in false alarms would make more SAR resources available to aid aircraft in distress. The resources expended by SAR on false alarms would be significantly reduced. The FAA expects that the current number of false alarms will be reduced by 75 percent with implementation of TSO–91a and a mandatory inspection and maintenance program. However, as stated in the FAA/NASA report, the FAA cannot quantify the benefits in lives to be saved. A reduction in the number of false alarms would result in the Air Force Rescue Coordination Center (AFRCC) spending less time analyzing the validity of thousands of signals that occur annually on the 121.5 Mhz frequency. Thus, it is reasonable to presume that if the pre-rescue preparation time were reduced, additional lives could be saved.

Replacement Time and Costs

Although the FAA did not propose the replacement of existing ELT's with models of newer design, in Notice No. 90–11, the agency solicited opinion from affected users regarding a proposed time frame for a near-term retrofit program. Twenty-one commenters address the time that should be permitted for mandatory replacement of existing ELT's with those approved under TSO–C91a. Seven commenters call for a "voluntary" replacement. In general, the SAR community proposes four years. Most commenters acknowledge that a manatory timetable for replacement is necessary to realize the benefits of this second-generation ELT.

Twenty-six commenters express concern over the direct replacement cost of existing TSO–C91 ELT's with TSO–C91a ELT's.

FAA Response: The FAA does not agree with the recommendations concerning voluntary replacement. The FAA evisions this final rule addressing new installations to be the first step in the much-needed transition to the improved ELT's. Even though the FAA conducted an extensive education program in the 1980's through the FAA Back-to-Basics Program, seminars, advisory material, and pamphlets, the FAA estimates that fewer than five percent of potential users voluntarily installed the improved ELT's. Although a voluntary replacement program may

be less costly, resolution of the failure to activate and false alarm problems would not be timely.

The Aviation Rulemaking Advisory Committee (ARAC) has been tasked to make recommendations concerning the retrofit of ELT's in the entire fleet. For a detailed description of this task, see the ARAC notice published at 58 FR 16574, March 29, 1993.

Automatic ELT Replacement

Integration of 406 Mhz ELT's

Nineteen commenters recommend using the 406 Mhz ELT because it has significant technical improvements over the 121.5/243 Mhz ELT equipment system. Commenters also noted that 406 Mhz ELT's are compatible with the Search and Rescue Satellite-Aided Tracking System (COSPAS-SARSAT). Several commenters submitted data indicating that the COSPAS/SARSAT system has proven to be an effective tool in detecting and locating both maritime and aeronautical distress incidents. The data further show that this satellite system had been credited with saving more than 1,700 lives since it was commissioned in 1982. In many of these distress cases, the satellite system was the only means of detecting the distress signal. The commenters assert that improvements in ELT equipment, both on the 121.5 Mhz and 406 Mhz frequencies, will increase the accuracy of location, reduce the time required to provide information to the Rescue Coordination Centers, reduce the effects of interference, reduce the number of false alerts on 121.5 Mhz, and improve satellite coverage of all areas in the United States.

Most commenters support use of an improved 121.5/2430 Mhz ELT or the improved ELT that includes 406 Mhz capability. The NTSB further advocates a fleet-wide mandatory conversion to the 406 Mhz standard.

FAA Response: In October, 1992, the United States responded to an International Civil Aviation Organization (ICAO) letter requesting comments on ELT carriage requirements. The United States recommended the use of 406 Mhz ELT's.

To accelerate the introduction of the 406 Mhz capability, and to provide an acceptable standard of certification for ELT's, the FAA issued TSO–C126 on December 23, 1992. The intended configuration of the 406 Mhz ELT can be accomplished by either of two approaches: (1) Installation of a stand-alone 406 Mhz ELT to augment an existing 121.5/243.0 Mhz ELT installation; or (2) Installation of an integrated 121.5/406 Mhz ELT, or an integrated 121.5/243.0/406 Mhz ELT of which the 121.5 or the 121.5/243.0 portion meets the requirements of TSO–C91a. TSO–C126 provides a standard for significant performance and information improvements for ELT's and these improvements are expected to permit more effective and timely SAR response after aircraft accidents.

A 406 Mhz ELT would operate at much higher power levels than a 121.5/243.0 Mhz ELT. Lithium chemistry batteries appear to be the only likely power source. The FAA is concerned about the safety characteristics of these batteries and has placed some initial guidance material in TSO–C126 to aid approving lithium batteries. Currently, RTCA Special Committee 168 is developing a standard for the various kinds of lithium batteries that could be used in aircraft. The FAA plans to use the RTCA standard as a basis for a future TSO.

The 121.5/243 Mhz ELT's approved under TSO–C91a are expected to be effective when used in conjunction with the U.S. National Airspace and SAR systems. Therefore, the FAA recommends, but does not require, carriage of 406 Mhz ELT's. Voluntary use of the 406 Mhz ELT's would provide a definite enhancement over the minimum requirements of the Federal Aviation Regulations. There may be even more life-saving benefits derived from the 406 Mhz ELT for those operations conducted over water and in remote areas; therefore, the FAA encourages installation of the 406 Mhz ELT although the 121.5/243 Mhz will continue to be used.

Costs of Automatic and Survival ELT's

Five commenters express concern over the additional cost of automatic TSO–C91a ELT's required for new installations. The General Aviation Manufacturers Association indicates that the estimated $75 installation cost in Notice No. 90–11 is inappropriate. It claims that a realistic estimate for parts and labor is $750.

With regard to survival ELT's, Dayton-Granger, Inc. and the DME Corporation currently estimate the cost of survival ELT's at approximately $900. Both companies plan to manufacture ELT's approved to the TSO–C91a standard. The Air Transport Association of America (ATA) states that its member airlines estimate the cost of the TSO–C91a survival ELT's to be $4,193 to $4,662 per aircraft. Additionally, it states that the new TSO standards are unnecessary because there are no problems with the current survival ELT's.

FAA Response: The FAA based its cost estimates on estimates provided by manufacturers of authorized equipment. ARNAV Systems, Inc., whose automatic ELT is now marketed by Artex Aircraft Supplies, Inc., obtained TSO–C91a approval for the model ELS–10 in October 1986 and for a lower cost model, the ELT–100, in March 1988. These automatic ELT's sell for approximately $900 and $350 respectively, and have beneficial design enhancements, such as built-in test equipment. Narco Avionics, Inc., obtained approval for its automatic model ELT–910 in June 1989, and is marketing it for approximately $400. Since the issuance of Notice No. 90–11, ACK Technologies, Inc., received approval for its automatic Model E–01 ELT in May 1990; the list price for this ELT is $279. According to this manufacturer, a selling price of less than $200 may be possible, once full production is underway. Several other ELT manufacturers have expressed an interest in producing low-cost TSO–C91a ELT's.

This rulemaking applies only to "new installations;" therefore, the FAA has attempted to minimize direct costs to operators while enhancing operators' safety. In Notice 90–11 the FAA estimated that automatic ELT's would cost an additional $150 to $400 per unit, and that survival ELT's would cost an additional $875 to $1,225 per unit. However, as a result of analyzing more recent data received from ELT manufacturers, the FAA has reduced its estimates of incremental costs. Automatic ELT's are estimated to cost an additional $50 to $200 per unit, and survival ELT's are estimated to cost an additional $250 to $750 per unit. Conversely, the FAA has increased its estimate of incremental installation costs for automatic ELT's from $75 to $150 per unit.

G-Switch

Eight commenters express concern about the design specifications of the TSO–C91a crash sensor, known as a G-switch. These eight commenters agree that the current TSO–C91 G-switch needs improvement because it is the primary cause of an ELT's failure to activate. Several commenters note that the FAA/NASA report estimates a 95 percent rate of effectiveness increase expected from using the TSO–C91a G-switch.

FAA Response: On the basis of the current performance of TSO–C91a ELT installations and the conclusions reported in the FAA/NASA report, the FAA determined that TSO–C91a provides an adequate G-switch

specification for sensing an airplane crash and would minimize the number of activation failures and false activations. In the event of false activation, the ELT monitor would alert the pilot or ground personnel. Additionally, the RTCA has determined that the TSO–C91a standard is an appropriate specification to be included in the RTCA/DO–204 standard for 406 Mhz ELT's.

Batteries

Seven commenters specifically raise the issue of batteries as a factor in ELT's poor performance. Several commenters indicate that an alternative to lithium chemistry batteries is needed and additional battery research should be conducted. Suggestions for new battery types ranged from use of solar batteries to use of size "D" batteries.

FAA Response: The FAA has found that most battery problems can be eliminated if aircraft owners ensure that the ELT and its battery receive a proper inspection as discussed in the next section, ELT Maintenance. The status of FAA requirements for lithium batteries was discussed previously.

ELT Maintenance

Consistent with the FAA/NASA report, 19 commenters note lack of proper maintenance as a contributing cause of the current unsatisfactory performance of TSO–C91 ELT's. Most of the commenters agree that scheduled inspection of ELT's is necessary to reduce the number of false alarms and to ensure their proper working order. The NTSB, National Oceanic and Atmospheric Administration (NOAA), ACK Technology, Inc., and The National Association for Search and Rescue (NASAR) call for mandatory inspections.

FAA Response: The FAA agrees with these comments concerning ELT maintenance and with NTSB recommendation, A–87–104, that recommended replacing TSO–C91 ELT's with TSO–C91a ELT's. The FAA/NASA report also concludes that an inspection and maintenance program for ELT's is necessary. As discussed in the background section of this preamble, an estimated 15 percent of ELT failures have been maintenance related.

The FAA already provides for mandatory ELT inspections in the regulations and in TSO's. Meeting the inspection requirements is a responsibility shared among the manufacturer, the inspector, and the aircraft owner or operator. Maintenance of ELT's is a major issue; accordingly, this section will digress from discussion of the comments to emphasize these requirements. This is necessary so that users understand the FAA's requirements concerning ELT maintenance.

ELT Maintenance Requirements—An Explanation

Subpart E of Part 91 provides inspection and maintenance requirements for the continued airworthiness of the aircraft and all of its components. Also, § 91.207, of subpart C, requires that each ELT be in an operable condition and provides specific requirements for battery replacement. Technical Standard Order C91a requires that instructions for periodic maintenance, which are necessary for the ELT's continued airworthiness, be provided with each unit manufactured under the TSO. These instructions must contain specific information to ensure that appropriately rated persons will be able to inspect and maintain ELT's in an airworthy condition to meet the needs of the flying public and the SAR community. Manufacturers of the earlier (TSO–C91) ELT's, however, were not required to submit periodic maintenance instructions to the FAA with their TSO approval applications. Therefore, the content and usefulness of instructions provided with TSO–C91 ELT's may vary, depending on the approach used by each manufacturer.

Section 43.13(a) requires persons performing inspections and other maintenance to use the manufacturers' instructions or other instructions acceptable to the FAA Administrator. The aircraft owner or operator is responsible for ensuring that the ELT is included in these inspections and is maintained accordingly. To provide guidance on improving ELT maintenance, Action Notice A 8310.1, recommending a specific supplemental inspection procedure for ELT's, was issued to all FAA field personnel in September 1988. This information was also included in the February 1989 issue of Advisory Circular 43–16, General Aviation Airworthiness Alerts, and reissued in Action Notice A 8150.3 on July 23, 1990. This Action Notice applies to ELT's authorized under both TSO–C91 and TSO–C91a.

To summarize the notice, the inspection procedure can be accomplished by making a close examination of the ELT, its battery pack, and antenna. The signal emissions and G-switch must also be checked.

If the ELT's antenna is radiating a signal, it can be heard on any frequency through a low-cost AM radio held about six inches from the ELT's antenna. The aircraft's VHF receiver or a check with an airport control tower may also be used to verify the ELT signal on the 121.5 Mhz frequency. An airplane's VHF receiver is located very close to the ELT, and it is sensitive; therefore, it does not check the integrity of the ELT together with its antenna. Consequently, using the airplane's VHF receiver does not provide the same level of confidence in verifying the ELT signal as using the AM radio or tower check. The ELT transmits on the emergency frequency, therefore, the signal check must be conducted within the first five minutes after any hour and it must be limited to three sweeps of the transmitter's audio signal, in order not to send false alarm signals.

To check the G-switch of most TSO–C91 ELT's, the unit is removed from its mounting and given a quick rap with the hand in the direction of activation indicated on the ELT case. For TSO–C91a ELT's, however, a throwing motion is used, coupled with a rapid reversal.

Finally, although the antenna and G-switch checks are not measured checks and do not quantify the adequacy of the G-switch or the power output of the antenna, they do provide an acceptable level of confidence that the ELT is functioning properly.

In response to NTSB recommendation A–87–104, the findings of the FAA/NASA report, and the comments to this rulemaking, the FAA is clarifying what must be done for an ELT to be considered in "operable condition" as found in § 91.207(a)(1) by adding a new paragraph (d). Although paragraph (d) is new, it is written in accordance with current regulations and guidance, as discussed earlier under, "ELT Maintenance Requirements—An Explanation". Specifically, the new regulation § 91.207(a)(1)(d), describes how to inspect an ELT under Part 43, Appendix D, paragraph (i), and requires that it be accomplished within 12 calendar months after the last inspection. The Appendix D requirements are non-specific in nature because they apply to all components of the radio group, which includes the ELT's. The 12-month requirement accommodates those airplanes maintained under either an annual or a progressive inspection program and could be accomplished under the provisions of any other program approved by the Administrator under § 91.409. The FAA has determined that this clarification is not an additional requirement that would entail additional rulemaking and an economic evaluation. The FAA has determined that this additional information should be included in part 91 to reinforce to

airplane owners and inspectors what the FAA expects when an ELT is inspected.

"Approved" as Opposed to "TSO-Approved"

Three commenters express concern over the meaning of the word "approved" in the proposed language of the ELT rules. One commenter indicates that this rulemaking procedure may "establish a precedent for future mass terminations of TSO authorizations, without going through the rulemaking process." Another commenter requests that the FAA refer to a particular TSO number instead of using the generic language, "approved TSO."

FAA Response: The FAA intends to clarify the certification process with regard to the regulations and TSO's. Since the effective date of Amendment 21–50 to part 21 (September 9, 1980), The FAA's TSO revision program has been eliminating TSO's from the rulemaking process and eliminating references to specific TSO's from the regulations. The TSO revision makes it possible for the public to use the most up-to-date TSO or other standards that are found acceptable during the certification of a particular piece of equipment. When specific TSO standards are designated in a regulation, other TSO's or standards are automatically excluded. As stated in Notice No. 90–11, "This rule replaces specific references to TSO–C91 in the FAR with 'an approved ELT that is in operable condition'," and withdraws all TSO–C91 authorizations issued to ELT manufacturers. In effect, this would allow TSO–C91a, or any subsequent TSO's issued for ELT's, to be used as a basis for compliance with the FAR. Using the language "approved" is consistent with the FAA's responsibility to eliminate dated references to regulations.

Whenever a material, part, process, or appliance is required to be "approved," it must be approved under the Federal Aviation Regulations. The approval can be obtained in one of the following ways: (1) under a Parts Manufacturer Approval; (2) in conjunction with type certification procedures for a product, including approvals granted by a supplemental type certificate; (3) under a Technical Standard Order authorization; or (4) in any other manner approved by the Administrator.

Of these approval methods, TSO's contain minimum performance and quality control standards for specified articles (material, part, process, or appliance). The standards for each TSO are those the Administrator finds necessary to ensure that the article concerned will operate satisfactorily. Compliance with a TSO is only one method of obtaining an approval and its use is not mandatory; therefore, the standards contained in the TSO are not mandatory but are a way of obtaining approval for a particular article.

Miscellaneous Comments

An ELT manufacturer requests that the word "transmitter" be added to § 91.207(c)(2) for consistency with the rest of the section.

FAA Response: The FAA agrees; this word has already been incorporated into § 91.207(c)(2).

One commenter encourages integration with the European Organization for Civil Aviation Electronics.

In addition, the National Business Aircraft Association, Inc., expresses concern over the prematurity of the FAA's rulemaking and states that the ramifications of other equipment such as the international Automatic Dependent Surveillance (ADS) system used to indicate the location of other aircraft must be fully understood. The NTSB calls for integration with ICAO efforts in establishing ELT carriage requirements.

FAA Response: The FAA disagrees with the National Business Aircraft Association's comment that this rule is premature. The FAA will no longer delay this final rule because there will always be new technology on the horizon. The rule is in agreement with the ICAO requirements, including recent changes pertaining to ELT's. The FAA is a strong supporter of the search and rescue satellite system (COSPAS/SARSAT). In addition, the ELT program, as outlined in this rulemaking, takes into account national and international issues and these considerations were integrated into the justification for this rule.

Three commenters request field testing of TSO–C91a ELT's to confirm their potential costs and benefits before their use is mandated. Four commenters call for additional research on ELT's. For example, the General Aviation Manufacturers Association (GAMA) requests further research on TSO–C91a G-switches and battery technology.

FAA Response: The FAA agrees with the intent of these comments on the need for appropriate research and field testing. Transport Canada, the Canadian counterpart of the United States Department of Transportation, is currently field testing 130 ARNAV ELT's. Usable results may not be available until late 1993. The FAA is working with Transport Canada on its ELT improvement program and with other government as well as non-government organizations on maximizing ELT knowledge. However, in view of the Canadian study and numerous studies documented in the FAA/NASA report, including an FAA ELT maintenance survey on repair stations, the FAA has determined that there is no need for research on new issues before regulatory action is taken. Additional research would only delay the installation of improved ELT's without any clear expectation of improvement over the TSO–C91a specification.

One commenter encourages the FAA to expand its ELT educational effort to install more reliable ELT's. NASA suggests that all pilots be required to monitor the 121.5 Mhz frequency as part of the shutdown procedure in aircraft that do not have a cockpit monitor.

FAA Response: The FAA agrees with the intent of both of these comments. Working with organizations such as the Aircraft Owners and Pilots Association, the FAA has been actively promoting the public's awareness of potential problems with ELT's. A pamphlet entitled, "Attention to ELT's: Insurance To Life" has been distributed to all active U.S. pilots. This pamphlet addresses the ELT false alarm problem and recommends that a pilot-in-command monitor the 121.5 Mhz frequency prior to engine shutdown. This information contained in the pamphlet and ELT inspection procedures are discussed at pilot safety seminars and have been incorporated in the FAA Back-To-Basics program.

The NASA report suggested that the pilot be required to check the 121.5 Mhz frequency before leaving the airplane.

One commenter requests that tow planes be excepted from the requirements because they often are operated under harsh conditions that could trigger false alarms.

FAA Response: The FAA agrees and the final rule does not change the ELT requirements for tow planes. Those airplanes that are currently excepted may continue operations without an ELT.

The ATA concludes, given the operating procedures of transport category aircraft, that benefits to the travelling public from automatic ELT's would be very limited. A complete replacement of its members' fleets by 1995 would cost $14 million.

FAA Response: Survival ELT's, rather than automatic ELT's, are required in transport category aircraft. Currently, automatic ELT's are not required on transport category aircraft.

One commenter suggests that a fine be used as a penalty for an ELT false alarm

resulting from the pilot's failure to maintain the ELT.

FAA Response: The suggestion is beyond the scope of this rulemaking.

Another commenter suggests that insurance considerations should be the driving force to motivate aircraft owners to install ELT's, rather than the FAA mandating ELT's.

FAA Response: The FAA disagrees and is not convinced that insurance considerations alone would assure a 100-percent installation rate. Moreover, in 1971, Congress passed a law that requires the installation and use of ELT's on most aircraft.

Finally, one commenter interprets the language "unusable or unserviceable" in Notice No. 90–11 to mean that replacement would be required for a TSO–C91 ELT when it needed a battery change or was removed for routine scheduled maintenance.

FAA Response: The FAA intends that the term "unusable or unserviceable" be given its everyday meaning so as to require replacement only when the ELT cannot be repaired. Thus, the TSO–C91 ELT would not need replacement when it can be serviced with routine maintenance.

Impact of the Rule

Summary of the Amendments

In summary, effective six months after publication of this Final Rule, the FAA is withdrawing TSO–C91 authorizations for automatic ELT's; therefore, the TSO–C91 model ELT's may not be manufactured after that date. Current production of unsold TSO–C91 ELT's for general aviation airplanes is sufficiently small so that accumulation of inventories is unlikely. This inventory is expected to be depleted by the time this rule becomes effective. The preamble to Notice No. 90–11 specifically stated that the FAA proposed to require installation of an improved ELT that meets the requirements of a revised TSO, and to terminate approval to use ELT's authorized under the original TSO–C91. Although the notice stated that the new equipment would be required for future installations, language to that effect did not appear in the proposed amendment. To carry out this intent, § 91.207(a)(1) and (a)(2) are revised to state that ELT's meeting the applicable requirements of TSO–C91 may no longer be installed.

Another change is being made to paragraph (a)(2) of § 91.207 to correct an error that inadvertently occurred when former § 91.52 was revised and renumbered as § 91.207 during the recodification of part 91 in 1990. Former paragraph (b)(4) of § 91.52 (the predecessor to paragraph (a)(2) of § 91.207) contained a reference to three preceding paragraphs. That is, paragraph (a)(1)(i) was included in the subject reference. The reference also should have included paragraphs (a)(1)(ii) and (a)(1)(iii). This correction is effected by replacing the reference to "(a)(1)(i)" with "(a)(1)", which subsumes all of the provisions of paragraph (a)(1) into the reference.

With regard to survival ELT's, the TSO authorization withdrawal will become effective two years after publication of this final rule. The FAA is allowing additional time for the manufacturers of survival ELT's to begin producing, and for operators to begin installing, TSO–C91a ELT's. For new installations, the new requirements include satellite compatibility, crash survivability, and certain environmental specifications (temperature, water resistance, etc.) that will provide definite improvement at reasonable costs.

Finally, a change is made to §§ 121.339, 121.353, 125.209, and 135.167 to correct inadvertent errors that were made when the applicable parts were codified in 1971 and 1980. These sections refer to survival ELT's and specifically describe the timely replacement of transmitter batteries. Currently, these sections state that the transmitter batteries must be replaced when the transmitter has been in use for more than one hour *and* when 50 percent of its useful life has expired (according to the specific expiration date). The FAA has always intended and enforced these regulations concerning survival ELT's to prescribe a change of transmitter batteries when either the battery has been in use for more than one hour *or*, when 50 percent of its useful life has expired. This correction is consistent with § 91.207 regarding automatic ELT's.

Technical Standard Order

Published simultaneously with this rule, the FAA, pursuant to § 21.621 of the Federal Aviation Regulations, is withdrawing each TSO authorization to the extent that it authorizes the holder to identify or mark ELT's with TSO–C91, effective six months after the publication of this rule for automatic ELT's, and effective two years after publication of this rule for survival ELT's.

Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Will generate benefits that justify its costs and is not a significant regulatory action as defined in the Executive Order; (2) is significant as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Costs—Automatic ELT's

Based on the comments received in response to the NPRM, the FAA has revised its estimates of the rule's costs. The FAA now estimates that the incremental selling price of new ELT's will be $125 per unit above those of old ELT's and that the incremental installation costs will be $150 per unit. The FAA has also re-estimated automatic ELT acquisitions to 3,500 units annually, including units installed on new airplanes and replacements on existing airplanes. Applying these revised estimates to the first 20 years of the rule (1995–2014), the costs of automatic ELT's will total $19.3 million (or $10.2 million in 1993 dollars at 1994 discounted present value).

Costs—Survival ELT's

Recent efficiencies in production techniques have reduced the costs from those estimated in the NPRM. As a result, the incremental acquisition cost of survival ELT's is estimated to total $500 per unit. The FAA estimates that, during the 1996–2015 evaluation period, 3,081 new survival ELT's will be installed, costing $1.5 million (or $0.8 million, discounted).

Benefits—Automatic ELT's

Based on the findings of the FAA/NASA report (cited earlier), significant improvements in ELT effectiveness will reduce the time required to locate downed airplanes and, concomitantly, improve the chances of saving seriously injured crash survivors. Additional benefits will be realized from reducing false alarms.

The report's most significant conclusions are that: 23 to 58 lives are lost per year due to ELT's failure-to-

operate; 12 to 18 percent of these are attributed to poor or no maintenance; and, with 100 percent TSO–C91a installations, a 64 percent failure rate reduction can be expected. In addition, a 75 percent reduction in false alarms is likely with all new units in place (although not directly specified in the report, this evaluation estimates that 25 percent of false alarms, in contrast to the 12 to 18 percent of ELT failures-to-operate, are attributable to poor or no maintenance).

Consequently, using the midpoints of the range of lives lost (41) and the range attributed to maintenance failures (15 percent), 22 or more lives could be saved annually if all TSO–C91 ELT's were replaced with TSO–C91a ELT's (41 x (1 − .15) x .64), decreasing to approximately 18 annually as general aviation activity decreases during the 20-year evaluation period. Since ELT replacements will take place gradually over time, avoided fatalities will not reach their full potential for several years after the period. Nevertheless, 81 fatalities are expected to be avoided during the 20-year period following promulgation of the rule, valued at $209 million ($86.4 million discounted).

The additional benefits expected from reduced false alarms are calculated as follows. False alarms are estimated to cost approximately $4.3 million annually (based on a $3.5 million estimate for 1987 by the Air Force Rescue Coordination Center, adjusted to 1993 dollars). Excluding the 25 percent of false alarms attributable to maintenance-related problems, the expected reduction in false alarm costs totals $2.4 million annually ($4.3 million x .75 x (1 − .25)). Taking into account the gradual, increasing percentage of the fleet equipped with new ELT's over the 1995–2014 evaluation period, these benefits are projected to total $8.9 million ($3.7 million discounted).

Benefits—Survival ELT's

There is no direct evidence of lives lost as a result of delays in reaching survivors because of defective survival ELT's; however, such occurrences are possible. Historical data indicate that an average of 61 preventable drownings occur per 10-year period in parts 121 and 135 operations. Over the course of the 1996–2015 evaluation period, only one life needs to be saved in order for the benefits of new survival ELT's to exceed the $0.8 million in discounted costs.

Comparison of Cost and Benefits

Costs and benefits summarized below are for the evaluation period 1995–2015 in terms of 1993 dollars at 1994 discounted present value. Automatic ELT's are estimated to have incremental costs totalling $10.2 million and benefits of $90.1 million, yielding a benefit-to-cost ratio of 8.8 to 1. Incremental costs of survival ELT's are estimated to total $0.8 million, requiring the avoidance of only one fatality in order to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The FRA requires agencies to review rules that may have "a significant economic impact on a substantial number of small entities." FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes small entity size and cost level thresholds for complying with RFA review requirements in FAA rulemaking actions.

The small entities potentially affected by the rule are Part 121, Part 125, and Part 135 operators that own nine or fewer aircraft, which is the size threshold for aircraft operators considered small entities by the FAA. The annual cost thresholds are $119,500 for operators of scheduled services with entire fleets having a seating capacity of over 60; $66,800 for other scheduled operators; and $4,700 for unscheduled operators. A substantial number of small entities is a number which is not less than eleven and which is more than one-third of the small entities subject to the rule.

The only type of entity with the potential to sustain a significant economic impact as a result of this rule is an unscheduled operator. Such an operator would have to purchase at least ten ELT's in a year in order to exceed the $4,700 threshold. The rule will not have a significant economic impact on a substantial number of small unscheduled operators because most such operators own five or fewer airplanes each, and it is unlikely that at least 11 of them representing more than one-third of the total will purchase ten new ELT's in any given year.

International Trade Impact Statement

The rule will have little or no impact on trade for either U.S. firms doing business in foreign countries or foreign firms doing business in the United States. Foreign air carriers are prohibited from operating between points within the United States. Therefore, they will not gain any competitive advantage over U.S. carriers. In international operations, foreign air carriers are not expected to realize any cost advantage over U.S. carriers because the differential in costs between the existing and new ELT rule will not be significant enough to have an adverse impact on the international operations of U.S. carriers. Further, general aviation operations conducted in the United States are not in any direct competition with foreign enterprises. For these reasons, the FAA does not expect that the rule will result in any international trade impact.

Federalism Implications

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

Conclusion

The FAA has determined that the potential benefits of the regulation outweigh its potential costs and that it is not a significant regulatory action under Executive Order 12866. In addition, this rule 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. This rule is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) because it concerns a matter of substantial public interest. A regulatory evaluation of the rule, including a Regulatory Flexibility Determination and an International Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under FOR FURTHER INFORMATION CONTACT.

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Air transportation, Safety

14 CFR Part 29

Aircraft, Aviation safety, Air transportation, Safety

14 CFR Part 91

Air carriers, Aircraft, Airworthiness directives and standards, Aviation safety, Safety, Aircraft

14 CFR Part 121

Air carriers, Aircraft, Aircraft pilots, Airmen, Airplanes, Aviation safety, Air transportation, Common carriers, Safety, Transportation

14 CFR Part 125

Aircraft, Airmen, Airplanes, Airports, Air transportation, Airworthiness, Pilots

14 CFR Part 135

Air carriers, Aircraft, Airplanes, Airmen, Airspace, Aviation safety, Air taxi, Air transportation, Airworthiness, Pilots, Safety, Transportation.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Parts 25, 29, 91, 121, 125, and 135 as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for Part 25 is revised to read as follows:

Authority: 49 U.S.C. App. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g).

2. Section 25.1415(d) is revised to read as follows:

§ 25.1415 Ditching equipment.

* * * * *

(d) There must be an approved survival type emergency locator transmitter for use in one life raft.

* * * * *

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

3. The authority citation for Part 29 is revised to read as follows:

Authority: 49 U.S.C. App. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g).

4. Section 29.1415(d) is revised to read as follows:

§ 29.1415 Ditching equipment.

* * * * *

(d) There must be an approved survival type emergency locator transmitter for use in one life raft.

PART 91—GENERAL OPERATING AND FLIGHT RULES

5. The authority citation for Part 91 is revised to read as follows:

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352–1355, 1401, 1421–1431, 1471, 1472, 1502, 1510, 1522, 2121–2125, 2157, 2158; 49 U.S.C. 106(g); articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 stat. 1180); E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p.920.

6. Section 91.207 is amended by revising paragraph (a) introductory text, paragraph (a)(1) introductory text, paragraph (a)(2), and paragraph (c) (2) to read as follows:

§ 91.207 Emergency locator transmitters.

(a) Except as provided in paragraphs (e) and (f) of this section, no person may operate a U.S.-registered civil airplane unless—

(1) There is attached to the airplane an approved automatic type emergency locator transmitter that is in operable condition for the following operations:

* * * * *

(2) For operations other than those specified in paragraph (a)(1) of this section, there must be attached to the airplane an approved personal type or an approved automatic type emergency locator transmitter that is in operable condition.

* * * * *

(c) * * *

(2) When 50 percent of their useful life (or, for rechargeable batteries, 50 percent of their useful life of charge) has expired, as established by the transmitter manufacturer under its approval.

* * * * *

7. Section 91.207 is amended by redesignating paragraph (e) as paragraph (f), by redesignating paragraph (d) as paragraph (e); the reference "(d)" in the concluding text of the redesignated paragraph (e)(2) is removed and "(e)" is added in its place; and a new paragraph (d) is added to read as follows:

§ 91.207 Emergency locator transmitters.

* * * * *

(d) Each emergency locator transmitter required by paragraph (a) of this section must be inspected within 12 calendar months after the last inspection for—

(1) Proper installation;

(2) Battery corrosion;

(3) Operation of the controls and crash sensor; and

(4) The presence of a sufficient signal radiated from its antenna.

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

8. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g).

9. Section 121.339(a)(4) is revised to read as follows:

§ 121.339 Emergency equipment for extended overwater operations.

(a) * * *

(4) An approved survival type emergency locator transmitter. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, or when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge) has expired, as established by the transmitter manufacturer under its approval. The new expiration date for replacing (or recharging) the battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

* * * * *

10. Section 121.353(b) is revised to read as follows:

§ 121.353 Emergency equipment for operations over uninhabited terrain areas: flag and supplemental air carriers and commercial operators.

* * * * *

(b) An approved survival type emergency locator transmitter. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, or when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge) has expired, as established by the transmitter manufacturer under its approval. The new expiration date for replacing (or recharging) the battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

11. The authority citation for Part 125 is revised to read as follows:

Authority: 49 U.S.C. app. 1354, 1421–1430, and 1502; 49 U.S.C. 106(g).

12. Section 125.209(b) is revised to read as follows:

§ 125.209 Emergency equipment: Extended overwater operations.

* * * * *

(b) No person may operate an airplane in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, an approved survival type emergency locator transmitter. Batteries used in this transmitter must be replaced (or recharged, if the batteries are rechargeable) when the transmitter has been in use for more than one cumulative hour, or, when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge) has expired, as established by the transmitter manufacturer under its approval. The new expiration date for replacing (or recharging) the battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

PART 135—AIR TAXI OPERATIONS AND COMMERCIAL OPERATORS

13. The authority citation for Part 135 is revised to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g).

14. Section 135.167(c) is revised to read as follows:

§ 135.167 Emergency equipment: Extended overwater operations.

* * * * *

(c) No person may operate an airplane in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, an approved survival type emergency locator transmitter. Batteries used in this transmitter must be replaced (or recharged, if the batteries are rechargeable) when the transmitter has been in use for more than 1 cumulative hour, or, when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge) has expired, as established by the transmitter manufacturer under its approval. The new expiration date for replacing (or recharging) the battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

Issued in Washington, DC, on June 10, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–14677 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Emergency Locator Transmitters; Notice

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of technical standard order authorization withdrawal.

SUMMARY: This notice withdraws each Technical Standard Order (TSO) C91 authorization to the extent that it allows the authorization holder to identify or mark emergency locator transmitters (ELT's) with "TSO–C91)," and sets a date for the termination of ELT's manufactured under TSO–C91. This withdrawal will ensure that future ELT's are produced under TSO–C91a, issued previously which requires a higher minimum operational performance standard for ELT's.

EFFECTIVE DATES: For automatic ELT's December 19, 1994. For survival ELT's: June 21, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Akers, Technical Analysis Branch, AIR–120, Aircraft Engineering Division, Aircraft Certification Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC. 20591, Telephone (202) 267–9571.

SUPPLEMENTARY INFORMATION:

Background

In April 1990, the FAA proposed that all future installations of Emergency Locator Transmitters (ELT's) use equipment approved under Technical Standard Order (TSO) C91a (55 FR 12316, April 2, 1990). The FAA also proposed the termination of the manufacture of TSO–C91 ELT's by withdrawing the TSO–C91 manufacturing authorizations. These actions were based on the known unsatisfactory performance of ELT's approved under TSO–C91.

In April 1985, the FAA issued TSO–C91a, which provides an improved minimum operational performance standard (MOPS) for 121.5/243.0 MHz ELT's. In December 1992, the FAA issued TSO–C126, which provides a MOPS for 406 MHz ELT's. ELT's approved under either of these TSO's may be used to comply with the Federal Aviation Regulations for ELT's.

Accordingly, this notice withdraws TSO–C91 to the extent that it authorizes the holder to mark ELT's with the designation "TSO–C91." For automatic ELT's manufactured under TSO–C91, this cancellation is effective December 19, 1994. For survival ELT's manufactured under TSO–C91, this withdrawal is effective June 21, 1996.

Issued in Washington, DC on June 10, 1994.

Richard A. Kirsch,

Acting Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 94–14678 Filed 6–20–94; 8:45 am]

BILLING CODE 4910–13–M

federal register

Tuesday
June 21, 1994

Part IV

Environmental Protection Agency

Environmental Leadership Program: Request for Pilot Project Proposals; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5001-5]

Environmental Leadership Program: Request for Pilot Project Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for Environmental Leadership Program pilot project proposals.

SUMMARY: This notice requests proposals for Environmental Leadership Program pilot projects, and outlines the criteria facilities must meet to be considered for participation. These pilot projects will explore ways that EPA and States might encourage facilities to develop innovative auditing and compliance programs and to reduce the risk of non-compliance through pollution prevention practices. In addition, the pilots will help EPA design a full-scale leadership program, and determine if implementing such a program can help improve environmental compliance. Any future full-scale leadership program based in the Office of Compliance will be consistent with the goals of the Administrator's Common Sense Initiative, which focuses on comprehensive environmental protection strategies for entire industry sectors.

These voluntary pilot projects will benefit the public by encouraging industry to take greater responsibility for self-monitoring, which will lead to improved compliance, pollution prevention, and environmental protection. The projects will benefit industry by providing an opportunity to receive recognition for outstanding environmental management practices and to address barriers to self-monitoring and compliance efforts. Finally, the projects will benefit government by strengthening Federal-State partnerships and allowing EPA to gather empirical data on environmental compliance methodology and measures.

EPA plans to select three to five (3–5) pilot projects. The pilots will be selected from the pool of proposals received based on how completely they address the seven criteria outlined in this notice, and their potential to demonstrate possible components of a full-scale leadership program. Depending on the level of interest in the projects, the quality of the proposals received, and available resources, the Agency may be willing to expand the pilot project phase to include additional projects.

DATES: Proposals for pilot projects will be accepted until August 22, 1994. Proposals will be reviewed on a rolling basis as they are received, with selection of the finalists in the fall of 1994.

ADDRESSES: Applicants should mail three (3) copies of their proposal and all required documentation to: U.S. Environmental Protection Agency (1102), Attn: Ira R. Feldman, ELP Pilot Project Director, 401 M Street, SW., Washington, DC 20460. Facilities may submit their proposals directly to EPA after discussions with their State environmental agency, or to their State agency for forwarding to EPA.

FOR FURTHER INFORMATION CONTACT: Ira R. Feldman, ELP Pilot Project Director, U.S. Environmental Protection Agency (1102), Office of Compliance, 401 M Street SW., Washington, DC 20460, phone (202) 260–7675, fax (202) 260–8511 or Mike Schiavo, U.S. Environmental Protection Agency (1102), 401 M Street, SW., Washington, DC 20460, phone (202) 260–2824, fax (202) 260–8511.

I. Introduction

A. Original ELP Proposal

On January 15, 1993, EPA published a **Federal Register** notice (58 FR 4802) requesting comment on the possible creation of a national voluntary program to encourage and publicly recognize environmental leadership and to promote pollution prevention in the manufacturing sector. The Agency requested responses to 56 specific questions about the structure of such a program, possible goals and measures, the need for incentives, the role of compliance screening, and other related issues. Two basic components were proposed for the "Environmental Leadership Program" (ELP)—a "Corporate Statement of Environmental Principles" and a "Model Facility" Program.

The Agency received a wide variety of comments on the original proposal from industry, States, environmental groups, and other non-governmental organizations. In addition, the Agency held a public meeting on May 6, 1993 in Washington, DC and received additional comment from 30 groups. While no true consensus emerged on the best structure or goals for the program, the comments clearly indicated an interest in a voluntary program to recognize environmental excellence. (A summary of public comments is available from EPA upon request.) After extensive review and analysis of the comments by the Office of Enforcement, the Office of Pollution Prevention and Toxics, and the Administrator's Pollution Prevention Policy Staff, the Agency refined the goals and the immediate focus of the project.

B. Model Facility Pilot Projects

In the January 28, 1994 **Federal Register** (59 FR 4066), the Administrator announced EPA's intent to further develop the ELP concept, initially through a small number (3–5) of voluntary, facility-based pilot projects. The new Office of Compliance (OC), within the reorganized Office of Enforcement and Compliance Assurance (OECA), will coordinate the "model facility" pilot project effort with significant Regional and State partner involvement. At the same time, EPA opted not to further develop its own "Corporate Statement of Environmental Principles," but rather to work cooperatively with organizations that have developed their own corporate or industry-specific codes. (The Office of Pollution Prevention and Toxics will continue to lead any future Agency involvement in this area.)

This *pilot project* effort is distinguished from a possible future, *full-scale* Environmental Leadership Program. A major goal of the pilot projects is to further explore possible components of a full-scale program. Options were raised during public comment last year on various program elements, including the review and selection process, recognition mechanisms, and other possible incentives for facilities. The pilot projects will explore these options, and will have a definite life span of about 12–18 months. At the end of this time, EPA will determine if a full-scale program is feasible, and if implementing such a program can help improve environmental compliance.

The pilot projects, therefore, represent the experimental first step in the evolution of the ELP. The pilot phase is also an excellent opportunity to strengthen partnerships between government, industry groups, and regulated entities as a prelude to more extensive emphasis by the Agency on voluntary compliance initiatives. The pilot projects, and any future leadership program, will be a vehicle for facilities to continue building positive, proactive relationships with EPA and State and local agencies.

C. Benefits to Pilot Project Participants

EPA foresees a number of potential benefits to facilities that are selected for pilot projects. The Agency will publicly recognize these facilities that demonstrate outstanding environmental management practices, and also provide them with an opportunity to help shape the possible future, full-scale leadership

program. EPA will use the pilot projects to evaluate recognition mechanisms and other incentives that could be offered in a full-scale program. While mechanisms for recognition will be determined in discussions with each facility, they may include press releases, letters to community groups, local and State agencies, and/or site visits by EPA officials. It is important to note that any future program would offer recognition and other incentives on a continuing basis (similar to the OSHA Voluntary Protection Program), not as a one-time award.

The pilots represent an opportunity for facilities to inform and directly participate in EPA's effort to reassess its environmental auditing policy. In addition, it is anticipated that the projects selected will generate empirical data useful for evaluating EPA's compliance policies and spur the development of methodologies for evaluating compliance behavior. Finally, EPA is interested in discussing possible policy modifications and other incentives that could help facilities overcome barriers to self-monitoring and compliance efforts. Facilities should address this issue in their proposals for pilot projects. Proposals should focus on incentives that can be offered by EPA's Office of Enforcement and Compliance Assurance under existing law using administrative authority or policies that lie clearly within OECA's jurisdiction. Proposals to change statutory deadlines, amend environmental standards, or that require actions by other agencies are not appropriate for this program.

The remainder of this notice will outline the criteria facilities must address in their proposal to be considered for a pilot project, briefly outline the role of States and EPA Regions, and discuss the proposal review and selection process.

II. Criteria for Facility Pilot Projects

The following criteria for pilot projects were developed in response to extensive public comment on the original ELP proposal. In this phase of the ELP, facilities of all types, including small businesses, municipalities, and Federal facilities,[1] are encouraged to submit proposals for pilot projects that address these criteria. Each criterion must be addressed in some way in the proposal; however, facilities may choose to emphasize individual criteria that are appropriate to their unique situation in setting specific goals for a pilot project.

A. Compliance History

EPA believes that the greatest potential for the pilot projects is to demonstrate "state-of-the-art" environmental management systems that establish and maintain compliance with environmental statutes and regulations. These systems, when combined with an emphasis on pollution prevention, can lead to improved efficiencies that help facilities exceed minimum compliance standards. To be selected to participate in a pilot project, facilities must demonstrate a commitment to compliance. Therefore, facility proposals must describe their local, State, and Federal compliance history, explain how they have resolved compliance issues in the past, what they are doing to address any outstanding compliance issues, and how they are trying to position themselves to go beyond compliance.

B. Environmental Management and Auditing Programs

Industry leaders have long recognized the value of self-auditing for environmental compliance and the need to have processes and personnel in place to achieve compliance goals. Facilities applying to the ELP must describe their existing or proposed environmental management and auditing programs, their systems to resolve issues raised by these programs in a timely manner, and their systems to evaluate and adjust these programs on a regular basis. One of the major goals of implementing these management systems and auditing programs should be to move the facility into compliance and position it to go beyond compliance.

Guidance on environmental auditing and state-of-the-art environmental management practices is available from many sources. As a starting point, EPA refers potential pilot participants to the following sources:

- The EPA Environmental Auditing Policy Statement (**Federal Register**, July 9, 1986) which includes a discussion of elements of an effective auditing program;
- The "Draft Corporate Sentencing Guidelines for Environmental Violations," (*BNA Environment Reporter*, 11/26/93), which includes a discussion of "Minimum Factors for Demonstrating a Commitment to Environmental Compliance" in Part D.

Voluntary standards on environmental management systems and environmental auditing may also provide guidance to facilities interested in preparing pilot project proposals. EPA is participating in work groups organized by the International Organization for Standards (ISO) and the National Sanitation Foundation (NSF International). The American Society for Testing and Materials (ASTM) is coordinating U.S. participation in ISO Technical Committee 207 (TC–207) on environmental management systems (EMS). Contacts for these organizations are listed at the end of this notice.

Similarly, EPA is aware that initiatives such as the Global Environmental Management Initiative (GEMI), the Responsible Care Program, and the CERES Principles have been developed in the private sector and by non-governmental groups. These and other private sector efforts may be useful for facilities interested in submitting pilot proposals, and facilities are encouraged to develop proposals with industry and trade association involvement and support.

C. Disclosure of Audit Results

EPA is currently reevaluating its environmental auditing policy, and will take an empirical approach so that any decision to either reinforce or change existing policy is informed by fact. The ELP pilot projects may generate useful data on auditing methodology and measures, and may serve as a vehicle for experimenting with policy-driven incentives.

EPA is particularly interested in examining how disclosure of audit results could improve the public's confidence in and acceptance of industry's self-monitoring efforts, and how disclosure could help facilitate the flow of information to the personnel responsible for implementing audit recommendations. Facilities applying to the ELP must demonstrate a willingness to disclose in some manner the results of their audits. EPA recognizes the controversial nature of this issue, and for that reason wants to explore the potential benefits and perceived risks of disclosure in the context of the pilot projects.

[1] The Federal Facilities Enforcement Office (FFEO) is developing a "Federal Government Environmental Challenge Program," as required under Section 4–405 of Executive Order 12856. This section of the Executive Order requires EPA to develop a Code of Environmental Management Principles for Federal agencies, a program to recognize individual Federal facilities as "Model Installations," and an award system for individual leadership in pollution prevention. For more information on the *Model Installation Program*, please contact Louis Paley at (703) 308–8723, or (202) 260–8790.

Since the Federal facility Model Installation program is still in its early stages, Federal facilities may submit proposals for ELP pilot projects. The Office of Compliance and FFEO will work together to use these proposals, and any subsequent Federal facility pilot projects, to help develop the Model Installation program and to ensure that it is consistent with any future, full-scale ELP.

As part of their proposals, therefore, facilities should suggest the type and extent of information they would be willing to disclose, the mechanisms they would use to disclose the information, the parties to whom they would disclose the information, and finally, any conditions they would seek from regulators in order to make the disclosure. Proposed incentives should be limited to items that can be offered by EPA's Office of Enforcement and Compliance Assurance under existing law using administrative authority or policies that lie clearly within OECA's jurisdiction. Proposals to change statutory deadlines, amend environmental standards, or that require actions by other agencies are not appropriate for this program.

D. Pollution Prevention Activities

EPA's new Office of Compliance is organized principally around economic sectors, in order to support integrated approaches to compliance that promote pollution prevention as a means of meeting environmental requirements and realizing environmental improvements. Facilities must describe their existing or proposed comprehensive, multimedia pollution prevention program that is integrated into their overall operations. In describing this program, facilities should include descriptions of their pollution prevention planning process, their State pollution prevention plan (if required, see "Other Required Documentation" below), their systems for implementing pollution prevention projects, how resources are allocated to pollution prevention, and how they measure pollution prevention progress. At a minimum, facilities should include the two-year projection of waste generation required by the Pollution Prevention Act and their RCRA waste minimization certification (see "Other Required Documentation" below).

E. Setting an Example

Facilities must show that they are currently using, or would be willing to use, their auditing, pollution prevention, and/or other environmental management programs as models or benchmarks for other facilities within their company or industry, or for their customers, suppliers, and contractors. EPA recognizes that there may be many mechanisms for doing this, and that confidentiality issues may limit the amount of information and technology facilities are able to share. Given these conditions, facilities must propose how they would help others learn from their experiences and the type and extent of information they would be willing to share.

F. Performance Measures

Good environmental management systems set performance objectives, and measure and report on progress toward those goals. While EPA recognizes that there are many possible measures of environmental performance, at the pilot project stage the Office of Compliance is primarily interested in developing methodology that can demonstrate and measure compliance success and pollution prevention results, as complements to the traditional enforcement measures of actions and penalties. Therefore, facilities must propose quantitative and/or qualitative measures that will track the compliance improvements and pollution prevention results that would accrue from their participation in a pilot project. Facilities must also include brief descriptions of additional performance objectives that they are striving to meet, and of the systems they use to track and monitor progress toward these goals. Any future, full-scale leadership program will attempt to incorporate overall measures of environmental management performance, in addition to measures of compliance and pollution prevention.

G. Employee and Community Involvement

Sensitivity and responsiveness to employee and community concerns is a key component of environmental leadership. In proposals for the ELP, facilities must demonstrate that their employees and their communities are involved in developing and implementing their environmental management programs, and should suggest mechanisms (for example, employee interviews, interviews with local Emergency Planning Commission (LEPCs), etc.) which can be used to verify this involvement.

III. Other Required Documentation

Facilities should include in their proposal the information they deem necessary to address the criteria outlined above, *and* the following required information:

- Contact person, mailing address, telephone number, and fax number.
- Company and/or facility environmental policy statement.
- State pollution prevention plan, if required under State law, in summary form.
- RCRA waste minimization certification, in summary form.
- Toxic Release Inventory (TRI) and Pollution Prevention Act (PPA) data, all available years, in summary form.
- A brief summary of participation in other EPA or State voluntary programs.
- While not required to do so, facilities may attach additional *summary* information related to the criteria outlined above that may help EPA evaluate their proposal.

IV. Suggested Proposal Format

In order to expedite the proposal review and selection process, EPA suggests that facilities use the following format to organize their proposals:

Section 1—Table of Contents, 1 page.

Section 2—Executive Summary, 1–2 pages.

Section 3—Main Narrative, organized by the seven criteria and containing a clear statement of pilot project goals, 25–30 pages maximum.

Section 4—Exhibits and Attachments, 25–30 pages.

Section 5—Bibliography of Supporting Material, including a *list* of local, State, and Federal permits, and a *list* of applicable Federal technology-based standards, 3–5 pages.

V. Role of the States

States have been invited to work in partnership with EPA in the pilot project phase; the pilots will be more likely to succeed if EPA and States work in concert. EPA recognizes that States' level of involvement may vary according to available resources. The Agency strongly encourages candidate facilities to contact their State environmental agency as soon as possible to express their intention to prepare a pilot project proposal, and to begin discussions about the State's role, including opportunities to build on existing partnerships and programs. Strong proposals will include documentation showing that the proposal has been reviewed, sponsored, or endorsed by the appropriate State agency.

Recognizing the valuable role of States as laboratories for new approaches to environmental protection, EPA is eager to have significant State participation in the pilot effort. A number of States have already expressed interest in working with EPA to further develop the ELP concept. As of the date of this notice, the following States have approached EPA and offered to work as partners in the pilot project effort:

- Alaska
- Arizona
- Massachusetts
- New York
- North Carolina
- Washington

Contact people for these States are listed below.

EPA has invited *all* States to participate in the ELP, and is actively working to build additional partnerships. Facilities in States not listed here are encouraged to contact their State environmental agency as soon as possible to express their intention to prepare a pilot project proposal, and to begin discussions about the State's role, including opportunities to build on existing partnerships and programs. EPA recognizes that States may not be able to, or may choose not to, become involved in the pilot project phase. The Agency will keep all States informed of the status of the pilot projects on a regular basis, and, during the next phase of the projects, will convene a workshop to discuss the pilot experience, ideas for launching a possible full-scale leadership program, and other ideas for further expanding the leadership/excellence concept.

VI. Role of EPA Regions

EPA Regions have also been invited by the Office of Compliance to participate in the pilot project effort. In this phase of the ELP, Regional involvement may vary according to available resources. At a minimum, Regions will play a role in the screening and review of proposals. Through the pilot projects, EPA hopes to more accurately gauge the level of resources necessary for Regional participation in any future full-scale program.

Each Region's ELP contact is listed below. Interested facilities should contact their Region as soon as possible to express their intention to prepare a pilot project proposal, and to begin discussions about the Region's role, including opportunities to build on existing partnerships and programs. More general questions about the ELP pilot project phase should be directed to the Headquarters contacts listed at the beginning of this notice.

VII. Proposal Review and Selection Process

Facilities may submit their proposals directly to EPA after discussions with their State environmental agency, or to their State agency for forwarding to EPA. The ELP pilot project team will be using an expedited process—in partnership with EPA Regional Offices, State environmental agencies, and other OECA offices—to review proposals and to select the pilot participants. Pilot projects will be selected from the pool of proposals received based on how completely they address the seven criteria outlined above, and their potential to demonstrate possible components of a full-scale leadership program.

Proposals for the initial group of pilots will be accepted for 60 days from the publication of this notice, and reviewed on a rolling basis. Final selections will be announced in the Fall of 1994. The pilot projects will have a definite life-span, most likely 12–18 months. At the end of this time, EPA will evaluate their success and determine if a full-scale leadership program is feasible, and if such a program can help improve environmental compliance.

Dated: June 14, 1994.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

EPA Region Contacts for ELP Pilot Project Proposals

Region 1

Joel Blumstein, Office of Regional Counsel, Phone (617) 565–3693.

Region 2

Gary Nurkin, Office of the Deputy Regional Counsel, Phone (212) 264–5341.

Region 3

Bill Reilly, Office of Program Integration, Phone (215) 597–9302.

Region 4

Shelia Hollimon, Enforcement Planning and Analysis Staff, Phone (404) 347–7109.

Region 5

To be determined.

Region 6

To be determined.

Region 7

To be determined.

Region 8

Mike Gaydosh, Office of the Regional Administrator, Phone (303) 294–7005.

Region 9

Fred Leif, Office of the Regional Administrator, Phone (415) 744–1017.

Region 10

Barbara Lither, Office of the Regional Administrator, Phone (206) 553–1191.

State Contacts for ELP Pilot Project Proposals

(As of the date of this notice.)

Alaska

David Wigglesworth, Pollution Prevention Office, Alaska Department of Environmental Conservation, 3601 C Street, Suite 1334, Anchorage, AK 99503, Phone (907) 273–4303; Fax (907) 562–4026.

Arizona

Beverly Westgaard, Arizona Department of Environmental Quality, 3033 N Central Ave., Phoenix, AZ 85012, Phone (602) 207–4249; Fax (602) 207–4346.

Massachusetts

Patricia Deese Stanton, Assistant Commissioner, Massachusetts Department of Environmental Protection, One Winter Street, Boston, MA 02108, Phone (617) 292–5765; Fax (617) 292–5500.

New York

Frank Bifera, Division of Environmental Enforcement, New York Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233, Phone (518) 457–2286; Fax (518) 485–8478.

North Carolina

Linda Bray Rimer, Assistant Secretary for Environmental Protection, North Carolina Department of Environment, Health, & Natural Resources, 3825 Barnett Drive, P.O. Box 27687, Raleigh, NC 27611–7687, Phone (919) 715–4140; Fax (919) 715–3060.

Washington

John Williams, Agency Enforcement Officer, Washington Department of Ecology, P.O. Box 47703, Olympia, WA 98504–7703, Phone (206) 407–6968; Fax (206) 407–6902.

Other Contacts

National and International Standard Setting Efforts

Mary McKiel, Director, EPA Voluntary Standards Network, Office of Pollution Prevention and Toxics (7401), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

International Organization for Standards (ISO), U.S. SubTAG for ISO–TC–207: Environmental Auditing. Write to: Mr. Cornelius C. (Bud) Smith, Principal, ENVIRON Corporation, 210 Carnegie Center, Princeton, NJ 08540.

International Organization for Standards (ISO), U.S. SubTAG for ISO–TC–207: Environmental Management Systems. Write to: Mr. Joel Charm, Director: Health, Safety and Environmental, Allied Signal, Inc., P.O. Box 1013, Morristown, NJ 07962.

National Sanitation Foundation (NSF). Write to: Mr. Gordon Bellen, Vice President, NSF International, 3475 Plymouth Road, P.O. Box 130140, Ann Arbor, MI 48113–0140.

American Society for Testing and Materials (ASTM). Write to: Rose Tomasello, 1916 Race Street, Philadelphia, PA 19103.

Federal Government Environmental Challenge Program: Model Installation Program

Louis Paley, Office of Federal Facilities Enforcement (2261), U.S. EPA, 401 M Street SW., Washington, DC 20460. Phone (703) 308–8723, or (202) 260–8790.

EPA Common Sense Initiative

Steve Harper, Office of Air and Radiation (6101), U.S. EPA, 401 M Street SW., Washington, DC 20460. Phone (202) 260–8953.

Vivian Daub, Office of Water (4101), U.S. EPA, 401 M Street SW., Washington, DC 20460. Phone (202) 260–6790.

[FR Doc. 94–14949 Filed 6–20–94; 8:45 am]

BILLING CODE 6560–50–P

federal register

Tuesday
June 21, 1994

Part V

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report two revised deferrals of budget authority, now totaling $555.2 million.

The deferrals affect the Department of Agriculture. The details of the two revised deferrals are contained in the attached report.

William J. Clinton.

THE WHITE HOUSE,

June 8, 1994.

BILLING CODE 3110–01–M

CONTENTS OF SPECIAL MESSAGE
(In thousands of dollars)

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Department of Agriculture:	
	Forest Service:	
D94-3A	Cooperative work	506,741
D94-4A	Expenses, brush disposal	48,425
	Total, deferrals	555,166

Deferral No. D94-3A

Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D94-3, which was transmitted to Congress on October 13, 1993.

This revision increases by $45,101,743 the previous deferral or $461,639,323 in the Department of Agriculture, Forest Service, Cooperative work, resulting in a total deferral of $506,741,066. The increase results from a greater-than-anticipated level of unobligated funds being carried over from FY 1993, partially offset by a lower estimate of receipts.

Deferral No. 94-3A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	New budget authority..... * $ 275,000,000 (16 U.S.C. 576b)
BUREAU: Forest Service	Other budgetary resources..... * $ 507,484,066
Appropriations title and symbol: Cooperative work 1/ 12X8028	Total budgetary resources..... * $ 782,484,066
	Amount to be deferred: Part of year..... $ _____
	Entire year..... * $ 506,741,066
OMB identification code: 12-8028-0-7-999	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other _____
Type of account or fund: [ ] Annual [ ] Multi-year: _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

JUSTIFICATION: Under the Cooperative work account, funds are received from States, counties, timber sale operators, individuals, associations, and others. These funds are expended by the Forest Service as authorized by law and the terms of the applicable trust agreements. The work benefits the national forest users, research investigations, reforestation, and administration of private forest lands. Much of the work for which deposits have been made cannot be done, or is not planned to be done, during the same year that the collections are being realized. Examples include areas where timber operators have not completed all of the contract obligations during the year funds are deposited. As a result, restoration efforts cannot begin, and the funds cannot be obligated this year. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1993 (D93-3).

* Revised from previous report.

Deferral No. D94-4A

Supplemental Report
Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D94-4A, which was transmitted to Congress on October 13, 1993.

This revision increases by $8,230,307 the previous deferral of $40,194,527 in the Department of Agriculture, Forest Service, Expenses, brush disposal account, resulting in a total deferral of $48,424,834. The increase results from a greater-than-anticipated level of unobligated funds being carried over from FY 1993.

Deferral No. 94-4A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Agriculture	New budget authority..... * $ 24,732,000 (16 U.S.C. 576b)
BUREAU: Forest Service	Other budgetary resources..... * $ 66,806,834
Appropriation title and symbol: Expenses, brush disposal 1/ 12X5206	Total budgetary resources..... * $ 91,538,834
	Amount to be deferred: Part of year..... $ _____ Entire year..... * $ 48,424,834
OMB identification code: 12-9922-0-2-302	**Legal authority (in addition to sec. 1013):** [X] Antideficiency Act [ ] Other _____
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multi-year: _____ (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

JUSTIFICATION: Purchasers of National Forest timber are required by 16 U.S.C. 490 to deposit to the Forest Service the estimated cost for disposing of brush and other debris resulting from timber cutting operations. The deposits becoming available in the current year are estimated, and the related disposal operations are planned, for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the funds available in any one year for this purpose. Much of the brush disposal work for which fees are collected cannot be done in the same year because of weather conditions or because harvesting is not completed. The Forest Service is planning for a stable year-to-year program, which will require $43 million in FY 1994. The deferral is established pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512) as a reserve for contingencies.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in FY 1993 (D93-4B).

* Revised from previous report.

[FR Doc. 94–14990 Filed 6–20–94; 8:45 am]
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Federal Register

Vol. 59, No. 118

Tuesday, June 21, 1994

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H.R. 965/P.L. 103–267

Child Safety Protection Act (June 16, 1994; 108 Stat. 722; 8 pages)

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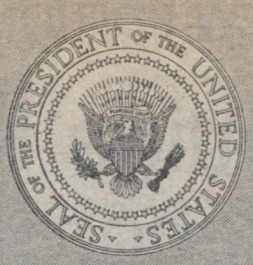

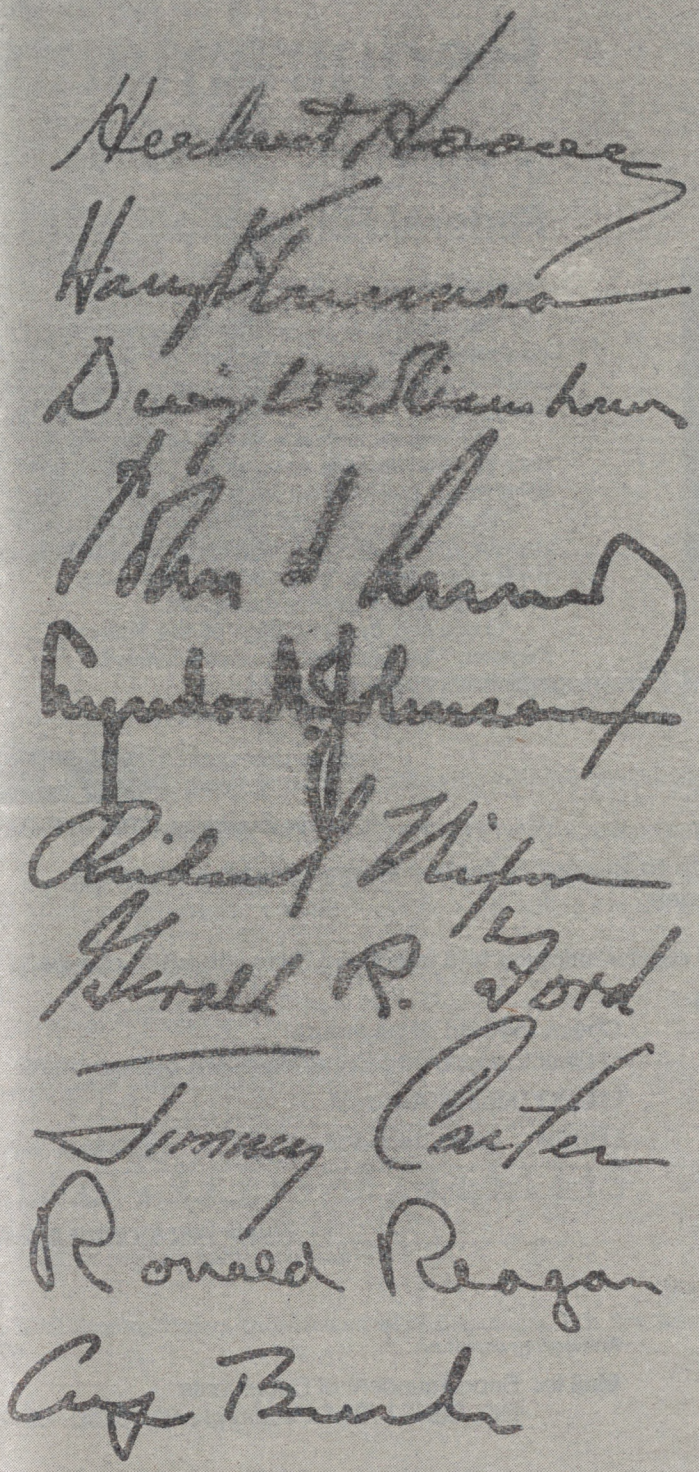

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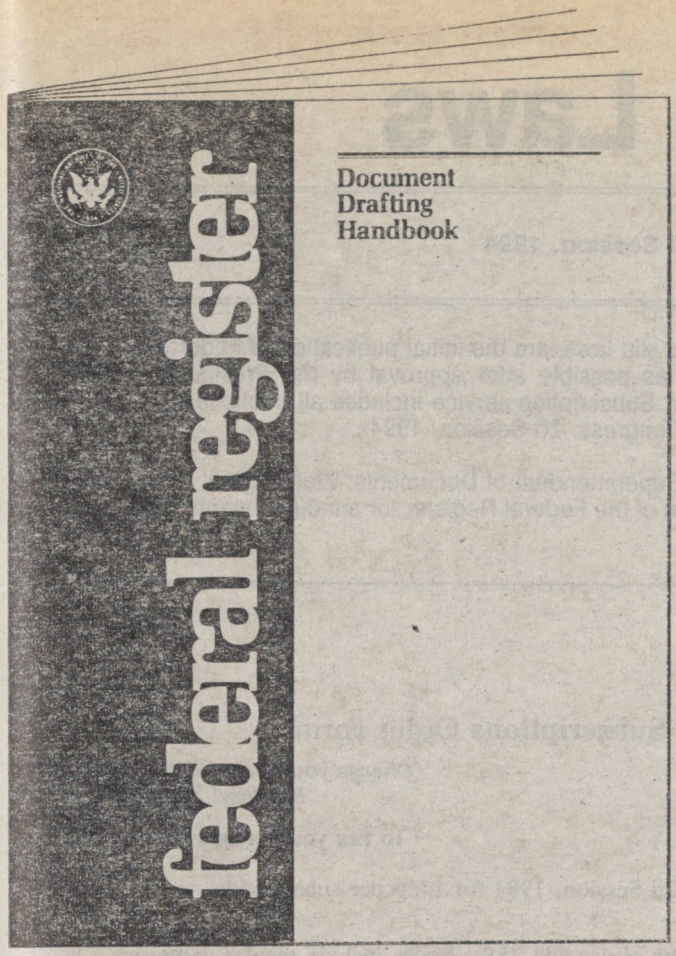

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103d Congress, 2d Session, 1994

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